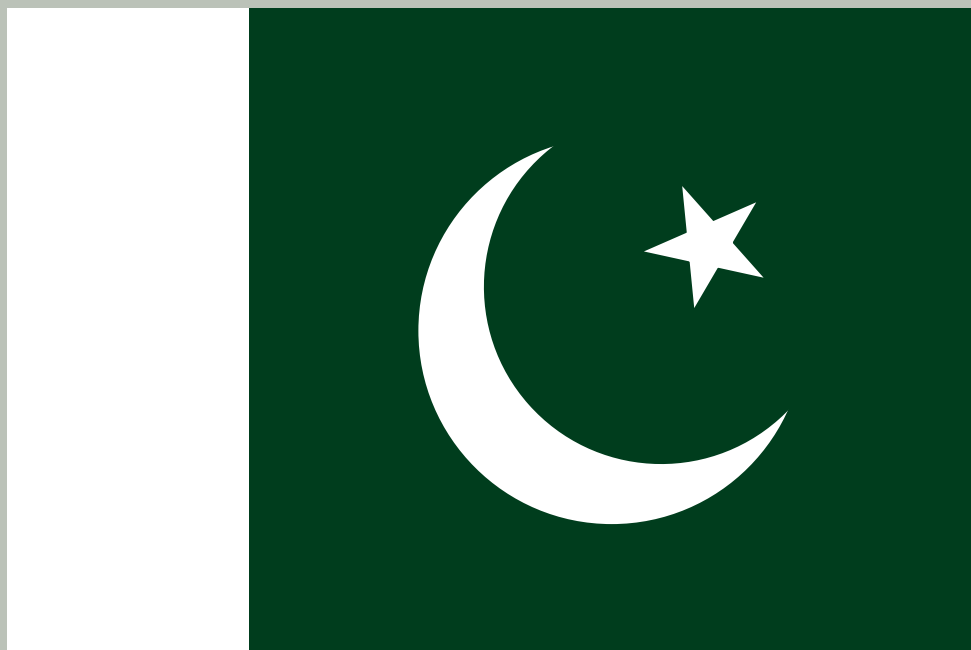


THE DEATH PENALTY IN LAW AND IN PRACTICE

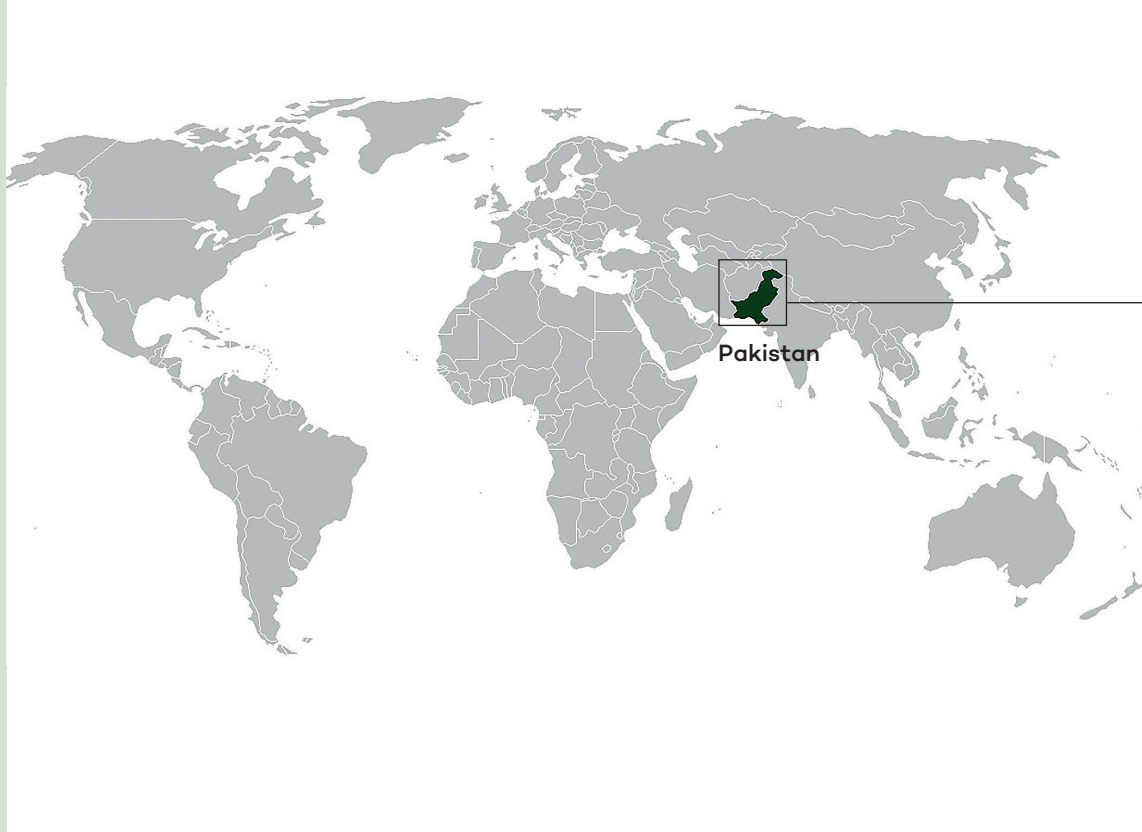
PAKISTAN



**EC
PM** TOGETHER
AGAINST
THE DEATH
PENALTY

ANTI
DEATH
PENALTY
ASIA
NETWORK

JUSTICE
PROJECT
PAKISTAN



ISLAMIC REPUBLIC OF PAKISTAN

AREA

796,095 km²

CAPITAL

Islamabad

POPULATION

235,824,862 (2022)

OFFICIAL LANGUAGE

Urdu, English

#2

HEAD OF STATE

Since 9 September 2018, **Arif Alvi** is the head of state of the Islamic Republic of Pakistan (IROP), also referred to as the president of Pakistan.

HEAD OF GOVERNMENT

On 11 April 2022, **Shehbaz Sharif** was appointed Prime Minister of the Republic of Pakistan.

MINISTER OF FOREIGN AFFAIRS

Hina Rabbani Khar

MINISTER OF JUSTICE

Ayaz Sadiq

MINISTRY IN CHARGE OF THE PENITENTIARY ADMINISTRATION

Ministry of Interior

#3

DEATH PENALTY APPLICATION AND CONDITIONS OF DETENTION OF DEATH ROW PRISONERS

APPLICATION OF THE DEATH PENALTY

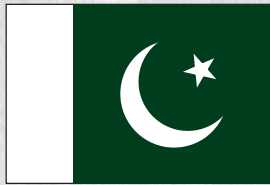
The death penalty is widely used within the Pakistani criminal justice system and for a variety of crimes: 32 offences are punishable by death under Pakistani legislation, including offences such as blasphemy and adultery. The main motive of death penalty application is murder, accounting for 70% of the executions between 2014 and 2018 according to Justice Project Pakistan, with killing during armed robbery (7%) and terrorism (17%) as other frequent charges.

Concerns have been raised over the legal procedures leading to imposition of the death penalty in Pakistan, which fail to meet international standards regarding fair trial guarantees and human rights in general. According to the Human Rights Commission of Pakistan (HRCP, 2019), criminal cases are built “almost exclusively” on witness testimonies, and confessions from the defendants. These confessions are often collected through ill-treatment and torture, in 2017, the United Nations Committee Against Torture condemned the widespread use of torture by the police in order to obtain confessions, and a Justice Project Pakistan report uncovered at least 1424 such cases over 6 years.

The lack of adequate legal representation for the defendants, due to the absence of a systematized public defence system, a lack of preparation from the lawyers, and restrictions in the access to the defendant, has also been underlined by the Human Rights Commission of Pakistan (HRCP). The practice of same-day sentencing (no separate hearing to decide on the sentence after the guilt has been established) also raises concerns of unfair trials.

As reported by the HRCP, the Pakistani courts have been sentencing juveniles whose age isn't questioned once they are presented as adults, as the police evidence is not usually challenged. Civilians have been sentenced to death by military courts between 2015 and 2019 in terrorism cases (at least 717 cases, 310 death sentences and 56 executions between 2015 and 2018 - according to the Inter-Services Public Relations). In their submission to the UN Committee against Torture in 2017, ICJ-Pakistan and the HRCP indicate that some of these trials of civilians were “held in secret” with no legal counsel or opportunity to appeal. They also report the very high rate of confession (95%) which raises the question of ill treatment and torture.

A bill to provide protection to a person during custody from all acts of torture perpetrated by public officials (The Torture and Custodial Death (Prevention and Punishment) Bill, was adopted in October 2022 and signed by the President on 2 November 2022.



STATUS
RETENTIONIST

DATE OF THE LAST EXECUTION
2019

NUMBER OF DEATH SENTENCES IN 2022
98

NUMBER OF PRISONERS ON DEATH ROW (2022)
3,226

METHOD OF EXECUTION
HANGING

CONDITIONS ON DEATH ROW

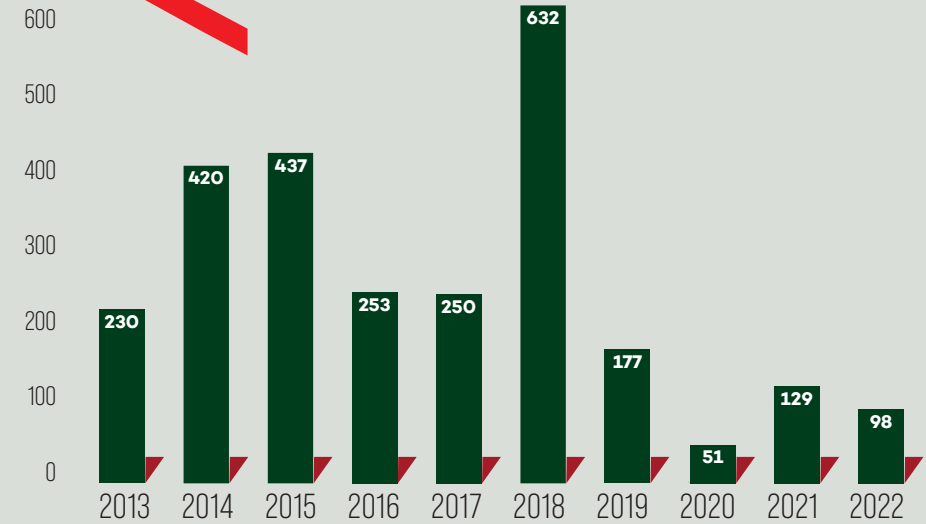
The Pakistani death row population has been among the highest in the world for decades (3,226 in 2022), partly because prisoners sentenced to death spend an average of 11 years on death row.¹ The Pakistani prison facilities are overcrowded, a 2018 International Committee of the Red Cross report found that they housed 57% more prisoners than their capacities, which only adds up to the scarce and low quality food, and leads to the propagation of diseases. In many cases, families of prisoners are forced to bring them basic products such as soap or additional food supplies (HRCP). Death row prisoners are separated from the general population, 6 to 8 prisoners are made to fit into one 2,5 per 3,5 meters cell, with 30 minutes of outside time in the morning and in the evening. In the most overcrowded facilities, executions have tended to be more frequent, as prisons want to make space for new prisoners.

PARDON AND COMMUTATION

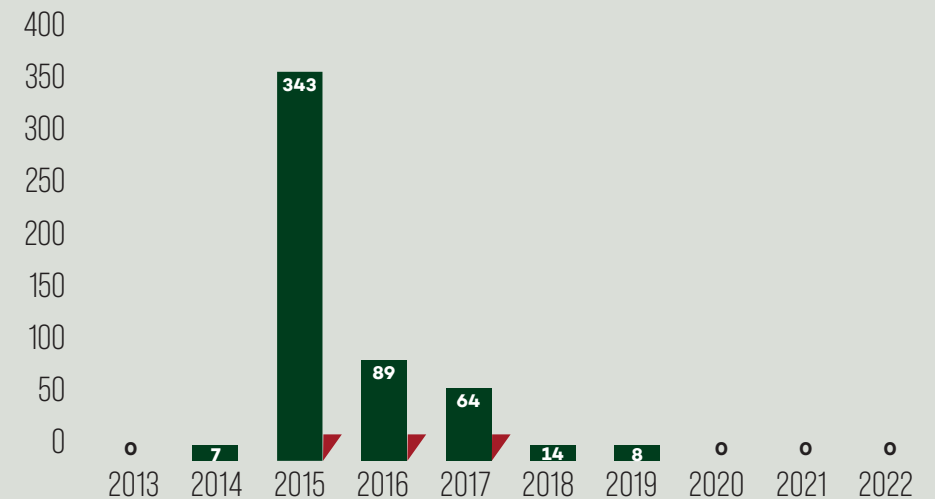
Article 45 of the Pakistan Constitution provides that “the President shall have power to grant pardon, reprieve and respite, and to remit, suspend or commute any sentence passed by any court, tribunal or other authority”. In practice, however, the petitions are systematically rejected, as reported by Justice Project Pakistan, and no pardons or commutations have been granted since the end of the moratorium.

1. Justice Project Pakistan & Allard K. Lowenstein International Human Rights Clinic, Yale Law School, A “Most Serious Crimes” – Pakistan’s Unlawful Use of the Death Penalty, September 2016

NUMBER OF DEATH SENTENCES OVER THE LAST 10 YEARS²



NUMBER OF EXECUTIONS OVER THE LAST 10 YEARS³



2. Data collected and provided by Zille Huma, Statistician and Lead of the Data & Research team of JPP

3. Ibid

THE NATIONAL LEGAL FRAMEWORK

PAKISTAN CODE OF CRIMINAL PROCEDURE

CHAPTER III / POWERS OF THE COURT

B – Sentences which may be passed by Courts of various Classes

- 31 **Sentences which High Court and Sessions Judges may pass**
(1) High Court may pass any sentences Authorised by law. (2) A Sessions Judge or Additional Sessions Judge may pass any sentence authorised by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court. (3) An Assistant Session Judge may pass any sentence authorised by law, except a sentence of death or of imprisonment for a term exceeding seven years.

CHAPTER XXVI: OF THE JUDGMENT

- 368 **Sentence of death**
(1) When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

CHAPTER XXVII: OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION

- 374 **Sentence of death to be submitted by Court of Session**
When the Court of Session passes. sentence of death 'the, proceedings shall be submitted to the High Court and the sentence shall not be executed unless it is confirmed by the High Court.

CHAPTER XXVIII: OF EXECUTION

- 381 **Execution of order parsed under Section 376**
When a sentence of death passed by a Court of Sessions submitted to the High Court for confirmation, such Court of Session shall, on receiving the order of confirmation or other order of the High Court thereon, cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary: provided that the sentence of death shall not be executed if the heirs of the deceased pardon the convict or enter into a compromise with him even at the last moment before execution of the sentence.
- 382 **Postponement of capital sentence on pregnant woman**
If a woman sentenced to death is found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may, if it thinks fit; commute the sentence to imprisonment for life.

PAKISTAN PENAL CODE

CHAPTER III: OF PUNISHMENTS

- 54 **Commutation of sentence of death:**
In every case in which sentence of death shall have been passed the Federal Government or the Provincial Government of the Province within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for any other punishment provided by this Code: Provided, that, in a case in which sentence of death shall have been passed against an offender convicted for an offence of qatl, such sentence shall not be commuted without the consent of the heirs of the victim.

CHAPTER VI: OF OFFENCES AGAINST THE STATE

- 121 **Waging or attempting to wage war or abetting waging of war against Pakistan**
Whoever wages war against Pakistan, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or imprisonment for life and shall also be liable to fine.

CHAPTER VII: OF OFFENCES RELATING TO THE ARMY, NAVY AND AIR FORCE

- 132 **Abetment of mutiny, if mutiny is committed in consequence thereof:**
Whoever abets committing of mutiny by an officer, soldier, sailor or airman in the Army, Navy or Air Force of Pakistan, shall, if mutiny be committed in consequence of that abetment, be punished with death or with imprisonment for life or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

CHAPTER XI: OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

- 194 **Giving or fabricating false evidence with intent to procure conviction of capital offence:**
Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause any person to be convicted on an offence which is capital by any law for the time being in force, shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; if innocent person be thereby convicted and executed: and if an innocent person be convicted and executed in consequence of such false evidence the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

CHAPTER XV: OF OFFENCES RELATING TO RELIGION

- 295-C **Use of derogatory remarks, etc., in respect of the Holy Prophet:**
Whoever by words, either spoken or written, or by visible representation or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine.

CHAPTER XVI: OF OFFENCES AFFECTING THE HUMAN BODY

Of Offences Affecting Life

- 301 **Causing death of person other than the person whose death was intended:**
Where a person, by doing anything which he intends or knows to be likely to cause death, causes death of any person whose death he neither intends nor knows himself to be likely to cause, such an act committed by the offender shall be liable for qatl-i-amd⁴.
- 302 **Punishment of qatl-i-amd:**
Whoever commits qatl-e-amd shall, subject to the provisions of this Chapter be:
(a) punished with death as qisas⁵;
(b) punished with death or imprisonment for life as ta'zir⁶ having regard to the facts and circumstances of the case, if the proof in either of the forms specified in Section 304 is not available; or
(c) punished with imprisonment of either description for a term which may extend to twenty-five years, where according to the injunctions of Islam the punishment of qisas is not applicable
- 314 **Execution of qisas in qatl-i-amd:**
(1) Qisas in Qatl-i-amd shall be executed by a functionary of the Government by causing death of the convict as the Court may direct.
(2) Qisas shall not be executed until all the wali are present at the time of execution, either personally or through their representatives authorised by them in writing in this behalf: Provided that where a wali or his representative fails to present himself on the date, time and place of execution of qisas after having been informed of the date, time and place as certified by the Court, an officer authorised by the Court shall give permission for the execution of qisas and the Government shall cause execution of qisas in the absence of such wali.
(3) If the convict is a woman who is pregnant, the Court may, in consultation with an authorised medical officer, postpone the execution of qisas up to a period of two years after the birth of the child and during this period she may be released on bail on furnishing of security to the satisfaction of the Court, or, if she is not so released she shall, be dealt with as if sentenced to simple imprisonment.
- 338-D **Confirmation of sentence of death by way of qisas or tazir, etc.:**
A sentence of death awarded by way of qisas or ta'zir, or a sentence of qisas awarded for causing hurt, shall not be executed, unless it is confirmed by the High Court.

⁴ Intentional murder

⁵ Retaliation

⁶ In Islamic Law, tazir (ta'zeer or ta'zir) refers to punishment for offenses at the discretion of the judge (Qadi) or ruler of the state

CHAPTER XVI-A: OF WRONGFUL RESTRAINT AND WRONGFUL CONFINEMENT

Of Criminal Force and Assault

- 354-A **Assault or use of criminal force to woman and stripping her of her clothes:**
Whoever assaults or uses criminal force to any woman and strips her of her clothes and in that condition, exposes her to the public view, shall be punished with death or with imprisonment for life, and shall also be liable to fine.
- 364-A **Kidnapping or abducting a person under the age of fourteen:**
Whoever kidnaps or abducts any person under the age of fourteen in order that such person may be murdered or subjected to grievous hurt, or slavery, or to the lust of any person or may be so disposed of as to be put in danger of being murdered or subjected to grievous hurt, or slavery, or to the lust of any person shall be punished with death or with imprisonment for life or with rigorous imprisonment for a term which may extend to fourteen years and shall not be less than seven years.
- 365-A **Kidnapping or abducting for extorting property, valuable security, etc.:**
Whoever kidnaps or abducts any person for the purpose of extorting from the person kidnapped or abducted, or from any person interested in the person kidnapped or abducted any property, whether movable or immovable, or valuable security, or to compel any person to comply with any other demand, whether in cash or otherwise, for obtaining release of the person kidnapped or abducted, shall be punished with death or imprisonment for life and shall also be liable to forfeiture of property.
- 367-A **Kidnapping or abducting in order to subject person to unnatural lust**
Whoever kidnaps, or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected, to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with death or rigorous imprisonment for a term which may extend to twenty-five years, and shall also be liable to fine.

Of Rape

- 376 **Punishment for rape**
(1) Whoever commits rape shall be punished with death or imprisonment of either description for a term which shall not be less than ten years or more, than twenty-five years and shall also be liable to fine.
(2) When rape is committed by two or more persons in furtherance of common intention of all, each of such persons shall be punished with death or imprisonment for life."

CHAPTER XVII: OF OFFENCES AGAINST PROPERTY

Of Robbery and Dacoity

396 **Dacoity with murder**
If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, everyone of those persons shall be punished with death, or imprisonment for life, or rigorous imprisonment for a term which shall not be less than four years nor more than ten years, and shall also be liable to fine.

Of Hijacking

402-B **Punishment for Hijacking**
Whoever commits, or conspires or attempts' to commit, or abets the commission of, hijacking shall be punished with death or imprisonment for life, and shall also be liable to forfeiture of property and fine.

402-C **Punishment for harbouring hijacking, etc.**
Whoever knowingly harbours any person whom he knows or has reason to be a person who is about to commit or has committed or abetted an offence of hijacking, or knowingly permits any such persons to meet or assemble in any place or premises in his possession or under his control, shall be punished with death or imprisonment for life, and shall also be liable to fine.

ZINA⁷

5 **Zina liable to hadd.-**
(1) Zina is zina liable to hadd if: (a) it is committed by a man who is an adult and is not insane with a woman to whom he is not, and does not suspect himself to be, married; or (b) it is committed by a woman who is an adult and is not insane with a man to whom she is not, and does not suspect herself to be, married.
(2) Whoever is guilty of zina liable to hadd shall, subject to the provisions of this Ordinance:- (a) if he or she is a 'muhsan' be stoned to death at a public place; or (b) if he or she is not a 'muhsan' be punished, at a public place, with whipping numbering one hundred stripes.

17 **Mode of execution of punishment of stoning to death.**
The punishment of stoning to death awarded under section 5 shall be executed in the following manner namely: Such of the witnesses who deposed against the convict as may be available shall start stoning him, and while stoning is being carried on, he may be shot dead, whereupon stoning and shooting shall be stopped

⁷ A man and a woman are said to commit "zina" if they wilfully have sexual inter-course without being married to each other.

PAKISTAN ARMY ACT

CHAPTER V: OFFENCES

24 **Offences in relation to enemy and punishable with death.** Any person subject to this Act who commits any of the following offences, that is to say, (a) shamefully abandons or delivers up any garrison, fortress, airfield, place, post or guard committed to his charge or which it is his duty to defend, or uses any means to compel or induce any commanding officer or other person to do any of the said acts; or (b) in the presence of any enemy, shamefully casts away his arms, ammunition, tools or equipment, or misbehaves in such manner as to show cowardice; or (c) intentionally uses words or any other means to compel or induce any person subject to this Act, or to the Pakistan Air Force Act, 1953 (VI of 1953), or to the Pakistan Navy Ordinance, 1961 (XXXV of 1961), to abstain from acting against the enemy or to discourage such person from acting against the enemy; or (d) directly or indirectly, treacherously holds correspondence with, or communicates intelligence to, the enemy or who coming to the knowledge of such correspondence or communication treacherously omits to discover it to his commanding or other superior officer; or (e) directly or indirectly assists or relieves the enemy with arms, ammunition, equipment, supplies or money, or knowingly harbours or protects an enemy not being a prisoner; or (f) treacherously or through cowardice sends a flag of truce to the enemy; or (g) in time of war, or during any operation, intentionally occasions a false alarm in action, camp, garrison or quarters or spreads reports calculated to create alarm or despondency; or (h) in time of action, leaves his commanding officer, or quits his post, guard, picquet patrol or party without being regularly relieved or without leave; or (i) having been made a prisoner of war, voluntarily serves with or aids the enemy; or (j) knowingly does when on active service any act calculated to imperil the success of the Pakistan forces or any forces co operating therewith or of any part of such forces; shall on conviction by Court martial, be punished with 'death or with such less punishment as is in this Act mentioned.

26 **Disclosure of parole or watchword.** Any person subject to this Act who ___ (a) treacherously makes known the parole, watchword or countersign to any person not entitled to receive it, or (b) treacherously gives a parole, watchword or countersign different from what he received, shall, on conviction by Court martial, if he commits the offence on active service, be punished with death, or with such less punishment as is in this Act mentioned, and if he commits such offence not on active service, be punished with rigorous imprisonment for a term which may extend to five years, or with such less punishment as is in this Act mentioned.

31 **Mutiny and insubordination:** Any person subject to this Act who commits any of the following offences, that is to say,-
(a) begins, incites, causes, or conspires with any other person to cause, or joins in, any mutiny in the military, naval or air forces of Pakistan or any forces co-operating therewith; or

(b) being present at any such mutiny, does use his utmost endeavours to suppress the same; or
 (c) knowing or having reason to believe in the existence of any such mutiny or any intention to commit such mutiny, or of any such conspiracy, does not without reasonable delay give information thereof to his commanding or other superior officer; or
 (d) attempts to seduce any person in the military, naval or air forces of Pakistan from his duty or his allegiance to the Government of Pakistan;
 Shall, on conviction by court-martial, be punished with death or with such less punishment as in this Act mentioned.

36 **Desertion and aiding deserters:** (1) Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by court-martial, If he commits the offence when on active service or when under orders for active service, be punished with death, or such less punishment as in this Act mentioned; and
 If he commits the offence under any other circumstances, be punished with rigorous imprisonment for a term which may extend to five years or with such less punishment as is in this Act mentioned

CHAPTER VI: PUNISHMENTS

60 **Punishments**
 Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted by Courts martial according to the scale following, that is to say, _____
 (a) stoning to death;
 (aa) death;
 [...]
 (4) a person shall not be sentenced to stoning to death, amputation of hand, foot or both, whipping or simple imprisonment except in respect of an offence of which he is convicted under an Islamic law

CHAPTER XI: EXECUTION OF SENTENCES

134 **Form of sentence of Stoning to death or death.** __ (1) In awarding a sentence of stoning to death, a Court martial shall direct that the sentence shall be executed in the manner provided for in the Offence of Zina (Enforcement of Hudoood) Ordinance, 1979 (VII of 1979).
 (2) In awarding a sentence of death, a Court martial shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

THE PAKISTAN NAVY ORDINANCE, 1961

CHAPTER VI: OFFENCES

(i) Misconduct in Action and Assistance to Enemy

29 **Misconduct in action by persons in command.** Every flag officer, captain or other person subject to this Ordinance who, being in command of any of the naval ships, naval vessels or naval establishments ____ (a) fails to use his utmost exertions to bring into action any such ship, vessel or establishment which it is his duty to bring into action; (b) surrenders any such ship, vessel or establishment to the enemy when it is capable of being successfully defended or destroyed. (c) fails to pursue any enemy whom it is his duty to pursue, or to assist to the utmost of his ability any friend whom it is his duty to assist; or (d) in the case of any action by or against the enemy, improperly withdraws from the action or from his station, or fails in his own person and according to his rank to encourage the persons under his command to fight courageously; shall be liable, if the offence is committed with intent to assist the enemy, to suffer death; and in any other case to suffer long imprisonment.

30 **Misconduct in action by other officers and men.** Every person subject to this Ordinance who, not being in command of any of the naval ships, naval vessels or naval establishments, fails when ordered to prepare for action by or against the enemy, or during any such action, to use his utmost exertions to carry the lawful orders of his superior officers into execution shall be liable, if the offence is committed with intent to assist the enemy, to suffer death, and in any other case, to suffer long imprisonment.

31 **Obstruction of operation.** Every person subject to this Ordinance who wilfully delays or discourages upon any pretext whatsoever, any action or service which has been commanded on the part of any of the Pakistan forces or of any forces co-operating therewith, be liable, if the offence is committed with intent to assist the enemy, to suffer death, and in any other case, to suffer long imprisonment.

32 **Corresponding with, supplying or serving with the enemy.** Every person subject to this Ordinance who ____ (a) communicates with or gives intelligence to the enemy; (b) fails to make known to the proper authorities any information received by him from the enemy; (c) furnishes the enemy with supplies of any description; or (d) having been made a prisoner of war, serves with or aids the enemy in the prosecution of hostilities or of measures calculated to influence morale, or in any other manner whatsoever, not authorised by international usage; shall be liable, if the offence is committed with intent to assist the enemy, to suffer death, and in any other case, to suffer long imprisonment.

36 **Offences of mutiny.** __ (1) Every person subject to this Ordinance who __ (a) takes part in a mutiny involving the use of criminal force or the threat of the use of criminal force or having as its object or one of its objects the refusal or avoidance of any duty or service against or in connection with operations

against, the enemy, or the impeding of the performance of any such duty or service, or (b) incites any person subject to service law to take part in such a mutiny, whether actual or intended, shall be liable to suffer death. (2) Every person subject to this Ordinance who takes part in a mutiny not described in the foregoing sub-section, or incites any person subject to service law to take part in such a mutiny, whether actual or intended, shall be liable to suffer long imprisonment. (3) Every person subject to this Ordinance who endeavours to seduce any person subject to service law from his duty or allegiance to the Government, shall be liable to suffer long imprisonment.

37 **Failure to suppress mutiny.** Every person subject to this Ordinance who, knowing or having reason to believe that a mutiny is taking place or is intended, (a) fails to use his utmost endeavours to suppress or prevent it; or (b) fails to report without delay that the mutiny is taking place or is intended, shall, (i) if his offence was committed with intent to assist the enemy, be liable to suffer death; and (ii) in any other case, be liable to suffer long imprisonment.

CHAPTER VII: PUNISHMENTS

80 **Scale of punishments.** (1) Subject to the provisions of this and the next following section, the following are the punishments which may be awarded to persons convicted of offences under this Ordinance, that is to say: (a) stoning to death; (b) death; [...]
(3) A person shall not be sentenced to stoning to death, amputation of hand, foot or both or whipping except in respect of an offence of which he is convicted under an Islamic law.

CHAPTER XIII: EXECUTION OF SENTENCES

141 **Form of sentence of stoning to death and death.** (1) In awarding a sentence of stoning to death, a court-martial shall direct that the sentence shall be executed in the manner provided for in the Offence of Zina (Enforcement of Hudood) Ordinance, 1979
(2) In awarding a sentence of death, a court-martial shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

THE PAKISTAN AIR FORCE ACT, 1953

CHAPTER VI: OFFENCES

34 **Offences in relation to the enemy and punishable with death.** Any person subject to this Act, who commits any of the following offences, that is to say: (a) shamefully abandons or delivers up any garrison, fortress, post, place or guard, committed to his charge, or which it is his duty to defend, or uses any means to compel or induce any commanding officer or other person to commit the said act; (b) intentionally uses any means to compel or induce any person subject to Military, Naval or Air Force law to abstain from acting against the enemy, or to discourage such person from acting against the enemy; or (c) in the presence of the enemy shamefully casts away his arms, ammunition, tools or equipment or misbehaves in such manner as to show cowardice; or (d) treacherously holds correspondence with, or communicates intelligence to, the enemy or any person in arms against Pakistan; or (e) directly or indirectly assists the enemy with money, arms, ammunition, stores or supplies; or (f) treacherously or through cowardice sends a flag of truce to the enemy; or (g) in time of war or during any Air Force operation, intentionally occasions a false alarm in actions, camp or quarters or spreads reports calculated to create alarm or despondency; or (h) in time of action leaves his commanding officer or his post, guard, piquet, patrol or party without being regularly relieved or without leave; or (i) having been made a prisoner of war, voluntarily serves with or aids the enemy or (j) knowingly harbours or protects an enemy not being a prisoner; or (k) being a sentry in time of war or alarm, sleeps upon his post or is intoxicated; or (l) knowingly does any act calculated to imperil the success of the Military, Naval or Air Forces of Pakistan or any forces co operating therewith or any part of such forces; or (m) treacherously or shamefully causes the capture or destruction by the enemy of any aircraft belonging to the Government; or (n) treacherously uses any false air signal or alters or interferes with any air signal; or (o) when ordered by his superior officer or otherwise under orders to carry out any Air Force operations, treacherously or shamefully fails to use his utmost exertions to carry such orders into effect; shall, on conviction by court martial, be liable to suffer death.

37 **Mutiny.** Any person subject to this Act who commits any of the following offences, that is to say: (a) begins, incites, causes, or conspires with any other persons to cause, any mutiny in the Military, Naval or Air Forces of Pakistan or any forces co operating therewith; or (b) joins in any such mutiny; or (c) being present at any such mutiny, does not use his utmost endeavours to suppress the same; or (d) knowing or having reason to believe in the existence of any such mutiny, or of any intention to commit such mutiny or any such conspiracy, does not, without delay, give information thereof to his commanding or other superior officer; or (e) endeavours to seduce any person in the Military, Naval or Air Force of Pakistan from his duty or allegiance to the Government; shall, on conviction by court martial, be liable to suffer death.

CHAPTER VII: PUNISHMENTS

73 **Punishments awardable by courts martial.** Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted by courts martial according to the following scale, that is to say: ___ (a) stoning to death; (b) death; [...]
Provided that: (a) a person shall not be sentenced to imprisonment for life or fine except in respect of an offence of which he is convicted under section 71; and (b) a person shall not be sentenced to stoning to death, amputation of hand, foot or both or whipping except in respect of an offence of which he is convicted under any Islamic law.

CHAPTER XIII: EXECUTION OF SENTENCES

163 **Form of sentence of stoning to death and death.** ___ (1) In awarding a sentence of stoning to death, a court martial shall direct that the sentence shall be executed in the manner provided for in the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (VII of 1979). (2) In awarding a sentence of death, a court martial shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death

THE ANTI TERRORISM ACT, 1997

7 **Punishment for acts of terrorism –**
Whoever commits an act of terrorism under section 6, whereby— (a) death of any person is caused, shall be punishable, on conviction, with death or with imprisonment for life, and with fine; or (b) he does anything likely to cause death or endangers life, but death or hurt is not caused, shall be punishable, on conviction, with imprisonment of either description for a term which shall be not less than ten years but may extend to imprisonments for life and with fine; or (c) grievous bodily harm or injury is caused to any person, shall be punishable, on conviction, with imprisonment of either description for a term which shall not be less than ten years but may extend to imprisonment for life and shall also be liable to a fine; or (d) grievous damage to property is caused, shall be punishable on conviction, with imprisonment, of either description for a term not less than ten year and not exceeding 1 but may extend to imprisonment for life] and shall also be liable to a fine; or (e) the offence of kidnapping for ransom or hostage-taking has been committed, shall be punishable, on conviction, with death or imprisonment for life; or (f) the offence of hijacking, has been committed, shall be punishable, on conviction, with death or imprisonment for life and fine; (ff) the act of terrorism committed falls under section 6 (2) (ee), shall be punishable with imprisonment which shall not be less than fourteen years but may extend to imprisonment for life; (g) the act of terrorism committed falls

under section 6 (2) (f) and (g), shall be punishable, on conviction, with imprisonment of not less than two years and not more than five years and with fine; or (h) the act of terrorism committed falls under clauses (h) to (n) of sub-section (2) of section 6, shall be punishable on conviction, to imprisonment of not less than five years but may extend to imprisonment for life and with fine; (i) any other act of terrorism not falling under clauses (a) to (h) above or under any other provision of this Act, shall be punishable, on conviction, to imprisonment of not less than five years and not more than ten years or with fine or with both. (3) A person guilty of an offence under this section shall be liable on conviction by a subordinate military court to suffer death or any less punishment authorised by this Act.

THE CONTROL OF NARCOTICS SUBSTANCES ACT, 1997

9 **Punishment for contravention of sections 6, 7 and 8⁸.** Whoever contravenes the provisions of sections 6, 7 or 8 shall be punishable with— (a) imprisonment which may extend to two years, or with fine, or with both, if the quantity of the narcotic drug, psychotropic substance or controlled substance is one hundred grams or less; (b) imprisonment which may extend to seven years and shall also be liable to fine, if the quantity of the narcotic drug, psychotropic substance or controlled substance exceeds one hundred grams but does not exceed one kilogram; (c) death or imprisonment for life or imprisonment for a term which may extend to fourteen years and shall also be liable to fine which may be upto one million rupees, if the controlled substance exceeds the limits specified in clause (b): Provided that if the quantity exceeds ten kilograms the punishment shall not be less than imprisonment for life.

HIGH TREASON (PUNISHMENT) ACT, 1973

2 **Punishment for high treason, etc.:** A person who is found guilty— (a) of having committed an act of abrogation or subversion of a constitution in force in Pakistan at any time since the twenty-third day of March, 1956; or (b) of high treason as defined in Article 6 of the Constitution, shall be punishable with death or imprisonment for life.

⁸ Section 6: Prohibition of possession of narcotic, etc.
Section 7: Prohibition of import or export of narcotic drugs, etc.
Section 8: Prohibition on trafficking or financing the trafficking of narcotic drugs etc.

OFFENSES AGAINST PROPERTY (ENFORCEMENT OF HUDOOD) ORDINANCE, 1979

17

Punishment of 'Haraabah':⁹ (1) Whoever, being an adult, is guilty of harrabah in the course of which neither any murder has been committed nor any property has been taken away shall be punished with whipping not exceeding thirty stripes and with rigorous imprisonment until the Court is satisfied of his being sincerely penitent: Provided that the sentence of imprisonment shall in no, case be less than three years. (2) Whoever, being an adult, is guilty of haraabah in the course of which no property has been taken away but hurt has been caused to any person shall, in addition to the punishment provided in sub-section (1), be punished for causing such hurt in accordance with such other law as may for the time being are applicable. | (3) Whoever, being an adult, is guilty of haraabah in the course of which no murder has been committed but property the value of which amounts to or exceeds, the nisab has been taken away shall be punished with amputation of his right hand from the wrist and of his left foot from the ankle: Provided that, when the Offence of haraabah has been committed conjointly by more than one person, the punishment of amputation shall be imposed only if the value of share of each one of them is not less than the nisab: Provided further that, if the left hand or the right foot of the offender is missing or is entirely unserviceable, the punishment of amputation of the other hand or foot, as the case may be, shall not be imposed, and the offender shall be punished with rigorous imprisonment for a term which may extend to fourteen years and with whipping not exceeding thirty stripes. (4) Whoever, being an adult, is guilty of haraabah in the course of which he commits murder shall be punished with death imposed as hadd. (5) Punishment under sub-section (3) except that under the second proviso thereto, or under sub-section (4), shall not be executed unless it is confirmed by the Court to which an appeal from the order of conviction lies, and if the punishment be of amputation, until it is confirmed and executed, the convict shall be dealt with in the same manner as if sentenced to simple imprisonment. (6) The provisions of sub-section (6) and sub-section (7) of Section 9 shall apply to the execution of the punishment of amputation under this section.

⁹ Under Section 15 of offence against Property (Enforcement of Hudood) Ordinance, 1979
"When any one or more persons whether equipped with arms or not, make show of force for the purpose of taking away the property of another and attack him or cause wrongful restraint or put him in fear of death or hurt, such person or persons are said to commit Haraabah."

INTERNATIONAL LEGAL FRAMEWORK

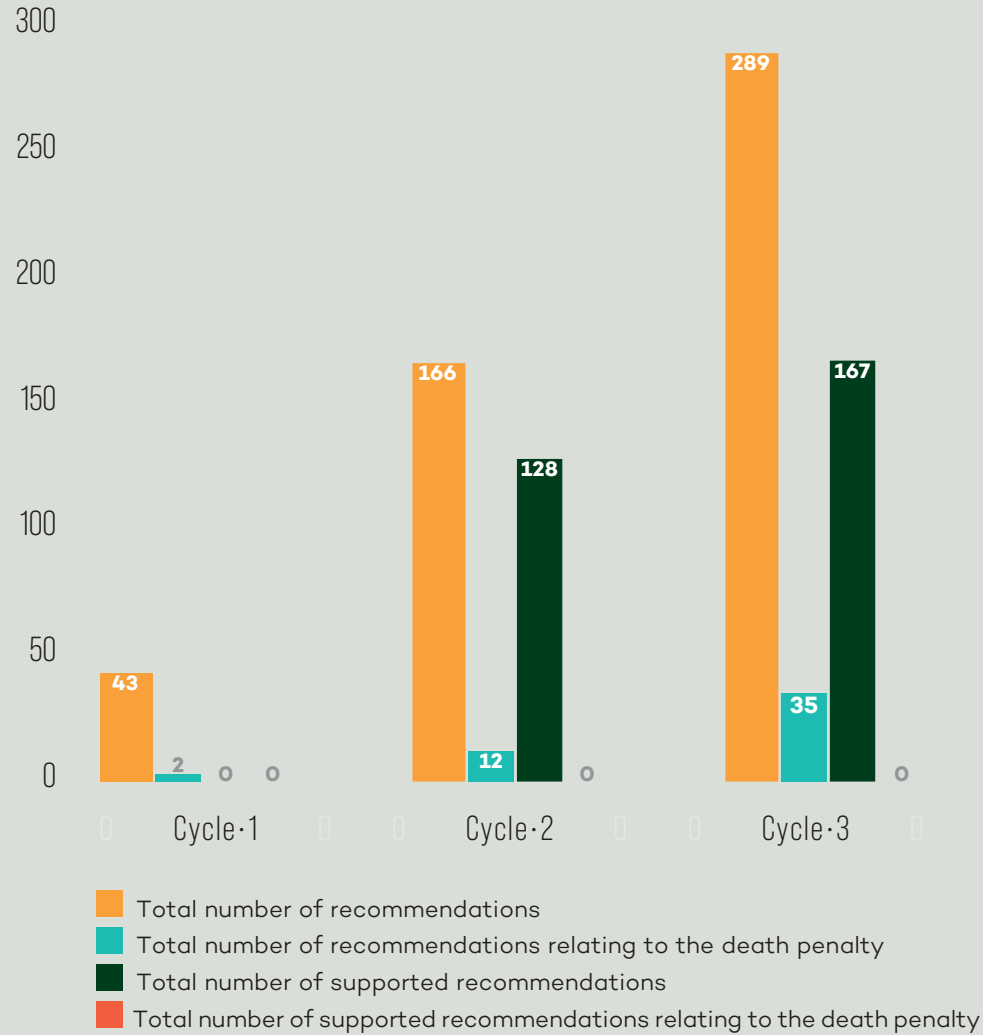
THE MAIN INTERNATIONAL INSTRUMENTS AIMING AT ABOLISHING THE DEATH PENALTY

TREATY	RATIFICATION OR ACCESSION DATE
International Covenant on Civil and Political Rights, 1966	23 June 2010 (ratification)
Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty, 1989	x
Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, 1984	23 June 2010 (ratification)
Optional Protocol of the Convention against Torture, 2002	x
Convention on the Rights of the Child, 1989	12 November 1990 (ratification)

VOTE ON THE UNITED NATIONS GENERAL ASSEMBLY RESOLUTION CALLING FOR A UNIVERSAL MORATORIUM ON THE USE OF THE DEATH PENALTY:



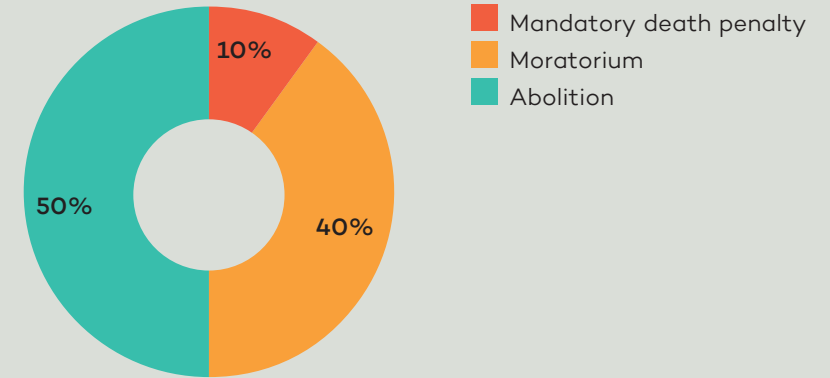
UNIVERSAL PERIODIC REVIEWS



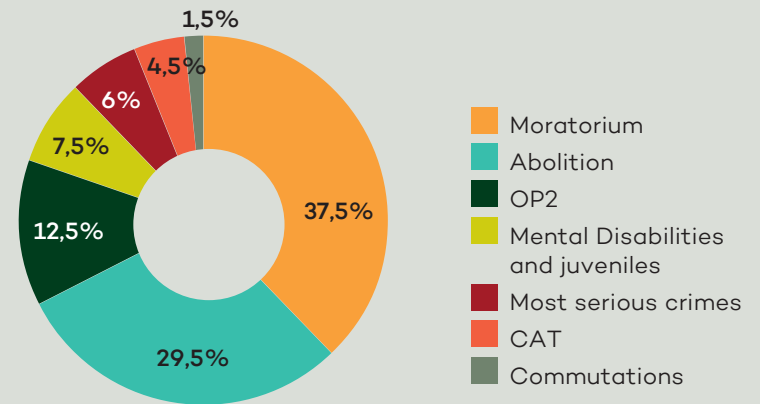
Cycle 4: At the date of drafting, the Final Working Group Report was not adopted yet. Therefore final figures are not available yet.

EVOLUTION OF TOPICS IN RECOMMENDATIONS RELATING TO THE DEATH PENALTY ISSUED TO PAKISTAN BETWEEN 2012 AND 2017

CYCLE 2:



CYCLE 3:



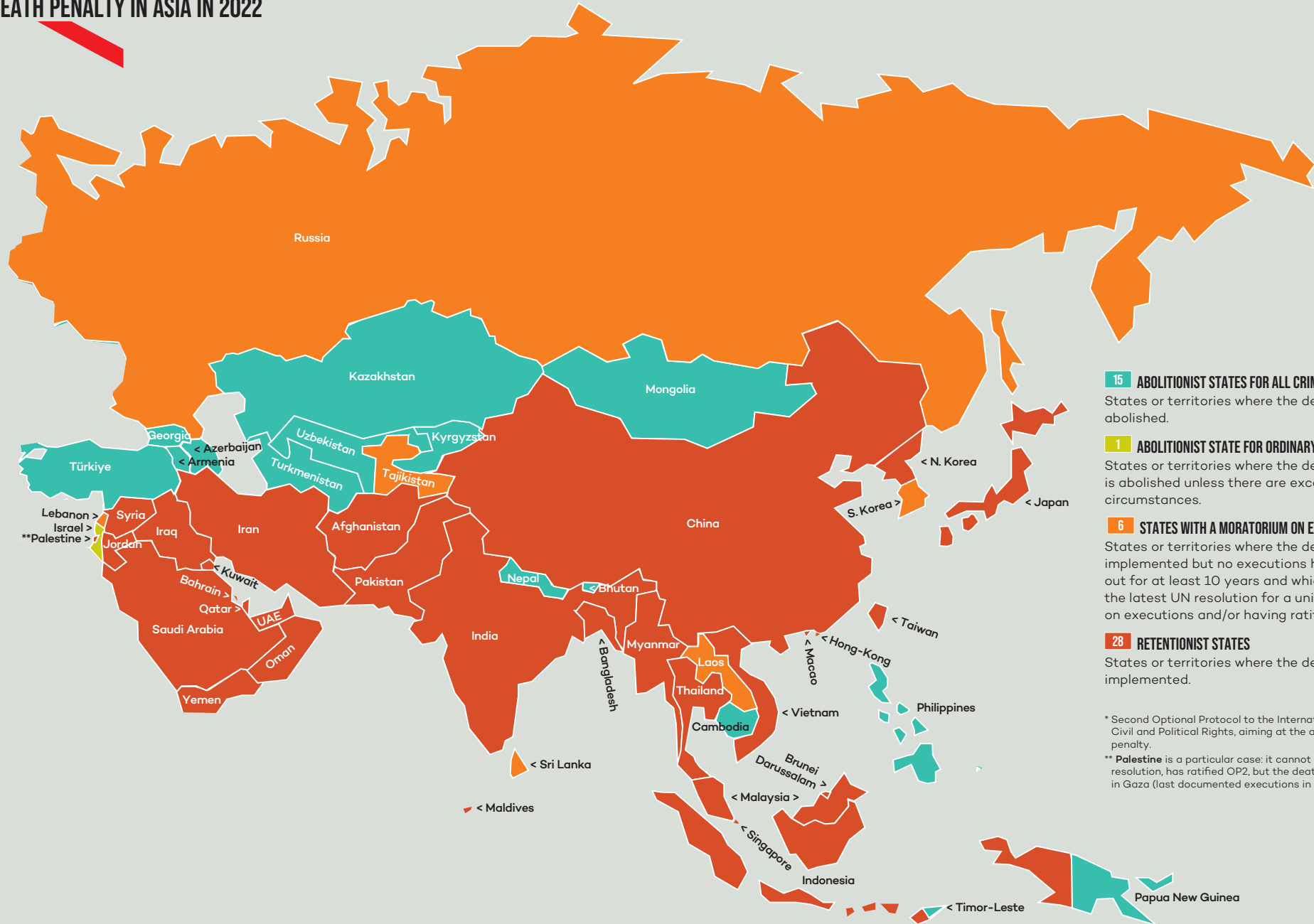
The recommendations made during Pakistan's last completed UPR confirmed the high priority given to the establishment of a moratorium on executions. This issue, along with the abolition, continued to be the most frequently mentioned in the recommendations. The ratification of the OP2 and the reform of the practice of the death penalty, in particular with regards to its application to people with mental disabilities or juveniles, were also recommended in multiple recommendations during the 2017 UPR.

RECOMMENDATIONS RELATING TO THE DEATH PENALTY ISSUED TO PAKISTAN IN 2017

N°	RECOMMENDATIONS
152.7	Ratify the Optional Protocols to the International Covenant on Economic, Social and Cultural Rights and to the Convention against Torture, as well as the Second Optional Protocol to the International Covenant on Civil and Political Rights (Portugal)
152.2	Ratify the Optional Protocols to the International Covenant on Civil and Political Rights and to the Convention against Torture (Côte d'Ivoire)
152.4	Consider ratifying the two Optional Protocols to the International Covenant on Civil and Political Rights and, meanwhile, declare an official moratorium on executions with a view to abolishing the death penalty, commuting death sentences to imprisonment (Uruguay)
152.102	Protect the rights of the child more effectively, particularly during counter-terrorism activities, and by desisting from issuing death sentences and executing juveniles (Poland)
152.2	Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Angola)
152.3	Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights in order to definitively abolish the death penalty (Spain)
152.119	Reinstate the moratorium on the death penalty, as a first step towards its complete abolition and accession to the Second Optional Protocol to the International Covenant on Civil and Political Rights (Sweden)
152.120	Halt the use of the death penalty in all circumstances, and take steps towards its abolition, including ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights (New Zealand)
152.121	Reinstitute its moratorium on the use of the death penalty, as a first step towards its complete abolition and accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights (Australia)
152.127	Pending abolition of the death penalty, reinstate the moratorium on executions and introduce a statutory prohibition on the death penalty and execution of persons with mental disabilities and those who were juveniles at the time of the crime (Republic of Moldova)
152.123	Initiate a legislative process to revise the Penal Code in order to limit the death penalty to cases in which the accused has committed an intentional killing as a first step towards abolition of the death penalty (Republic of Moldova)
152.124	Set a clear timeline for the review of legislation carrying the death penalty with the aim of limiting the scope of crimes to which it applies (United Kingdom of Great Britain and Northern Ireland)
152.128	Review the list of crimes punishable by death and bring the enforcement of capital punishment into line with international standards, with a view to the reintroduction of the moratorium and the eventual abolition of the death penalty (Austria)
152.129	Reinstitute the moratorium on the application of the death penalty, reduce the number of crimes punishable by death and, ultimately, consider abolishing the death penalty (Namibia)

152.125	Re-establish the moratorium on the use of the death penalty with a view to its abolition, particularly when the alleged perpetrators are minors or belong to minorities (Mexico)
152.126	Reinstate the moratorium on executions, and ban the death penalty for defendants who suffer from mental illness or who were minors at the time of their alleged crimes (Germany)
152.103	Abolish the death penalty for all crimes (Iceland)
152.104	Reinstate the moratorium on the death penalty (Estonia)
152.105	Restore the moratorium on the death penalty (France)
152.106	Re-establish a moratorium on the death penalty (Czechia)
152.107	Re-establish the moratorium on the death penalty (Lithuania)
152.108	Reimpose the moratorium on the use of the death penalty (Montenegro)
152.109	Reinstate the moratorium on the use of the death penalty as a first step towards its abolition (Greece)
152.110	Reinstate the moratorium on the death penalty with a view to abolishing it (Norway)
152.111	Restore the moratorium on the death penalty (France)
152.112	Introduce a moratorium on the application of the death penalty with a view to repealing it (Switzerland)
152.113	Reinstate the moratorium on executions, with a view to ultimately abolishing the death penalty (Cyprus)
152.114	Establish without delay a moratorium on the application of the death penalty with a view to its definitive abolition (Luxembourg)
152.115	Establish a moratorium on the use of the death penalty, with a view to its legal and practical abolition (Chile)
152.116	Reintroduce the moratorium on the death penalty for all cases as a first step towards its full abolition (Portugal)
152.117	Immediately abolish the death penalty and establish a moratorium on all pending executions (Slovakia)
152.118	Consider re-establishing the moratorium on executions with a view to abolishing the death penalty (Italy)
152.135	Pursue the efforts to remove all measures that could give rise to situations analogous to torture or cruel or inhuman treatment from its national legislation, and establish the necessary safeguards to prevent torture and abolish the death penalty (Paraguay);
152.122	Immediately repeal legislation that provides for the possibility to impose the death penalty for cases related to freedom of speech, in particular section 295C of the Penal Code, in order to ensure compliance with articles 6 and 19 of the International Covenant on Civil and Political Rights (Belgium)

THE DEATH PENALTY IN ASIA IN 2022



15 ABOLITIONIST STATES FOR ALL CRIMES

States or territories where the death penalty is abolished.

1 ABOLITIONIST STATE FOR ORDINARY CRIMES

States or territories where the death penalty is abolished unless there are exceptional circumstances.

6 STATES WITH A MORATORIUM ON EXECUTIONS

States or territories where the death penalty is implemented but no executions have been carried out for at least 10 years and which did not oppose the latest UN resolution for a universal moratorium on executions and/or having ratified OP2*.


28 RETENTIONIST STATES

States or territories where the death penalty is implemented.

* Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.


** Palestine is a particular case: it cannot vote the moratorium resolution, has ratified OP2, but the death penalty is still applied in Gaza (last documented executions in 2022).

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