



Home Office

# Country Policy and Information Note

## Pakistan: Actors of protection

Version 1.0

June 2020

ARCHIVE

# 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 [Introduction](#) 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 of, in general, whether one or more of the following applies:

- A person is reasonably likely to face a real risk of persecution or serious harm
- The general humanitarian situation is so severe as to breach Article 15(b) of European Council Directive 2004/83/EC (the Qualification Directive) / Article 3 of the European Convention on Human Rights as transposed in paragraph 339C and 339CA(iii) of the Immigration Rules
- The security situation presents a real risk to a civilian's life or person such that it would breach Article 15(c) of the Qualification Directive as transposed in paragraph 339C and 339CA(iv) of the Immigration Rules
- 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
- A claim is 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: 25 June 2020

## 1. Introduction

### 1.1 Scope of this note

- 1.1.1 Whether, in general, a person at risk of persecution and/or serious harm from non-state actors and/or rogue state actors is able to obtain sufficient 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 whether one (or more) of the exclusion clauses applies. If the person is excluded from the Refugee Convention, they will also be excluded from a grant of humanitarian protection. Each case must be considered on its individual facts and merits.
- 2.2.2 For further guidance on the exclusion clauses and restricted leave, see the Asylum Instructions on [Exclusion under Articles 1F and 33\(2\) of the Refugee Convention](#), [Humanitarian Protection](#) and [Restricted Leave](#).

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### 2.3 Protection

- 2.3.1 Where the person has a well-founded fear of persecution or serious harm from the state, they are unlikely to be able to avail themselves of the protection of the authorities.
- 2.3.2 Where the person has a well-founded fear of persecution from non-state actors, including 'rogue' state actors, decision makers must assess whether the state can provide sufficient protection.
- 2.3.3 As of 2018, the estimated police strength was 530,000 and military strength was estimated at 1,204,000. The police, under the jurisdiction of provincial governments – except the Islamabad police, which falls under the federal government – has primary responsibility for domestic security and law enforcement. Paramilitary forces, under the authority of the Ministry of Interior, includes the Frontier Corps, which function in Balochistan and

Khyber Pakhtunkhwa, and the Rangers, operating in Sindh and Punjab. Both forces undertake border security operations alongside internal law and order operations. The semi-autonomous regions of Azad Kashmir and Gilgit-Baltistan also have their own police services (see [Police and paramilitary forces](#)).

- 2.3.4 Police efficacy varies by province as do the challenges faced by each force. Military and law enforcement operations against militant groups have worked to reduce terrorist incidents. Punjab Police recorded 132,695 indictments (challans), 43,351 cases under investigation and 33,292 convictions between January and April 2020. Crime scene and forensic investigation units are established in some provinces and undertake crime scene processing. However, due to the large population, crime scenes in some areas are dealt with by local police, without proper training or equipment. Overall, police capacity is limited, due to lack of resources, poor training, and insufficient and outdated equipment, which may lead to flawed investigations. Police capabilities are affected by interference and influence from superiors, political actors, security forces and the judiciary. Police are also susceptible to corruption and petty bribery. The acceptance of bribes to register either genuine or false complaints, or to avoid charges, is prevalent. Public perception of the police is reported to be low (see Security forces capabilities – [Effectiveness](#) and [Corruption](#)).
- 2.3.5 Arbitrary arrest and detention occurs and is reported to be used to extract bribes for release or as a method of harassment and intimidation. Pakistan’s National Human Rights Commission (NHRC) reported that enforced disappearance is ‘rampant’ across the country, against political activists and suspected separatist sympathisers in Balochistan, journalists and bloggers in Sindh and those suspected of terrorist-related offences in the North-West tribal areas (see [Arbitrary arrest and detention](#) and [Enforced disappearances](#)).
- 2.3.6 Extra-judicial killings, often described as police ‘encounters’, are reported to be frequent and some of these occur when suspected terrorists are killed during counter-terrorism operations. According to the Human Rights Commission of Pakistan (HRCP), 3,345 people were killed in 2,117 police encounters between January 2014 and May 2018 (see [Extra-judicial killings](#)).
- 2.3.7 There are allegations of widespread use of torture by police, military and security forces and intelligence agencies. Torture is reported to be commonly employed by police to extract confessions to secure convictions in the absence of forensic evidence (see [Torture and ill-treatment](#)).
- 2.3.8 There are numerous mechanisms for reporting police misconduct and corruption, although concern has been expressed by UN bodies at the independence of the National Commission for Human Rights (see [Avenues of redress](#)).
- 2.3.9 Whilst there is a functioning criminal justice system and free legal aid is available, the effectiveness of the judiciary is limited due to severe delays, large backlogs (a reported 1.8 million cases pending as of December 2019) and limited resources. Attempts have been made to reduce the backlog and

expedite cases with the introduction of Model Courts and [Alternative dispute resolution](#). However, corruption within the judiciary, particularly at the lower levels, is widespread (see Rule of law and the judiciary – [Effectiveness](#) and [Independence](#)).

- 2.3.10 The reported case of [AW \(sufficiency of protection\) Pakistan \[2011\] UKUT 31 \(IAC\) \(26 January 2011\)](#), heard on 11 November 2010, found that there was ‘systemic sufficiency of state protection’ in Pakistan (Headnote 2 and Paragraph 34).
- 2.3.11 The country evidence available since [AW](#) was heard indicates that, despite some failings, in general, the state appears both willing and able to offer sufficient protection. While a person’s reluctance to seek protection does not necessarily mean that sufficient protection is not available, it was held in [AW](#) that regard must be had to the individual circumstances of a case. It should also be noted that protection does not lead to eliminating the risk of discrimination and violence. Decision makers must therefore consider each case on its facts including any persecution of family members, past persecution and past lack of effective protection which may indicate that sufficient protection would not be available in the future. The onus is on the person to demonstrate why they would not be able to seek and obtain state protection.
- 2.3.12 For information on effective protection for minority groups, including ethnic and religious minorities, LGBTI persons and women, see the relevant [Pakistan Country Policy and Information Notes](#).
- 2.3.13 For further guidance on assessing the availability of state protection, see the instruction on [Assessing Credibility and Refugee Status](#).

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# Country information

Section 3 updated: 25 June 2020

## 3. Security apparatus

### 3.1 Police and paramilitary forces

#### 3.1.1 The US Department of State (USSD) noted in its human rights report for 2019:

'Police have primary domestic security responsibility for most of the country. Local police are under the jurisdiction of provincial governments. Paramilitary organizations – including the Frontier Corps, which operates in Balochistan and Khyber Pakhtunkhwa, including the former Federally Administered Tribal Areas (FATA), and the Rangers, which operate in Sindh and Punjab – provide security services under the authority of the Ministry of Interior. The Frontier Corps' primary mission is security of the Pakistan-Afghanistan border and the Corps reports to the Ministry of Interior in peacetime and the army in times of conflict.'<sup>1</sup>

#### 3.1.2 The Australian Government's Department of Foreign Affairs and Trade (DFAT) noted, in its Pakistan report dated 20 February 2019, which relied on a range of sources:

'Federal and provincial police services have primary responsibility for law enforcement, supported by other law enforcement agencies, including IB and the FIA [see [Intelligence Services](#)] and the National Counter Terrorism Authority (NACTA). Provincial and autonomous regional authorities are directly responsible for law and order, and the federal government has jurisdiction over police in Islamabad and security forces in the former FATA [Federally Administered Tribal Areas].'<sup>2</sup>

#### 3.1.3 Counter Terrorism Departments (CTD) have been established within provincial police departments to combat sectarian and Islamist militant groups<sup>3</sup>.

#### 3.1.4 In October 2019, the International Federation for Human Rights (FIDH) reported on the outcome of a joint mission with the Human Rights Commission of Pakistan (HRCP), which focussed on the criminal justice system and the death penalty. The report noted 'Each provincial police service is run by a Commissioner of Police, who is appointed to serve as the Inspector-General of Police (IGP) and acts as the head of police for that province. The IGP for each province as well as the IGP for the Islamabad Capital Territory report to the Ministry of Interior.'<sup>4</sup>

#### 3.1.5 The same source noted 'The semi-autonomous regions of Azad Kashmir and Gilgit-Baltistan have their own police services, the Azad Kashmir Police and the Gilgit-Baltistan Police, respectively.'<sup>5</sup>

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<sup>1</sup> USSD, 'Country Report on Human Rights Practices for 2019' (Exec summary), 11 March 2020, [url](#).

<sup>2</sup> DFAT, 'Country Information Report Pakistan' (para 5.10), 20 February 2019, [url](#).

<sup>3</sup> CRSS, 'The role of CTDs in countering and minimizing terrorism', 21 February 2019, [url](#).

<sup>4</sup> FIDH, 'Punished for being vulnerable...' (page 9), 8 October 2019, [url](#).

<sup>5</sup> FIDH, 'Punished for being vulnerable...' (page 9), 8 October 2019, [url](#).

3.1.6 On paramilitary groups operating in the country, DFAT's report noted:

'These groups include the Pakistan Rangers, which operate predominantly in Punjab and Sindh provinces. The Rangers are notionally under the authority of the Ministry of the Interior, but are headed by an army general and are in practice under the control of the military. The Rangers undertake border security operations along the Indian border, as well as internal law and order operations. The Frontier Corps perform a similar role to the Rangers in western border regions, including Balochistan, Khyber Pakhtunkhwa and the former FATA.'<sup>6</sup>

3.1.7 The estimated police strength in 2018 was 530,000<sup>7</sup>. The Overseas Security Advisory Council (OSAC), under the US Department of State, comprised of 31 private sector and 3 public sector member organisations that represent specific industries or agencies operating abroad<sup>8</sup>, noted in 2020 that the Punjab Police was the largest police force in Pakistan, at over 180,000 active members<sup>9</sup>. The Pakistan Bureau of Statistics (PBS) provided data, up to 2018, on the [number of police stations by division/district](#), including the number of police chowkies (check posts)<sup>10</sup>.

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## 3.2 Armed forces

3.2.1 Global Fire Power, described asAccording to the 2020 Global Fire Power Index, Pakistan's military strength was ranked 15th in the world out of 138 countries<sup>11</sup>. The same source estimated the total military strength to be 1,204,000 with 654,000 active personnel and 550,000 reserves<sup>12</sup>.

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## 3.3 Intelligence services

3.3.1 The DFAT report noted:

'The Joint Chiefs of Staff Committee (JCSC), comprising the Chairman Joint Chiefs, the Chief of Army Staff, the Chief of Air Staff, the Chief of Naval Staff, the Commandant Marines and the Commander of the Special Plans Division, leads the Pakistan Armed Forces. The JCSC also oversees the Directors General of InterServices Public Relations (ISPR) and Inter-Services Intelligence (ISI). ISI reports directly to the prime minister, who appoints a Director General from the military intelligence services, usually the army. However, in practice ISPR and ISI report to COAS [Chief of Army Staff]. Many ISI staff are on secondment from the army, navy and air force, but it also hires civilians. The prime minister is responsible for the civilian and police intelligence services, the Intelligence Bureau (IB) and the Federal Investigation Agency (FIA). ISI, IB and the FIA are distinct from the military's

<sup>6</sup> DFAT, 'Country Information Report Pakistan' (para 5.14), 20 February 2019, [url](#).

<sup>7</sup> DFAT, 'Country Information Report Pakistan' (para 5.10), 20 February 2019, [url](#).

<sup>8</sup> OSAC, 'The OSAC Council', n.d., [url](#).

<sup>9</sup> OSAC, 'Pakistan 2020 Crime & Safety Report: Lahore' (Police response), 17 April 2020, [url](#).

<sup>10</sup> PBS, 'Number of Police Stations by Division/District', n.d., [url](#).

<sup>11</sup> Global Fire Power, 'Pakistan Military Strength (2020)', n.d., [url](#).

<sup>12</sup> Global Fire Power, 'Pakistan Military Strength (2020) (Manpower)', n.d., [url](#).

own intelligence arms, Military Intelligence, Naval Intelligence and Air Intelligence.<sup>13</sup>

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Section 4 updated: 25 June 2020

## 4. Security forces capabilities

### 4.1 Surveillance

- 4.1.1 The DFAT report noted ‘There are no centralised or national law enforcement databases or criminal records, which leads to unreliable accuracy of enquiries and inability to track or locate offenders. Provincial police forces operate independently, with no nationwide coordination or training standards. Provincial forces often act competitively in cross-provincial investigations, impeding effectiveness.’<sup>14</sup>
- 4.1.2 According to sources consulted by the Immigration and Refugee Board of Canada (IRB) Research Directorate, [a response on tenant registration, dated 23 January 2018](#), it was possible for the police to locate persons in different provinces through the tenant registration system<sup>15</sup>. For further details see the IRB response in full<sup>16</sup>.
- 4.1.3 According to a July 2015 report by Privacy International, a UK-based charity campaigning for privacy rights, ‘Pakistan’s intelligence agencies have abused their communications surveillance powers, including by spying on opposition politicians and Supreme Court judges. Widespread internet monitoring and censorship has also been used to target journalists, lawyers and activists.’<sup>17</sup>
- 4.1.4 According to the USSD HR Report 2019:  
‘Several domestic intelligence services monitored politicians, political activists, suspected terrorists, NGOs, employees of foreign entities, and media professionals. These services included the Inter-Services Intelligence, Police Special Branch, the Intelligence Bureau, and Military Intelligence. Credible reports found authorities routinely used wiretaps, monitored cell phone calls, intercepted electronic correspondence, and opened mail without court approval.’<sup>18</sup>
- 4.1.5 For information on criminal record checks, see the [Country Policy and Information Note on Pakistan: Documentation](#).

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<sup>13</sup> DFAT, ‘Country Information Report Pakistan’ (para 5.5), 20 February 2019, [url](#).

<sup>14</sup> DFAT, ‘Country Information Report Pakistan’ (para 5.13), 20 February 2019, [url](#).

<sup>15</sup> IRB, ‘Pakistan: Tenant registration systems...’, 23 January 2018, [url](#).

<sup>16</sup> IRB, ‘Pakistan: Tenant registration systems...’, 23 January 2018, [url](#).

<sup>17</sup> Privacy International, ‘Tipping the scales...’ (page 1), July 2015, [url](#).

<sup>18</sup> USSD, ‘Country Report on Human Rights Practices for 2019’ (section 1F), 11 March 2020, [url](#).

## 4.2 Effectiveness

- 4.2.1 As noted in the DFAT report ‘Domestic and international observers see the military as one of the most capable organisations in Pakistan. It holds considerable power and dominates foreign and security policy. Military personnel are well paid and a career in the military is highly regarded, not only because of the benefits, but also due to the high social standing and connections afforded to military personnel...’<sup>19</sup>
- 4.2.2 Human Rights Watch (HRW) indicated in its report on police abuse and reform in Pakistan, published September 2016, that constraints such as insufficient human and financial resources; poor infrastructure; problems in the criminal justice system; and interference and influence from internal and external sources; continued to hamper the police, adding that no serious reforms had been undertaken to improve this<sup>20</sup>.
- 4.2.3 A 2017 report by the WJP, which captured data on the experiences and perceptions of over 4,000 people in Pakistan regarding the rule of law in their country, noted:  
‘Incompetence of criminal investigators was cited as the most serious problem facing criminal investigative services in Pakistan. Regarding police conduct, 32% of respondents believe that police always or often act according to the law, and 30% believe that police are always or often punished for violating the law. While these views have fluctuated since 2013, perceptions of police corruption and respect for suspects’ rights have improved in recent years.’<sup>21</sup> (see [Corruption](#)).
- 4.2.4 Published by the Center for Research and Security Studies (CRSS) in February 2019, Dr. Farhan Zahid, counter-terrorism expert and police officer, seconded to the National Counter Terrorism Authority (NACTA), summarised some of the counter-terrorism operations undertaken by provincial police Counter Terrorism Departments (CTD)<sup>22</sup>. Dr Zahid noted ‘The year 2018 remained pivotal as CTDs functioning in provinces managed to curb the activities of terrorist groups and scaled down the level of violence to various degrees. In 2018, 105 terrorists were killed during encounters with CTDs and other security forces in Pakistan; and 431 suspected terrorists were arrested in operations launched by CTDs. At least 10 major terrorist plots were dismantled.’<sup>23</sup>
- 4.2.5 Concluding his piece, Dr Zahid stated ‘For curbing decades long problem of terrorism successive governments have adopted policy, legislative and tactical measures. Scores of military and law enforcement operations, a number of legislations by the parliament, and policies adopted by cabinets have indeed yielded results. It is evident that terrorist incidents have taken a nosedive in Pakistan during last three years which is a commendable achievement...’<sup>24</sup>

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<sup>19</sup> DFAT, ‘Country Information Report Pakistan’ (para 5.4), 20 February 2019, [url](#).

<sup>20</sup> HRW, ‘“This Crooked System”...’ (page 5), September 2016, [url](#).

<sup>21</sup> WJP, ‘The Rule of Law in Pakistan’ (page 6), 2017, [url](#).

<sup>22</sup> CRSS, ‘The role of CTDs in countering and minimizing terrorism’, 21 February 2019, [url](#).

<sup>23</sup> CRSS, ‘The role of CTDs in countering and minimizing terrorism’, 21 February 2019, [url](#).

<sup>24</sup> CRSS, ‘The role of CTDs in countering and minimizing terrorism’, 21 February 2019, [url](#).

4.2.6 However, Dr Zahid also added:

‘The issue of growing extremism has still not been addressed. Another pending matter is need for further cooperation between civil and military organizations dealing with counter-terrorism, and inter-civilian agencies’ coordination for concerted efforts against proscribed organizations. The provincial CTDs appear to lead Pakistan’s battle against terrorism, but still have a lot of kinetic and tactical work ahead of them. It is expected that with improving conditions, training and political will, they will deliver.’<sup>25</sup>

4.2.7 For further information on military operations aimed at countering terrorism, see the [Country Policy and Information Note on Pakistan: Security and humanitarian situation, including fear of militant groups](#). See also the [European Asylum Support Office \(EASO\) Country of Origin Information Report on Pakistan: Security Situation](#).

4.2.8 According to the DFAT report, as regards the police:

‘The effectiveness of provincial police forces in Pakistan and the challenges faced by these forces vary. However, overall, police capacity in Pakistan is limited, due to lack of resources, poor training, insufficient and outmoded equipment, and competing pressures from superiors, political actors, security forces and the judiciary. Sectarian violence and domestic terrorism diverts resources from community “policing” to a more incident response and security/guarding role...’<sup>26</sup>

4.2.9 The DFAT report also noted:

‘Police are poorly paid and face poor working conditions, high personal security risks, and decreasing resources. Individual police officers often augment their salaries with bribes. In some provinces, police claim stations operate 24 hours a day, often with only eight to 16 staff per station. Police and government officers are often targeted for attack and militant groups often explicitly target police. This has a significant disruptive impact physically, mentally, and on resources and agency focus. In Khyber Pakhtunkhwa, the provincial police force recently bullet proofed over 500 vehicles and raised apartment buildings after losing 21 officers in 2017. The Khyber Pakhtunkhwa police force has lost approximately 1500 officers between 2006 and 2016.’<sup>27</sup>

4.2.10 The FIDH report noted:

‘Criminal cases in Pakistan are built almost exclusively on witness testimonies and defendants’ confessions. This type of evidence is often collected by investigators through coercive means. By contrast, analysis and use of forensic evidence remain a rarity in the country. Although efforts have been made in recent years to develop the police’s ability to collect, preserve, and analyze forensic evidence, including through the development of some forensic labs, the use of such procedures remains sporadic, and has not yet

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<sup>25</sup> CRSS, ‘The role of CTDs in countering and minimizing terrorism’, 21 February 2019, [url](#).

<sup>26</sup> DFAT, ‘Country Information Report Pakistan’ (para 5.11), 20 February 2019, [url](#).

<sup>27</sup> DFAT, ‘Country Information Report Pakistan’ (para 5.12), 20 February 2019, [url](#).

replaced testimonies as the preferred type of evidence, even in murder cases.<sup>28</sup>

- 4.2.11 An article, by Rana Muhammad Mateen, lecturer at the School of Science, University of Management and Technology, Lahore, and Asma Tariq of the Institute of Biochemistry & Biotechnology, University of the Punjab, Lahore, on the current situation and strategies being practiced by Pakistan's police in crime scene investigation, published July 2019, noted:

'One reason of substandard crime scene processing in Pakistan is lack of many crime-solving technologies which have already been utilized in developed nations. However, the nature and magnitude of terrorist attacks, activism in judicial institutions, extensive media engagement and growing public awareness have put pressure on police force to look beyond traditional methods of investigation.'<sup>29</sup>

- 4.2.12 The article went on to note the crime scene and forensic investigation units operating in Pakistan:

'Punjab Forensic Science Agency (PFSA), Lahore has well established Crime Scene Units (CSU) with satellite stations located at Lahore, Bahawalpur, Dera Ghazi Khan, Gujranwala, Multan, Sahiwal, Sargodha, Rawalpindi and Faisalabad division of Punjab comprising professionally trained forensic scientist. Whenever there is an unfortunate event of crime, CSU approaches the area of crime scene and after processing the crime scenes, retrieves the evidence materials transporting to their relevant laboratory housed in [PFSA, Lahore](#) [...]. National Forensic Science Agency (NFSA) has its own CSU working at Islamabad covering most of the city and its nearby areas like Rawalpindi district and some part of Attock district. In Balochistan province, crime scene investigations are mostly accomplished by the local policemen who are not well trained and also lack equipment necessary for the tedious task. Recently [2018] United Nations Office on Drug and Crime (UNODC) has provided [two modern mobile CSU to Balochistan province](#) of Pakistan for capacity building of crime scene investigation process in the province [...]. Same scenario is in Kyber Pakhtunkhwa province where crime scene investigation process is also handled by the local policemen. [Forensic Science Laboratory \(FSL\)](#), Peshawar, has well established crime scene investigating units for proper processing of scene of crime, but it does not cover whole Khyber Pakhtunkhwa province [...]. In Sindh province of Pakistan, crime scene investigation units are not yet available and crime scene processing is mostly done by the local policemen, however, significant efforts are being made by the local government in this regard.'<sup>30</sup>

- 4.2.13 However, the same source added that although crime scene investigation units were established in some regions, '... due to large population size in Pakistan most of the crime scene processing is dealt by local policing who

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<sup>28</sup> FIDH, 'Punished for being vulnerable...' (page 16), 8 October 2019, [url](#).

<sup>29</sup> Mateen, R. M., and Tariq, A., 'Crime scene investigation in Pakistan...', 19 July 2019, [url](#).

<sup>30</sup> Mateen, R. M., and Tariq, A., 'Crime scene investigation in Pakistan...', 19 July 2019, [url](#).

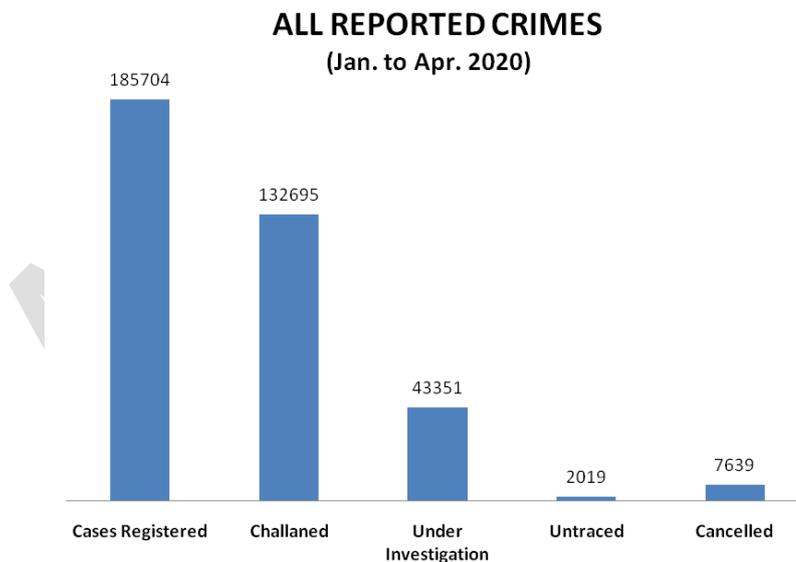
do not have proper equipment and training to process the scene according to forensic needs.’<sup>31</sup>

4.2.14 The OASC noted in its 2020 Crime and Safety Report: Lahore:

‘... police funding, resources, and training (as with the rest of the Pakistani police services) remain scant. Police resources and service remain well below Western standards, though the government is working to improve the situation with computerization and modernization. As of 2019, approximately 10,000 surveillance cameras monitor Lahore under the Punjab “Safe City” Project. The system features a 24-hour command center where police officials monitor various areas of the city, looking for criminal or terrorist activities. These cameras also monitor traffic, with violators receiving mailed violations based on license plate numbers.’<sup>32</sup>

4.2.15 On crime, according to the OSAC report ‘In 2019, the overall reports of criminal activity in Lahore increased by approximately 2%. There were approximately 84,000 crimes of all kinds [including major crimes such as rape and murder, traffic violations, white-collar crimes and crimes that would be misdemeanors in the United States] reported to or cited by the police in 2019, compared to approximately 82,400 in 2018.’<sup>33</sup>

4.2.16 The Punjab Police presented crime statistics on all reported crimes from January to April 2020<sup>34</sup>:



4.2.17 The same source recorded the number of convictions for the same period as 33,292<sup>35</sup>. Statistics were also broken down according to crime type<sup>36</sup>.

4.2.18 The OSAC noted for Islamabad ‘Although Islamabad has a large police department, resource constraints affect the efficiency of police operations.’<sup>37</sup>

<sup>31</sup> Mateen, R. M., and Tariq, A., ‘Crime scene investigation in Pakistan...’, 19 July 2019, [url](#).

<sup>32</sup> OSAC, ‘Pakistan 2020 Crime & Safety Report: Lahore’ (Police response), 17 April 2020, [url](#).

<sup>33</sup> OSAC, ‘Pakistan 2020 Crime & Safety Report: Lahore’ (Crime threats), 17 April 2020, [url](#).

<sup>34</sup> Punjab Police, ‘Crime statistics’, Jan to Apr 2020, [url](#).

<sup>35</sup> Punjab Police, ‘Crime statistics’, Jan to Apr 2020, [url](#).

<sup>36</sup> Punjab Police, ‘Crime statistics’, Jan to Apr 2020, [url](#).

<sup>37</sup> OSAC, ‘Pakistan 2020 Crime & Safety Report: Islamabad’ (Police response), 17 April 2020, [url](#).

The same source added 'According to available [statistics](#), the number of reported crimes in the Islamabad Capital Territory has remained relatively steady over the past two years. This includes residential crimes such as burglary, robbery, theft, and assaults.'<sup>38</sup> Statistics provided by the Islamabad Police indicated a 16.47% reduction in heinous crimes in 2019 compared to 2018<sup>39</sup>.

4.2.19 The Express Tribune reported on 18 December 2019 'Islamabad City Zone police succeeded to curb crime in its area during 2019 due to effective policing measures and crackdown against criminal elements...'<sup>40</sup> Addressing a press conference, City Zone SP (Superintendent of Police) Muhammad Aamir Khan Niazi said 'a total of 2,169 cases were reported in the area and challans [indictments] of 1,493 cases were submitted in the relevant courts. Out of 3,885 accused nominated in these cases, 3,002 accused (77%) were arrested.'

4.2.20 Similarly, for Karachi, the OSAC report noted 'The efforts of the Rangers and the Sindh police have led to improvement in the security situation in Karachi over the past few years. However, there remains considerable risk from crime in Karachi and throughout the Sindh and Balochistan.'<sup>41</sup> [[Sindh Police Crime Statistics for Sindh Province](#)]. However, the OSAC added:

'The police services lack training and resources and suffer from low salaries. Political influence may impact the conduct of investigations, arrests, and prosecutions.

'The Rangers' elevated level of enforcement activity under the National Action Plan (NAP), instituted in 2015, continued through 2018 and further diminished capabilities of militant groups. The Rangers had been present in Karachi prior to 2015; however, the increased authority of the Rangers and police in the NAP reflect the focus on counterterrorism following a 2014 attack on an army school in Peshawar that killed over 130 children.'<sup>42</sup>

4.2.21 Reporting on Peshawar, Khyber Pakhtunkhwa, the OSAC report noted:

'The security agencies in northwest Pakistan comprise civilian and military forces. Security forces are largely professional, but lack equipment, communications technology, and training. In general, police response to criminal incidents is inconsistent. Police and government forces are common targets of terrorist attacks. The local threat environment requires authorities to prioritize counter-terrorist activity, force protection, and infrastructure security.'<sup>43</sup>

4.2.22 The same source noted:

'[Crime statistics](#) in KP are underreported and/or inaccurate. Nonetheless, the Pakistani federal government and the KP provincial government remain committed to improving the rule of law and security in KP. This commitment translated into the establishment of police stations and judicial authorities

<sup>38</sup> OSAC, 'Pakistan 2020 Crime & Safety Report: Islamabad' (Crime threats), 17 April 2020, [url](#).

<sup>39</sup> Islamabad Police, 'Crime Statement 2019', n.d., [url](#).

<sup>40</sup> Express Tribune, 'Crime rate down, claim Islamabad City Zone Police', 18 December 2019, [url](#).

<sup>41</sup> OSAC, 'Pakistan 2020 Crime & Safety Report: Karachi' (Crime threats), 17 April 2020, [url](#).

<sup>42</sup> OSAC, 'Pakistan 2020 Crime & Safety Report: Karachi' (Police response), 17 April 2020, [url](#).

<sup>43</sup> OSAC, 'Pakistan 2020 Crime & Safety Report: Peshawar' (Police response), 17 April 2020, [url](#).

across KP Province in recent years. These developments improved the security services' ability to project law and order across the province. Federal and provincial authorities oppose the local enforcement of tribal and religious law, especially in the former Federally Administered Tribal Areas (FATA), but showed little success in reforming practices outside of major population centers. For the past three years, reports of violent crime in KP have trended down. This suggests – at face value – security improvement initiatives in KP have yielded positive results.<sup>44</sup>

4.2.23 As stated in the FIDH report:

'Witness testimonies are often manipulated by the police, who pick and choose testimonies that fit a pre-established narrative of the way in which the crime supposedly occurred. Moreover, alleged witnesses often come forth, particularly in cases of blasphemy, for personal reasons... [T]he reliance of the justice system on witness testimony is particularly problematic in cases of blasphemy. In these cases, where material evidence is almost never available due to the nature of the alleged crime, investigations are wholly reliant on witnesses, whose testimonies are rarely fact-checked by investigators or dismissed for being incoherent, contradictory, or potentially motivated by personal reasons.'<sup>45</sup>

4.2.24 In February 2020, a serving senior police officer, supervising the investigation section of the Punjab police department, spoke to The News International, on the condition of anonymity, about the need for trained crime scene investigation and interrogation experts to avoid flawed investigations and miscarriages of justice. He told The News, 'The traditional practice of investigation is to resort to blackmailing in the form of detention of the close relatives of any alleged criminal and even if it does not work the inhuman violence is what the investigators employ to extract confessional statements, [...]'. A former Inspector-General of Police of Khyber-Pakhtunkhwa also told The News that bribery 'frequently impacted investigations' and that First Information Reports (FIRs) were considered, incorrectly, to be 'the complete case file by the police as well as the judiciary', rather than the initial report they are supposed to be<sup>46</sup>.

4.2.25 For more information on FIRs, see the [Country Policy and Information Note on Pakistan: Documentation](#).

4.2.26 The State report submitted to the Committee on the Rights of Persons with Disabilities (UNCPRD), dated 31 March 2020 and authored by the Government of Pakistan, noted that Police reform was a key priority of the government, adding:

'The police is being transformed from Police Force culture to Police Services culture. Intensive trainings and orientation sessions for police personnel, at all levels, are being conducted on [a] regular basis. Prison rules and jail manuals as well as the Police Order 2002 emphasize on using protocols based on human rights standards in treating the arrested, detained and

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<sup>44</sup> OSAC, 'Pakistan 2020 Crime & Safety Report: Peshawar' (Crime threats), 17 April 2020, [url](#).

<sup>45</sup> FIDH, 'Punished for being vulnerable...' (pages 16 and 17), 8 October 2019, [url](#).

<sup>46</sup> News International, 'Police investigation is entry point in criminal justice ...', 7 February 2020, [url](#).

jailed persons. Each province has adapted the Police Order in line with its own respective needs and peculiarities.<sup>47</sup>

- 4.2.27 For information on police effectiveness in cases relating to women affected by gender-based violence, sexual and gender minorities and religious and ethnic minorities, see the relevant [Pakistan Country Policy and Information Notes](#).

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### 4.3 Corruption

- 4.3.1 The 2017 WJP report, on the rule of law in Pakistan, which captured the experiences and perceptions of over 4,000 Pakistanis, noted:

‘Pakistanis believe that a significant number of authorities are involved in corrupt practices. Police are viewed as the most corrupt authorities by respondents, with 73% of respondents saying that most or all police are involved in corrupt practices[...] Despite being viewed as the most corrupt authority in Pakistan, perceptions of police corruption have steadily decreased in the last four years. In 2013, 88% of respondents believed that most or all police were involved in corrupt practices, but this figure decreased to 73% of respondents in 2017.

‘Petty bribery is pervasive in Pakistan. More than half of Pakistanis have paid a bribe to receive assistance from the police (60%), and a quarter have paid a bribe to process a government permit (25%). Overall, there has been a decrease in bribes paid to a police officer, to process a government permit... When compared to bribery victimization rates of regional peers, rates of police bribery are higher than average in Pakistan...’<sup>48</sup>

- 4.3.2 As noted by DFAT ‘Pakistanis regard those that work in the military as less corrupt than in other professions.’<sup>49</sup> The report added ‘Popular perception of high levels of police corruption is widespread. Overall, public perception of police is low.’<sup>50</sup> The USSD HR Report 2019 noted that police corruption was common and that accepting bribes to register either genuine or false complaints, or to avoid charges, was routine<sup>51</sup>. The OSAC 2020 report on Islamabad noted ‘Police corruption is an issue throughout Pakistan, but is significantly less of a problem in Islamabad.’<sup>52</sup>

- 4.3.3 The FIDH report noted:

‘Because of widespread corruption in Pakistan, including within the criminal justice system, people who can afford to bribe police officers and other officials can avoid being tortured. This results in people who cannot afford to pay bribes (or who are not able to secure legal aid...) being more likely to confess to, and being convicted of, the crimes of which they are accused than defendants who can afford to pay bribes. The system’s over-reliance on confessions as evidence thus creates an inherent bias, whereby the poor are

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<sup>47</sup> UNCRPD, ‘Initial report submitted by Pakistan ...’ (para 71), 31 March 2020, [url](#).

<sup>48</sup> WJP, ‘The Rule of Law in Pakistan’ (page 6), 2017, [url](#).

<sup>49</sup> DFAT, ‘Country Information Report Pakistan’ (para 5.4), 20 February 2019, [url](#).

<sup>50</sup> DFAT, ‘Country Information Report Pakistan’ (para 5.11), 20 February 2019, [url](#).

<sup>51</sup> USSD, ‘Country Report on Human Rights Practices for 2019’ (section 4), 11 March 2020, [url](#).

<sup>52</sup> OSAC, ‘Pakistan 2020 Crime & Safety Report: Islamabad’ (Police response), 17 April 2020, [url](#).

significantly more likely to be charged, convicted, and, in the case of capital offenses, given death sentences.<sup>53</sup>

- 4.3.4 For more information on corruption, see the [Country Policy and Information Note on Pakistan: Documentation](#).

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#### 4.4 Avenues of redress

- 4.4.1 The Immigration and Refugee Board (IRB) of Canada's Research Directorate provided details of police complaint mechanisms in Pakistan including: the National Anti-corruption Bureau (NAB); the Public Safety Commission; Police Department Complaints Mechanisms; the judiciary; Ombudsmen; and Citizen Police Liaison Committees (CPLC)<sup>54</sup>.
- 4.4.2 The National Commission for Human Rights (NCHR) is able to receive complaints, via its Human Rights Complaints Cell, of human rights violations perpetrated by public servants<sup>55</sup>. However, in its 2017 concluding observations on the state report, the UN Committee on Economic, Social and Cultural Rights (UNCESCR) expressed its concern that the National Commission for Human Rights (NCHR) lacked independence and did not have the capacity to carry out its mandate<sup>56</sup>.
- 4.4.3 In 2017 the UNHRC noted in its concluding observations:  
'While welcoming the establishment of the National Commission for Human Rights in 2015, the Committee is concerned that the Chairman of the Commission reportedly did not receive the required authorization to travel to Geneva to meet with the Committee and that there are indications that the Commission is not fully independent. The Committee is also concerned that, according to its constitutive status, the Commission is prevented from fully cooperating with United Nations human rights mechanisms, cannot inquire into the practices of the intelligence agencies and is not authorized to undertake full inquiries into reports of human rights violations by members of the armed forces.'<sup>57</sup>
- 4.4.4 In December 2017, the Government of Pakistan noted in its views and responses to the report and recommendations of the Working Group on the Universal Periodic Review (UPR):  
'... the establishment of the Ministry of Human Rights and its provincial offices; treaty implementation cells and independent and well-funded human rights institutions at the federal and provincial levels, such as the National Commission for Human Rights and the National Commission on the Status of Women; and the human rights cell in the Supreme Court. Grass-roots, district-level human rights committees acted as human rights monitoring mechanisms and provided free legal aid and financial assistance.'<sup>58</sup>

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<sup>53</sup> FIDH, 'Punished for being vulnerable...' (page 17), 8 October 2019, [url](#).

<sup>54</sup> IRB, 'Pakistan: Police corruption... (2012-January 2016)', 14 January 2016, [url](#).

<sup>55</sup> NCHR, 'What we do', n.d., [url](#).

<sup>56</sup> UNCESCR, 'Concluding observations on the initial report of Pakistan' (para 11), 20 July 2017, [url](#).

<sup>57</sup> UNHRC, 'Concluding observations on the initial report of Pakistan' (para 9), 23 August 2017, [url](#).

<sup>58</sup> UNHRC, 'Report of the Working Group on the UPR...' (para 19), 29 December 2017, [url](#).

4.4.5 In its August 2018 submission to the UNCAT, Justice Project Pakistan (JPP) and the World Organisation Against Torture (OMCT) stated 'Action taken in response to torture complaints against police primarily constitutes of administrative inquiries. Punishments resulting from such inquiries range from dismissal and removal from service to withholding of increment of salary and demotion. Official statistics published by the Punjab Police show that 56 police officers were faced with administrative inquiries in response to allegations of torture between 2014-2017.'<sup>59</sup>

4.4.6 The USSD HR Report 2019 noted, in regard to civil remedies:

'Individuals may petition the courts to seek redress for various human rights violations, and courts often took such actions. Individuals may seek redress in civil courts against government officials, including on grounds of denial of human rights. Observers reported that civil courts seldom issued judgments in such cases, and most cases were settled out of court. Although there were no procedures for administrative redress, informal reparations were common. Individuals and organizations could not appeal adverse decisions to international human rights bodies, although some NGOs submitted human rights "shadow reports" to the United Nations and other international actors.'<sup>60</sup>

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Section 5 updated: 25 June 2020

## 5. Arrest and detention

### 5.1 Legal rights

5.1.1 A first information report (FIR) is the legal basis for any arrest<sup>61</sup>. For more information on FIRs, see the [Country Policy and Information Note on Pakistan: Documentation](#).

5.1.2 The USSD HR Report 2019 stated:

'A functioning bail system exists. Human rights groups noted, however, that judges sometimes denied bail until payment of bribes. NGOs reported authorities sometimes denied bail in blasphemy cases because defendants who faced the death penalty if convicted were likely to flee or were at risk from public vigilantism. Officials often simultaneously charged defendants facing lower-order blasphemy charges with terrorism offenses, which are nonbailable. NGOs also reported that lawyers representing individuals accused of blasphemy often asked that their clients remain in custody to protect them from vigilante violence. Bail is not available in antiterrorism courts... The constitution recognizes the right of habeas corpus and allows the high courts to demand that a person accused of a crime be present in court. The law allows citizens to submit habeas corpus petitions to the courts. In many cases involving forced disappearances, authorities failed to present detainees according to judges' orders.'<sup>62</sup> (see also [Enforced disappearances](#)).

<sup>59</sup> JPP/OMCT, 'Submission to the UNCAT' (page 4), August 2018, [url](#).

<sup>60</sup> USSD, 'Country Report on Human Rights Practices for 2019' (section 1E), 11 March 2020, [url](#).

<sup>61</sup> USSD, 'Country Report on Human Rights Practices for 2019' (section 1D), 11 March 2020, [url](#).

<sup>62</sup> USSD, 'Country Report on Human Rights Practices for 2019' (section 1D), 11 March 2020, [url](#).

- 5.1.3 The law dictates that detainees must be tried within 30 days of arrest, although this may be extended under certain circumstances<sup>63</sup>, for example, the Protection of Pakistan Act (2014) provides powers to hold detainees without charge for up to 90 days<sup>64</sup>. According to the State report submitted to the UN Committee on the Rights of Persons with Disabilities (UNCRPD), dated 31 March 2020 and authored by the Government of Pakistan, ‘... it is ensured that anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.’<sup>65</sup>

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Section 6 updated: 25 June 2020

## 6. Human rights abuses by security forces

### 6.1 Arbitrary arrest and detention

- 6.1.1 The USSD HR Report 2019 noted:

‘Reports found that police arbitrarily detained individuals to extort bribes for their release or detained relatives of wanted individuals to compel suspects to surrender. Ethnic minorities and refugees in Karachi who lacked official identification documents reported arbitrary arrests and harassment by police authorities. They reported police, including officers from the Federal Investigation Agency, a border control, criminal investigation, counterintelligence and security agency, made the arrests to extract bribes.’<sup>66</sup>

- 6.1.2 The same report stated ‘In some instances, police held detainees incommunicado. NGOs reported that on August 10, Karachi police arrested a local newspaper editor, who had been covering police corruption and organized crime, and held him for three days barring outside communication. His family did not know of his whereabouts during this period.’<sup>67</sup>

- 6.1.3 The Government of Pakistan said in its State report submitted to the UNCRPD, dated 31 March 2020:

‘In recognition of the fundamental rights of the citizens against arbitrary detentions and their rights to liberty and security, the Supreme Court assumes its suo moto powers with other necessary measures. A judicial commission having its own business and procedure also works independently. It directs constitution of Joint Investigation Teams and holds hearings in each case. It works in close cooperation with families of victims. These and other measures taken in the light of the Constitution of Pakistan protect arrests of individuals from arbitrary arrest and detention.’<sup>68</sup>

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<sup>63</sup> USSD, ‘Country Report on Human Rights Practices for 2019’ (section 1D), 11 March 2020, [url](#).

<sup>64</sup> Protection of Pakistan Act, 2014, [url](#).

<sup>65</sup> UNCRPD, ‘Initial report submitted by Pakistan ...’ (para 68), 31 March 2020, [url](#).

<sup>66</sup> USSD, ‘Country Report on Human Rights Practices for 2019’ (section 1D), 11 March 2020, [url](#).

<sup>67</sup> USSD, ‘Country Report on Human Rights Practices for 2019’ (section 1D), 11 March 2020, [url](#).

<sup>68</sup> UNCRPD, ‘Initial report submitted by Pakistan ...’ (para 70), 31 March 2020, [url](#).

## 6.2 Enforced disappearances

- 6.2.1 In 2017, in its concluding observations, the UN Human Rights Committee (UNHRC) noted, with concern:
- ‘... the high incidence of enforced disappearances and extrajudicial killings allegedly perpetrated by the police and military and security forces; the absence of explicit criminalization of enforced disappearances in domestic law; the Actions (in Aid of Civil Power) Regulation, 2011, which provides for detention by the army without warrants or judicial supervision and indefinite detention in military internment centres, and the allegedly high number of persons held in secret detention under the Regulation. It is also concerned by reports that the families of disappeared persons are subjected to threats and intimidation to discourage them from filing cases of enforced disappearance; by the lack of prompt and effective investigation and the very low rate of prosecution and conviction of perpetrators; and by the inadequate remedies and reparation provided for victims and their families. While welcoming the establishment of the Commission of Inquiry on Enforced Disappearances, the Committee remains concerned by the insufficient power and resources allocated to the Commission; the non-compliance with the Commission’s orders by the relevant authorities; and the high number of cases brought before the Commission that remain unresolved, with no criminal proceedings brought against perpetrators.’<sup>69</sup>
- 6.2.2 In 2017, the UNCESCR expressed its deep concern at ‘... repeated reports of abduction, killings and intimidation of human rights defenders, particularly those fighting for economic, social and cultural rights, allegedly committed in some cases by State agents, including members of military intelligence services.’<sup>70</sup>
- 6.2.3 In a February 2019 report, Pakistan’s National Human Rights Commission (NHRC) expressed its concern that ‘... despite various efforts by the Government of Pakistan and a very active judiciary, the practice of enforced disappearance is rampant all across the country especially in Balochistan.’<sup>71</sup>
- 6.2.4 The NHRC noted that the practice of enforced disappearance was reportedly used in Balochistan against political activists and people deemed sympathetic to the separatist movements<sup>72</sup>. Cases of disappearances of journalists and bloggers have been reported in Sindh<sup>73</sup>. The NHRC also noted that, since Pakistan’s involvement with the US-led ‘war on terror’, which began in late 2001, hundreds of persons accused of terrorism-related offences were reportedly disappeared by security agencies, adding that this practice continues unabated, with the number of reported disappearances rising during military offensives in Pakistan’s tribal areas<sup>74</sup>.
- 6.2.5 Amnesty International noted, in its human rights report covering 2019, that ‘victims of enforced disappearances included political activists, students,

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<sup>69</sup> UNHRC, ‘Concluding observations on the initial report of Pakistan’ (para 19), 23 August 2017, [url](#).

<sup>70</sup> UNCESCR, ‘Concluding observations on the initial report of Pakistan’ (para 13), 20 July 2017, [url](#).

<sup>71</sup> NHRC, ‘The unending saga of enforced disappearances’ (page 3), February 2019, [url](#).

<sup>72</sup> NHRC, ‘The unending saga of enforced disappearances’ (page 6), February 2019, [url](#).

<sup>73</sup> NHRC, ‘The unending saga of enforced disappearances’ (page 6), February 2019, [url](#).

<sup>74</sup> NHRC, ‘The unending saga of enforced disappearances’ (page 6), February 2019, [url](#).

journalists, human rights defenders and Shi'a Muslims, particularly in Sindh and Balochistan provinces.<sup>75</sup> The report continued:

'In January, Ahmad Mustafa Kanju, an activist from Rahim Yar Khan in Punjab province was disappeared from his home. In March, two journalists from Karachi were disappeared for a month. In October, engineering graduate Suleman Farooq Chaudhry disappeared from near Islamabad. In November, human rights defender and former Amnesty International consultant Idris Khattak was disappeared near Swabi in Khyber Pakhtunkhwa province. In December, lawyer Shafiq Ahmed was disappeared for 17 days, during which he was tortured. There were also hundreds of disappeared people released throughout the year. Two of those released were subsequently charged and prosecuted for possessing weapons.

'The risk of enforced disappearance was heightened in Khyber Pakhtunkhwa province with the promulgation of the Khyber Pakhtunkhwa Actions (in Aid of Civil Power) Ordinance, 2019. The ordinance gives security agencies a range of abusive powers, including the power to detain people without trial or charge on vaguely defined grounds. The detainees are to be kept at internment centres in the province, where other victims of disappearances have also been kept. The ordinance is being challenged in the Supreme Court of Pakistan.'<sup>76</sup>

6.2.6 According to the USSD HR Report 2019, kidnappings and forced disappearances occurred across the country, adding 'The Commission of Inquiry on Enforced Disappearances received 6,372 missing persons cases between 2011 and September 30. The commission had closed 4,140 of those inquiries, while 2,232 remained open.'<sup>77</sup> The same source noted 'Security forces in Balochistan continued to disappear pretrial terror suspects – along with human rights activists, politicians, and teachers. The Baloch Human Rights Organization noted 45 individuals had disappeared, and assailants had killed 15 persons in seven districts in July [2019] alone.'<sup>78</sup>

6.2.7 The International Commission of Jurists (ICJ) stated in September 2019, in its submission in response to Pakistan's follow-up report to the UN Human Rights Committee's (UNHRC) Concluding Observations, that:

'The UN Working Group on Enforced and Involuntary Disappearances (WGEID) findings that "there is a climate of impunity in Pakistan with regard to enforced disappearances, and the authorities are not sufficiently dedicated to investigate cases of enforced disappearance and hold the perpetrators accountable" are still as applicable today as they were in 2016, when the WGEID published its report.

'Pakistan has not enacted any laws or formulated any new policies related to the protection of families of disappeared people, nor has a mechanism been put in place for prompt reparation for victims and their families.'<sup>79</sup>

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<sup>75</sup> Amnesty International, 'Pakistan 2019', 30 January 2020, [url](#).

<sup>76</sup> Amnesty International, 'Pakistan 2019', 30 January 2020, [url](#).

<sup>77</sup> USSD, 'Country Report on Human Rights Practices for 2019' (section 1B), 11 March 2020, [url](#).

<sup>78</sup> USSD, 'Country Report on Human Rights Practices for 2019' (section 1G), 11 March 2020, [url](#).

<sup>79</sup> ICJ, 'Submission to UNHRC' (paras 14-15), September 2019, [url](#).

6.2.8 On 4 May 2020, Human Rights Watch (HRW) reported on the disappearance of political activist and human rights researcher, Idris Khattak, missing for nearly 6 months after being taken by unidentified armed men in Khyber Pakhtunkhwa. The report noted:

‘Pakistan’s security forces have long been implicated in enforced disappearances, carried out with impunity. The Pakistani Commission of Inquiry on Enforced Disappearances reported in December 2019 that 2,141 individual cases remain unresolved. However, the government has yet to provide answers to families, charge or release people held in illegal secret detention centers, or hold those responsible to account.

‘Prime Minister Imran Khan had been a vocal critic of enforced disappearances while in the political opposition, and, after taking office, approved a draft law criminalizing the practice. However, the draft law has not been presented before parliament for approval.’<sup>80</sup>

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### 6.3 Extra-judicial killings

6.3.1 In its 2018 report on the State of Human Rights in Pakistan, the Human Rights Commission of Pakistan (HRCP), referred to police ‘encounters’, describing them as:

‘... a euphemism for extrajudicial killings, where the deaths of citizens during clashes with the police and other security forces are viewed with suspicion. These were frequently reported across the country throughout the year, and rarely investigated. The lack of transparent and credible police reports has only fuelled the perception that law enforcement agencies can act with impunity. Only occasionally is there any evidence that they are held to account.’<sup>81</sup>

6.3.2 The News International reported in January 2019 that, according to data obtained from media reports by the Human Rights Commission of Pakistan (HRCP), covering the period between January 2014 and May 2018, 3,345 people were killed in 2,117 police encounters that occurred across the country<sup>82</sup>.

6.3.3 The USSD HR Report 2019 noted:

‘There were reports government security forces engaged in extrajudicial killings during operations against suspected militants throughout the country. On January 19, the Punjab Police Counterterrorism Department (CTD) reportedly shot and killed a couple and their teenage daughter in what the CTD labeled an “intelligence-based operation.” The Punjab law minister reportedly lamented the “collateral damage” and promised that the Punjab government would bear the education expenses of the family’s surviving children.

‘There were numerous media reports of police and security forces killing terrorist suspects in “police encounters.” The trial against Rao Anwar,

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<sup>80</sup> HRW, ‘Pakistan: Investigate “Disappearance” of activist’, 4 May 2020, [url](#).

<sup>81</sup> HRCP, ‘State of Human Rights in 2018’ (pages 66-67), March 2019, [url](#).

<sup>82</sup> The News International, ‘3,345 killed in police encounters...’, 20 January 2019, [url](#).

accused of the extrajudicial killing of Naqibullah Mehsud in a staged counterterror operation in 2018, continued at year's end.<sup>83</sup>

- 6.3.4 According to the CRSS Quarterly Report covering Q1 of 2020, 35 suspected criminals were killed in encounters with law enforcement agencies, compared to 16 killed in Q4 of 2019<sup>84</sup>.

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## 6.4 Torture and ill-treatment

- 6.4.1 In its 2017 Concluding Observations on the initial report of Pakistan, the UN Committee against Torture (UNCAT) noted with concern at 'Allegations of widespread use of torture by police'. The report added:

'While noting with appreciation the State party's rejection of torture and the efforts made to develop and strengthen mechanisms to implement its obligations under the Convention, 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. While the State party indicated that disciplinary measures had been taken against more than 7,500 police officers in Punjab and Khyber Pakhtunkhwa provinces as punishment for involvement in torture, death in custody, misuse of official power, misbehaviour and illegal confinement, no information was provided to the Committee indicating that criminal proceedings had been initiated against any of the police officers concerned. The Committee notes that, during the dialogue, the State party provided information on 13 cases in which prosecutors had brought charges against members of the police, including cases of alleged extrajudicial killing and torture. However, no indication was given of whether any of the cases has yet resulted in criminal penalties.'<sup>85</sup>

- 6.4.2 The UNHRC noted:

'The Committee is concerned that the domestic legislation fails to provide a definition of torture and to criminalize the practice in compliance with article 7 of the Covenant and other international standards; that torture is allegedly widely employed by the police, military and security forces and intelligence agencies; and that allegations of torture are not promptly and thoroughly investigated and perpetrators are rarely brought to justice.'<sup>86</sup>

See also [Avenues of redress](#).

- 6.4.3 Human Rights Watch (HRW), in its World Report 2020, covering events of 2019, provided examples of alleged human rights abuses by law enforcement agencies, noting that:

'Pakistani law enforcement agencies were responsible for human rights violations, including detention without charge and extrajudicial killings. Pakistan failed to enact a law criminalizing torture despite Pakistan's obligation to do so under the Convention against Torture. [...] On September 1, Saluhddin Ayubi in Rahim Yar Khan district, Punjab was arrested for

<sup>83</sup> USSD, 'Country Report on Human Rights Practices for 2019' (section 1G), 11 March 2020, [url](#).

<sup>84</sup> CRSS, 'Quarterly Security Report 2020 – 1st Quarter, 2020', 7 April 2020, [url](#).

<sup>85</sup> UNCAT, 'Concluding observations on the initial report of Pakistan' (para 6), 1 June 2017, [url](#).

<sup>86</sup> UNHRC, 'Concluding observations on the initial report of Pakistan' (para 25), 23 August 2017, [url](#).

robbing a cash machine and soon died in custody. His family claimed Ayubi, who had a mental health condition, had been tortured to death by the police. A forensic report subsequently corroborated the torture claims. In August, the Punjab anti-corruption department accused police officers in Lahore of keeping suspects in a secret detention cell and torturing them. Punjab police ordered an inquiry<sup>87</sup> (see also [Extra-judicial killings](#)).

- 6.4.4 The FIDH report stated ‘... the way in which confessions are obtained raises significant concerns. Because the lack of forensic evidence in criminal cases means that confessions are often central to securing convictions, torture is a common tool used by the police to obtain such confessions.’<sup>88</sup>

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Section 7 updated: 25 June 2020

## 7. Rule of law and the judiciary

### 7.1 Organisation

- 7.1.1 The European Asylum Support Office (EASO) Country of Origin Information Report on Pakistan, dated August 2015, provided an overview of Pakistan’s judicial system, which comprised of: the Supreme Court, the highest court whose decisions are binding on other courts; a High Court for each province and Islamabad, serving as appellate courts in civil and criminal matters; and a Federal Shariat Court, which may examine and decide whether any law is ‘repugnant to the injunctions of Islam’ and exercises jurisdiction over the lower courts deciding [Hudood](#) cases. The decisions of the Federal Shariat Court can be appealed to the Shariat Appellate Bench of the Supreme Court<sup>89</sup>.

- 7.1.2 The FIDH report noted that, as well as law enforcement agencies, the criminal justice system comprised of ‘criminal courts set up under the 1898 Criminal Procedure Code (CrPC); special (civilian) courts such as the anti-terrorism courts established under the 1997 Anti-Terrorism Act; military courts; and corrections departments organized at the provincial level.’<sup>90</sup>

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### 7.2 Criminal courts

- 7.2.1 The FIDH report noted:  
‘Criminal cases start in First Instance Courts, which include District, Magistrates, and Sessions Courts, and which are present at the district level in each province. Cases concerning offenses that are punishable by death can only be tried in Sessions Courts, and adjudicated by Sessions Judges. Cases dealing with offenses not punishable by death are tried in Magistrate Courts and civil cases in District Courts (for which Sessions Courts then act as appellate courts).’<sup>91</sup>

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<sup>87</sup> HRW, ‘World Report 2020 – Pakistan’, 14 January 2020, [url](#).

<sup>88</sup> FIDH, ‘Punished for being vulnerable...’ (page 16), 8 October 2019, [url](#).

<sup>89</sup> EASO, ‘Pakistan, Country Overview’ (page 26), August 2015, [url](#).

<sup>90</sup> FIDH, ‘Punished for being vulnerable...’ (page 9), 8 October 2019, [url](#).

<sup>91</sup> FIDH, ‘Punished for being vulnerable...’ (page 10), 8 October 2019, [url](#).

## 7.2.2 The USSD HR Report 2019 noted:

‘At the direction of the Chief Justice of the Supreme Court of Pakistan, the government established so-called model courts in each province to focus solely on backlogs of murder and narcotics cases, many decades old. Officials instructed judges presiding over these model courts to conduct trials on a day-to-day basis, until they cleared the case backlogs. The government established 116 model courts throughout the country (36 in Punjab, 27 in Sindh, 27 in Khyber Pakhtunkhwa, 24 in Balochistan, and two in the Islamabad Capital Territory).’<sup>92</sup>

## 7.2.3 According to Pakistan Today, reporting in January 2020, there were 465 model courts across the country<sup>93</sup>.

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## 7.3 Anti-terrorism courts

### 7.3.1 The FIDH report noted that anti-terrorism courts were established under the Anti-Terrorism Act 1997 and have jurisdiction over certain offenses under the Pakistan Penal Code relating to alleged acts of terrorism<sup>94</sup>. The report added:

‘Over the years, repeated amendments to the Anti-Terrorism Act have gradually increased the number of offenses over which anti-terrorism courts have jurisdiction, such as arms trafficking, kidnapping, extortion, sectarian violence, and targeted political killings. The expansion of the application of the Anti-Terrorism Act has contributed to a significant backlog in cases before these courts. Every conviction and sentence passed by an anti-terrorism court must be heard on appeal by a bench of two judges of the High Court. Between January 2015 and August 2019, the anti-terrorism courts imposed 250 death sentences, and there were 70 reported executions as a result of death sentences imposed by these courts.’<sup>95</sup>

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## 7.4 Military courts

### 7.4.1 The FIDH report stated:

‘In January 2015, the jurisdiction of military courts was extended to try civilians suspected of terrorism-related offenses through the 21st Amendment to the Constitution and by amendments to the 1952 Pakistan Army Act. This jurisdiction was permitted for a period of two years, ostensibly due to the backlog of cases in the anti-terrorism courts ..., and was renewed for two more years through the 23rd Amendment. It expired on 6 January 2019 and was subsequently not renewed.’<sup>96</sup>

### 7.4.2 The International Commission of Jurists (ICJ) reported on 1 April 2019 ‘The 23rd Amendment and corresponding amendments to the Army Act, 1952, lapsed on 30 March 2019, as their respective two-year sunset clauses

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<sup>92</sup> USSD, ‘Country Report on Human Rights Practices for 2019’ (section 1E), 11 March 2020, [url](#).

<sup>93</sup> Pakistan Today, ‘Model courts disposed of 30,049 cases in 2019’, 3 January 2020, [url](#).

<sup>94</sup> FIDH, ‘Punished for being vulnerable...’ (page 10), 8 October 2019, [url](#).

<sup>95</sup> FIDH, ‘Punished for being vulnerable...’ (page 10), 8 October 2019, [url](#).

<sup>96</sup> FIDH, ‘Punished for being vulnerable...’ (page 11), 8 October 2019, [url](#).

expired. So far, the Government has failed to get support from opposition parties for a constitutional amendment to once again extend the jurisdiction of military courts to conduct trials of civilians.<sup>97</sup>

#### 7.4.3 The FIDH report noted:

‘The 1952 Pakistan Army Act also allows for children to be tried by military courts, notwithstanding the 2018 Juvenile Justice System Act ..., which gives juvenile courts exclusive jurisdiction over minors and prohibits courts from imposing death sentences on juvenile offenders.

‘Military courts still have jurisdiction over a number of offenses that are punishable by death, including the crimes of mutiny, treason, misconduct in action, obstruction of operations, and corresponding or serving with the enemy.’<sup>98</sup>

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### 7.5 Death penalty

#### 7.5.1 For information on offences that may incur the death penalty and its implementation, see the Country Policy and Information Note on [Pakistan: Prison conditions](#).

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### 7.6 Fair trial

#### 7.6.1 The FIDH report noted ‘Anti-terrorism courts hold some trials in secret, raising significant concerns with regard to guarantees to the right to a fair trial. The laws that govern the anti-terrorism courts also raise several important concerns. For example, under Section 21(h) of the 1997 Anti-Terrorism Act, confessions made in police custody are admissible as evidence before anti-terrorism courts.’<sup>99</sup>

#### 7.6.2 Freedom House noted, in its Freedom in the World 2020 report, covering 2019 events, that military courts, which were allowed to try citizens following a 2014 terrorist attack ‘... have since been criticized for lack of transparency and due process guarantees, such as access to a competent defense. A number of death sentences issued by the courts have been overturned for a lack of evidence.’<sup>100</sup> Reports indicated that military trials were held in secret, defendants were without access to counsel and did not have a right to appeal<sup>101 102 103</sup>.

#### 7.6.3 The FIDH report stated ‘The lack of an adequate, accessible, and institutionalized public defense mechanism in Pakistan is partly to blame for the violations of fair trial rights. In the absence of well-trained, accountable, and motivated public defenders, there is, in a majority of cases, no one to

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<sup>97</sup> ICJ, ‘Pakistan: as military courts lapse...’, 1 April 2019, [url](#).

<sup>98</sup> FIDH, ‘Punished for being vulnerable...’ (pages 11-12), 8 October 2019, [url](#).

<sup>99</sup> FIDH, ‘Punished for being vulnerable...’ (page 10), 8 October 2019, [url](#).

<sup>100</sup> Freedom House, ‘Freedom in the World 2020’ (section F2), [url](#).

<sup>101</sup> UNHRC, ‘Concluding observations on the initial report of Pakistan’ (para 23), 23 August 2017, [url](#).

<sup>102</sup> FIDH, ‘Punished for being vulnerable...’ (page 11), 8 October 2019, [url](#).

<sup>103</sup> BTI, ‘2020 Country Report’ (page 11), 2020, [url](#).

uphold the rights of defendants from impoverished or marginalized backgrounds.’<sup>104</sup>

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## 7.7 Juvenile justice

7.7.1 As noted in the FIDH report:

‘... the treatment of juveniles in criminal proceedings is governed by the 2018 [Juvenile Justice System Act \(JJSA\)](#), which replaced the 2000 Juvenile Justice System Ordinance (JJSO). Section 16 of the JJSA specifically prohibits the death penalty for individuals who were juveniles (defined as under 18 years of age in Section 2 of the JJSA) at the time of the commission of the offense. In addition to maintaining key provisions of the JJSO that provided for legal aid for juveniles (Section 3), special procedures for the arrest (Section 5) and investigation (Section 7) of juveniles, and the establishment of Juvenile Court (Section 4), among others, the JJSA introduced provisions that provided for special procedures for the investigation and detention of female juveniles (Section 17), the establishment of juvenile rehabilitation centers and observations homes (Section 20), and the formation of a Juvenile Justice Committee in each sessions division with the authority to administer justice through alternatives to formal judicial proceedings (Sections 9 and 10).’<sup>105</sup>

7.7.2 However, the same source added that ‘many of the legal safeguard [sic] contained in the laws detailed above are often ignored in practice and result in systemic violations of due process and fair trial rights’, and that special juvenile courts were insufficient and the system lacked the infrastructure and training to make juvenile cases a separate ‘stream’<sup>106</sup>.

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## 7.8 Independence

7.8.1 In its concluding observations of 2017, the UNHRC expressed concern at, ‘the challenges facing the judiciary in strengthening its independence and effectiveness, including the lack of transparency of judicial appointment procedures; the shortage of judges and long-term judicial vacancies; insufficient budget allocation; the considerable backlog of cases; the lack of high-quality legal education and continuing professional training for legal professionals; and corruption in the judiciary.’<sup>107</sup>

7.8.2 The USSD HR Report 2019 noted:

‘The law provides for an independent judiciary, but according to NGOs and legal experts, the judiciary often was subject to external influences, such as fear of reprisal from extremist elements in terrorism or blasphemy cases and public politicization of high-profile cases. Civil society organizations reported judges were reluctant to exonerate individuals accused of blasphemy, fearing vigilante violence. Media and the public generally considered the high courts and the Supreme Court more credible, but media discussed

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<sup>104</sup> FIDH, ‘Punished for being vulnerable...’ (page 17), 8 October 2019, [url](#).

<sup>105</sup> FIDH, ‘Punished for being vulnerable...’ (page 14), 8 October 2019, [url](#).

<sup>106</sup> FIDH, ‘Punished for being vulnerable...’ (page 21), 8 October 2019, [url](#).

<sup>107</sup> UNHRC, ‘Concluding observations on the initial report of Pakistan’ (para 31), 23 August 2017, [url](#).

allegations of pressure from security agencies on judges of these courts. On September 11, Chief Justice Asif Saeed Khosa warned that public perceptions of selective accountability in high-profile corruption cases had grown and should be addressed.<sup>108</sup>

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## 7.9 Effectiveness

- 7.9.1 According to the World Justice Project's (WJP) Rule of Law Index 2020, which measures the rule of law based on the experiences and perceptions of the general public and in-country legal practitioners and experts worldwide, Pakistan ranked 120 out of 128 countries and scored 0.39, where 1 signifies the strongest adherence to the rule of law and 0 signifies the least. Regionally, Pakistan scored 5 out of 6 countries, sited between Bangladesh (4) and Afghanistan (6)<sup>109</sup> (with 6 indicating the least adherence to the rule of law).
- 7.9.2 A 2017 report by the WJP, which captured data on the experiences and perceptions of over 4,000 people in Pakistan regarding the rule of law in their country, noted 'When it comes to criminal courts, inadequate resources were cited as their most serious problem. Views on how often courts guarantee everyone a fair trial and perceptions of corruption have both fluctuated since 2013.'<sup>110</sup>
- 7.9.3 The Asia Foundation, a non-profit international development organisation, noted, in July 2017:
- 'Pakistan's justice system is stressed for a number of reasons, including insufficient budget allocations (less than one percent at the federal and provincial levels), lack of human and material resources to dispense speedy justice, corruption, nepotism, sub-standard legal education, and ill-equipped lawyers who lack practical skills and training opportunities. As a consequence, justice is often delayed or inaccessible, particularly for the poor and marginalized groups.'<sup>111</sup>
- 7.9.4 According to statistics provided by the Law and Justice Commission of Pakistan (LJCP), as of 31 December 2019, over 1.8 million cases were pending in Pakistan's courts<sup>112</sup>. Media sources reported some cases took years, or even decades, before justice was dispensed<sup>113 114</sup>.
- 7.9.5 The USSD HR Report 2019 stated:
- 'Extensive case backlogs in the lower and superior courts undermined the right to effective remedy and to a fair and public hearing. Antiquated procedural rules, unfilled judgeships, poor case management, and weak legal education caused delays in civil and criminal cases. According to Chief Justice Khosa, 25 percent of judgeships were vacant in March. Khosa further stated that 1.9 million cases were pending in the judicial system, of which an

<sup>108</sup> USSD, 'Country Report on Human Rights Practices for 2019' (section 1E), 11 March 2020, [url](#).

<sup>109</sup> WJP, 'Rule of Law Index 2020' (pages 19 and 121), 2020, [url](#).

<sup>110</sup> WJP, 'The Rule of Law in Pakistan' (page 6), 2017, [url](#).

<sup>111</sup> Asia Foundation, 'Alternative Dispute Resolution...' 26 July 2017, [url](#).

<sup>112</sup> LJCP, 'Consolidate statement...', n.d., [url](#).

<sup>113</sup> Al Jazeera, 'Waiting for justice: 1.9 million Pakistan cases pending', 24 April 2019, [url](#).

<sup>114</sup> Dawn, 'Over 1.8 million cases pending in Pakistan's courts', 21 January 2018, [url](#).

estimated 40,000 were pending in the Supreme Court. In February Khosa said the Supreme Court would increase its use of video links to hear testimony and reduce delays of trial. The Lahore High Court took steps to improve judicial efficiency. In 2017 the court's chief justice introduced legal reforms intended to reduce strikes and formalized an alternate dispute resolution (ADR) system.<sup>115</sup>

- 7.9.6 Pakistan Today reported in January 2020 that 'The 465 model courts, which have been set up across the country to provide speedy justice and to clear the massive backlog of cases, decided 30,049 cases, including 10,121 cases of murder and 19,928 of narcotics during the year 2019.'<sup>116</sup>

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## 7.10 Alternative dispute resolution

- 7.10.1 Reporting on alternative dispute resolution (ADR), The Asia Foundation noted in December 2019:

'ADR is fast gaining policy traction in Pakistan. Recent legislation includes Islamabad's ADR Act, 2017; the Punjab Alternate Dispute Resolution Act, 2019; and the Code of Civil Procedure (Sindh Amendment) Bill, 2018. Since 2017, in the wake of judicial reforms, The Lahore High Court (LHC) has been taking initiatives to mainstream "court-annexed mediation," a procedure whereby judges refer cases to mediators assigned by the LHC. The mediations take place at centers built within a court complex.'<sup>117</sup>

- 7.10.2 According to the USSD HR Report 2019 'According to the Ministry of Law and Justice, as of June, there were 1.8 million backlogged civil dispute cases. In the past two years, the ministry has cleared 450,000 cases through the ADR system, most of which involve family law. A typical civil dispute case may take up to 10 years to settle, while the ADR process may reduce this time to approximately three to five months.'<sup>118</sup> The same source added 'As of February, 36 ADR centers across Punjab Province received 30,688 references out of which 14,239 references were successfully mediated while mediation failed in 4,296 cases.'<sup>119</sup>

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## 7.11 Double jeopardy

- 7.11.1 The principles of double jeopardy are dealt with under Article 13 of the Constitution<sup>120</sup> and Section 403 of the Code of Criminal Procedure<sup>121</sup>.
- 7.11.2 In correspondence with the Country Policy and Information Team, dated April 2019, an advisor on criminal justice at the British High Commission (BHC), Islamabad, indicated, whilst stressing that their research was not exhaustive, that '... the double jeopardy principles are upheld where a decision has been reached in a foreign jurisdiction (as long as the court

<sup>115</sup> USSD, 'Country Report on Human Rights Practices for 2019' (section 1E), 11 March 2020, [url](#).

<sup>116</sup> Pakistan Today, 'Model courts disposed of 30,049 cases in 2019', 3 January 2020, [url](#).

<sup>117</sup> Asia Foundation, 'Alternative Dispute Resolution Gains Traction...', 18 December 2019, [url](#).

<sup>118</sup> USSD, 'Country Report on Human Rights Practices for 2019' (section 1E), 11 March 2020, [url](#).

<sup>119</sup> USSD, 'Country Report on Human Rights Practices for 2019' (section 1E), 11 March 2020, [url](#).

<sup>120</sup> Constitution, [url](#).

<sup>121</sup> Code of Criminal Procedure, [url](#).

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).<sup>122</sup>

- 7.11.3 When considering whether a UK court is deemed to be one of competent jurisdiction, the FCO advisor gave regard to a case in which the Supreme Court of Pakistan upheld the validity of a sentence passed in a UK Crown Court and reiterated the principle of comity<sup>123</sup>.
- 7.11.4 Section 188 of the Code of Criminal Procedure provides for offences committed outside the jurisdiction of Pakistan<sup>124</sup>. Section 188 provides that the Federal Government must sanction such cases<sup>125</sup> and the FCO advisor referred to a UK extradition case, noting that ‘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.’<sup>126</sup>

See also the [Country Policy and Information Note on Pakistan: Prison conditions](#), for further details on double jeopardy.

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## 7.12 Legal Aid

- 7.12.1 The USSD HR Report 2019 noted ‘The government provided state-funded legal counsel to prisoners accused of crimes for which conviction included the death penalty, but it did not regularly provide legal representation in other cases.’<sup>127</sup>
- 7.12.2 Pakistan’s Legal Aid Society (LAS), based in Karachi, noted on its website that it ‘provides legal aid and assistance services to the needy, uninformed, unprivileged and marginalized sections of the society especially women, children and religious minority groups.’<sup>128</sup>
- 7.12.3 The FIDH report of October 2019 noted:

‘Although statistics are not available, anecdotal evidence indicates that either a significant number of defendants are never afforded legal aid, or that this legal aid comes too late, including for juveniles. During a visit to a juvenile prison in 2019 in the province of Punjab, nine of the 22 (40%) inmates present during the visit told HRCP staff that they had not been provided legal aid.

‘It is common for defendants to not have had access to legal counsel until they make their first court appearance. In these cases, judges appoint public defenders, who can be the first lawyer they see in the courtroom, regardless of their existing caseload or their qualifications to take on that particular case. Even in cases where defense lawyers are motivated and well-intentioned, their heavy caseload and insufficient remuneration means that

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<sup>122</sup> BHC correspondence, 12 April 2019, [Annex A](#).

<sup>123</sup> BHC correspondence, 12 April 2019, [Annex A](#).

<sup>124</sup> Code of Criminal Procedure, [url](#).

<sup>125</sup> Code of Criminal Procedure, [url](#).

<sup>126</sup> BHC correspondence, 12 April 2019, [Annex A](#).

<sup>127</sup> USSD, ‘Country Report on Human Rights Practices for 2019’ (section 1D), 11 March 2020, [url](#).

<sup>128</sup> LAS, ‘Legal Aid’, n.d., [url](#).

they have little time to devote to each client, and virtually no time or financial resources to prepare a proper defense. This results in a system in which poor defendants are much more likely to be afforded inadequate legal assistance than individuals who can afford to pay for counsel.

‘These issues are amplified for individuals accused of blasphemy, who struggle to find lawyers to represent them, even for a fee. In blasphemy cases, public defenders often withdraw from cases and are not replaced, or do not actively pursue their client’s interest. Relatives of one prisoner on death row for blasphemy, with whom FIDH and HRCP spoke, referred to the lawyer assigned to the case as a “silent lawyer” due to the fact that he was too scared of the consequences to pursue the case actively. While there are several organizations in Pakistan providing pro-bono legal aid services to indigent defendants and to those charged with blasphemy, the needs remain enormous.’<sup>129</sup>

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<sup>129</sup> FIDH, ‘Punished for being vulnerable...’ (page 17), 8 October 2019, [url](#).

# 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:

- Security apparatus, including police, armed forces and intelligence services
- Security forces capabilities
  - Surveillance
  - Effectiveness
  - Human rights abuses
  - Avenues of redress
- Arrest and detention
  - Legal rights
  - First Information Reports
- Rule of law and the judiciary
  - Organisation
  - Fair trial
  - Independence
  - Effectiveness
  - Juvenile justice
  - Alternative dispute resolution
  - Legal Aid

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# Annex A

Correspondence from British High Commission, Islamabad, 12 April 2019

Diplomatic Enclave

Ramna 5

P.O. Box 1122

Islamabad

Tel: +92 (0)51 201 2269

Fax: +92 (0)51 201 2071

[www.gov.uk/world/pakistan](http://www.gov.uk/world/pakistan)

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  
CPS CJA Pakistan

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# Version control

## Clearance

Below is information on when this note was cleared:

- version **1.0**
- valid from **25 June 2020**

## Changes from last version of this note

First version of discrete CPIN on actors of protection.

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