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Pakistan: Prison conditions

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Preface

Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in [the basis of claim](#) section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into two main sections: (1) analysis and assessment of COI and other evidence; and (2) COI. These are explained in more detail below.

Assessment

This section analyses the evidence relevant to this note – i.e. the COI section; refugee/human rights laws and policies; and applicable caselaw – by describing this and its inter-relationships, and provides an assessment on whether, **in general**:

- A person is reasonably likely to face a real risk of persecution or serious harm
- A person is able to obtain protection from the state (or quasi state bodies)
- A person is reasonably able to relocate within a country or territory
- Claims are likely to justify granting asylum, humanitarian protection or other form of leave, and
- If a claim is refused, it is likely or unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case's specific facts.

Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation's (ACCORD), [Researching Country Origin Information – Training Manual, 2013](#). Namely, taking into account the COI's relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a [terms of reference](#) which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the 'cut-off' date(s) in the country information section. Any event taking place or report/article published after these date(s) is not included.

All information is publicly accessible or can be made publicly available and is from generally reliable sources. Sources and the information they provide are carefully considered before inclusion.

Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information, and
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate, balanced and corroborated, so that a comprehensive and up-to-date picture at the time of publication is provided of the issues relevant to this note.

Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source, however, is not an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a brief footnote; full details of all sources cited and consulted in compiling the note are listed alphabetically in the [bibliography](#).

Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email the [Country Policy and Information Team](#).

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 support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

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. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the [gov.uk website](#).

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Assessment

Updated: 24 September 2019

1. Introduction

1.1 Basis of claim

- 1.1.1 Fear of being imprisoned, following a criminal conviction, in conditions which are so severe as to amount to inhuman or degrading treatment.

1.2 Points to note

- 1.2.1 This note is concerned with whether prison conditions breach Article 3 of the European Convention on Human Rights (ECHR) and warrant a grant of humanitarian protection or discretionary leave.
- 1.2.2 In [Mursic v Croatia \(7334/13, 20 October 2016\)](#), the European Court of Human Rights (ECtHR) identified a strong but rebuttable presumption that a violation of Article 3 arises when the personal space available to a detainee falls below 3 sqm of floor surface in multi-occupancy accommodation in prisons (paras 123-126).
- 1.2.3 The ECtHR also observed that ‘... the assessment of the minimum level of severity for any ill-treatment to fall within the scope of Article 3 is, in the nature of things, relative. [...] The assessment of this minimum [...] will depend on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim’ (para 122).
- 1.2.4 For general guidance on assessing prison conditions, see the instruction on [Humanitarian protection](#).

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2. Consideration of issues

2.1 Credibility

- 2.1.1 For information on assessing credibility, see the 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 Exclusion

- 2.2.1 Decision makers must consider each case on its individual facts and merits to decide whether one (or more) of the exclusion clauses is applicable.
- 2.2.2 If there are reasons for considering that the person has committed a serious criminal offence, then decision makers must consider whether one of the exclusion clauses – in particular Article 1F(b) – is applicable.

- 2.2.3 If the person is excluded from the Refugee Convention, they will also be excluded from a grant of humanitarian protection.
- 2.2.4 For further guidance on the exclusion clauses and restricted leave, see the [Asylum Instruction on Exclusion: Article 1F of the Refugee Convention](#), and the [Instruction on Restricted Leave](#). For guidance on exclusion from humanitarian protection see the Asylum Instruction on [Humanitarian protection](#). You may also need to refer to the [Discretionary leave](#) instruction.

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2.3 Refugee convention reason(s)

- 2.3.1 Where a person is fleeing prosecution for a criminal offence, they will not be a refugee unless the prison sentence or regime, irrespective of its severity, is discriminatory or disproportionately applied for reasons of race, religion, nationality, membership of a particular social group or political opinion.
- 2.3.2 Establishing a convention reason alone is not sufficient to be recognised as a refugee. The question to be addressed is whether the particular person will face a real risk of persecution on account of their actual or imputed convention reason. Those who face legitimate prosecution for a criminal offence, which would be seen as a criminal offence if committed in the UK, will not qualify as refugees solely because they face prosecution on return.
- 2.3.3 For further guidance on Convention reasons see the instruction on [Assessing Credibility and Refugee Status](#).

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2.4 Risk

- 2.4.1 Decision makers must first 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 (see [Legislation](#)).
- 2.4.2 For further guidance on assessing risk, see the instruction on [Assessing Credibility and Refugee Status](#).

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2.5 Death penalty

- 2.5.1 Pakistan retains the death penalty for between 27 and 33 offences, of which most failed to meet the 'most serious crimes' threshold under international law. Since the lifting of the moratorium on capital punishment in December 2014, over 500 people have been executed. At least 14 persons were executed in 2018 and 13 in 2019, as of 23 July 2019. At least 250 people were sentenced to death in 2018 and the number of prisoners on death row is over 4,600. The death penalty has been imposed on people with mental disabilities, illness and persons who were minors at the time the crime was committed and convictions based on confessions extracted through torture (see [Legislation](#) and [Death penalty](#)).
- 2.5.2 A high percentage of death sentences have been overturned by the Supreme Court in recent years due to unsafe witness testimonies, insufficient evidence and unreliable police investigations. Although lower

courts applied capital punishment for ‘non-lethal’ offences, the Supreme Court only upheld such a punishment in offences that caused death and then only in the most heinous of crimes. The average time spent on death row before a case is heard by the Supreme Court is nearly ten years and one in ten prisoners wait more than 15 years (see [Implementation of the death penalty](#)).

- 2.5.3 Each case must be considered on its facts, with the onus on the person to demonstrate that there is a risk that they will be convicted and face the death penalty on return.
- 2.5.4 For further guidance regarding the death penalty, see the instruction on [Humanitarian protection](#).

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2.6 Prison conditions

- 2.6.1 Provincial governments have primary responsibility for the administration of prisons and prisoners (see Prisons: [Administration](#)).
- 2.6.2 The Pakistan Prison Rules of 1978 (PPR) prescribe the rules for the superintendence and management of prisons in Pakistan, including the recommended standards for accommodation (including living space to be afforded to prisoners), facilities, access to provisions and prisoner category. However, due to overcrowding, in practice these standards were generally not applied (see Prisons: [Administration](#), [Prison conditions](#) and [Access to provisions](#)).
- 2.6.3 Overall, prison occupancy stands at 57% above official capacity although this varies by province and prison, and the occupancy level of some individual prisons is over 500% official capacity. Prison conditions are extremely poor due to overcrowding, poor sanitation leading to health concerns, inadequate food, contaminated water and inadequate access to medical care. There is inadequate care for prisoners with disabilities, particularly those with mental illnesses. Many prisoners rely on family or friends for additional provisions. Vocational and recreational facilities are also limited. According to the Human Rights Commission of Pakistan (HRCP) media monitoring in 2017, there were 47 reports of ill-treatment and torture, sometimes resulting in death. No such reports were cited in its 2018 report and it was unclear of the nature of most incidents that were alleged to have occurred in 2017 (see [Capacity and occupancy](#), [Prison conditions](#), [Custodial torture](#) and [Access to provisions](#)).
- 2.6.4 However, conditions vary between prisons and according to the class of prisoner. The PPR allows for those prisoners who have been accustomed to a high standard of living being afforded better provisions. One source reported that prisoners with money and influence may have a ‘very comfortable life’ in prison (see [Prisoner categories](#)). Some prisoners on death row are held in so-called ‘death cells’ akin to solitary confinement for many years (see [General conditions](#)).
- 2.6.5 Pre-trial and under-trial prisoners are often housed with convicted prisoners, which contributed to overcrowding. In general prisons, women and juveniles are supposed to be segregated from men; however, juveniles may be kept

with adults and as a result may be exposed to violence and abuse. Some provinces have separate women and juvenile prisons (see [Prison conditions](#) and [Women and children](#)).

- 2.6.6 Jail committees, whose objective was to periodically visit prisons and make recommendations, do not function. International organisations reported difficulty in accessing some detention sites although some local, provincial and national authorities allow human rights groups and journalists access to monitor the conditions of women and juveniles (see [Oversight and monitoring](#)).
- 2.6.7 In the country guidance case of [KA and Others \(domestic violence risk on return\) Pakistan CG \[2010\] UKUT 216 \(IAC\) \(14 July 2010\)](#), heard on 21 and 22 April 2010 and promulgated on 14 July 2010 – which pre-dates the ECtHR case of [Mursic](#) and did not specifically consider the amount of personal living space which was made available to prisoners – the Tribunal commented that, whilst the evidence was that prison conditions were extremely poor, there was insufficient evidence before the Tribunal to demonstrate that imprisonment would routinely result in conditions or practices that would generally breach Article 3 ECHR. The Tribunal emphasised that there was insufficient evidence before it on this point, as it lacked information about whether prisoners were permitted enough time out of their cells for fresh air, exercise, recreation etc., there was scant information on sanitation and on ventilation, bedding and laundry facilities, that there was no evidence before it on visiting arrangements and little evidence relating to the availability of medical care (paragraph 199).
- 2.6.8 The country information indicates that prison conditions continue to be poor but there are not strong grounds supported by cogent evidence to indicate that these have deteriorated to justify departing from [KA and Others](#).
- 2.6.9 With regard to space afforded to prisoners, although the law prescribes the recommended living space for inmates the dimensions of prison cells and occupancy rates may vary from prison to prison and prisoner category. One source reported, when referring generally to overcrowding, that 12-15 people often occupy a 6x8 metre to 6x10 metre cell designed to hold 3 people. Based on this information taking the worst overcrowding scenario – 15 people in 48sqm – each detainee would have 3.2 sqm of floor space, slightly higher than the 3 sqm minimum which the ECtHR in [Mursic](#) considered would result in a strong presumption of a violation of Article 3 (see [Cell size and space](#) and [Prisoner categories](#)).
- 2.6.10 However, the ECtHR in [Mursic](#) also said that, in cases where it is alleged that the inmate had between 3 and 4sq m of personal space, space would remain a weighty factor in the assessment of the adequacy of the conditions of detention. In such instances, a violation of Article 3 would be found if the space factor was coupled with other aspects of inappropriate physical conditions of detention related to, in particular, access to outdoor exercise, natural light or air, availability of ventilation, adequacy of room temperature, the possibility of using the toilet in private and compliance with basic sanitary and hygienic requirements (paragraph 139).

- 2.6.11 In general, prison conditions are not likely to be systematically inhuman and life-threatening. However, due to the lack of information on what the physical conditions are like in most prisons, decision makers must carefully consider each case on its facts, taking into account the person's background and specific circumstances (including the sex, age and state of health of the victim), likely length and location of detention, and how prison conditions will impact them. The onus is on the person to demonstrate that if detained they would experience conditions that breach Article 3 of the ECHR.
- 2.6.12 For general guidance on assessing prison conditions, see the instruction on [Humanitarian protection](#). You may also need to refer to the [Discretionary leave](#) instruction if the person is excluded from humanitarian protection.

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2.7 Certification

- 2.7.1 Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.
- 2.7.2 For further guidance on certification, see [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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Country information

Section 3 updated: 30 August 2019

3. Judiciary

- 3.1.1 For information on independence, fair trial and corruption in the judiciary, see the [Country Policy and Information Note on Pakistan: Background information, including actors of protection and internal relocation](#).

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Section 4 updated: 30 August 2019

4. Legislation

4.1 Pakistan Penal Code (PPC)

- 4.1.1 For offences prescribed under the PPC, see the [Pakistan Penal Code \(Act XLV 1860\)](#), as amended to 2012¹. For further amendments (prescribed under various Criminal Law (Amendment) Acts), see the [Senate of Pakistan – Acts](#).

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4.2 Double jeopardy

- 4.2.1 Section 403 of the Code of Criminal Procedure Code, 1898, prescribes that no person, who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall or awaiting the outcome of the acquittal or conviction, be liable to be tried again for the same offence. However, a person so acquitted or convicted may be tried for (a) any distinct offence for which a separate charge might have been made, i.e. where more than one offence was committed by the same person; (b) a different offence that occurred as a consequence of the first offence; (c) any other offence constituted by the same acts which constituted the first offence but which the court which first tried him was not competent to try².
- 4.2.2 Foreign and Commonwealth Office (FCO) officials at the British High Commission in Islamabad, in correspondence dated April 2019 with the Country Policy and Information Team (CPIT), indicated that the double jeopardy principles were upheld in Pakistan's courts where a decision was reached in a foreign jurisdiction, providing the court reaching the decision was considered to be one of competent jurisdiction. The FCO could not find an example of a court in Pakistan concluding that a foreign court was not of competent jurisdiction. As examples, the FCO cited 2 cases in which Pakistan courts had upheld the decisions of cases heard in the Royal Court of Jersey and the UK Crown Court³.
- 4.2.3 Regarding offences committed by outside of Pakistan, the FCO letter noted: 's.188 Criminal Procedure Code provides for the jurisdiction of criminal courts and tribunals to extend to offences committed by a citizen of Pakistan abroad. Most of the case-law concerning this provision deals with offences

¹ Pakistan Penal Code (Act XLV of 1860), [url](#).

² Code of Criminal Procedure, 1898, (s403), [url](#).

³ FCO letter to CPIT, 12 April 2019, [Annex A](#).

committed in the tribal and administered territories which do not otherwise fall within the jurisdiction of the Pakistani courts. In *Abdul Qadir Shah v Muhammad Qasim* PLD 2014 Balochistan 28, the High Court held that in an instance where an offence of murder was committed outside of the territorial restrictions of Pakistan (in a border town in Afghanistan) by Pakistani citizens, the court did have the jurisdiction to proceed in trying the case so long as the procedural requirement of s.188 was fulfilled by the Federal Government authorising the courts to do so. This was allowed in this instance because evidence was available in the territory of Pakistan and not Afghanistan. In *Muhammad Zubair v Government of Pakistan* 2014 PLD 31 Islamabad (a UK extradition application) it was argued on behalf of the Requested Person that he had a right to be tried in Pakistan where he would have certain rights not provided for in UK law. The Islamabad High Court held that where the Federal Government had not granted permission under s.188 (and no such permission had been granted in that case) there could be no proceedings in Pakistan for an offence committed in the UK.⁴

- 4.2.4 An August 2014 International Journal of Humanities and Social Science (IJHSS) article indicated that Article 3 of the Pakistan Penal Code (PPC), relating to ‘punishment of offences committed beyond, but which by law may be tried within Pakistan’, could be used to put a person on trial in Pakistan for drug trafficking offences that had been committed abroad. It stated:

‘It should be noted that in Pakistan, trafficking of more than a kilogram of a drug is punishable by death, and the sale of adulterated drugs (not for medical purposes) carry lengthy prison sentences. Further, such offences committed by a Pakistani national, even if the crime was committed outside Pakistani borders, can be tried under Pakistani courts. According to Chapter I, Article III of the Pakistani Penal Code (Act XLV of the Code of 1860), “Any person liable, by any Pakistan Law, to be tried for an offence committed beyond Pakistan shall be dealt with according to the provision of this Code for any act committed beyond Pakistan in the same manner as if such act had been committed within Pakistan.” Article III is of significant importance to the issue of drug trafficking, as trafficking frequently involves the sale of contraband across borders.’⁵

- 4.2.5 On 12 July 2019, the Pakistan Penal Code (Amendment) Ordinance, 2019, was promulgated by the President. The Ordinance amends Article 3 of the PPC, in which the following proviso was added: ‘Provided that where the accused has been extradited into Pakistan or brought into Pakistan under any arrangement with a foreign country or authority other than extradition or where against an accused any evidence is used in court which has been obtained from a foreign country, the court, upon conviction, may punish such accused with any punishment provided for that offence except punishment of death’.⁶

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⁴ FCO letter to CPIT, 12 April 2019, [Annex A](#).

⁵ IJHSS, ‘The Treatment of Drug Offences in Sharia-Based Countries’, (page 59), August 2014, [url](#).

⁶ The Gazette of Pakistan, ‘Ordinance No. VI of 2019’, 15 July 2019, [url](#).

5. Death penalty

5.1 Offences punishable by the death penalty

- 5.1.1 According to Justice Project Pakistan, a non-governmental organisation working for prisoner's rights, there are 33 crimes in Pakistan punishable by death, most of which failed to meet the 'most serious crimes' threshold under international law⁷. The Human Rights Commission of Pakistan (HRCP) lists 27 crimes as death penalty offences⁸.

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5.2 Implementation of the death penalty

- 5.2.1 Justice Project Pakistan put Pakistan's death row population at 4,688 (in the first half of 2019), which accounted for 26% of the world's death row population⁹. Since the lifting of the moratorium on capital punishment in December 2014, over 500 people have been executed¹⁰. At least 14 persons were executed in 2018¹¹ and 13 in 2019, as of 23 July 2019¹². According to Amnesty International, at least 250 people were sentenced to death in 2018¹³ but the HRCP put this figure at 346¹⁴.
- 5.2.2 As reported by Human Rights Watch (HRW) in October 2017, 'Courts have also imposed the death penalty, in violation of international law, on people with mental disabilities, individuals who were below 18 years of age when the crime was committed, and those whose convictions were based on "confessions" extracted through torture or other ill-treatment.'¹⁵
- 5.2.3 In November 2018, HRW noted that, in a Supreme Court ruling, which reviewed the death sentences of 2 prisoners with psycho-social disabilities, the Chief Justice stated, 'Neither reason nor sensibility allow me to believe that we can execute a mentally ill or disabled person'. Despite this, the 2 inmates remained on death row¹⁶.
- 5.2.4 A joint study published March 2019, by the human rights organisations, the Foundation for Fundamental Rights (FFR) and Reprieve, reviewed 310 Supreme Court capital judgement cases between 2010 and 2018 and found: '... the Supreme Court overturned death sentences in 78% of cases – either acquitting the accused, commuting the sentence, or ordering a review. From 2015 to the end of 2018, this increased to 83%. In 2018, the last year on record, the Supreme Court upheld the death penalty in only 3% of its

⁷ Justice Project Pakistan, 'Death row', n.d., [url](#).

⁸ HRCP, 'Death penalty offences', n.d., [url](#).

⁹ Justice Project Pakistan, 'Death row', n.d., [url](#).

¹⁰ HRCP, 'Death Penalty', (database), report generated 30 August 2019, [url](#).

¹¹ HRCP, 'State of Human Rights in 2018', (page 50), March 2019, [url](#).

¹² Cornell Law School, 'Death penalty database', (Executions in 2019), updated 23 July 2019, [url](#).

¹³ Amnesty International, 'Death Sentences and Executions 2018', (page 19), 10 April 2019, [url](#).

¹⁴ HRCP, 'State of Human Rights in 2018', (page 50), March 2019, [url](#).

¹⁵ HRW, 'Pakistan: Election to UN Rights Body Spotlights Failings', 18 October 2017, [url](#).

¹⁶ HRW, 'Pakistan should remove people ...', 29 November 2018, [url](#).

reported capital cases, overturning the death sentence or ordering a review in 97% of capital cases.¹⁷

- 5.2.5 The FFR and Reprieve report cited numerous reasons for overturning sentences handed down by the lower courts, including unsafe witness testimonies, insufficient evidence and unreliable police investigations¹⁸.
- 5.2.6 Despite capital punishment being applied by lower courts for ‘non-lethal offences’, the Supreme Court upheld judgements that applied the death sentence only for offences that caused death and, according to the FFR and Reprieve report, followed a 2009 judgement in which it was ruled that the death penalty was only justified “when the murder is committed in an extremely brutal, grotesque, diabolical, revolting, or dastardly manner, so as to arouse intense and extreme indignation of the community”.¹⁹
- 5.2.7 The FFR report also noted that ‘There are over 40,000 cases currently pending before the Supreme Court. ... As a result, prisoners sentenced to death in Pakistan spend an average of nearly ten years with the “sword of death hanging over their heads” before their case is heard by the Supreme Court. ... One in 10 prisoners must wait more than 15 years before their final appeal²⁰’.

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Section 6 updated: 16 August 2019

6. Prisons

6.1 Administration

- 6.1.1 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 territory²¹, subject to the Pakistan Prison Rules of 1978 and other ordinances and acts²².

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6.2 Locations and types

- 6.2.1 A joint study on prison overcrowding in Pakistan, by the National Counter Terrorism Agency (NACTA), in cooperation with Cursor of Development and Education Pakistan (CODE) and the International Committee of the Red Cross (ICRC) – hereafter CODE report, dated May 2018, noted that, according to data obtained by official prison authorities, as of 1 October 2017, there were 112 prisons in Pakistan: 26 Central Prisons; 60 District Prisons; 12 Sub-Jails; 4 women’s prisons; 7 juvenile prisons; 2 high security or special prisons and 1 open prison²³.
- 6.2.2 The CODE report described the types of prisons in the provinces:

¹⁷ FFR, ‘The Pakistan Capital Punishment Study’, (page 1), March 2019, [url](#).

¹⁸ FFR, ‘The Pakistan Capital Punishment Study’, (page 2), March 2019, [url](#).

¹⁹ FFR, ‘The Pakistan Capital Punishment Study’, (page 21), March 2019, [url](#).

²⁰ FFR, ‘The Pakistan Capital Punishment Study’, (page 33), March 2019, [url](#).

²¹ The Prisons Act, 1894, [url](#).

²² Pakistan Prison Rules, 1978, [url](#).

²³ CODE, ‘Addressing overcrowding in prisons’, (page 21), May 2018, [url](#).

‘Central Prisons: Each division in a province is required to have a Central Prison, which can accommodate more than 1,000 prisoners, irrespective of the length of sentence. The provincial government has discretionary authority to re-designate any Special Prison or District Prison as a Central Prison.

‘District Prisons: Other than Central Prisons or Special Prisons, all prisons are designated as District Prisons, which, in turn, are divided into three classes: first class, capable of accommodating 500 prisoners or more, sentenced up to five years; second class, capable of accommodating between 300 and 500, sentenced up to three years; and third class, capable of accommodating less than 300, sentenced up to one year.

‘Special Prisons: These include women’s prisons, open prisons, borstal institutions and juvenile training centers. The provincial government can establish a special prison at a time and place of its choosing or can declare any existing prison a special prison. Another example of special prisons are high security prisons established for terrorist suspects and convicts.

‘Sub-Jails: These are smaller facilities where criminal suspects may be detained on remand. A provincial government can declare any place “by general or special order” to be a “subsidiary jail”.²⁴

6.2.3 There were 40 prisons in the province of Punjab²⁵, 26 in Sindh²⁶, 22 in Khyber Pakhtunkhwa (KP)²⁷, 11 in Balochistan²⁸, 6 in Gilgit Baltistan (GB) and 7 prisons in Azad Jammu and Kashmir (AJK)²⁹.

6.2.4 The CODE report provided a breakdown of the different types of prisons in the provinces. There were no prisons in Islamabad Capital Territory (ICT) or the Federally Administered Tribal Areas (FATA)³⁰ [in May 2018 FATA merged with KP³¹]:

	Pun jab	Sindh	KP	Bal’ stan	GB	AJK	Total
Central Prison	9	5	5	5	0	2	26
District Prison	25	11	9	6	5	4	60
Sub-jail/Judicial lock-up	2	0	8	0	1	1	12
Women Prison	1	3	0	0	0	0	4
Juvenile Prison	2	5	0	0	0	0	7
High Security/Special Prison	1	1	0	0	0	0	2
Open Prison	0	1	0	0	0	0	1
Total	40	26	22	11	6	7	112

²⁴ CODE, ‘Addressing overcrowding in prisons’, (page 20), May 2018, [url](#).

²⁵ Gov. of Punjab, ‘Punjab jails’, n.d., [url](#).

²⁶ Sindh Prisons Department, ‘Introduction’, n.d., [url](#).

²⁷ KP Prison Department, ‘Category Wise List of Prisons in Khyber Pakhtunkhwa’, n.d., [url](#).

²⁸ Gov. of Balochistan, ‘Prisons department’, n.d., [url](#).

²⁹ CODE, ‘Addressing overcrowding in prisons’, (page 22), May 2018, [url](#).

³⁰ CODE, ‘Addressing overcrowding in prisons’, (page 22), May 2018, [url](#).

³¹ PDMA, ‘FATA-KP merger’, n.d., [url](#).

7. Prison conditions

7.1 General conditions

- 7.1.1 According to the British High Commission (BHC), Islamabad, in its guide for British prisoners in Pakistan prisons (BHC guide), dated July 2018, 'Prison conditions depend on the class awarded to a prisoner and also vary from prison to prison.'³²
- 7.1.2 According to the US Department of State's human rights report for 2018 (USSD HR Report 2018) on Pakistan 'Conditions in some civilian prisons and military detention centers were harsh and life threatening due to overcrowding, inadequate food and medical care, and unsanitary conditions.'³³ The CODE report highlighted overcrowding, inadequate food, water and access to health care, security concerns, the lack of sanitation, ventilation, lighting and the means to control indoor temperatures³⁴. Prisons were inadequately equipped in terms of productive and recreational facilities and were also understaffed³⁵.
- 7.1.3 In a message for the CODE report, Ihsan Ghani Khan of the National Counter Terrorism Authority (NACTA) highlighted the overcrowding in Pakistan's prisons which resulted in '... deplorable living conditions, overburdened facilities, and a general dearth of resources to meet the minimum requirements of basic human dignity.'³⁶
- 7.1.4 A January 2019 report by the National Human Rights Commission (NHRC) of Pakistan on Balochistan prisons, where visits were made to Mach Central & Sibbi District jails with information collected from prisoners and prison staff, noted 'While there remain some prime concerns like the insufficient and untrained staff and the lack of vocational activities, the situation of the jails visited was more or less satisfactory. The record keeping, situation of the barracks, quality of food, hygiene of prisoners and the maintenance of the prisons was apparently adequate. The prisoners expressed satisfaction on the behavior of prison staff.' However, the NHRC added it could not rule out that the situation presented was a 'white wash'³⁷.
- 7.1.5 DFAT reported that 'Local sources report the existence of so called 'death cells,' akin to solitary confinement. DFAT is aware of reports of individuals confined in death cells for four decades.'³⁸ The FFR and Reprieve report of March 2019 cited the presence of 'death cells', in which prisoners living on death row were held, some for many years³⁹. (See also [Implementation of the death penalty](#)).

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³² BHC, 'Pakistan Prisoner Pack', (page 10), last updated 12 July 2018, [url](#).

³³ USSD, Country Report on Human Rights 2018, (page 6), 13 March 2019, [url](#).

³⁴ CODE, 'Addressing overcrowding in prisons', (pages 53-54), May 2018, [url](#).

³⁵ CODE, 'Addressing overcrowding in prisons', (pages 54 and 56), May 2018, [url](#).

³⁶ CODE, 'Addressing overcrowding in prisons', (page 4), May 2018, [url](#).

³⁷ NHRC, 'Baluchistan Prisons: An Exposé', (page 11), 24 January 2019, [url](#).

³⁸ DFAT, 'Country Information Report Pakistan', (para 5.29), February 2019, [url](#).

³⁹ FFR, 'The Pakistan Capital Punishment Study', (page 31), March 2019, [url](#).

7.2 Prisoner categories

7.2.1 Summarising the Pakistan Prison Rules of 1978⁴⁰, the BHC guide noted:

'Prisoners are divided into different categories i.e. under trial prisoners who are yet to be convicted, prisoners convicted of criminal offences, prisoners convicted of civil offences, prisoners detained for civil liability such as non-payment of [ordered] amount or in accordance with orders passed by a court other than a criminal court or persons temporarily detained under order of a court ...

'Under trial prisoners are segregated from convicted prisoners and civil prisoners are segregated from criminal prisoners. Juveniles, women and political prisoners are segregated from all other prisoners. [...]. In practice due of [sic] overcrowding this segregation is not always strictly observed.'⁴¹ (see also [Capacity and occupancy](#) and [Women and children](#)).

7.2.2 The BHC guide stated:

'Convicted prisoners are classified by the Government into three classes A, B and C. Under-trial offenders may also be admitted to Class A or B by order of a court. Convicted or under-trial prisoners admitted to A or B class. ...

- Class A prisoners are casual prisoners who are first time offenders of good character and standing and are accustomed to a high standard of living owing to their social status and education and who have not been convicted for cruelty, moral degradation, serious or premeditated violence, offences relating to explosives/dangerous weapons etc.
- Class B prisoners are prisoners who are accustomed to a high standard of living owing to their social status and education.
- Class C [...] are prisoners who do not fall in either Class A or Class B.'⁴²

7.2.3 According to the Prison Rules 1978, as cited by the BHC:

'Class A and Class B prisoners [are] entitled to accommodation in rooms or association barracks, depending on the availability of rooms/barracks and may be allowed to sleep outside their rooms/barracks during hot weather. Rooms are furnished with necessary furniture, washing and sanitary appliances. Association barracks are provided with one cot per prisoner, one large table with benches, shelves, sufficient light to enable reading, necessary night sanitary appliances and bath rooms in the enclosure.

'A Class prisoners may at the discretion of Superintendent and at their own cost be allowed other articles including portable Radio and TV set.

'Where modern flush fittings are not available, commodes are supplied to those prisoners who are accustomed to the same. A table lamp for reading upto 10 PM is also allowed.

'A Class and B Class prisoners are entitled to [a] superior diet served in the jail and may obtain extra articles of food at their own expense.

⁴⁰ Pakistan Prison Rules, 1978, [url](#).

⁴¹ BHC, 'Pakistan Prisoner Pack', (page 9), last updated 12 July 2018, [url](#).

⁴² BHC, 'Pakistan Prisoner Pack', (page 9), last updated 12 July 2018, [url](#).

‘Class A and Class B are allowed the services of a C class prisoner to cook food for them [...] and can avail the services of a prison servant for discharging menial duties.

‘Utensils i.e. cups, plate, spoon, glass, mug are provided to each prisoner. Class A prisoners may use their own utensils.

‘Class A and Class B prisoners may wear their own clothing and bring in their own bedding, shoes etc and are permitted to use mosquito nets at their own expense.

‘Class A and Class B prisoners are allowed reasonable facilities for bathing, latrines etc. with due regard to privacy and are allowed the use of toilet and washing soap. They may keep their own toiletry articles i.e. soap, towel, tooth brush, shaving items, hair oil etc.’⁴³

- 7.2.4 The Australian Department of Foreign Affairs and Trade (DFAT) noted in its report on Pakistan, dated February 2019, that ‘Local sources also claim that prisoners with money and influence can have a very comfortable life in prison and, in some cases, can serve a sentence in their own home. Other sources claim that influential convicted criminals have organised for other individuals to serve their sentences.’⁴⁴
- 7.2.5 According to the CODE report, segregation according to the category of crime committed, high risk and low risk offenders, or between convicted and under-trial prisoners, was compromised due to overcrowding⁴⁵.

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7.3 Capacity and occupancy

- 7.3.1 According to the World Prison Brief, the official capacity of Pakistan prisons in 2018 was 53,231. However, the prison population total, including pre-trial and remand prisoners, stood at 83,718, over 57% above capacity⁴⁶.
- 7.3.2 In terms of occupancy rate per province / administrative territory (as at 1 October 2017 and based on a prison population of 84,287), the CODE report noted that Punjab’s occupancy rate stood at 168%, Sindh 155%, KP 149% and AJK 147%⁴⁷. The CODE report provided data on the capacity vs occupancy levels of individual prisons in the provinces and territories⁴⁸.
- 7.3.3 The same report noted that not all prisons in Punjab, Sindh and KP housed more than their official capacity, although those that did were very overcrowded: Peshawar Central Prison in KP had an occupancy rate of 503%, 2 others in the province were at over 400% and a number of prisons in Punjab province were over 300%⁴⁹. Whilst prisons in Balochistan and GB held less than their official prison capacity overall, some prisons in those

⁴³ BHC, ‘Pakistan Prisoner Pack’, (page 9), last updated 12 July 2018, [url](#).

⁴⁴ DFAT, ‘Country Information Report Pakistan’, (para 5.29), February 2019, [url](#).

⁴⁵ CODE, ‘Addressing overcrowding in prisons’, (pages 56-57), May 2018, [url](#).

⁴⁶ World Prison Brief, Institute for Criminal Policy Research, ‘Pakistan’, n.d., [url](#).

⁴⁷ CODE, ‘Addressing overcrowding in prisons’, (page 29), May 2018, [url](#).

⁴⁸ CODE, ‘Addressing overcrowding in prisons’, (pages 36-52), May 2018, [url](#).

⁴⁹ CODE, ‘Addressing overcrowding in prisons’, (pages 29 and 114), May 2018, [url](#).

regions housed more⁵⁰. For example, the NHRC report on Balochistan prisons noted that, of the 11 prisons in Balochistan province, only the District Jail Quetta and Central Jail Gaddani housed more prisoners than their sanctioned capacity⁵¹.

- 7.3.4 Women accounted for 1.8% and juveniles 1.6% of the total prison population⁵². Under-trial and pre-trial prisoners made up 66% of the total prison population, which accounted for the high levels of overcrowding⁵³. Some prisoners on remand were reportedly in pre-trial detention for periods longer than the maximum sentence for the alleged crime⁵⁴.
- 7.3.5 The CODE report recounted the personal experience of a senior level prosecutor in Peshawar, KP, following a prison visit:
- ‘... prisoners were sitting in bathrooms, forcibly huddled together with their arms around their knees, because there was not enough space to lie down with most inmates shirtless in an attempt to ward off the heat. In one prison, three grown men shared a small single bed, which would have barely been comfortable for one, while in another prison, inmates were being kept in the mosque and made to sleep in the bathrooms due to lack of space. Prisoners were left to sleep standing because of insufficient space that the available space became a commodity to sell to prisoners willing to pay for it.’⁵⁵

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7.4 Cell size and space

- 7.4.1 Rule 745 of the Pakistan Prison Rules of 1978 provides for the recommended floor space per prisoner and Rule 749 prescribes the recommended size of each sleeping berth⁵⁶.
- 7.4.2 The CODE report noted that, according to the ICRC, the recommended minimum floor space per prisoner in dormitories was 3.4 square metres. The CODE report stated ‘If the floor space prescribed in Rule 745 would save as the basis for determining official capacity in Pakistan’s prisons, even with a 400 percent occupancy rate, the detainees would still have a floor space of at least 4 square meters each...’⁵⁷
- 7.4.3 The report added, however, that most prisons were not constructed according to the space criteria in the rule and that the criteria varied across provinces and prisons. Even when prisons were constructed in accordance with the rule, the standards were often misinterpreted to include washrooms, prayer space, kitchen areas and corridors. Therefore, Rule 745 was not effective in practice⁵⁸.

⁵⁰ CODE, ‘Addressing overcrowding in prisons’, (page 29), May 2018, [url](#).

⁵¹ NHRC, ‘Baluchistan Prisons: An Exposé’, (page 11), 24 January 2019, [url](#).

⁵² World Prison Brief, Institute for Criminal Policy Research, ‘Pakistan’, n.d., [url](#).

⁵³ CODE, ‘Addressing overcrowding in prisons’, (pages 29 and 31), May 2018, [url](#).

⁵⁴ UNHRC, ‘Concluding observations on the initial report of Pakistan’. (para 27), 23 August 2017, [url](#).

⁵⁵ CODE, ‘Addressing overcrowding in prisons’, (page 11), May 2018, [url](#).

⁵⁶ Pakistan Prison Rules, 1978, [url](#).

⁵⁷ CODE, ‘Addressing overcrowding in prisons’, (page 24), May 2018, [url](#).

⁵⁸ CODE, ‘Addressing overcrowding in prisons’, (page 25), May 2018, [url](#).

- 7.4.4 It was DFAT's understanding that '12 to 15 people often occupy a 6x8 metre to 6x10 metre cell designed for three people, and that each cell generally contains one open toilet, which is cleaned once every 24 hours.'⁵⁹
- 7.4.5 The CODE report noted that Rule 749, which prescribes the sleeping berth dimensions, appeared to be the standard guide for determining the official capacity of a prison, thus focusing on sleeping space rather than total space⁶⁰. It was explained by participants in the CODE study that:
- 'Each barrack, which ordinarily provides living space of 30 persons, consists of berths of the size of 197 centimeters long and 91 centimeters wide, with a space of 91 centimeters between each two berths. Barracks were constructed in rectangular shape with berths on two sides and a reasonable space of about two meters in the middle, for passage of inmates.'⁶¹
- 7.4.6 The CODE report noted that, based on these measurements, '... the minimum floor space per prisoner would then amount to around 5.5 square meters. While this floor space is more realistic, no actual measurements of prisons were made for this report.'⁶²

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Section 8 updated: 30 August 2019

8. Treatment of prisoners

8.1 Torture and ill-treatment

- 8.1.1 Whilst sources reported on incidents of torture, for example when in the custody of police or security forces, they did not all directly relate to treatment in prisons.
- 8.1.2 The UN Committee against Torture (UNCAT) noted in its 2017 concluding observations on Pakistan that 'the Committee is deeply concerned at consistent reports that the use of torture by the police with a view to obtaining confessions from persons in custody is widespread throughout the territory of the State party. ... The Committee is deeply concerned about reports that cases of death in custody as a result of torture.'⁶³
- 8.1.3 The USSD HR Report 2018 noted 'The USSD HR Report 2018 noted that 'Although the constitution prohibits torture and other cruel, inhuman, or degrading treatment, the criminal code has no specific section against torture. There were reports that security forces, including the intelligence services, tortured and abused individuals in custody.'⁶⁴
- 8.1.4 The DFAT reported that 'Reports of the security forces, including the intelligence services, torturing people held in their custody are widespread.'⁶⁵ According to the Justice Project Pakistan 'Police brutality and torture are widespread and systematic in Pakistan. The violence takes many forms.

⁵⁹ DFAT, 'Country Information Report Pakistan', (para 5.25), February 2019, [url](#).

⁶⁰ CODE, 'Addressing overcrowding in prisons', (page 25), May 2018, [url](#).

⁶¹ CODE, 'Addressing overcrowding in prisons', (page 25), May 2018, [url](#).

⁶² CODE, 'Addressing overcrowding in prisons', (page 25), May 2018, [url](#).

⁶³ UNCAT, 'Concluding observations on the initial report of Pakistan', (paras 6, 28), 1 June 2017, [url](#).

⁶⁴ USSD, Country Report on Human Rights 2018, (pages 4-5), 13 March 2019, [url](#).

⁶⁵ DFAT, 'Country Information Report Pakistan', (para 4.18), February 2019, [url](#).

Police beat victims, hang them by their arms or feet for hours on end, force them to witness the torture of others, and strip them naked and parade them in public, damaging their basic human dignity. This conduct amounts to torture. In Pakistan, there has been a lack of documentation that would allow for a rigorous assessment of the prevalence of torture by the police.’⁶⁶

- 8.1.5 The HRCP’s media monitoring during 2017 identified 47 cases of violence and torture in prisons resulting in the deaths of 32 people. The report gave 2 examples of individuals allegedly tortured by prison officials⁶⁷. In its report for 2018, the HRCP did not cite any particular cases of torture although noted the Deputy Inspector General (DIG) of Police (Prisons) Rawalpindi as stating that psychologists had been appointed to support the victims of torture in prisons. According to the DIG, strict disciplinary action was taken against prison staff accused of ill-treating prisoners and added that a reduction in overcrowding and the recruitment of more staff would help eliminate torture in prisons⁶⁸.

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8.2 Women and children

- 8.2.1 Whilst there were women and juvenile prisons in some provinces, women and children were also accommodated in general prisons, with separate quarters to men^{69 70}. However, the USSD HR Report 2018 noted that, according to non-governmental organisations (NGOs), transgender women were held with men and faced harassment⁷¹.
- 8.2.2 The UN Committee against Torture (UNCAT) noted in its 2017 concluding observations on Pakistan that it was deeply concerned about ‘allegations of sexual abuse of minors by prisoners and prison staff have not been subject to effective investigation and the perpetrators of such acts have not been punished. ... It is further concerned at reports that ... juvenile prisoners are kept together with adults.’⁷²
- 8.2.3 The 2017 Society for the Protection of the Rights of the Child (SPARC) report noted that ‘Police brutality and torture are common features which have reportedly been found meted out to juveniles. Disproportionate amounts of force during arrests and subsequent torture and harassment are relied on as a means of interrogation. The juveniles are often recorded as “Nojawan-ul-Omar” in the FIR [First Information Report], which indicates that the offender is a young man as opposed to a child. ... Arrested children are kept in lockups with adult prisoners which further exposes the children to violence and abuse from these hardened criminals. ... Pakistan has also failed to provide children with legal assistance when they come in contact

⁶⁶ Justice Project Pakistan, ‘Torture’, n.d., [url](#).

⁶⁷ HRCP, ‘State of Human Rights in 2017’, (page 63), March 2018, [url](#).

⁶⁸ HRCP, ‘State of Human Rights in 2018’, (page 88), March 2019, [url](#).

⁶⁹ CODE, ‘Addressing overcrowding in prisons’, (pages 58-60), May 2018, [url](#).

⁷⁰ USSD, Country Report on Human Rights 2018, (page 7), 13 March 2019, [url](#).

⁷¹ USSD, Country Report on Human Rights 2018, (page 7), 13 March 2019, [url](#).

⁷² UNCAT, ‘Concluding observations on the initial report of Pakistan’, (paras 26, 28), 1 June 2017, [url](#).

with the law, despite it being a right guaranteed under the JJSO [Juvenile justice System Ordinance].⁷³

- 8.2.4 According to the HRCP report 2018, 'In recent times, there have been reports of sexual abuse and exploitation of juvenile prisoners.'⁷⁴ Similarly the CODE report explained that housing juveniles with adult prisoners 'have also resulted in sexual abuse of juveniles in prisons, which are often not even properly investigated and the perpetrators go unpunished.'⁷⁵
- 8.2.5 DFAT reported that 'Pakistan's adult and juvenile prisons lack teachers and education programs, legal assistance, and on-site medical services. ... Sources report sexual violence, especially towards juvenile males, is common in the prison system.'⁷⁶
- 8.2.6 According to DFAT 'Children born in prison are required to remain in prison.'⁷⁷ The 2017 SPARC report stated that, in Pakistan law, children may be incarcerated with their mothers up to the age of 6. However, in practice, some older children remained confined with the mother. Educational and recreational facilities for such children were limited⁷⁸. The HRCP report stated as many as 500 children could be incarcerated with their mothers, though was unable to verify this as statistics were not available⁷⁹.

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8.3 Ethnic and religious minorities

8.3.1 As noted in the USSD HR Report 2018:

'Representatives of Christian and Ahmadiyya Muslim communities claimed their members were often subjected to abuse in prison and violence at the hands of fellow inmates. Civil society organizations reported 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, sometimes for more than a year. The government asserted this treatment was for the individual's safety, given the likelihood that prisoners accused of blasphemy would face threats from the general prison population.'⁸⁰

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Section 9 updated: 30 August 2019

9. Access to provisions

9.1 Medical treatment

9.1.1 Overcrowding and the resulting poor prison conditions exposed prisoners to physical and mental illnesses. Healthcare was difficult to access, and

⁷³ SPARC, 'State of Pakistan's children 2017', (Juvenile justice, page 215), 2017, [url](#).

⁷⁴ HRCP, 'State of Human Rights in 2018', (page 86), March 2019, [url](#).

⁷⁵ CODE, 'Addressing overcrowding in prisons', (page 58), May 2018, [url](#).

⁷⁶ DFAT, 'Country Information Report Pakistan', (para 5.26), February 2019, [url](#).

⁷⁷ DFAT, 'Country Information Report Pakistan', (para 5.26), February 2019, [url](#).

⁷⁸ SPARC, 'State of Pakistan's children 2017', (Juvenile justice, page 215), 2017, [url](#).

⁷⁹ HRCP, 'State of Human Rights in 2018', (page 87), March 2019, [url](#).

⁸⁰ USSD, Country Report on Human Rights 2018, (page 7), 13 March 2019, [url](#).

medical staff resources were inadequate⁸¹. Care for prisoners with mental illnesses was reported to be particularly poor⁸². According to DFAT, 'Medical visits generally occur only twice a year and no allied health services, such as psycho-social support. [...] Prisoners are sent to local hospitals should treatment be required.'⁸³ However the USSD HR Report 2018 noted that 'A system existed for basic and emergency medical care, but bureaucratic procedures slowed access. Prisoners with disabilities usually lacked adequate care.'⁸⁴

- 9.1.2 The NHRC report on Balochistan prisons noted, regarding Pakistan prisons in general, 'The prevalence of diseases is high in the absence of proper screening and vaccination of prisoners for transmissible diseases along with the lack of physical and mental health care facilities and insufficient medical staff.'⁸⁵
- 9.1.3 According to a media report of April 2018, over 145 prisoners had died in prisons in Punjab province over the past year due to diseases including Hepatitis, AIDS, and other liver, heart and stomach ailments⁸⁶. The spread of tuberculosis was aggravated by overcrowding⁸⁷.

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9.2 Food and water

- 9.2.1 Provision of a balanced diet, to include, but not limited to meat, vegetables, lentils and wheat, is prescribed under the Pakistan Prison Rules⁸⁸. However, as noted in the CODE report, prisoners in Pakistan faced 'chronic health problems and malnutrition'. Prisoners often had to supplement their diet with the help of family and friends. Food resources were stretched due to overcrowding, resulting in an unbalanced diet in breach of the law⁸⁹.
- 9.2.2 Access to clean drinking water is a right under Pakistani and international law. However, clean water was not provided at all times to prisoners and drinking water was not always accessible or refreshed daily⁹⁰. DFAT noted that 'Plans for water filtration in prisons remain unimplemented and prisoners drink contaminated water.'⁹¹

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Section 10 updated: 30 August 2019

10. Oversight and monitoring

10.1 Government oversight

⁸¹ CODE, 'Addressing overcrowding in prisons', (page 54), May 2018, [url](#).

⁸² HRCP, 'State of Human Rights in 2018', (page 83), March 2019, [url](#).

⁸³ DFAT, 'Country Information Report Pakistan', (para 5.27), February 2019, [url](#).

⁸⁴ USSD, Country Report on Human Rights 2018, (page 7), 13 March 2019, [url](#).

⁸⁵ NHRC, 'Baluchistan Prisons: An Exposé', (page 1), 24 January 2019, [url](#).

⁸⁶ Pakistan Today, 'Death toll rises as admin fails to control outbreak of diseases', 19 April 2018, [url](#).

⁸⁷ CODE, 'Addressing overcrowding in prisons', (page 54), May 2018, [url](#).

⁸⁸ Pakistan Prison Rules, 1978, (Rule 260), [url](#).

⁸⁹ CODE, 'Addressing overcrowding in prisons', (page 53), May 2018, [url](#).

⁹⁰ CODE, 'Addressing overcrowding in prisons', (page 53), May 2018, [url](#).

⁹¹ DFAT, 'Country Information Report Pakistan', (para 5.27), February 2019, [url](#).

- 10.1.1 The USSD HR Report 2018 noted '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. There were reports, however, that prisoners refrained from submitting complaints to avoid retaliation from jail authorities.'⁹²
- 10.1.2 The UN Committee against Torture (UNCAT) noted in its 2017 concluding observations on Pakistan that so-called 'jail committees' conducted periodic visits to jails and prisons '... to inquire about the state of the inmates and make recommendations to jail authorities to address inmates' grievances. However, the Committee is concerned at reports that the jail committees have not been made operational in practice and about the lack of a fully independent monitoring mechanism.'⁹³
- 10.1.3 In March 2019, the English-language news site, Dawn, commented that, despite the formation of jail committees, they were still not functioning⁹⁴.

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10.2 Independent monitoring

10.2.1 According to the USSD HR Report 2018:

'International organizations responsible for monitoring prisons reported difficulty accessing some 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, FATA, and Balochistan. Authorities at the local, provincial, and national levels permitted some human rights groups and journalists to monitor prison conditions of juveniles and female inmates.'⁹⁵

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Section 11 updated: 30 August 2019

11. External support

11.1 Visiting rights and assistance

- 11.1.1 Whilst visiting rights are provided for, in practice these rights were reduced due to overcrowding and the subsequent lack of space available⁹⁶.
- 11.1.2 The HRCP report 2018 noted that the Federal Ombudsman (Wafaqi Mohtasib) acknowledged that, '... although some philanthropic assistance was currently being provided to the prisoners in coordination with local communities and NGOs, effective mechanisms were still needed to provide basic facilities such as mattresses, medicines, exhaust fans, electric water coolers, and blankets. Prisons are increasingly unable to play a corrective and reformatory role.'⁹⁷

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⁹² USSD, Country Report on Human Rights 2018, (pages 7-8), 13 March 2019, [url](#).

⁹³ UNCAT, 'Concluding observations on the initial report of Pakistan', (para 26), 1 June 2017, [url](#).

⁹⁴ Dawn, 'Punjab's prisons', 14 March 2019, [url](#).

⁹⁵ USSD, Country Report on Human Rights 2018, (page 8), 13 March 2019, [url](#).

⁹⁶ CODE, 'Addressing overcrowding in prisons', (page 63), May 2018, [url](#).

⁹⁷ HRCP, 'State of Human Rights in 2018', (page 85), March 2019, [url](#).

Annex A: Letter from British High Commission, Islamabad, 12 April 2019

Diplomatic Enclave
Ramna 5
P.O. Box 1122
Islamabad

Tel: +92 (0)51 201 [redacted]
Fax: +92 (0)51 201 [redacted]
www.gov.uk/world/pakistan

12 April 2019

Dear Country Policy & Information Team,

You have included the following enquiries:

Are there any facts and figures related to the willingness of the Pakistan authorities to pursue overseas offences? You have made it clear that this is to be considered in the context of cases where there has already been a conviction in the UK. You ask whether the UK courts are considered to be courts of 'competent jurisdiction'. You have also asked about whether there is any information as to the range of sentence passed with respect to rape cases.

Double jeopardy

Principles of double jeopardy are dealt with under Article 13 of the Constitution and s.403 of the Criminal Procedure Code. I am not aware of any equivalent to China's Article 10 CL. Such research as we have been in a position to conduct would suggest that the double jeopardy principles are upheld where a decision has been reached in a foreign jurisdiction (as long as the court reaching the decision is considered to be one of competent jurisdiction – we have not found an example of a court in Pakistan concluding that a foreign court was not of competent jurisdiction for these purposes). In the case of *Rashid Hassan v The State* 2010 Pr.CR.L J. 1902 the Sindh High Court examined and upheld an acquittal rendered by the Royal Court of Jersey. Article 13 and s.403 were specifically addressed. Further, with respect to consideration of the question whether a UK court is considered to be one of competent jurisdiction, regard can be had to the case of *Javed Akhtar v The State* 2017 SCMR 1514. In that matter the Supreme Court upheld the validity of a sentence passed in a UK Crown Court and reiterated the principle of Comity.

Offences committed outside of Pakistan

s.188 Criminal Procedure Code provides for the jurisdiction of criminal courts and tribunals to extend to offences committed by a citizen of Pakistan abroad. Most of the case-law concerning this provision deals with offences committed in the tribal and

administered territories which do not otherwise fall within the jurisdiction of the Pakistani courts. In *Abdul Qadir Shah v Muhammad Qasim* PLD 2014 Balochistan 28, the High Court held that in an instance where an offence of murder was committed outside of the territorial restrictions of Pakistan (in a border town in Afghanistan) by Pakistani citizens, the court did have the jurisdiction to proceed in trying the case so long as the procedural requirement of s.188 was fulfilled by the Federal Government authorising the courts to do so. This was allowed in this instance because evidence was available in the territory of Pakistan and not Afghanistan. In *Muhammad Zubair v Government of Pakistan* 2014 PLD 31 Islamabad (a UK extradition application) it was argued on behalf of the Requested Person that he had a right to be tried in Pakistan where he would have certain rights not provided for in UK law. The Islamabad High Court held that where the Federal Government had not granted permission under s.188 (and no such permission had been granted in that case) there could be no proceedings in Pakistan for an offence committed in the UK.

Practical considerations & opinion

From the above it could be taken that the 'appetite' to reconvict for offences committed outside of Pakistan and subject to proceedings elsewhere does not appear to be high and would in any event be severely constrained by the provisions referred to. As I have previously indicated, I do not have access to any facts or figures and would not claim that the above in any way amounted to anything approaching exhaustive research. Over and above the legal restraints which would need to be overcome, there are clearly also practical considerations which would be relevant to the viability of any renewed proceedings. This is a system in which rape convictions (for example) are difficult to achieve. There is significant emphasis on a contemporaneously given ocular account (hence in part my query about where the victim may reside) and there is also an expectation of forensic evidence. Where that evidence has been acquired in the UK, it seems improbable in the extreme that it would be supplied to the Pakistan for proceedings here – both because the individual had already been convicted and because of death penalty concerns.

Sentence

There is no information available as to the actual sentences passed in these types of cases. However, it is worthy of note that strict conditions are required to be fulfilled before a court could take the view that a death sentence could be considered. Section 375 of the Pakistan Penal Code defines the constituent elements of rape and Section 376 provides for sentencing possibilities, which includes imprisonment of not less than 10 years up and up to 25 years and the death penalty. Under Section 376, the death penalty is applicable in aggravated cases falling under any of the following descriptions:

1. When rape is committed by two or more persons in furtherance of common intention of all.
2. When the rape is committed of a minor or a person with mental or physical disability.
3. When the rape is committed by a public servant including a police officer, medical officer or jailor, taking advantage of his official position.

4. Where the rape is committed resulting in grievous bodily harm that involves loss of any part of the victim's body or impairment or disfigurement of such part as defined under sections 333, 335 and 337 of the Pakistan Penal Code.

It may also be worthy of note that, although we have no data to support this, it is our observation that courts are extremely reluctant to consider a death penalty in the absence of a judicial confession.

Regards

[Redacted]

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Terms of Reference

A 'Terms of Reference' (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the [country information section](#). The Home Office's Country Policy and Information Team uses some standardised ToRs, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- Legislation
 - Pakistan Penal Code (PPC)
 - Double jeopardy
- Death penalty
 - Punishable offences
 - Implementation
- Prisons
 - Administration
 - Locations
 - Types / categories of prisoner
 - Occupancy and cell size
- Access to medical care, food, water
- Prison conditions
 - General conditions
 - Treatment of detainees
 - Women and children
 - Ethnic and religious minorities
- Government oversight and independent monitoring
- External support

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Version control

Clearance

Below is information on when this note was cleared:

- version **3.0**
- valid from **12 November 2019**

Changes from last version of this note

Updated country information and inclusion of [Mursic v Croatia \(7334/13, 20 October 2016\)](#), ECtHR caselaw.

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