Capital Punishment in 2025

Failing Their Own *Standards.*

Capital Punishment in the United States and Pakistan — *a cross-jurisdictional study*.

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PRIMARY SOURCES

DPI, *The Death Penalty in 2025*

JPP and NCHR, *The Death Penalty Report 2025*

The Square Circle Clinic, NALSAR, *Death Penalty in India 2025*

This is an independent report. Views are the author's. Produced in collaboration with the Death Penalty Information Center.

A landscape comparison.

In 2025, the United States executed 47 people, the highest total in over fifteen years, while public support for the death penalty fell to a fifty-year low and juries rejected death sentences in a majority of capital trials. That same year, Pakistan held 3,394 people on death row, one of the largest condemned populations in the world, while maintaining a de facto moratorium on executions that has been in place since December 2019.

This is a landscape comparison of how capital punishment operates in two countries, drawing on two independently published reports: the Death Penalty Information Center's annual report on the United States, and the Justice Project Pakistan and National Commission for Human Rights report on Pakistan.

A single organising question runs through every section: *are these systems functioning as their own legal standards require?* Each section takes a different angle on this question. The findings draw those threads together into a cumulative argument.

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Hamza Saeed

Produced in collaboration with the Death Penalty Information Center.

> ***Note**
>
> *The study does not take a position on abolition. It evaluates whether each system complies with its own legal standards and stated commitments.*

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Section 00

Executive *Summary.*

Across every dimension examined, both countries fall short of the standards their own systems have set. What follows is a brief tour of the evidence; full detail begins in Section 1.

In 2025, the United States executed 47 people, the highest total in over fifteen years, while public support for the death penalty fell to a fifty-year low and juries rejected death sentences in a majority of capital trials. That same year, Pakistan held 3,394 people on death row — one of the largest condemned populations in the world — while maintaining a de facto moratorium on executions that has been in place since December 2019 and failing to implement legal protections its own Supreme Court has mandated.

UNITED STATES

Death Row Population

2,024

United States · as of 1 October 2025
47 executions in 2025 · highest in 15 years

PAKISTAN

Death Row Population

3,394

Pakistan · as of July 2025
0 executions · moratorium since Dec 2019

Two systems of capital punishment in 2025 · Sources: DPI; JPP & NCHR.

This study provides a comparative overview of how capital punishment operated in the United States and Pakistan in 2025. It evaluates sentencing and executions, vulnerability among the condemned, implementation of legal safeguards, clemency and last-resort review, wrongful-conviction risk, international obligations, and policy direction against the standards each system has established for itself. The analysis draws primarily on the Death Penalty Information Center's 2025 annual report on the United States and the Justice Project Pakistan and National Commission for Human Rights' 2025 report on Pakistan, with limited supporting evidence from the Death Penalty in India Annual Statistics Report 2025.

The United States and Pakistan were selected as contrasting retentionist systems with different constitutional, institutional and political contexts. The comparison examines whether these different arrangements produce similar gaps between formal safeguards and actual practice. It identifies common patterns without claiming that capital punishment alone causes every documented failure.

The Central Finding

> ***Central finding***
>
> *Across every dimension examined — sentencing, vulnerability of the condemned, implementation of legal safeguards, clemency, and international obligations — both countries fall short of the standards their own systems have set.*

In the United States, 83% of the 47 people executed in 2025 had at least one significant vulnerability: serious mental illness (27), low IQ, brain damage, or evidence of intellectual disability (25), or significant childhood trauma, neglect, or abuse (28). Legal protections intended to identify mitigation and, in defined categories, prohibit execution were limited through definitional thresholds, procedural barriers and retroactivity rules. In Georgia, no defendant had ever been able to meet the state's standard for proving intellectual disability, prompting the legislature to lower the threshold with near-unanimous support in 2025. In Oklahoma, the legislature enacted a procedure providing for recurring competency evaluations and restoration efforts for prisoners found incompetent for execution; critics argue that the resulting cycle can operate to restore competency so that an execution may proceed. Florida, acting without published reasoning or independent review, carried out 19 executions — 40% of the national total, while simultaneously enacting five new laws expanding death eligibility and challenging existing Supreme Court precedent, including a mandatory death sentence for undocumented immigrants directly contrary to the Court's holding that mandatory death sentences are unconstitutional.

In Pakistan, the Supreme Court's 2021 ruling in Safia Bano prohibited the execution of prisoners whose severe mental illness or disability renders them unable to understand or appreciate the rationale and purpose of the death sentence. It also mandated institutional safeguards, including specialist assessments and forensic mental-health facilities. Four years later, no province has built those facilities. Mental health evaluations remain sporadic. The Court's 2023 ruling in *Muhammad Yasin* affirmed that the death penalty must be restricted to the most serious crimes involving intentional killing; Pakistan retains 29 capital offences, including non-lethal ones such as blasphemy, kidnapping, and perjury. Prisoners sentenced to death for narcotics offences that the legislature repealed in 2023 remain on death row because no systematic review mechanism was created. In Khyber Pakhtunkhwa, 171 prisoners have outstanding mercy petitions, with no established timetable, published evaluation procedure or effective oversight mechanism. The first presidential commutation of a death row prisoner in over two decades — the case of Abdul Basit, a paraplegic prisoner whose disability resulted from medical negligence in custody — required the coordinated intervention of the National Commission for Human Rights, the Ministries of Law and Justice and Human Rights, and the Presidency for a single case.

Divergence

The two systems moved in different directions during 2025. Pakistan continued a de facto moratorium, reduced the number of capital offences and engaged with external accountability mechanisms, although implementation of judicial protections remained weak. The United States recorded declining public support, fewer new death sentences and continued contraction of death row, while executions increased sharply and legislative efforts to expand death eligibility intensified in several states. Despite these opposing trajectories, both systems exhibited significant gaps between stated safeguards and their practical application.

Both systems exhibit significant gaps between their stated standards and actual practice despite moving in opposite policy directions. The comparison demonstrates that similar failures can arise through different institutional mechanisms; it does not establish that capital punishment alone causes those failures.

Key Findings by Dimension

Who is condemned. Vulnerability is prevalent among those subjected to capital punishment in both systems. In the United States, 83% of the 47 people executed in 2025 had at least one documented vulnerability, including serious mental illness, intellectual disability indicators, brain damage or significant childhood trauma. In Pakistan, indigence, inadequate capital-defence representation, undiagnosed mental illness and, in blasphemy cases, religious-minority status can compound defendants' disadvantage. These conditions do not all constitute categorical legal bars to execution, but they may provide important mitigation and, in defined circumstances, engage constitutional or legal protections.

The implementation gap. In both countries, formal safeguards frequently provide less protection in practice than their legal wording promises. In the United States, intellectual-disability and competency protections may be narrowed through rigid definitional thresholds, procedural barriers and restrictions on the retroactive application of later decisions. In Pakistan, the Supreme Court has recognised protections for prisoners whose severe mental illness or disability prevents them from comprehending the rationale and purpose of their punishment, but the required assessment procedures, specialist Medical Boards and forensic mental-health facilities remain inadequately implemented. India illustrates the wider difficulty of translating appellate safeguards into trial-level practice: 79 of 83 analysable capital cases in 2025 failed to comply with the sentencing requirements established in Manoj, which the Supreme Court subsequently reinforced in Dupare.

Clemency and last-resort review. Clemency is formally available in both countries but provides limited and uneven practical protection. In the United States, executive clemency petitions connected with 2025 executions were overwhelmingly denied, while the Supreme Court separately declined to stay any execution during the year. In Pakistan, 171 mercy petitions were pending in Khyber Pakhtunkhwa without a clear

administrative timetable, published evaluation procedure or effective oversight mechanism. Abdul Basit's presidential commutation demonstrates that clemency can operate, but the extensive institutional coordination required in a single exceptional case also illustrates the absence of a predictable and accessible process.

International law. The two countries raise different legal and policy concerns and should not be assessed as though they have accepted identical obligations. Pakistan remains bound by the ICCPR and retains capital offences, including non-lethal offences, that are difficult to reconcile with the "most serious crimes" standard endorsed by its own Supreme Court. The United States remains bound by the ICCPR subject to its reservations, but has not ratified the Convention on the Rights of Persons with Disabilities and is not legally bound by UN General Assembly resolutions calling for a moratorium. Nevertheless, its opposition to international moratorium initiatives and efforts to expand death eligibility indicate growing divergence from the broader international trend towards restriction.

Innocence. The irrevocability of execution gives particular significance to weaknesses in evidence, disclosure and legal representation. The United States has recorded 202 death-row exonerations since 1973, while cases involving Richard Glossip, Justin Wolfe and Robert Roberson continued to demonstrate the importance of post-conviction review in 2025. Pakistan does not maintain a comparable national death-row exoneration dataset, making the scale of wrongful capital convictions difficult to measure. The absence of comparable data should not be interpreted as evidence that the underlying risk is absent.

Policy Landscape

The report concludes by examining reforms proposed by courts, legislatures, international bodies and civil society organisations, including stronger mental-disability assessments, transparent clemency procedures, review of sentences imposed under repealed laws, improved capital defence and more effective monitoring of compliance with judicial safeguards.

What This Study Is

This is a landscape comparison of how capital punishment operates in two countries in 2025, drawing on two independently published reports: the Death Penalty Information Center's annual report on the United States, and the Justice Project Pakistan and National Commission for Human Rights report on Pakistan.[1][2]

Both systems are examined across their key dimensions: sentencing, execution, legal safeguards, vulnerability of the condemned, clemency, and policy direction.

The Organising Question

In 2025, are capital punishment systems in the United States and Pakistan functioning as their own legal standards, their own court rulings, and their own stated commitments require? Each section takes a different angle on this question. The findings draw those threads together into a cumulative argument.

Analytical Framework

The study applies one test across every dimension it examines: ***does actual practice match the standard the system has set for itself?*** Each section identifies a specific obligation — constitutional, statutory, judicial, or treaty-based — and measures the documented record against it. The study primarily uses each country's own legal commitments as its benchmark, while distinguishing binding international obligations from nonbinding international standards.

This framework produces a particular kind of finding. It cannot tell you whether capital punishment is right or wrong. It can tell you whether a system that retains it is operating as it says it operates. The distinction matters because the failures documented here are not matters of opinion. They are measurable distances between what the law requires and what the system delivers.

The comparative dimension adds a second layer: when the same category of failure appears across two systems with different, though partially connected, legal traditions and opposite policy trajectories, single-country explanations — institutional weakness in Pakistan, political culture in the United States — become less sufficient on their own. The comparative design does not prove that capital punishment causes these failures. It does establish that the failures are not reducible to the particularities of either country.

Methodology

The study is a comparative case analysis of two capital punishment systems selected for their differences rather than their similarities. The analytical logic is that of a "most different systems" comparison: the United States and Pakistan diverge on legal tradition, institutional capacity, level of development, and policy direction. If the same pattern of failure appears across two systems that share almost none of these characteristics, the explanation is less likely to sit in the characteristics themselves and more likely to sit in the thing the systems have in common — capital punishment and the specific demands it places on any legal system that retains it.

The study draws on secondary source analysis of three independently published reports. It does not generate original sentencing data, conduct interviews, or perform statistical modelling. Its contribution is analytical: applying a consistent evaluative framework across two systems that have not previously been compared in this way, and identifying structural patterns that are not visible within either country's data alone.

Two cases cannot establish that these failures are universal. They can establish that the failures are not unique to one country's circumstances, and they can make single-country explanations harder to sustain. That is what this study claims and all it claims.

The Two Primary Reports

DPI, *The Death Penalty in 2025* (United States). Covers new death sentences, executions, Supreme Court activity, legislative developments, public opinion, and exonerations. Key finding: executions reached 47 in 2025, the highest total in fifteen years, driven almost entirely by Florida, even as public support for capital punishment fell to a fifty-year low and juries declined to impose death sentences in the majority of capital trials.[3]

JPP and NCHR, *The Death Penalty Report 2025* (Pakistan). Covers Pakistan's death row population of 3,394 across all provinces, with data on legislative reforms, judicial rulings, prison conditions, vulnerability of the condemned, and the state of clemency. Key finding: despite a de facto moratorium on executions since December 2019, Pakistan holds one of the world's largest death rows, legal protections mandated by the Supreme Court have not been implemented, and the clemency process produced its first commutation in over twenty years only in 2025.[4]

A Note on India

The study draws primarily on the two reports named above. At specific points, it draws supporting evidence from the *Death Penalty in India Annual Statistics Report 2025*, published by The Square Circle Clinic at NALSAR University of Law.[5] India does not function as a third case study and has no dedicated section. It appears at one specific moment in the analysis — in the implementation gap section — as a stress test: a jurisdiction with sophisticated judicial safeguards and an actively reform-minded Supreme Court that nonetheless produces the same distance between doctrine and practice. Where the India data is used, its scope is explicitly bounded and clearly attributed.

Source Note

DPI and JPP are not methodologically equivalent. DPI operates with extensive data infrastructure in a jurisdiction with comprehensive public court records. JPP works under significant resource constraints, with acknowledged data gaps, in a context where reliable criminal justice data is genuinely difficult to obtain.[6] JPP's methodology relies on formal requests to provincial prison inspectorates, verified through direct engagement with prison authorities, and cross-checked by a multi-tiered verification system involving data and investigation teams.[7] Inconsistencies in record-keeping across provinces remain a challenge. Punjab is the only province that distinguishes between confirmed and unconfirmed death sentences. Gilgit-Baltistan and Azad Jammu & Kashmir do not disaggregate crime-wise data.[8]

This asymmetry is addressed openly and does not undermine the comparison. When two organisations using different methods, drawing on different data sources, and operating under vastly different conditions independently arrive at the same structural findings, that convergence carries more weight than it would if the sources were identical in quality and approach. The asymmetry is, in that sense, part of what makes the finding meaningful.

Prior Work

Cross-jurisdictional comparison of capital punishment systems is not new, but the existing literature has tended to compare countries within the same legal tradition or at similar levels of development. Hood and Hoyle's *The Death Penalty: A Worldwide Perspective* provides the most comprehensive global survey but does not apply a single evaluative framework across paired jurisdictions.[9] Johnson and Zimring's work on the politics of capital punishment examines how national political structures shape abolition trajectories.[10] The Cornell Center on the Death Penalty Worldwide maintains the most extensive comparative database.[11] This study differs from these predecessors in one specific respect: it pairs two countries selected for maximum difference and applies a single test — compliance with self-imposed standards — across both. The finding that the same category of failure appears in both systems is a product of that design choice.

Limitations

This study has seven limitations, acknowledged here rather than buried in the footnotes.

First, both countries were selected because they have documented failures. Jurisdictions where capital punishment systems function closer to their own stated standards are not examined, which means the study cannot claim these failures are universal — only that they appear across two very different contexts.

Second, the primary sources are not methodologically equivalent, as noted above.

Third, the study takes no position on abolition. It evaluates whether each system complies with its own legal standards and stated commitments.

Fourth, the India data is used selectively and has not been subjected to the same depth of analysis as the two primary cases. Conclusions drawn from it are intentionally narrow.

Fifth, the causal argument advanced here — that these failures are structurally connected to capital punishment rather than simply to the institutional environments in which it operates — rests on comparative evidence rather than a formal causal model. The most plausible alternative explanations are engaged with directly rather than set aside.

Sixth, the racial disparity findings in the US section are anchored in what DPI 2025 documents directly. Where historical legal cases such as *McCleskey v. Kemp* are referenced, they appear as legal and procedural context rather than as current empirical findings. The study does not generate original disparity analysis and does not claim to.

Seventh, the study does not examine execution methods (lethal injection protocols and associated litigation in the United States; hanging in Pakistan). Both countries have legal standards governing how executions are carried out, and both have documented failures of compliance. This is a relevant dimension of the organising question that was excluded for scope reasons, not because the evidence is thin.

WHY THESE TWO COUNTRIES

Section 01

The case for *this comparison.*

The United States and Pakistan were not chosen because they resemble each other. They diverge on almost every relevant variable.

Why These Two Countries

The United States and Pakistan were not chosen because they resemble each other. They diverge on almost every relevant variable: level of development, legal tradition, institutional capacity, direction of policy travel, and exposure to international accountability mechanisms. The United States operates a common law system with extensive appellate infrastructure, independent state and federal courts, constitutionally guaranteed right to counsel in criminal proceedings, and robust data collection on criminal justice outcomes. Pakistan operates a legal system rooted in colonial-era codes, overlaid with constitutional and Islamic jurisprudential elements, across provinces and territories with uneven institutional capacity and inconsistent record-keeping.[12] The United States has a GDP per capita roughly twenty times Pakistan's. Its prison system, while facing its own documented failures, operates at a fundamentally different resource level. Its judiciary is professionally staffed and adequately funded in most jurisdictions. Its appellate infrastructure allows multiple layers of review over decades. Pakistan's court system carries a backlog of over 57,000 cases at the Supreme Court level alone.[13] Its prison system runs at 152% of official capacity.[14] Its forensic infrastructure is rudimentary in most provinces.

These differences are not incidental to the comparison but they are the comparison. The analytical logic of a "most different systems" design is that convergent outcomes across maximally different cases cannot be explained by the differences between them. If the United States, with its extensive appellate infrastructure, its professional judiciary, its constitutionally mandated defence counsel, produces the same category of failure as Pakistan — with its overburdened courts, its under-resourced prisons, its acknowledged data gaps — the explanation is unlikely to sit in what makes each country distinctive. It is more likely to sit in what they have in common. What they have in common is capital punishment and the specific demands it places on any legal system that retains it.

This does not mean the two countries' failures are identical. They are not. The mechanisms through which the failures are produced differ substantially, and this study traces those mechanisms in detail. What converges is not the mechanism but the outcome: a recurring, measurable distance between what the law requires and what the system delivers, carrying irreversible consequences where capital punishment operates.

What the Evidence Shows

The study documents the same structural pattern across both systems. Courts and legislatures establish clear obligations — protections for people with intellectual disabilities, prohibitions on executing the mentally incompetent, restrictions to the most serious crimes, mandatory mental health assessments, functioning clemency procedures. Those obligations are formally acknowledged. Practice at the ground level does not follow. The failures are not identical in their specifics but identical in their structure. In the United States, the

primary mechanism is definitional and procedural: states narrow constitutional protections through definitional thresholds, procedural barriers, and retroactivity rules that are individually defensible but collectively ensure the protection does not function as intended. In Pakistan, the primary mechanism is institutional: the judicial branch issues directives that the executive and administrative branches do not have the capacity or the incentive to carry out. The specific evidence is documented in the sections that follow.

The Causal Argument and Its Limits

Parallel documentation across two countries is not the same as a causal claim, and the study is transparent about this. The most plausible alternatives are engaged with directly: that Pakistan's record reflects broad institutional weakness across its entire justice system, and that America's reflects a particular political culture in which criminal justice has been instrumentalised for electoral purposes.

Each alternative has real force. Pakistan's justice system faces capacity constraints across all case types, not only capital ones. The Supreme Court's backlog exceeds 57,000 cases.[15] Record-keeping is inconsistent across provinces. Prison administration is under-resourced. The study does not claim that progressive rulings are disregarded more frequently in capital cases than in other areas of Pakistani criminal law. The JPP data does not measure that comparison, and the India Annual Statistics report provides a useful corrective: capital cases in India appear to receive more appellate scrutiny than other criminal matters, not less, precisely because of the procedural safeguards the Supreme Court has developed around them.[16] There is no reason to assume Pakistan's capital cases receive less institutional attention than its non-capital ones.

What the JPP data does document is that specific Supreme Court directives aimed at capital cases remain unimplemented. *Safia Bano*'s mandatory mental health facilities: four years, no facilities.[17] *Muhammad Yasin*'s "most serious crimes" standard: two years, trial courts have not applied it consistently, 29 capital offences remain.[18] *Ghulam Shabbir*'s clemency procedure reforms: one year, no legislative or policy action taken.[19] What is distinctive about these failures is not the rate of non-compliance. The rate may be comparable to non-compliance with Supreme Court directives in other areas of Pakistani law. What is distinctive is the consequence. A missed mental health screening in a non-capital case can be corrected on appeal. A delayed case review in a non-capital context means prolonged detention, which is serious, but it is not death. In capital cases, non-implementation carries a risk that is categorically different because it is irreversible. The institutions may fail at the same rate across all case types. Capital punishment is the context in which that failure rate becomes lethal.

For the United States, political incentives shape criminal justice policy broadly. The war on drugs, mandatory minimum sentencing, three-strikes laws — American criminal justice has been shaped by electoral politics across the board, not only in capital cases. The study does not claim that the gap between constitutional

standards and practice is wider in capital cases than in the criminal justice system as a whole. DPI does not make that comparison, and the data to support it would require a different study.

What DPI does document is that in the specific area where the Eighth Amendment imposes its most demanding requirements — the decision to take a life — the system's performance in 2025 fell short in the substantial majority of cases that proceeded to execution. This is not a finding about the criminal justice system in general. It is a finding about the 47 cases in which states exercised their most extreme power. Eighty-three percent of those prisoners had vulnerabilities that existing protections were designed to catch.[20] *Atkins* protections were circumvented through definitional thresholds that no defendant in an entire state had ever been able to meet.[21] *Ford* protections were legislatively redesigned in Oklahoma to function as a treatment cycle rather than a prohibition.[22] Thirteen of the 47 were sentenced by non-unanimous juries, a practice now banned in every state except two.[23] Eight were under the age of 21 at the time of their crime, in a system whose own Supreme Court has acknowledged that brain development continues beyond 18.[24] The average time on death row was 27 years, meaning these prisoners were sentenced under laws, standards, and under levels of public support that no longer exist.[25]

The political culture explanation accounts for why these failures happen. It does not account for why they carry the consequences they do. Inadequate defence counsel is a problem across the American legal system. In capital cases, inadequate defence counsel often produces a death sentence. Procedural barriers to raising constitutional claims exist in many areas of law. In capital cases, procedural barriers lead to the execution of people the Constitution says cannot be executed. The same institutional failures that produce unjust outcomes across the criminal justice system produce irreversible outcomes in capital cases. Irreversibility is what capital punishment adds to the equation.

Neither alternative explanation fully accounts for the patterns documented in both countries. The comparison indicates that similar implementation gaps can arise under substantially different institutional and political conditions. However, a two-country comparison cannot establish that capital punishment itself causes those failures or rule out other explanations.

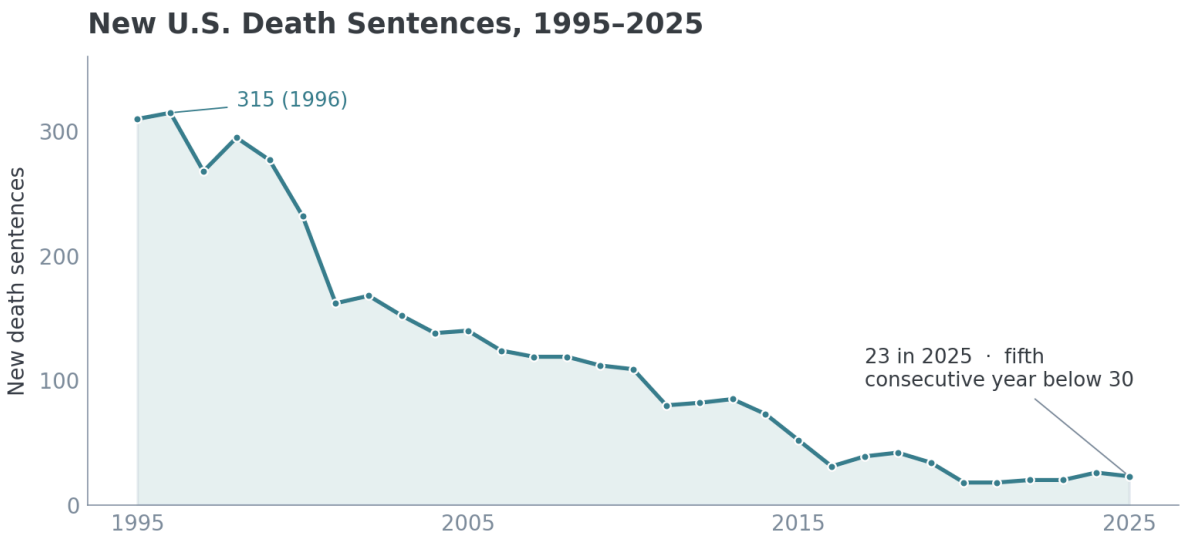
The India data reinforces this reading. In a jurisdiction where the Supreme Court confirmed zero death sentences for three consecutive years, issued detailed mandatory sentencing guidelines, and elevated those guidelines to a fundamental rights requirement in 2025, trial courts failed to comply in 95% of cases the same year.[26] India's legal framework is among the most sophisticated in the world on capital sentencing. Its appellate judiciary is actively reform-minded. Its institutional commitment to narrowing the death penalty is genuine. The implementation gap survives all of this. If the gap were primarily a product of institutional weakness (Pakistan) or political culture (the United States), it should narrow where institutions are strong and judicial culture is progressive. The India data shows it does not.

Two Countries, Opposite Directions

The study does not claim the two countries are on the same trajectory. The divergence between them is as analytically significant as the convergence.

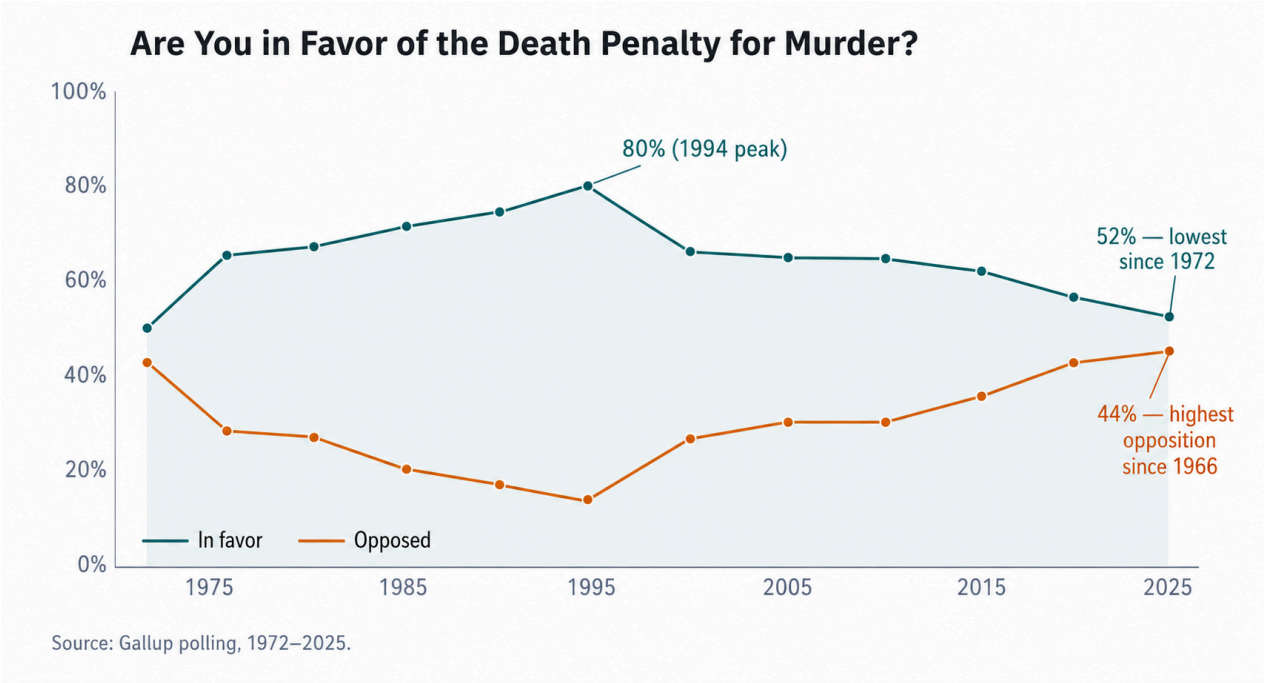
In Pakistan, the direction is toward restriction. The Supreme Court's jurisprudence has evolved substantially in a short period: *Safia Bano* (2021) prohibited the execution of condemned prisoners whose severe mental illness or disability renders them unable to comprehend the rationale and purpose of their punishment, and mandated institutional safeguards.. *Muhammad Yasin* (2023) affirmed the ICCPR "most serious crimes" standard as fully binding in Pakistan. *Ghulam Shabbir* (2024) recognised prolonged detention on death row as double punishment and called for legislative reform of the mercy petition process.[27] The legislature has removed the death penalty for four offences between 2022 and 2025 — railway sabotage, narcotics, stripping a woman in public, and harbouring a hijacker — the most sustained legislative narrowing in decades.[28] The de facto moratorium on executions has held since December 2019. External pressure through the EU's GSP+ framework, which ties preferential trade access to compliance with 27 core international conventions, and through UN treaty body reviews — the Human Rights Committee's 2024 ICCPR review, the Committee Against Torture's 2025 List of Issues — has created a concrete incentive structure for reform.[29] The correlation between monitoring timelines and legislative action is visible in the data: the reforms track closely with GSP+ review cycles and treaty body reporting periods.[30]

In the United States, DPI's 2025 report describes "divergent and contradictory trends."[31] The ground-level indicators of capital punishment's use are almost uniformly declining. New death sentences fell to 23 — the fifth consecutive year below 30, the eleventh below 50.[32] Gallup found 52% support for the death penalty, the lowest since 1972, and 44% opposition, the highest since 1966.[33] A majority of people under 55 now oppose the death penalty.[34] When capital juries — composed exclusively of people willing to impose death — were asked to choose between life and death sentences, 56% chose life. Only 15 juries nationwide reached a unanimous death verdict.[35] The death row population has declined for over twenty consecutive years.[36] Violent crime has continued to decrease.[37] Fourteen death-penalty states had no capital trials in 2025, and many elected prosecutors in death-penalty states publicly announced they would never seek a death sentence.[38]



Source: Death Penalty Information Center, 2025.

Long view · New U.S. death sentences have fallen by an order of magnitude since the mid-1990s peak.



Source: Gallup polling, 1972–2025.

Public opinion · Source: Gallup, 1972–2025.

Against this backdrop, executions rose to 47 — the highest total in over fifteen years — and the political and executive apparatus moved sharply toward expansion. President Trump's January 2025 executive order directed the Attorney General to *"take all appropriate action to seek the overruling of Supreme Court precedents that limit the authority of State and Federal governments to impose capital punishment."*[39] Attorney General Pam Bondi authorised two dozen new federal capital prosecutions in 2025, after no federal capital trials in 2025.[40] Florida Governor Ron DeSantis scheduled a record number of executions — 19, accounting for 40% of the nationwide total — in secrecy and without published explanation from the Governor's office.[41] Lawmakers across 36 states and in Congress introduced at least 150 death penalty-related

bills, triple the prior year's number, largely aimed at adopting new execution methods, expanding death eligibility, and curtailing post-conviction appeals.[42] Florida alone enacted five new laws: one expanding execution methods to any method "not deemed unconstitutional," one requiring mandatory death sentences for undocumented immigrants convicted of capital felonies, one creating capital sex trafficking as a new offence, and two expanding aggravating circumstances.[43] In February, the President withdrew the United States from the UN Human Rights Council for the second time, directing that the country would not participate, would not seek election, and would end funding.[44]

The evidence documents a gap between public sentiment and official action that, by 2025, had become difficult to characterise as anything other than a structural disconnect. The sentencing data, the jury data, and the polling data all point in one direction. The execution data, the legislative data, and the executive action data point in the other. The forces that have historically constrained capital punishment in the United States: jury discretion, shifts in public opinion, judicial review — are operating at cross-purposes with concentrated political pressure in a small number of states and at the federal level. In 2025, the political pressure outpaced the restraint.

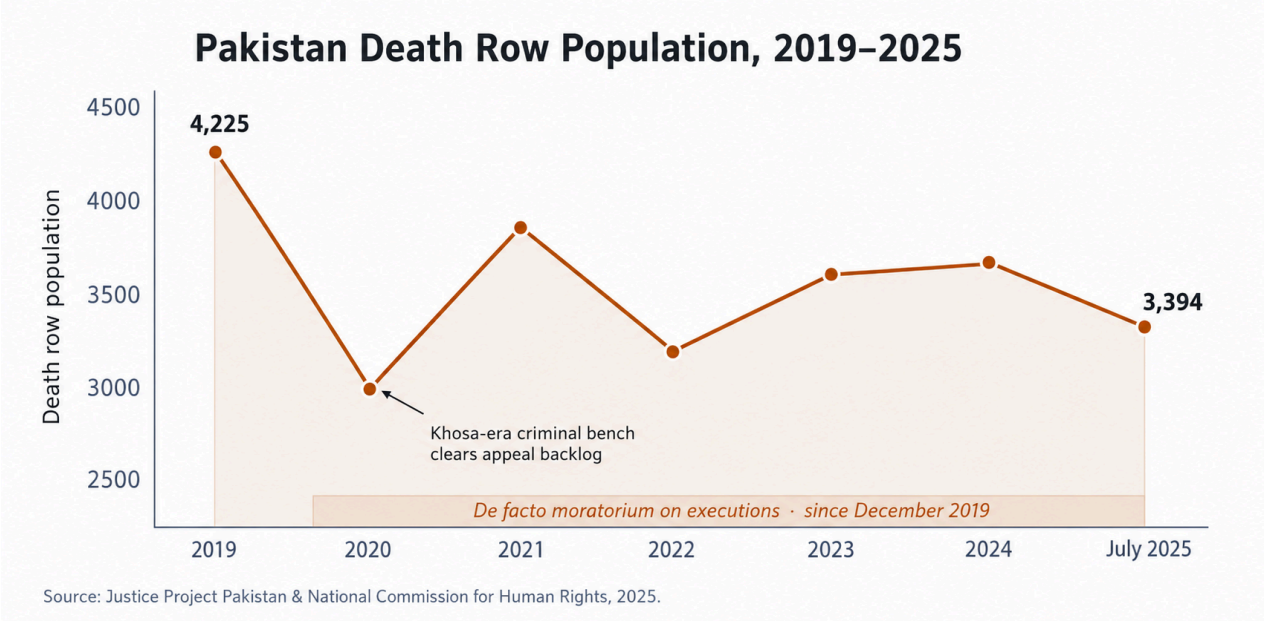
Both systems exhibit significant implementation gaps despite travelling in opposite policy directions. These similarities demonstrate that the failures are not unique to one country’s institutional or political circumstances.

The divergence also raises a question the study is positioned to address: what actually drives reform in capital systems? Pakistan's narrowing has been driven by judicial independence and international accountability — not by popular demand for abolition or by electoral politics. The United States' ground-level decline has occurred despite its executive leadership, not because of it. The executive and legislative branches have pushed in the opposite direction. That contrast — between a country where reform is driven by courts and international pressure, and a country where the political apparatus overrides declining public support — is introduced here and returned to in the findings, where its implications for what constrains capital punishment in practice are assessed directly.

2025 in Context

Pakistan’s de facto halt on executions has remained in place since December 2019, yet the reported death row population has not contracted proportionally. JPP’s data shows a marked but uneven trajectory: from 4,225 prisoners in 2019, the population fell sharply to 2,976 in 2020, reflecting both appellate relief and stricter confirmation standards associated with the Khosa-era jurisprudence, as well as COVID-19 disruptions that reduced trials and capital convictions. It rebounded to 3,831 in 2021 as courts and prosecutions resumed, before falling to 3,226 in 2022. Subsequent, standardised JPP data recorded 3,604 prisoners in 2023 and 3,646

in 2024, followed by a decline to 3,394 as of July 2025.[45] These year-to-year figures should be read with some caution because JPP's geographic coverage and data-collection methodology expanded over the period, including AJK from 2023 and Gilgit-Baltistan from 2024. Even so, the reported total for 2025 remains roughly 20% below the 2019 level. This reduction appears to have been driven largely by judicial reversals and appellate relief rather than executions, executive clemency, or systematic commutation, underscoring the continuing importance of appellate review in shaping the size of Pakistan's death row.

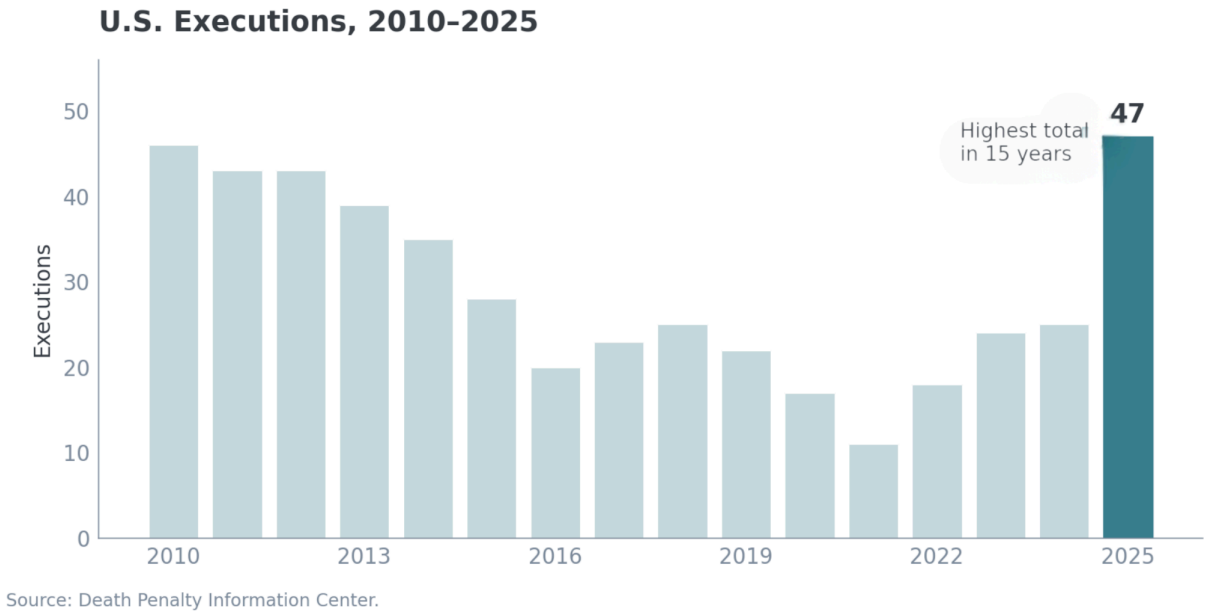


Pakistan death row population, 2019–2025 · Source: JPP & NCHR.

The Khosa era illustrates both the potential and the limits of judicial intervention. During Chief Justice Asif Saeed Khan Khosa's tenure, a dedicated criminal bench was established to clear backlogged capital appeals, resulting in a significant reduction in the death row population. Justice Khosa adjudicated around 55,000 cases, with the special bench upholding death sentences in only 5% of capital appeals.[46] After his retirement, this momentum waned. The death row population stagnated and began to climb again, compounded by the crushing case backlog and the absence of systemic commutations despite the moratorium.[47] The moratorium stopped executions. It did not empty death row. And the mechanism that did reduce the population — concentrated judicial action — proved dependent on the priorities of an individual Chief Justice rather than on institutional capacity that survived his tenure.

In the United States, the execution spike to 47 sits against a backdrop of sustained, multi-decade decline. New death sentences have fallen from a peak of over 300 per year in the mid-1990s to 23 in 2025.[48] The death row population has declined from nearly 3,600 at the turn of the century to approximately 2,024 as of October 2025.[49] Public support, which peaked at 80% in 1994, has fallen to 52%.[50] These are not ambiguous trends. They are structural shifts in how the American public, American prosecutors, and American juries regard capital punishment. The 2025 execution total does not reverse these shifts. It sits against them. The spike is concentrated, not systemic — Florida alone accounts for 40%, and if Florida had executed the same number as

in 2024, the national total would not look markedly different from prior years.[51] Outside Florida, 28 people were executed in ten states, similar to 2024's total of 25 in nine states.[52]



U.S. executions, 2010–2025 · Source: DPI.

What 2025 represents in each country's trajectory matters for reading what follows. Pakistan's reform direction is real but fragile, dependent on judicial independence and external accountability that operate without domestic enforcement mechanisms. The United States' decline is real but contested, with political and executive pressure in a small number of jurisdictions overriding the broader trend. Neither system has reached a stable equilibrium. Both are in motion. The question this study asks — whether they are functioning as their own standards require — applies to both regardless of the direction they are travelling.

The study does not take a position on abolition. It evaluates whether each system complies with its own legal standards and stated commitments.

A FACTUAL BASELINE

Section 02

Numbers.

The data below provides a factual baseline for the analysis that follows. The two systems differ in almost every structural respect.

The data below provides a factual baseline for the analysis that follows. The two systems differ in almost every structural respect, and the comparison table distinguishes between metrics that are directly comparable (death row population, executions, geographic concentration) and metrics that require contextual framing because they operate differently in each jurisdiction (clemency procedures, sentencing mechanisms, appellate review). The United States and Pakistan have roughly comparable total populations — approximately 340 million and 240 million, respectively — which makes the direct comparison of death row figures more informative than it would be between countries of very different scale.[53]

The data is presented with minimal interpretation. The purpose is to let the structural similarities and differences become visible through the numbers before the thematic sections apply the organising question to each dimension in turn.

Source note. Unless otherwise indicated, U.S. figures in this section are drawn from the Death Penalty Information Center's 2025 reporting and Pakistan figures from JPP and NCHR, The Death Penalty Report 2025; rates calculated from the displayed totals are the author's calculations.

Side-by-Side: Capital Punishment in 2025

Metric	United States	Pakistan
Death row population	2,024 (as of 1 October 2025)	3,394 (as of July 2025)
Executions in 2025	47	0 (de facto moratorium since December 2019)
New death sentences in 2025	23 (in 9 of 27 death-penalty states)	Data not disaggregated at national level; new capital sentences continue to be imposed by Sessions Courts across provinces
Geographic concentration (death row)	California holds 580 (29%), Florida 265 (13%), Texas 162 (8%)	Punjab holds 2,307 (68%)
Geographic concentration (executions)	Florida: 19 (40%); 72% of all executions in 4 states	N/A (moratorium)
Women on death row	47 (2.3% of death row)	18 (0.5% of death row)
Average time on death row	27 years (for those executed in 2025)	11.4 years (average across current population)

Clemency grants in 2025	2 (Myers, Alabama; Wood, Oklahoma)	1 (Abdul Basit — first presidential commutation in over two decades)
Exonerations in 2025	1 (Elwood Jones, Ohio — 202nd since 1973)	No formal exoneration process documented
Prison overcrowding	Varies by state; not systematically tracked for death rows	152% of official capacity nationally
Capital offences	Varies by jurisdiction; federal and state statutes define separate categories	29 offences (reduced by 4 between 2022 and 2025)

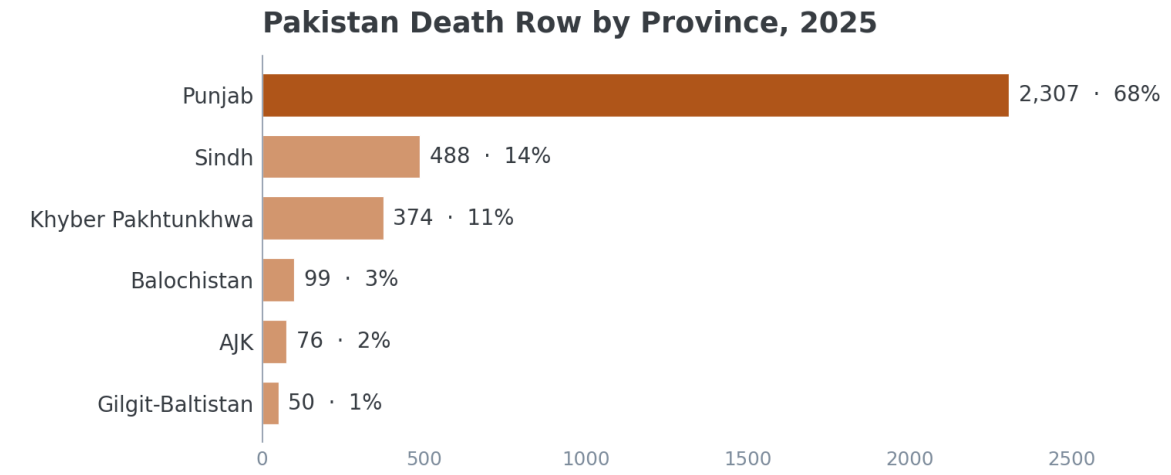
What the Numbers Show

Several patterns are visible in the raw data before any interpretive framework is applied.

Scale relative to population. Pakistan holds approximately 14.1 death row prisoners per million people. The United States holds approximately 6.0 per million. Pakistan's rate is more than double the American rate, even though Pakistan has not carried out an execution in six years. The size of Pakistan's death row is a product of continued sentencing combined with the absence of either executions or systematic commutation. In the United States, the death row population has declined for over twenty consecutive years as reversals, other deaths, and exonerations outpace new sentences. But that decline has not been driven by a deliberate policy of reduction. It is the aggregate result of disparate factors — fewer prosecutorial decisions to seek death, changing jury attitudes, appellate reversals — none of which were designed as a coordinated mechanism for shrinking the condemned population.

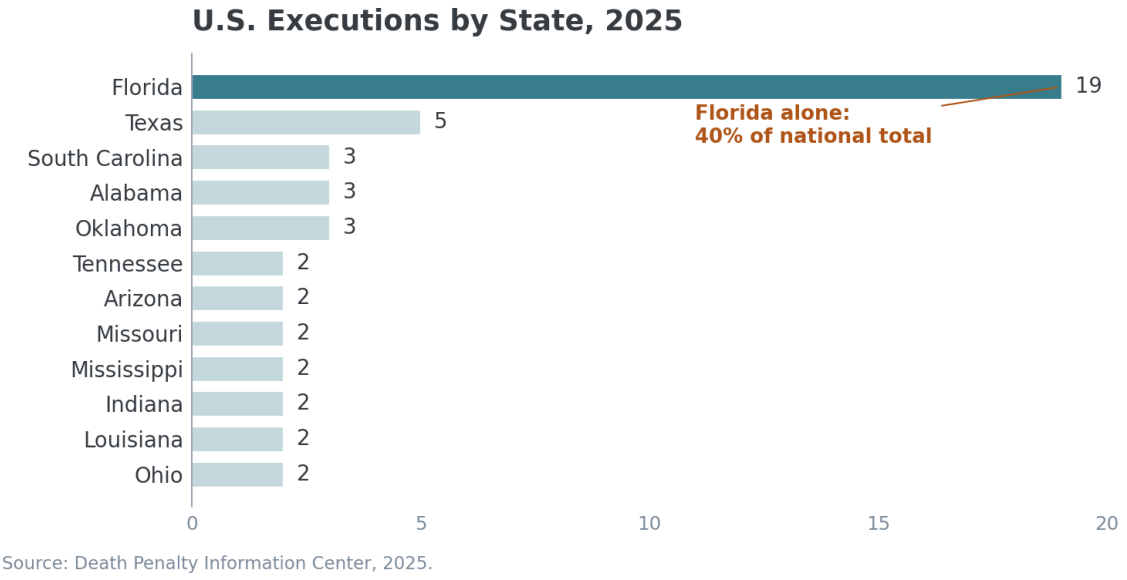
Concentration. Both systems concentrate capital punishment geographically. In Pakistan, Punjab alone accounts for 68% of the national death row population. Murder under Section 302 of the Pakistan Penal Code dominates Punjab's caseload at 93.5%, with blasphemy (0.9%), anti-terrorism (1.1%), and narcotics convictions

(still present despite the 2023 repeal) comprising the remainder.



Pakistan death row by province, 2025 · Source: JPP & NCHR.

In the United States, geographic concentration operates differently at the sentencing and execution stages. California holds the largest death row (580) but has executed 13 people since 1977 and none since 2006. Florida, with a smaller death row (265), carried out 19 executions in 2025 — more than any single state has carried out in a single year since Texas executed 24 people in 2009.



U.S. executions by state, 2025 · Source: DPI.

In 2025, Florida accounted for 40% of all executions nationwide. Governor DeSantis scheduled these executions without published reasoning, without independent review, and with no transparency mechanism for the decisions. Seven of the ten military veterans executed nationally in 2025 were executed in Florida. The state enacted five death-penalty-related laws, several of which expanded death eligibility or challenged existing constitutional limits. Florida's execution rate, set against its simultaneous legislative expansion of the

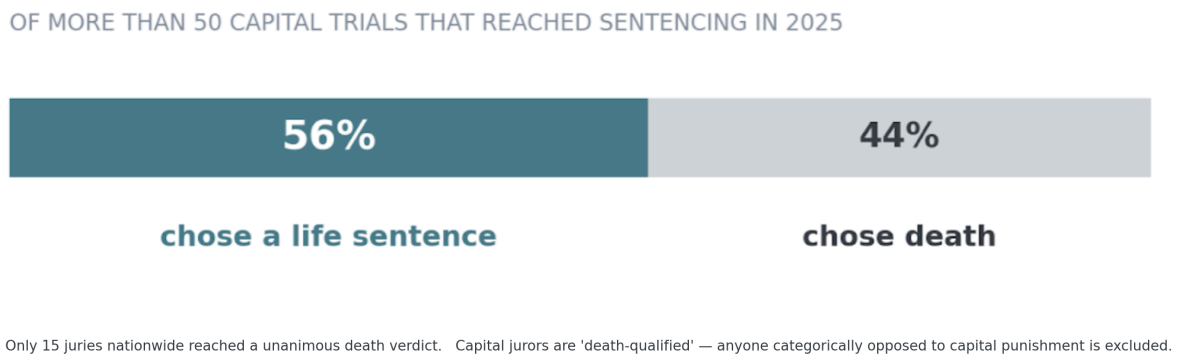
death penalty, is not an anomaly in the data. It is the data point around which the year's divergence between public sentiment and executive action is most clearly visible.

40%

Florida's share of all U.S. executions in 2025

Nineteen executions, scheduled by the governor without published reasoning, without independent review, and with no transparency mechanism for the decisions.

Jury and sentencing behaviour. DPI's 2025 research found that when capital juries were asked to decide between a life sentence and a death sentence, 56% recommended life. Only 15 juries nationwide reached a unanimous death verdict — a number that is particularly striking because capital jurors must be "death-qualified," meaning anyone categorically opposed to the death penalty is excluded during jury selection. In Alabama, four out of twenty death-qualified juries recommended death. In Florida, fewer than half did. For a second consecutive year, roughly a third of new death sentences resulted from non-unanimous jury verdicts, a practice permitted only in Alabama and Florida. Edward Zakrzewski, executed in Florida in July, was sentenced by a 7-5 jury vote — a margin that would result in a life sentence in every other state.



Jury behaviour, 2025 · Source: DPI.

Pakistan does not use juries in capital trials. Sentencing is determined by a judge, typically a Sessions Court judge whose decision is subject to mandatory High Court review. The comparison is not one of jury behaviour but of institutional restraint: in the United States, the institution designed to make the most consequential decision in the system — the jury — is pulling away from the death penalty even as the executive branch pushes toward it. In Pakistan, the institution designed to check trial court sentencing — the appellate judiciary — has been the primary engine of death row reduction, overturning sentences at rates that have driven the 20% population decline since 2019.

Clemency. The figures here are small but structurally revealing. The United States produced two clemency grants in 2025. Alabama Governor Kay Ivey reduced Rocky Myers' sentence to life without parole, citing questions about his guilt — only the second time in the modern era that an Alabama death row prisoner received clemency. Oklahoma Governor Kevin Stitt commuted Tremane Wood's sentence to life without parole moments before his scheduled execution, after the Oklahoma Pardon and Parole Board recommended it. These decisions rested entirely on executive discretion. Neither involved a published procedural framework or defined criteria. While Oklahoma's Pardon and Parole Board issued a recommendation, the final decision in both cases remained a matter of non-binding executive discretion.

Pakistan produced one clemency grant: the presidential commutation of Abdul Basit's death sentence in August 2025, following more than fifteen years on death row during which medical negligence in prison left him permanently paralysed. The commutation was the first exercise of presidential mercy for a death row prisoner in over two decades. It was secured through an intensive coordinated effort by the National Commission for Human Rights, the Ministries of Law and Justice and Human Rights, and the Office of the President of Pakistan, which ultimately granted the commutation. In KP alone, 171 prisoners have outstanding mercy petitions, with no established timetable, published evaluation procedure or effective oversight mechanism.

In one country clemency is swift and almost invariably denied. In the other it is effectively suspended. The result for the person on death row is the same: a constitutional right that cannot be meaningfully exercised.

The exoneration ratio. The United States has exonerated 202 people from death row since 1973. For every 8.2 people executed in the modern era, one person on death row has been exonerated. In 2025, Elwood Jones became the 202nd exoneree after spending 27 years on Ohio's death row; a judge found that prosecutors had withheld thousands of pages of evidence from his trial counsel. Pakistan has no formal exoneration mechanism, no national database tracking wrongful convictions in capital cases, and no systematic process for reviewing cases where the evidentiary basis has been undermined. The appellate reversal rate — which has been the primary driver of death row reduction — captures some wrongful convictions but is not equivalent to an exoneration process, because reversals may result in retrials rather than the definitive finding that the convicted person did not commit the offence.

What the Figures Suggest

Taken together, the numbers describe two systems that are failing to perform the functions they assign themselves. The United States claims to reserve the death penalty for the worst offenders, determined through a rigorous adversarial process. The data shows juries rejecting that determination in a majority of cases, executions concentrated in a single state operating without transparency, and a condemned population

that spent an average of 27 years under sentence of death — sentenced under laws, standards, and levels of public support that no longer exist. Pakistan claims to apply the death penalty within constitutional and international constraints, subject to appellate review and executive mercy. The data shows a death row of 3,394 people in a country that has not executed anyone in six years, mandatory judicial protections that have not been implemented, and a clemency process that produced its first result in two decades only through extraordinary institutional mobilisation for a single case.

The sections that follow examine how these numbers are produced — who is condemned, what happens when legal protections are supposed to apply, whether clemency functions as intended, and how each system measures against the international obligations it has accepted.

VULNERABILITY AS THE NORM, NOT THE EXCEPTION

Section 03

Who is *condemned.*

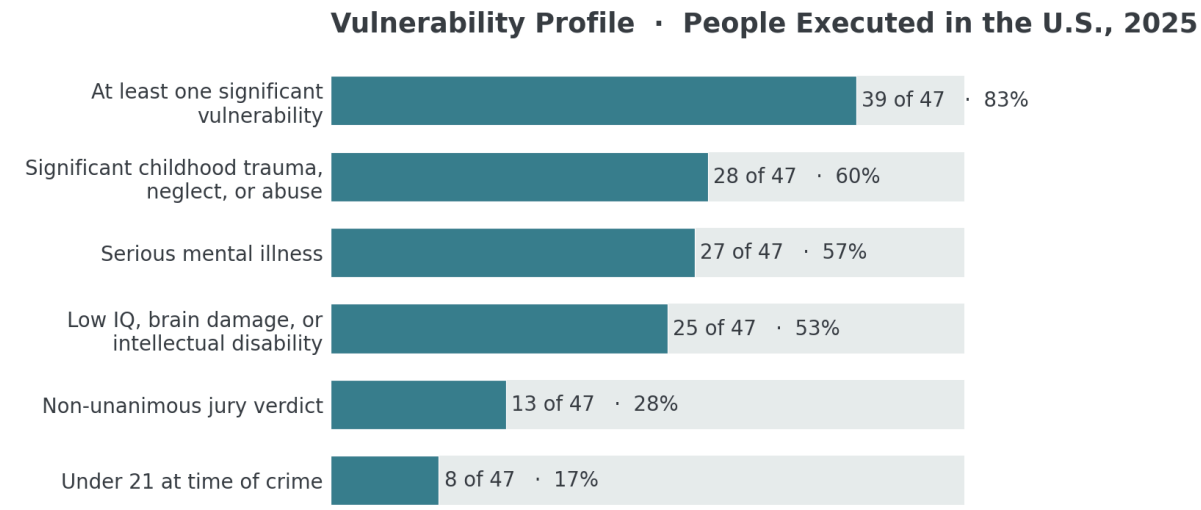
Both countries claim to reserve their most severe punishment for the most culpable offenders. The evidence from both reports tells a different story.

Both countries claim to reserve their most severe punishment for the most culpable offenders. The United States frames the death penalty as a punishment for the "worst of the worst" — a phrase that appears repeatedly in Supreme Court jurisprudence and prosecutorial discourse. Pakistan's statutory framework nominally restricts capital punishment to grave offences, and the Supreme Court has affirmed in *Muhammad Yasin* that the death penalty should be confined to the "most serious crimes" involving intentional killing, consistent with Article 6 of the ICCPR.[54]

The evidence from both reports tells a different story. What determines who ends up on death row in both countries is less the nature of the offence than the resources available to the defendant. Poverty and legal representation are the two structural throughlines that run through both systems' data. Race in the United States and religion in Pakistan operate alongside these factors as compounding variables. Mental illness, intellectual disability, childhood trauma, and gender further shape outcomes. Taken together, the data shows that punishment falls on those with the fewest resources to resist it.

United States: Vulnerability as the Norm, Not the Exception

DPI's 2025 data establishes a baseline figure that frames everything else in this section: 83% of the 47 people executed in 2025 had at least one significant vulnerability.[55] Twenty-seven had serious mental illness. Twenty-five had low IQ, brain damage, or evidence of intellectual disability. Twenty-eight had documented histories of significant childhood trauma, neglect, or abuse. In total, at least 39 of the 47 met one or more of these criteria.[56] These are not marginal cases that slipped through the system's safeguards. They are the system's ordinary output.



Source: Death Penalty Information Center, 2025. 47 people were executed.

Of the 47 people executed in the U.S. in 2025 · Source: DPI.

Poverty and counsel. The connection between poverty and capital sentencing in the United States is structural, not incidental. Capital defence is expensive, resource-intensive, and chronically underfunded across most jurisdictions. A defendant's likelihood of receiving a death sentence correlates closely with the quality of counsel they can access, which in turn correlates with their resources. The execution cases documented by DPI in 2025 illustrate the point repeatedly. Gregory Hunt, executed in Alabama in June, filed claims of ineffective assistance of counsel; his appointed defence attorneys were underpaid by the state and did not spend adequate time preparing his case.[57] Bryan Jennings, executed in Florida in November, whose appellate attorney died in 2022 was never appointed replacement counsel, in violation of state law.[58] Anthony Wainwright, executed in Florida in June, never received federal court appellate review because his legal team missed the deadline to file the appeal.[59] Curtis Windom, executed in Florida in August, had trial counsel who was later disbarred after drug- and alcohol-related arrests; that counsel failed to present evidence about Mr. Windom's mental health.[60]

83%

of those executed in the U.S. in 2025 had at least one significant vulnerability

27 had serious mental illness · 25 had low IQ, brain damage, or evidence of intellectual disability · 28 had documented histories of significant childhood trauma, neglect, or abuse.

Mental illness and intellectual disability. The Eighth Amendment, as interpreted in *Atkins v. Virginia* (2002) and *Ford v. Wainwright* (1986), bars the execution of people with intellectual disabilities and people who are mentally incompetent at the time of execution.

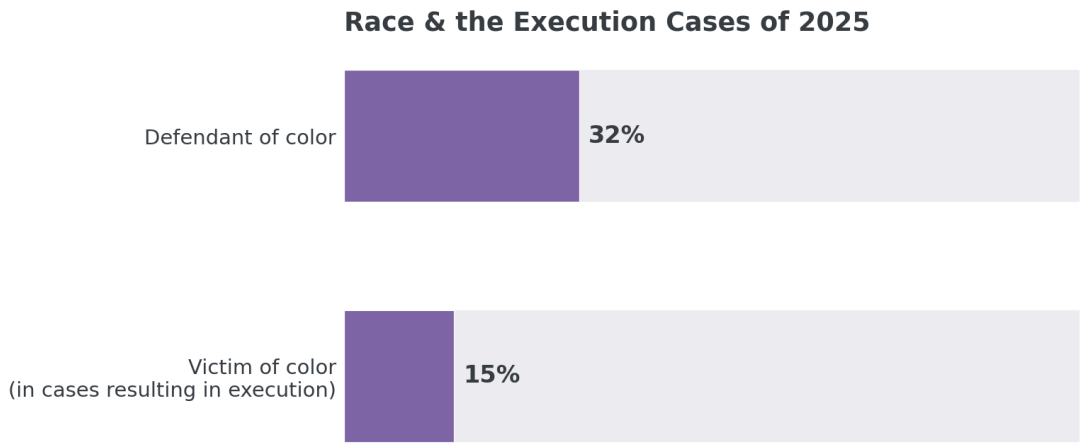
Byron Black, executed in Tennessee in August, had an intellectual disability by the agreement of every expert who examined him and the Davidson County District Attorney, who stated that Mr. Black should not be executed. Courts allowed the execution to proceed because a procedural barrier prevented a new hearing on his intellectual disability claim.[61] David Pittman, executed in Florida in September, had trouble reading basic words and consistently scored low on IQ tests. No evidence of his disability was presented at his 1991 trial because the law did not prohibit executing people with intellectual disabilities at that time. After the Supreme Court's rulings in *Atkins* (2002) and *Hall v. Florida* (2014), Mr. Pittman sought relief, but a 2020 Florida Supreme Court ruling held that *Hall* could not be applied retroactively, blocking his claims from being heard.[62] Victor Jones, executed in Florida two weeks after Mr. Pittman, had been denied relief before *Hall* because he scored above the state's rigid IQ cutoff of 70. After *Hall* eliminated rigid cutoffs, he was denied again on the basis of

testimony from his earlier hearing — testimony that had relied on the outdated medical standards *Hall* had rejected.[63]

Childhood trauma and youth. Twenty-eight of the 47 people executed in 2025 had documented histories of significant childhood trauma, neglect, or abuse.[64] Eight were under the age of 21 at the time of their crime — a category that DPI examined in a 2025 report noting that neuroscientific consensus now holds that brain development continues into a person's twenties, and that many people under 21 have the same deficits in impulse control and risk assessment as those under 18.[65]

The cases illustrate how these factors compound. Demetrius Frazier, executed in Alabama in February, was 19 at the time of his crime, sentenced to death by a non-unanimous jury vote of 10-2, and his attorneys provided no mitigating evidence besides his young age — despite evidence of serious mental illness, diminished intellectual functioning, and childhood trauma.[66] Victor Jones had been physically and sexually abused as a teenager at the Okeechobee School for Boys, a state institution. Governor DeSantis signed his execution warrant less than eight months after signing legislation authorising $20 million in compensation for individuals abused at that same institution.[67] An investigation by The Marshall Project found that at least 34 former residents of the Arthur G. Dozier School for Boys, another notorious state institution, were eventually sentenced to death in Florida.[68]

Race. Fifteen of the 47 people executed in 2025 (32%) were people of colour — 13 Black, one Latino, one mixed race.[69] Race-of-victim bias was again present in the data: only seven (15%) of the cases resulting in execution involved any victims of colour. In all cases that have resulted in execution since 1972, approximately 25% of the underlying victims were people of colour.[70] Nine people of colour were executed for killing white people; two white people were executed for killing people of colour.[71]



Source: Death Penalty Information Center, 2025. Of 47 people executed: 13 Black, 1 Latino, 1 mixed race. Race-of-victim figures cover all 47 cases.

Race & the execution cases of 2025 · Source: DPI.

Race & the execution cases of 2025 · Source: DPI.

These figures sit against the legal backdrop of *McCleskey v. Kemp* (1987), which did not merely hold that systemic statistical evidence of racial disparity is insufficient to establish a constitutional violation in an individual case, it effectively closed the federal courthouse door to systemic racial bias claims in capital sentencing. For nearly four decades, no amount of statistical racial evidence — however extensive — has been legally cognisable under *McCleskey*'s holding.[72] The disparity DPI documents is not new. What is new is that it persists, in the same structural form, almost forty years after the Supreme Court acknowledged its existence and declined to treat it as constitutionally remediable.

The legislative mechanism that has gone furthest in attempting to reopen what *McCleskey* closed is California's Racial Justice Act (CRJA), which allows statistical evidence of racial bias to be raised in individual cases. In 2025, two amendments — AB 1071 and SB 734 — strengthened the Act's disclosure and remedy provisions. AB 1071 enables defendants to request disclosure of all evidence relating to a potential CRJA violation and authorises courts to order remedies. SB 734 addresses the Act's interaction with personnel proceedings involving public safety officers.[73] The CRJA is significant because it represents a legislative end-run around a judicial holding that has otherwise proven immovable. Specific 2025 cases illustrate how race operates in the capital system beyond aggregate statistics. Marion Bowman, executed in South Carolina in January, was Black; his postconviction attorneys documented that his trial defence attorney incorporated what they termed "racist thinking" and urged Mr. Bowman to plead guilty because of his race.[74] The jury never heard that a co-defendant had previously confessed to the murder. Michael Bell, executed in Florida in July, was Black; prosecutors made racial references throughout his trial that were never challenged.[75] Matthew Johnson, executed in Texas in May, was Black; his attorneys argued that prosecutors illegally excluded jurors of colour during jury selection.[76]

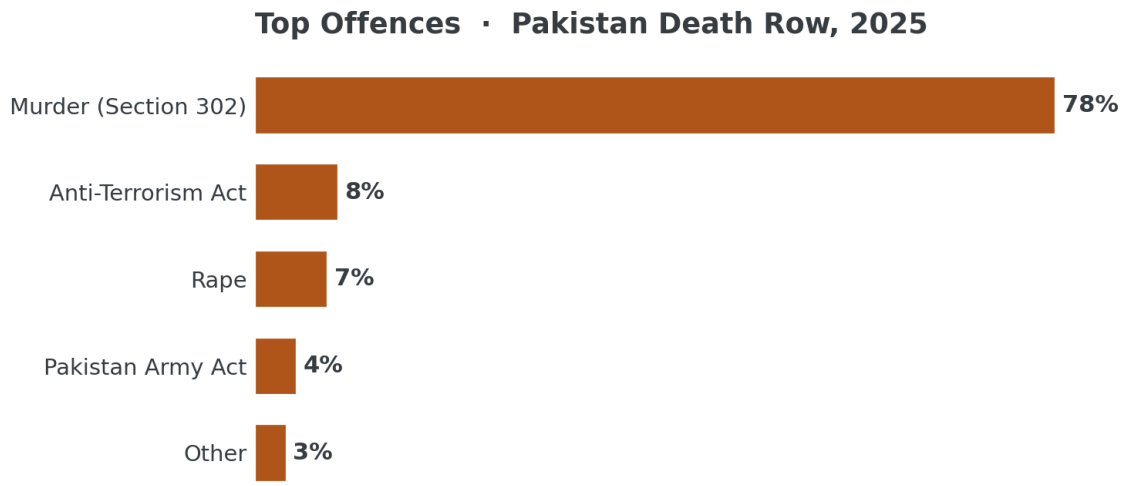
Gender. Forty-seven women have death sentences as of January 2026, comprising 2.3% of the total death row population.[77] All 47 people executed in 2025 were men. The small size of the female death row population limits the conclusions that can be drawn from annual data alone, but the Supreme Court's 2025 decision in the case of Brenda Andrew of Oklahoma brought gender-specific issues into focus. Ms. Andrew was sentenced to death after a trial in which the prosecution referred to her as a "slut puppy," displayed her "thong underwear" to the jury, and asked witnesses whether "a good mother" would behave as she had.[78] The Court summarily reversed a lower court’s decision, holding that she was entitled to argue that the admission of this prejudicial evidence violated her right to due process — though it did not rule on the merits. The case illustrates how gender-specific evidence and bias can function in capital proceedings to prejudice the outcome.

Veterans. Ten military veterans were executed in 2025, seven of them in Florida — the highest number of veterans executed in nearly twenty years.[79] In many of these cases, jurors did not hear meaningful evidence about the effects of military service. Jeffrey Hutchinson, executed in Florida in May, served in the Gulf War and was later diagnosed with Gulf War Illness. Fellow veterans wrote to Governor DeSantis urging clemency.[80] Richard Jordan, executed in Mississippi in June, served three tours in Vietnam and was diagnosed with PTSD after his trial, but no jury ever heard evidence about the condition.[81] DPI has documented that veterans are

overrepresented on death rows across the United States: approximately 10% of people facing execution and 14% of those executed since 1976 are veterans, compared to approximately 6% of the general population.[82]

Pakistan: Poverty, Representation, and Compounding Vulnerabilities

JPP's data describes a death row population defined by indigence. The typical person condemned to death in Pakistan is poor, was never represented by competent capital defence counsel, and was never assessed for mental illness despite the Supreme Court's binding ruling in *Safia Bano* requiring such screening.[83] The average condemned prisoner has spent over eleven years on death row in prisons running at 152% of official capacity.[84]



Source: Justice Project Pakistan & NCHR, 2025. Approximate distribution; figures rounded.

Top offences · Pakistan death row, 2025 · Source: JPP & NCHR.

Poverty and counsel. JPP documents that most indigent defendants lack access to lawyers equipped to mount an effective capital defence.[85] Many defence lawyers are unaware of how to identify, collect, and present mitigating evidence during trial, appellate, or clemency stages. There is minimal training on how to screen for mental illness or psychosocial disabilities, resulting in key mitigating factors being routinely overlooked at every stage from trial through clemency petition.[86] Condemned prisoners face significant barriers to maintaining contact with legal counsel, especially those from remote areas or marginalised communities. Visits from lawyers or family members are infrequent and often restricted by prison authorities, logistical costs, or lack of awareness about legal entitlements.[87]

The structural problem is not that Pakistan lacks legal standards for capital defence. It is that the machinery to deliver those standards does not exist. *Safia Bano* requires mandatory mental health assessments. The forensic

mental health facilities needed to conduct them have not been built in any province, four years after the ruling.[88] **Mental illness.** The non-implementation of *Safia Bano* means that an unknown number of prisoners on death row have undiagnosed psychosocial or intellectual disabilities. Mental health evaluations remain, in JPP's documentation, sporadic and unsatisfactory, even when prisoners exhibit visible signs of disability.[89] The Supreme Court's ruling established critical safeguards — mandatory assessments, periodic reviews of fitness for execution, recognition of disability as a mitigating factor, and direction to federal and provincial governments to establish forensic mental health facilities for assessment, treatment, and rehabilitation.[90] None of these directives have been implemented.

The Kanizan Bibi case illustrates how multiple system failures converge. Arrested in 1989 as a minor from a poor household, she was sentenced to death in 1991 for allegedly assisting in a multiple murder. Reports indicate she was subjected to coerced confession after twenty days of interrogation. Her mental health deteriorated in custody, and by 2006 she was diagnosed with chronic schizophrenia and transferred to the Punjab Institute of Mental Health. The Supreme Court commuted her sentence in the *Safia Bano* judgment, holding that execution of a person unable to comprehend the reason for their punishment would offend justice and human dignity. She has now spent more than thirty-five years in custody — longer than a standard life sentence under Pakistani law.[91]

Religion. Religious minority status adds a specific layer of risk in capital cases involving blasphemy charges. Under Section 295-C of the Pakistan Penal Code, blasphemy carries a mandatory death sentence. At least three women on death row in Punjab face capital charges under blasphemy laws.[92] JPP documents that Christians and Ahmadis appear disproportionately among those charged under blasphemy provisions carrying the death penalty.[93] In such cases, minority status compounds the poverty and representation failures that characterise the broader death row population.

The evidentiary standards applied in blasphemy cases have been inconsistent. Community pressure on witnesses and judges has been documented. Access to competent legal representation has been unreliable. Trials are often conducted in highly charged environments, leaving defendants with limited recourse or legal protection.[94] Pakistan's Constitution guarantees equality before the law. The evidence suggests that the guarantee is applied unevenly in capital proceedings where a blasphemy charge is involved. The theological and political dimensions of blasphemy law are outside this study's scope. The legal finding — a mandatory death sentence for a non-lethal offence, applied through inconsistent procedures, against defendants who disproportionately lack adequate counsel — is assessed against the Article 6 and *Muhammad Yasin* benchmarks in Section 6.

Gender. Eighteen women are on death row across Pakistan as of August 2025, held in four regions: Punjab (13), Sindh (1), KP (2), and AJK (2).[95] Many come from impoverished or socially marginalised backgrounds, with limited access to effective legal representation or awareness of their procedural rights. JPP documents that in addition to the stigma of criminal prosecution, many have experienced gender-based violence, coercion, or abandonment prior to their alleged offences.[96] Pakistan's criminal justice system does not incorporate

gender-sensitive safeguards in sentencing or post-conviction review. Unlike juveniles or prisoners with mental illness, women on death row have no targeted legal protection or post-sentencing review framework.[97]

Juveniles. One juvenile remains on death row in KP despite the categorical prohibition under the Juvenile Justice System Act 2018 and the UN Convention on the Rights of the Child.[98] Muhammad Azam was arrested at 17 and has been on death row for 26 years; he was prosecuted under the Anti-Terrorism Act for a death arising from a dispute, without a demonstrable nexus to terrorism. A compromise was reached with the complainant's family in 2008, but because the conviction fell under the non-compoundable Anti-Terrorism Act, the reconciliation could not take legal effect.[99] The JPP report documents his case as illustrative of how the broad scope of anti-terrorism legislation channels cases into a court system with fewer safeguards, where outcomes available under ordinary criminal law — including reconciliation — are legally foreclosed.

The Common Pattern

The specifics differ. The structure does not. In both countries, capital punishment falls disproportionately on people who are poor, who are inadequately represented, who have mental illness or intellectual disabilities, and who belong to demographic groups that face compounding disadvantages in the criminal justice system. Neither system has strong mechanisms to ensure that the decision to condemn is determined by the offence rather than by the defendant's resources. In the United States, constitutional protections designed to address these vulnerabilities exist but are circumvented through procedural barriers. In Pakistan, judicial directives mandating those protections exist but have not been implemented. The result is the same: the system's stated purpose — reserving its most severe punishment for the most culpable — is not what the data shows it doing.

DID THE CONDEMNED PERSON DO IT?

Section 3A

Innocence *& wrongful conviction.*

Section 3 asks whether the system condemns the most culpable or the most vulnerable. This subsection asks a distinct question: did the condemned person do it?

This subsection is separated from the vulnerability analysis because it raises a distinct question. Section 3 asks: does the system condemn the most culpable or the most vulnerable? This subsection asks: did the condemned person do it? Both questions bear on the organising question, but they operate on different evidentiary and legal terrain.

United States

DPI's 2025 data documents several cases where strong innocence claims remained unresolved at the time of execution or near-execution.

EXONERATIONS · UNITED STATES, 1973 – 2025

1 exoneration for every 8.2 executions

202 people have been exonerated from death row since 1973.
In 2025, Elwood Jones became the 202nd, after 27 years on Ohio's death row.

Source: Death Penalty Information Center, 2025.

Exonerations from death row, 1973–2025 · Source: DPI.

In February 2025, the U.S. Supreme Court ruled 5–3 that prosecutors had violated their constitutional obligation to correct false testimony and ordered a new trial for Richard Glossip.[100] Mr. Glossip had been on death row in Oklahoma since 2004. The case involved the extraordinary intervention of the state's Attorney General, who conceded constitutional error, yet Oklahoma's highest court still denied relief before the Supreme Court reversed.[101] On June 9, the Attorney General announced he would not seek a death sentence at retrial, but by July Mr. Glossip's attorneys accused him of reneging on an agreement that would have resulted in Mr. Glossip's immediate release.[102]

The Fourth Circuit Court of Appeals ruled in favour of former Virginia death row prisoner **Justin Wolfe** in July, vacating a lower court dismissal and paving the way for new proceedings on his innocence claim. Mr. Wolfe had been convicted in a murder-for-hire case in the early 2000s and consistently maintained his innocence. The person who carried out the killing signed a declaration in 2023 exonerating Mr. Wolfe. Prosecutors had earlier threatened that person with a death sentence if he testified for Mr. Wolfe at retrial, causing him to invoke his Fifth Amendment rights.[103]

Robert Roberson, on death row in Texas since 2002, received another stay of execution in October after the Texas Court of Criminal Appeals remanded his case for further consideration. Mr. Roberson's conviction rested on the hypothesis of "shaken baby syndrome" — a theory that medical consensus has substantially moved

away from. Multiple medical experts have now concluded that his daughter's death was caused by pneumonia and pre-existing medical conditions. The lead detective in the original case has spoken publicly about his belief that Mr. Roberson is innocent.[104]

The debunked shaken baby syndrome hypothesis was also used to threaten two Pennsylvania defendants with death sentences. Court filings in 2025 allege that Washington County District Attorney Jason Walsh coerced the county coroner to file a fraudulent death certificate to secure a homicide classification. The coroner's affidavit states that Walsh told him he needed the case classified as a homicide to win an election.[105]

Official misconduct — including misconduct by prosecutors, police, or other government officials — is the leading cause of wrongful death sentences in the United States.[106] False or discredited forensic evidence is the third leading cause.[107] The 2025 record documents both.

Elwood Jones was exonerated in December after 27 years on Ohio's death row, becoming the 202nd person exonerated from death row since 1973. A judge found that prosecutors had withheld thousands of pages of evidence from his trial counsel, including information about another person's alleged confession.[108] The exoneration ratio — one exoneree for every 8.2 executions — is a measure not of how many innocent people have been on death row, but of how many the system has been able to identify after the fact.[109] The actual number of innocent people sentenced to death is, by definition, unknown, because the same system failures that produce wrongful convictions also impede their discovery.

Alabama Governor Kay Ivey granted clemency to **Rocky Myers** in February, reducing his death sentence to life without parole. Mr. Myers' jury had recommended life imprisonment, but the judge overrode the recommendation and imposed death — a practice Alabama abolished in 2017. No evidence directly linked Mr. Myers to the crime. A former juror came forward in 2023 stating her belief that Mr. Myers was not guilty. Governor Ivey cited "enough questions about [his] guilt" to prevent execution.[110] It was only the second time in the modern era that an Alabama death row prisoner received clemency.

Pakistan

Wrongful conviction risk in Pakistan takes a different form but produces the same structural concern. The combination of inadequate legal representation, coerced confessions, inconsistent evidentiary standards in certain categories of cases, and the absence of systematic forensic review creates conditions under which wrongful convictions in capital cases are structurally likely, even if the precise rate is not measurable.

JPP documents evidentiary standards in blasphemy cases that have been inconsistent, community pressure on witnesses and judges, and defendants who lacked meaningful legal representation at trial.[111] The Anti-Terrorism Act channels cases into courts with fewer procedural safeguards, where charges may not reflect a genuine nexus to terrorism. The Kanizan Bibi case — arrested as a minor, convicted on a coerced confession,

diagnosed with chronic schizophrenia, held for over thirty-five years — illustrates how multiple system failures converge in a single case.[112]

The appellate reversal rate provides indirect evidence of the scale of the problem. JPP notes that the Supreme Court upholds capital punishment mostly in cases involving death and aggravating circumstances such as terrorism or kidnapping, and that during the Khosa era, the special criminal bench upheld death sentences in only 5% of capital appeals.[113] The India Annual Statistics report provides a regional comparator: Indian High Courts acquitted roughly a third of all death-sentenced prisoners whose cases they reviewed over the past decade, a rate nearly four times the confirmation rate.[114] High appellate reversal rates do not prove innocence. They do indicate that trial court proceedings are producing outcomes that higher courts determine cannot stand — and in capital cases, those determinations come after years or decades of wrongful imprisonment.

The Common Finding

In both countries, the mechanisms that are supposed to prevent wrongful conviction in capital cases — heightened evidentiary standards, competent counsel, appellate review — are the same mechanisms documented elsewhere in this study as failing to function as required. A system that permits the execution of people with unresolved innocence claims is not meeting its own stated standard of reserving the death penalty for cases where guilt is certain. A system that does not have the institutional capacity to screen for wrongful convictions at the trial stage — and that relies on an overburdened appellate judiciary to catch errors years later — is not providing the safeguards its law requires.

Section 04

The implementation *gap.*

Landmark rulings establish standards, but practice does not follow. India enters this analysis as a single bounded comparison point, a stress test for the gap.

This section is the analytical core of the study. It follows one pattern across both systems: a landmark ruling or legislative reform establishes a clear obligation; that obligation is formally acknowledged, but practice at the ground level does not follow. The pattern is not one of ambiguity in the law. The obligations are specific and unambiguous. The failures are failures of implementation in systems where the political, institutional, or resource costs of applying protections consistently exceed the costs of finding reasons not to.

United States

Two Supreme Court rulings form the primary evidence base: *Atkins v. Virginia* (2002), holding that executing people with intellectual disabilities violates the Eighth Amendment, and *Ford v. Wainwright* (1986), prohibiting the execution of prisoners who are mentally incompetent at the time of execution. Each ruling was unambiguous. Each has been systematically circumvented.

Atkins and the definitional problem. *Atkins* prohibited the execution of people with intellectual disabilities but left it to states to define the condition and establish procedures for determining it. In the twenty-three years since, states have adopted definitions and procedural requirements that vary widely.

Georgia's experience is the clearest illustration. Before 2025, Georgia required defendants to prove intellectual disability beyond a reasonable doubt — the highest standard of proof in American law, typically reserved for the prosecution's burden in criminal cases, not for a defendant seeking to establish a constitutional protection. No person charged with an intentional homicide in Georgia had ever been able to meet this standard.[115] The barrier was not evidentiary ambiguity. It was the standard itself. In 2025, the state enacted HB 123 with bipartisan, near-unanimous support, lowering the threshold to a preponderance of the evidence and bringing Georgia's burden of proof substantially closer to the prevailing approach in other death-penalty jurisdictions.[116] Similar bills had been introduced in previous sessions but had never received a committee vote before the legislative session ended.[117] The fact that the law changed with overwhelming support confirms what the prior record established: the standard was indefensible, and participants in the system knew it. That it remained in place for over two decades — during which Georgia continued to sentence people with intellectual disability to death and execute them — is a measure of how implementation gaps persist even where the constitutional obligation is clear and the political will to close the gap eventually materialises.

The individual cases documented in Section 3 show the same dynamic at different points in the system. In Tennessee, Byron Black was acknowledged as a person who had intellectual disability by the prosecuting district attorney and by every expert who examined him; a procedural barrier prevented a new hearing.[118] David Pittman and Victor Jones were both denied relief through retroactivity bars and outdated evidentiary standards that the Supreme Court's own rulings in *Hall v. Florida* (2014) had repudiated.[119] The *Atkins*

protection exists. The mechanism for applying it in individual cases has been set at a level that, in practice, permits the execution of people the protection was designed to save.

Ford and the competency restoration problem. *Ford v. Wainwright* prohibits the execution of prisoners who are mentally incompetent — unable to rationally understand the reason for their punishment or the fact that they are about to be executed. The principle is not contested. The application is.

In 2025, Oklahoma enacted HB 1693, establishing a procedure under which prisoners found mentally incompetent to be executed receive continued treatment and evaluations every six months until competency is restored.[120] In practical terms, the law creates a cycle: a prisoner is found incompetent; the state treats the prisoner until competency is marginally restored; the state then executes the prisoner. As Cornell Death Penalty Project Director John Blume observed, the law means that "even if this person just barely squeaks over the line in competency, you're still executing someone who has a long-standing, persistent, severe mental illness."[121]

HB 1693 does not contravene *Ford* on its face. It complies with the letter of the ruling while defeating its purpose. *Ford* protects prisoners who are incompetent. Oklahoma's law transforms incompetence into a temporary condition to be remedied, so that the execution can proceed. The protection remains formally intact. Its practical effect has been reversed.

Two states, opposite directions, one year. Georgia's HB 123 and Oklahoma's HB 1693, enacted within weeks of each other in 2025, moved the same set of constitutional protections in opposite directions through their own legislative machinery.[122] Georgia lowered a barrier that had prevented any defendant from accessing *Atkins* protection. Oklahoma created a mechanism to cycle through *Ford* protection until it no longer applies. Both actions were taken by state legislatures operating within the space the Supreme Court has left to them. Both are consistent with the Court's deference to states on procedural implementation. Together, they demonstrate that the implementation gap is not a product of unclear doctrine. It is a product of the discretion that unclear implementation standards leave open.

Florida's legislative expansion. Florida enacted five laws in 2025, four during its regular legislative session, that collectively expanded death eligibility and challenged existing Supreme Court precedent.[123] SB 4C requires a mandatory death sentence for defendants who are undocumented immigrants convicted of capital felonies — directly contrary to the Supreme Court's holding in *Woodson v. North Carolina* (1976) that mandatory death sentences are unconstitutional.[124] HB 903 authorises the state to use any execution method "not deemed unconstitutional" if lethal injection and electrocution are unavailable — language that, as advocates have noted, effectively permits experimental execution methods.[125] SB 1804 creates the offence of capital sex trafficking, and HB 693 and HB 653 expand aggravating circumstances.[126] Three other states — Arkansas, Idaho, and Oklahoma — enacted legislation expanding death eligibility to non-lethal sex crimes, directly contrary to the Supreme Court's 2008 holding in *Kennedy v. Louisiana*.[127]

These laws do not close the implementation gap. They widen it — by creating new categories of death eligibility that conflict with binding Supreme Court precedent, generating litigation that will take years to resolve, and in the interim exposing additional defendants to capital prosecution or execution under standards the Court has already held unconstitutional. The gap between what the law requires and what the system does is not narrowing. In a subset of states, it is being deliberately expanded.

The Roper dimension. *Roper v. Simmons* (2005) barred execution for offences committed before the age of eighteen. The 2025 data shows eight people executed who were under 21 at the time of their crime.[128] DPI has documented, in an April 2025 report, that neuroscientific consensus holds brain development continues into a person's twenties, and that many people under 21 have the same deficits in impulse control and risk assessment as those under 18.[129] Legislative efforts in Texas and Nebraska to extend *Roper*'s logic to people under 21 or 22 at the time of the offence did not pass.[130] The evidence base supporting extension is growing; the legislative traction is not. *Roper* drew a line at 18. The science the Court relied on to draw it applies, by the consensus of the field, beyond it.

Pakistan

The equivalent evidence in Pakistan sits in three places: the Supreme Court's ruling in *Safia Bano* (2021), the ruling in *Muhammad Yasin* (2023), and the legislative repeal of the death penalty for narcotics offences in 2023. In each case, the obligation is specific, the non-compliance is documented, and the consequences fall on people who cannot absorb them.

Safia Bano and the missing infrastructure. In 2021, the Supreme Court of Pakistan prohibited the execution of prisoners whose severe mental illness or disability renders them unable to comprehend the rationale and purpose of the death sentence.[131] The ruling required mandatory mental health assessments, periodic reviews of fitness for execution, and recognition of disability as a mitigating factor.[132]

Four years later, no province has established the required facilities.[133] Mental health evaluations remain sporadic and unsatisfactory, even when prisoners exhibit visible signs of disability.[134] JPP documents that most defence lawyers lack training to screen for mental illness or psychosocial disabilities, resulting in key mitigating factors being routinely overlooked at every stage from trial through clemency.[135] The directive is binding. The enforcement mechanism does not exist. Pakistan's Supreme Court can issue implementation orders, but it has no institutional machinery to compel compliance at the provincial level, no monitoring system to track whether directives are being followed, and no sanction for non-compliance.

The gap is not one of legal ambiguity. *Safia Bano* is specific: build facilities, conduct assessments, review fitness for execution. The gap is between what a court can order and what a state can deliver when the institutional infrastructure does not exist and the political incentive to build it is absent.

Muhammad Yasin and the "most serious crimes" standard. In November 2023, the Supreme Court issued its judgment in *Muhammad Yasin v. the State*, referring extensively to Article 6 of the ICCPR and the 1984 ECOSOC Resolution on Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty.[136] The Court upheld the international law standard of applying the death penalty only for the most serious crimes, holding that Article 6 was applicable to Pakistan in its full force, and commuted the defendant's death sentence on the grounds that the prosecution was unable to establish a motive for the crime of murder.[137]

Trial courts have not applied this standard consistently. Pakistan retains 29 offences carrying the death penalty, including non-lethal offences such as blasphemy (Section 295-C PPC), kidnapping, and perjury.[138] While legislative reform has removed the death penalty for four offences between 2022 and 2025 — railway sabotage, narcotics, stripping a woman in public (Section 354-A), and harbouring a hijacker (Section 402-C) — the remaining scope of capital punishment in Pakistan extends well beyond the "most serious crimes" threshold that the country's own Supreme Court has endorsed as binding.[139] The disconnect between the doctrinal standard and the statutory landscape is not a failure of judicial reasoning. It is a failure of the legislative and executive branches to bring the statute book into alignment with the judiciary's stated position.

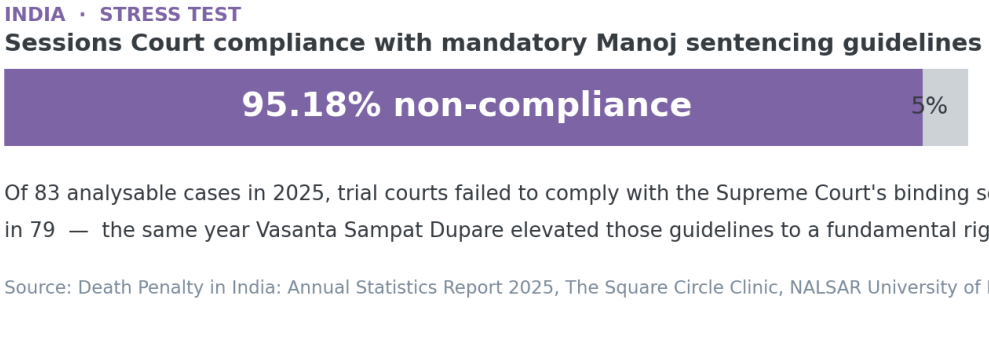
Repealed laws and unreleased prisoners. When the legislature removed the death penalty for narcotics offences in 2023, it did not create a systematic review mechanism for prisoners already sentenced under the repealed law. As of 2025, Punjab still holds four prisoners sentenced to death under the Control of Narcotic Substances Act. Sindh holds seven.[140] These individuals are on death row for an offence that no longer carries the death penalty. JPP characterises this as a failure of implementation, compounded by gaps in judicial awareness, the absence of systematic case reviews, and a lack of coordination between federal and provincial authorities.[141] Civil society organisations have proposed a time-bound judicial commission with a specific mandate to identify and process these cases, rather than leaving them to individual petition.[142] No such mechanism has been created.

Ghulam Shabbir and the clemency vacuum. In August 2024, Supreme Court Justice Jamal Khan Mandokhail, hearing the case of Ghulam Shabbir — a prisoner who had spent 34 years in jail, including 24 years in a death cell — held that execution after such prolonged detention would constitute double punishment and ordered the prisoner's release.[143] The judgment referenced the Nelson Mandela Rules and called directly for the federal and provincial governments to enact policy, enact laws, and amend existing laws to align the mercy petition process with international standards and to minimise the period of detention of death prisoners in death cells.[144]

One year later, no legislative or policy action has been taken to implement this directive. The mercy petition process remains without procedure, without timelines, and without an oversight mechanism. This is examined further in Section 5.

The India Stress Test

India enters this analysis as a single bounded comparison point. It is not a third case study. It serves a specific function: testing whether the implementation gap can be explained by the quality of the legal framework. If a jurisdiction with sophisticated judicial safeguards and genuine institutional commitment to reform still produces the same distance between doctrine and practice, the explanation for the gap is less likely to sit in the quality of the law and more likely to sit in something about capital punishment itself.



India stress test · Source: NALSAR Square Circle Clinic.

India stress test · Source: NALSAR Square Circle Clinic.

The Indian Supreme Court has confirmed zero death sentences for three consecutive years (2023–2025).[145] Over the past decade, of the 1,085 death sentences adjudicated by High Courts (regardless of when Sessions Courts imposed them), 9.77% were confirmed. The acquittal rate was 34.65% — close to four times the confirmation rate.[146] At the Supreme Court, the pattern is similar: of 153 death sentences decided in the past decade, close to a quarter resulted in acquittal.[147] The appellate judiciary has been systematically rejecting what the trial courts produce.

In 2022, the Supreme Court crystallised mandatory sentencing guidelines in *Manoj v. State of Madhya Pradesh*, requiring courts to obtain and engage with three reports before imposing a death sentence: a psychological evaluation report, a probation officer's report on the accused's background and circumstances, and a prison conduct report.[148] The Court also required that the accused be given an opportunity to present mitigating circumstances.[149] In 2025, in *Vasanta Sampat Dupare v. Union of India*, the Court elevated these requirements to the status of fundamental rights under Articles 14 and 21 of the Constitution — meaning that sentencing hearings conducted without compliance must be considered violations of the accused's constitutional rights.[150]

In the same year that *Dupare* elevated *Manoj* compliance to a fundamental right, Sessions Courts failed to comply with *Manoj* in 79 out of 83 analysable cases — a non-compliance rate of 95.18%.[151] Over the three-year period from 2023 to 2025, of 216 analysable cases, 208 (96.29%) failed to comply.[152] The average duration between conviction and sentencing was 4.24 days. In 18 cases (19.15%), the sentencing order was delivered on the same day as the pronouncement of guilt.[153] As the India report notes, such compressed timelines make it effectively impossible for the state to secure the psychological evaluation, probation, and

prison conduct reports that *Manoj* requires, or for the defence to develop and present comprehensive mitigation material.[154]

The non-compliance rate is the finding. Trial courts were told exactly what to do, in binding terms, and did not do it — in 95% of cases. The Supreme Court responded by elevating the requirement to a fundamental right. The trial courts that imposed those 79 non-compliant death sentences in 2025 did so after that elevation. The India report itself acknowledges that capital cases receive more appellate scrutiny than other criminal matters, and that "serious lapses" found by appellate courts "have a higher likelihood of getting addressed in death penalty cases because of the procedural safeguards developed by the Supreme Court."[155] Even heightened scrutiny, then, does not prevent the implementation gap from producing irreversible outcomes at the trial court level. The lapses are system-wide; they are caught more often in capital cases. But catching them after the fact — through appellate review that acquits a third of death-sentenced prisoners and confirms fewer than one in ten — is not the same as preventing them.

Even among the cases that survive appellate scrutiny to reach the High Court confirmation stage, compliance is poor. Of the five cases (involving ten persons) where High Courts confirmed the death sentence in 2025, only one case — decided by the Telangana High Court — complied with the *Manoj* and *Dupare* requirements.[156] Two High Court confirmations were delivered after *Dupare* elevated sentencing hearings to a fundamental rights requirement, yet both proceeded without compliance.[157]

What the Pattern Shows

The implementation gap appears in both primary systems and is reinforced by the India data. In the United States, *Atkins* is circumvented through definitional thresholds that prevented any defendant in an entire state from accessing the protection for over two decades. *Ford* is legislatively transformed from a prohibition into a treatment cycle aimed at making the incompetent executable. In Pakistan, *Safia Bano*'s mandatory mental health infrastructure does not exist four years after the ruling. *Muhammad Yasin*'s "most serious crimes" standard has not been translated into statutory reform of the 29 offences that carry the death penalty. Prisoners remain on death row for offences the legislature has repealed because no review mechanism was created. In India, trial courts failed to comply with binding sentencing guidelines — elevated to fundamental rights status — in 95% of cases.

The causes differ. In the United States, the primary mechanism is definitional and procedural: states narrow the application of constitutional protections through definitional thresholds, procedural barriers, and retroactivity rules that may be individually defensible but collectively prevent those protections from functioning as intended. In Pakistan, the primary mechanism is institutional: the judicial branch issues directives that the executive and administrative branches do not have the capacity — or the incentive — to

carry out. In India, the mechanism is one of sheer non-compliance by trial courts operating under time pressure, resource constraints, and institutional cultures that have not absorbed the appellate judiciary's evolving standards.

The mechanisms differ. The outcome is the same. In all three jurisdictions, formal legal reform does not, on its own, change practice. The law moves; the system does not follow. And where capital punishment operates, the consequence of that gap is irreversible.

THE SAFETY VALVE THAT DOES NOT OPEN

Section 05

Clemency.

Clemency is the constitutional mechanism of last resort in any capital system and a right guaranteed under international law. In both countries in 2025, that right could not be meaningfully accessed.

Clemency is the constitutional mechanism of last resort in any capital system and a right guaranteed under international law. Article 6(4) of the ICCPR provides that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence, and that amnesty, pardon, or commutation may be granted in all cases.[158] In the United States, clemency is an executive function: at the state level, determined by the governor (in some states with a board recommendation); at the federal level, by the president. In Pakistan, it is exercised by the president under Article 45 of the Constitution, with mercy petitions filed through the Superintendent of the relevant jail.[159]

Clemency is distinct from judicial review. In the United States, prisoners may separately ask the Supreme Court to review constitutional claims in their cases or to grant stays of execution — a judicial function, not an executive one. In Pakistan, prisoners may pursue appeals through the High Courts and Supreme Court before or alongside a mercy petition. This section examines both mechanisms because, for the person on death row, the practical question is whether any path exists between a death sentence and its execution. In both countries, the answer in 2025 was, with rare exceptions, no.

United States: The Executive Clemency Process

State-level clemency in capital cases operates with near-total executive discretion and little procedural infrastructure. There are no nationally applicable requirements for published reasoning, independent review panels, defined timelines, or criteria for evaluating petitions. Whether a clemency petition is meaningfully considered depends on state law, the governor's inclination, political calculations, and the institutional norms of the particular state. The system is designed to be flexible and discretionary. The problem is that discretion, exercised without structure, has collapsed into near-automatic denial.

Two clemency grants were made in 2025 — both involving prisoners with substantial innocence and culpability concerns.

Alabama Governor Kay Ivey reduced Rocky Myers' death sentence to life without parole in February. Mr. Myers had been convicted in the 1991 murder of Ludie Mae Tucker. His jury recommended life imprisonment, but the trial judge overrode the recommendation and imposed death — a practice Alabama did not abolish until 2017.[160] No evidence directly linked Mr. Myers to the crime, and eyewitnesses did not identify him as the perpetrator. A former juror came forward in 2023 stating her belief that he was not guilty. Governor Ivey cited "enough questions about [his] guilt" to prevent the execution.[161] A DPI review of the public reasons given by those authorised to grant clemency found that possible innocence was cited in 26% of all individual clemency cases and was one of the top four reasons cited nationwide.[162]

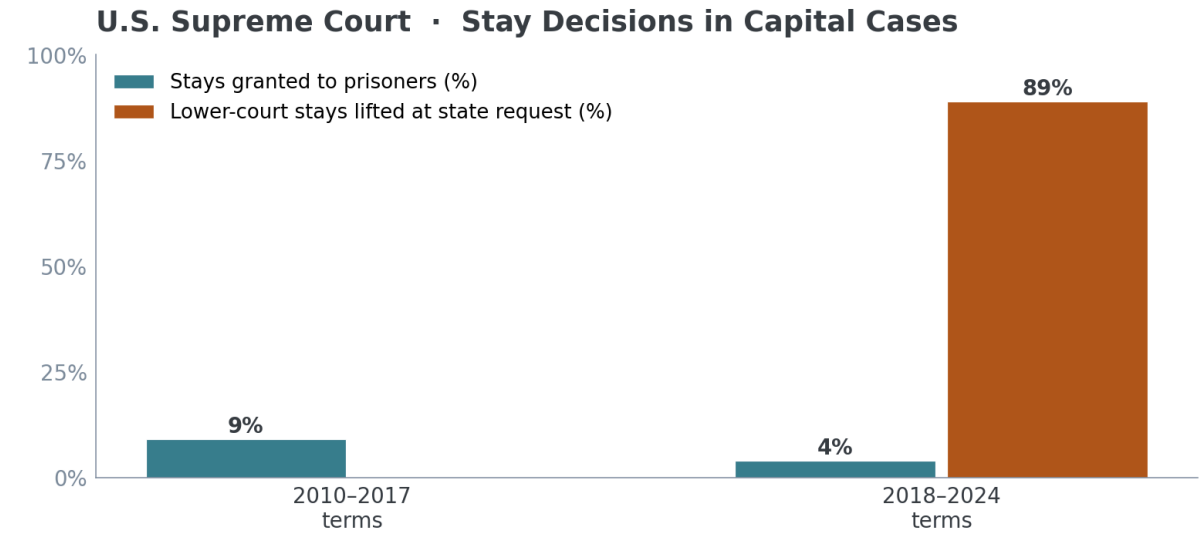
Oklahoma Governor Kevin Stitt commuted Tremane Wood's sentence to life without parole in November, moments before his scheduled execution, after the Oklahoma Pardon and Parole Board recommended it.[163]

Mr. Wood's brother had confessed to the crime and received a life sentence. Mr. Wood consistently maintained he did not pull the trigger. The surviving victim of the crime and the mother of the murder victim both publicly opposed Mr. Wood's execution.[164]

These two grants occurred against a backdrop of 47 executions. Both involved circumstances where the evidence of guilt was seriously contested. In Oklahoma, the grant followed the state's existing procedure: a hearing before the Pardon and Parole Board, a board recommendation, and a gubernatorial decision. In Alabama, no comparable procedural framework applied as the governor exercised unilateral discretion. What neither state's process provided was standard criteria for evaluating clemency petitions or a legal mechanism to ensure that comparable cases receive comparable consideration.

United States: The Supreme Court and Stays of Execution

The Supreme Court denied every request to stay an execution in 2025.[165] The last time the Court went an entire year without granting a single stay was 2022, and before that, 2013.[166]



Source: Death Penalty Information Center analysis of Supreme Court records.

U.S. Supreme Court stay decisions in capital cases · Source: DPI.

U.S. Supreme Court stay decisions in capital cases · Source: DPI.

The absence of stays stands out against years with comparable execution totals. In 2011, when 43 people were executed, the Court granted six stays to four individuals. In 2012, also with 43 executions, the Court granted two stays.[167] During the 2010 through 2017 Supreme Court terms, 9% of death-sentenced prisoners received stays of execution.[168] Justice Brett Kavanaugh joined the Court at the beginning of the October 2018 term, cementing a 5-4 conservative majority, which grew to 6-3 with the addition of Justice Amy Coney Barrett in 2020. From the 2018 term through the 2024 term, the Court granted stays to 4% of applicants.[169]

The asymmetry between how the Court treats prisoner requests and state requests is documented in DPI's data. In 2025, death-sentenced prisoners asked the Court to review constitutional claims or grant stays 196 times; the Court agreed three times — a rate of approximately 2%.[170] State officials, with far fewer requests, had substantially better odds: the Court granted one of four state requests in capital cases (25%).[171] Since Justice Kavanaugh joined the Court in October 2018, the Court has lifted 89% of lower court stays at state request — often without explanation.[172] The conservative majority has been explicit that it disfavours end-stage capital appeals and places high value on achieving "finality" in capital cases.[173]

The breakdown of the "courtesy fifth vote" convention illustrates the shift. Historically, when four justices voted to grant certiorari — enough to take a case — a fifth justice would cast a courtesy vote to stay the execution, recognising the procedural asymmetry that four votes are needed for cert but five for a stay.[174] In the case of Jessie Hoffman, executed in Louisiana in March, four justices — Sotomayor, Kagan, Jackson, and Gorsuch — voted to grant certiorari and review his religious freedom claim. No fifth justice voted to stay the execution. Mr. Hoffman was executed the same day, his case having secured enough legal interest for the Court to consider formally reviewing his claims but not enough to prevent the execution that would render the review moot.[175]

A further structural finding from DPI's 2025 data: a significant number of prisoners facing execution do not file a final request for a stay at the Supreme Court. Of the 47 executed, no final stay request was filed for 13. Only four of these 13 were "volunteers" who had waived all appeals.[176] Since October 2010, at least 85 non-volunteers have been executed without asking the Supreme Court to intervene — 21% of all non-volunteers executed during that period.[177] This figure captures something the stay-denial rate alone does not: a system in which a substantial minority of prisoners facing execution have, for reasons that may include inadequate counsel, despair, or rational assessment of the odds, effectively opted out of their last formal opportunity for judicial review.

Together, the near-total collapse of both the executive clemency process and the judicial stay mechanism means the path from death sentence to execution in the United States operates with minimal friction. The constitutional safety valve exists at two levels — executive and judicial — and neither is functioning as a meaningful check.

Pakistan: The Safety Valve That Does Not Move

Pakistan's clemency dysfunction is the inverse of the American pattern. Where the US system processes petitions quickly and denies them almost uniformly, Pakistan's system does not process them at all.

PAKISTAN · KHYBER PAKHTUNKHWA

171 **mercy petitions outstanding**

with no timeline for decision, no procedure for evaluation, no responsible body, and no oversight mechanism.

Source: Justice Project Pakistan & NCHR, 2025. In KP alone — comparable backlogs exist in other provinces.

Pakistan clemency backlog · Source: JPP & NCHR.

In KP alone, 171 prisoners have outstanding mercy petitions, with no established timetable, published evaluation procedure or effective oversight mechanism to ensure that they are addressed..[178] Justice Mandokhail noted in *Ghulam Shabbir* that there is "neither a procedure nor a time limitation for filing and deciding mercy petitions," and that this absence is itself a cause of prolonged detention on death row.[179] His judgment called directly for the federal and provincial governments to enact policy and amend laws to align the mercy petition process with international standards, in order to minimise the period of detention.[180]

International bodies have echoed this concern. The UN Human Rights Committee's 2024 review of Pakistan's ICCPR obligations called for the state to develop comprehensive rules for submitting and reviewing mercy petitions that align with international standards, ensuring transparency, certainty, due process, and objectivity.[181] The Committee against Torture's 2025 List of Issues raised the same concerns in preparation for Pakistan's second periodic review. That review was subsequently completed in 2026, with the Committee issuing its concluding observations on 1 May 2026.[182] The 2023 EU GSP+ monitoring report raised procedural shortcomings in the mercy petition process under Article 45.[183]

> ***From the bench**
>
> *There is neither a procedure nor a time limitation for filing and deciding mercy petitions, and this absence is itself a cause of prolonged detention on death row.*
>
> JUSTICE JAMAL KHAN MANDOKHAIL · GHULAM SHABBIR (2024)

One year after *Ghulam Shabbir*, no legislative or policy action has been taken. The clemency infrastructure that Justice Mandokhail called deficient remains unchanged.

The single clemency grant in 2025 — the presidential commutation of Abdul Basit's death sentence in August — required the coordinated intervention of the National Commission for Human Rights, the Ministries of Law and Justice and Human Rights, and the Presidency.[184] Mr. Basit had been on death row for over fifteen years.

Medical negligence in prison in 2010 resulted in a coma and TB meningitis, leaving him permanently paralysed and confined to a wheelchair.[185] That a single commutation in a case of this severity required institutional mobilisation at this scale — and that it was the first presidential exercise of mercy for a death row prisoner in over two decades — is the most direct evidence available of the state of Pakistan's clemency system.

The AJK case of Iftikhar Ahmed illustrates a further dimension. Mr. Ahmed, sentenced to death in 2006, had his mercy petition rejected in 2022 on legally incorrect grounds. The AJK authorities cited constitutional limitations on pardons in *qisas* (retribution) cases, but Mr. Ahmed's conviction was for a *ta'zir* offence — where the power to pardon rests with the state under Article 10 of the AJK Interim Constitution.[186] The rejection was not a deliberate denial of mercy. It was a misapplication of the legal framework governing clemency — an error that, in the capital context, has irreversible potential consequences.

The Common Outcome

The mechanisms are opposite. In the United States, clemency petitions are processed — rapidly, with near-uniform denial, and without procedural requirements that would compel reasoned decision-making. The Supreme Court, operating as a separate judicial check, has reduced its intervention to a rate that, for prisoners, is functionally indistinguishable from non-intervention. In Pakistan, clemency petitions are not processed. They sit without timelines, without designated decision-makers, and without any mechanism to move them toward resolution.

The result, for the person on death row, is the same. Clemency — the constitutional mechanism of last resort, the right guaranteed by international law — cannot be meaningfully accessed in either system. The formal guarantee exists in both countries. The function has collapsed in both. One system's safety valve is stuck closed. The other's has never been opened.

The organising question asks whether these systems are functioning as their own standards require. Both countries' constitutions provide for clemency. The ICCPR, to which both are parties, requires that the right to seek pardon or commutation be genuinely available. In neither country does the 2025 record support the claim that this right is genuine rather than formal.

COMPLIANCE AND ACCOUNTABILITY

Section 06

International law, *as a measuring stick.*

This section uses international law the way an auditor uses accounting standards: as a set of benchmarks that both countries have formally accepted.

Rather than treating international law as external criticism, this section uses it the way an auditor uses accounting standards: as a set of benchmarks that both countries have formally accepted, against which their actual performance can be assessed. The question is not whether the United States and Pakistan should comply with international human rights law. It is whether they are complying with the obligations they have already undertaken.

The section is structured in two halves. The first is a compliance assessment: what do international standards require, and where does each country fall short? The second is an accountability assessment: what mechanisms exist to enforce those standards, and how effectively do they operate? This separation is necessary because the two questions produce different answers. Compliance gaps exist in both countries. Accountability mechanisms operate on one of them. That asymmetry is itself a finding.

The Standards

The principal binding treaty benchmark common to both countries is Article 6 of the International Covenant on Civil and Political Rights (ICCPR), subject in the United States to its reservations, understandings and declarations. Other instruments require differentiated treatment. The Convention on the Rights of Persons with Disabilities (CRPD) and Convention on the Rights of the Child (CRC) are binding treaty standards for Pakistan; where they are discussed in relation to the United States, which has not ratified those instruments, they are used as comparative international benchmarks rather than as binding US treaty obligations. Domestic constitutional rules such as *Atkins v. Virginia*, *Ford v. Wainwright* and *Roper v. Simmons* arise independently under the Eighth Amendment

Article 6(2) of the International Covenant on Civil and Political Rights (ICCPR), to which both countries are parties, provides that in countries which have not abolished the death penalty, the sentence may be imposed only for the "most serious crimes." Article 6(4) provides that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence.[187] The UN Human Rights Committee, in General Comment No. 36 (2018), has interpreted "most serious crimes" as limited to crimes involving intentional killing — a reading that narrows the scope considerably from the statutory frameworks in both countries.[188]

The CRPD provides an important international framework concerning the treatment of people with intellectual and psychosocial disabilities. In the United States, the relevant domestic constitutional protection arises principally through *Atkins v. Virginia*, while Safia Bano provides the principal domestic framework in Pakistan. The CRC categorically prohibits capital punishment for offences committed by persons under eighteen — operationalised through *Roper v. Simmons* in the United States and the Juvenile Justice System Act 2018 in Pakistan. The UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions has called for a prohibition on executing people with severe mental illness — a standard that neither country has codified, though both have judicial doctrine that gestures toward it.[189]

The UN High Commissioner for Human Rights, in his 2025 report to the Human Rights Council, expressed concern about the marked increase in executions in certain countries, warned that capital punishment poses grave human rights risks due to its irreversibility and the risk of miscarriages of justice, and called on retaining states to limit use strictly to the most serious crimes and to ensure effective legal representation, judicial review, and access to commutation or pardon.[190]

Compliance Assessment

Pakistan. The "most serious crimes" limitation has particular relevance for Pakistan's blasphemy provisions. Under Section 295-C of the Pakistan Penal Code, blasphemy carries a mandatory death sentence for a non-lethal offence.[191] The UN Human Rights Committee has consistently interpreted Article 6 to mean crimes involving intentional killing; blasphemy does not meet this threshold.[192] Pakistan's own Supreme Court, in *Muhammad Yasin* (2023), upheld the "most serious crimes" standard as binding, holding that Article 6 of the ICCPR was applicable to Pakistan in its full force.[193] The continued imposition of death sentences under blasphemy provisions sits in tension with both international obligations and the country's own highest court's stated position.

This is not an abstract compliance question. JPP's data documents that blasphemy charges disproportionately affect religious minorities, that evidentiary standards in such cases have been inconsistent, that community pressure on witnesses and judges has been documented, and that access to competent legal representation has been unreliable.[194] At least three women on death row in Punjab face capital charges under blasphemy laws.[195] The legal finding is specific: a mandatory death sentence for a non-lethal offence, applied through inconsistent procedures, against defendants who disproportionately lack adequate counsel, assessed against the Article 6 and *Muhammad Yasin* benchmarks. JPP's report documents the need for mandatory independent legal representation in blasphemy capital cases, change of venue provisions where community pressure on proceedings is documented, and mandatory appellate review with strengthened evidentiary standards.[196]

Beyond blasphemy, Pakistan retains 29 capital offences, a number of which — including kidnapping, perjury, and offences under the Anti-Terrorism Act where no demonstrable nexus to terrorism exists — fall below the "most serious crimes" threshold.[197] The removal of the death penalty for four offences between 2022 and 2025 represents movement toward compliance, but the remaining scope of capital punishment remains substantially broader than what Article 6 permits.

Source: Justice Project Pakistan & National Commission for Human Rights, 2025.

Capital offences in Pakistan, 2021–2025 · Source: JPP & NCHR.

On the protection of persons with disabilities, Pakistan is in direct non-compliance with the directives of its own Supreme Court in *Safia Bano*, which implemented CRPD principles into domestic law. The facilities, assessments, and review mechanisms required by the ruling do not exist four years later.[198] On the protection of juveniles, at least one juvenile remains on death row in KP in violation of both the CRC and the Juvenile Justice System Act 2018.[199] On clemency, the 2025 record — documented in Section 5 — does not support a finding that the right to seek pardon or commutation under Article 6(4) is genuinely available.

United States. The United States has not ratified the Second Optional Protocol to the ICCPR aiming at abolition. It has not ratified the CRPD. It has consistently voted against the UN General Assembly's biennial moratorium resolutions since they began in 2007.[200] In December 2024, the General Assembly adopted its tenth such resolution with 130 votes in favour and 32 against; the United States voted no.[201] In February 2025, President Trump signed an executive order withdrawing the United States from the UN Human Rights Council for the second time, directing that the US would not participate in the body, would not seek election to it, and would end funding.[202] When the Human Rights Council adopted resolution A/HRC/60/L.12 in October 2025 — calling on states to limit the death penalty and ensure transparency — the United States was absent from the body entirely, having removed itself from participation eight months earlier. The resolution passed 31 to 7 with 8 abstentions.[203]

The US position, stated consistently across administrations, is that capital punishment is a matter for domestic democratic processes, and that the ICCPR permits the death penalty where it is imposed in accordance with the law and not in a manner that is arbitrary or discriminatory.[204] The January 2025 executive order went further, directing the Attorney General to "take all appropriate action to seek the overruling of Supreme Court precedents that limit the authority of State and Federal governments to impose capital punishment."[205]

Against the compliance benchmarks documented throughout this study, the 2025 record raises specific concerns. The execution of prisoners with documented intellectual disabilities (Section 3) and mental illness

(Sections 3-4), notwithstanding *Atkins* and *Ford* protections, can be compared with the disability-protection principles reflected in the CRPD, which the United States has signed but not ratified; the applicable binding domestic standards arise from the Eighth Amendment and Supreme Court precedent. The execution of eight people who were under 21 at the time of their crime, while not a violation of *Roper* (which draws the line at 18), sits against the evolving scientific evidence on brain development that the Court itself relied on in reaching the *Roper* decision. The near-total collapse of clemency (Section 5) raises the question of whether the Article 6(4) right to seek pardon or commutation is genuinely available — a question that applies to the United States no less than to Pakistan, though the mechanisms of failure differ. The enactment of state laws directly contrary to binding Supreme Court precedent — mandatory death sentences for undocumented immigrants (Florida SB 4C, contrary to *Woodson*), death eligibility for non-lethal sex crimes (Arkansas, Idaho, Oklahoma, Florida, contrary to *Kennedy v. Louisiana*) — represents a deliberate legislative challenge to constitutional standards, not an implementation gap arising from institutional incapacity.[206]

Accountability Assessment

The two countries' exposure to external accountability mechanisms differs so substantially that the contrast is itself an analytical finding.

Pakistan operates under the EU's Generalised Scheme of Preferences Plus (GSP+), which ties preferential trade access to compliance with 27 core international conventions, including the ICCPR, CAT, CEDAW, CRC, and CRPD.[207] This is not a symbolic arrangement. Access to European markets on preferential terms has concrete economic value, and the monitoring framework includes periodic reporting, formal review cycles, and the possibility of suspension. The 2023 EU monitoring report acknowledged progress in narrowing the scope of capital punishment — including the de facto moratorium and the removal of the death penalty for certain offences — while noting that further steps were needed to ensure compliance with international requirements.[208]

The correlation between external review timelines and domestic reform is visible in the data. The removal of the death penalty for railway sabotage in 2022, narcotics offences in 2023, and two further offences in 2025 tracks closely with GSP+ monitoring cycles and treaty body review periods.[209] The UN Human Rights Committee's 2024 review of Pakistan's ICCPR obligations called for specific steps toward a de jure moratorium, the restriction of the death penalty to crimes involving intentional killing, safeguards for juveniles and persons with psychosocial disabilities, and the enforcement of the Supreme Court's *Safia Bano* judgment.[210] The Committee against Torture's 2025 List of Issues raised concerns regarding the death-penalty framework and related safeguards; Pakistan's second periodic review was completed in 2026, and concluding observations were issued on 1 May 2026.[211]

Pakistan's engagement with these mechanisms reflects an incentive structure that is partly principled and partly economic. Preferential market access depends on demonstrable compliance, and the record of legislative reform since 2022 correlates closely with monitoring and review timelines. The engagement is genuine. The compliance is incomplete. But the accountability framework produces measurable movement in a direction that domestic processes alone had not produced for decades.

The United States faces no comparable external accountability mechanism. It has not ratified the Second Optional Protocol. It has withdrawn from the Human Rights Council. It votes against moratorium resolutions. It has signalled, through executive order, an intent to seek the overruling of Supreme Court precedents that limit capital punishment. No international mechanism carries economic consequences comparable to Pakistan's GSP+ exposure. Although the United States is itself subject to review under treaties it has ratified, those review mechanisms do not carry trade conditionality comparable to GSP+. The Universal Periodic Review, to which the US is subject as a UN member, produces recommendations but carries no enforcement power and no economic conditionality. The US was scheduled for its next UPR in November 2025; reporting indicates the Trump administration declined to participate.[212]

The practical effect is that the kind of external accountability pressure that has driven measurable reform in Pakistan does not operate in the United States. The asymmetry is not a matter of institutional design alone. It is a product of differential power. Pakistan is subject to comparatively direct trade conditionality through GSP+, whereas no equivalent human-rights-linked trade mechanism applies to the United States. That structural reality means that the external accountability mechanisms most likely to constrain capital punishment in practice operate most effectively in countries with less economic and political leverage — precisely the countries that retentionist states tend to point to when arguing that capital punishment is a problem of development rather than of the penalty itself.

What The Assessment Shows

Neither country can be said to be meeting the obligations it has formally accepted.

Pakistan has endorsed the "most serious crimes" standard through its own Supreme Court and through its ICCPR obligations. It retains 29 capital offences, including non-lethal ones. It has endorsed protections for persons with disabilities through *Safia Bano* and the CRPD. Those protections have not been implemented. It has endorsed the right to seek pardon or commutation through Article 6(4) and Article 45 of its Constitution. The clemency system does not function. Its engagement with international accountability mechanisms is genuine and has produced legislative results; but the gap between those results and full compliance remains substantial.

The United States has endorsed Eighth Amendment protections for persons with intellectual disabilities and mental incompetence through its own Supreme Court. Those protections are circumvented at the state level through definitional and procedural mechanisms documented throughout this study. It has endorsed the right to clemency through its constitutional framework and the ICCPR. The clemency system operates with near-automatic denial and limited procedural safeguards. It has withdrawn from the primary international body responsible for scrutinising its human rights record, voted against every moratorium resolution the General Assembly has adopted, and signalled through executive order an intent to reverse the constitutional protections its own courts have established.

The compliance failures differ in their specifics. The accountability gap — that Pakistan, with demonstrably weaker institutional capacity, faces stronger external pressure to reform than the United States — is a structural finding that has implications beyond the two countries examined. It suggests that international accountability, where it operates, does more to constrain capital punishment than domestic processes alone tend to acknowledge. The contrast is not between a country that complies and one that does not. It is between a country that is subject to external consequences for non-compliance and one that is not.

WHAT FOLLOWS FROM THE EVIDENCE

Section 07

Findings & *recommendations.*

Across every dimension examined, both countries fall short of the standards their own systems require — despite moving in opposite directions on policy.

The Central Finding

In 2025, are capital punishment systems in the United States and Pakistan functioning as their own legal standards, their own court rulings, and their own stated commitments require?

Across every dimension examined — sentencing, vulnerability of the condemned, implementation of legal safeguards, clemency, and international obligations — both countries fall short of the standards their own systems require.

Citation note. This section synthesises findings and authorities already documented in Sections 1–6. Repeated endnote markers have therefore been omitted; only new sources are cited here.

In the United States, the death penalty is formally reserved for the most culpable offenders, yet 83% of those executed in 2025 had documented vulnerabilities that constitutional protections were designed to identify and, in defined categories, to treat as bars to execution. Constitutional prohibitions on executing people with intellectual disabilities have been defeated through definitional thresholds that prevented any defendant in Georgia from accessing the protection for over two decades. The constitutional prohibition on executing the mentally incompetent has been legislatively transformed in Oklahoma into a treatment cycle aimed at restoring competency so that execution can proceed. The Supreme Court denied every request to stay an execution in 2025, while lifting 89% of lower court stays at state request since 2018. Clemency produced two grants against 47 executions, both involving substantial innocence claims, neither resulting from a structured process with published criteria. The execution spike to 47 — driven almost entirely by a single state operating without transparency or published reasoning — occurred as public support for the death penalty fell to a fifty-year low and juries rejected death sentences in a majority of capital trials.

In Pakistan, the Supreme Court has mandated forensic mental health facilities in every province; they do not exist four years later. The Court has upheld the "most serious crimes" standard as binding; the statutory framework retains 29 capital offences, including non-lethal ones. The legislature has removed the death penalty for narcotics offences; prisoners sentenced under the repealed law remain on death row because no review mechanism was created. The clemency process produced its first commutation in over two decades only through extraordinary institutional mobilisation for a single case, while 171 prisoners in a single province have mercy petitions outstanding with no timeline, no procedure, and no oversight. A death row of 3,394 people exists in a country that has not carried out an execution in six years.

That these failures appear across two countries with different, though partially connected, legal traditions, opposite policy trajectories and substantially different institutional conditions is central to the study. The comparison does not prove that capital punishment causes these failures. It demonstrates that the failures are not unique to the institutional or political circumstances of either country.

The Divergence Finding

The two systems are not on the same trajectory.

Pakistan is narrowing the scope of capital punishment. The direction is visible in the Supreme Court's jurisprudence — *Safia Bano* (2021), *Muhammad Yasin* (2023), *Ghulam Shabbir* (2024) — in the legislative removal of the death penalty for four offences between 2022 and 2025, in the de facto moratorium on executions since December 2019, and in the external pressure created by GSP+ conditionality and UN treaty body reviews. The drivers of this narrowing are primarily judicial independence and international accountability. Pakistan's reform record since 2022 correlates closely with GSP+ monitoring cycles and treaty body review timelines.

In the United States, DPI describes "divergent and contradictory trends." Ground-level indicators are declining: fewer death sentences, fifty-year-low public support, jury rejection of death in a majority of capital trials, twenty consecutive years of death row population decline. But executions spiked to their highest total in fifteen years, driven almost entirely by Florida. The political and executive apparatus in a small number of states and at the federal level is pushing toward expansion — five new laws in Florida, a tripling of legislative proposals nationwide, a presidential executive order directing the Attorney General to seek the overruling of Supreme Court precedents that limit capital punishment, and numerous new federal death penalty prosecutions authorised by the Attorney General. The forces that have historically constrained capital punishment in the United States — jury discretion, shifts in public opinion, judicial review — are operating at cross-purposes with concentrated political pressure. DPI describes 2025 as a year in which declining public support, jury reluctance and sentencing trends increasingly diverged from expansionary action by officials in a small number of jurisdictions.

Both systems are failing their own standards. But the forces producing that failure and the forces pushing back against it take different forms. In Pakistan, judicial independence and international pressure do the most visible restraining work. In the United States, the forces pushing in the opposite direction — executive and legislative pressure in a small number of states — have, in 2025, outpaced the forces of restraint.

That asymmetry is itself a finding about what constrains capital punishment in practice. External accountability pressure and judicial independence appear to do more work than democratic pressure, which in the American context has functioned in 2025 as an accelerant rather than a brake. Pakistan, with demonstrably weaker institutional capacity, has produced more legislative narrowing of capital punishment in the past three years than the United States has through any mechanism in the same period. The United States faces no comparable external pressure. The contrast does not generalise beyond two cases, but it is consistent with the reading that where international accountability operates, it constrains capital punishment more effectively than domestic processes tend to acknowledge.

Policy Landscape

The proposals surveyed below are drawn from courts, legislatures, international bodies, and civil society organisations that have addressed the specific failures documented in this study. The study identifies the obstacles to each proposal and the mechanisms that have been advanced to address them. It does not originate recommendations.

United States

Compliance with *Atkins* and *Ford* as binding constitutional standards. The obstacle is that states have developed definitional and procedural workarounds that courts have tolerated. Georgia's HB 123 demonstrates that legislative correction is possible: the bipartisan, near-unanimous lowering of the intellectual disability proof threshold in 2025 brought the state in line with 26 others after no defendant had ever met the prior standard. The mechanism most directly responsive to the documented failures is federal oversight establishing minimum national standards for competency and disability assessments that states cannot define away. Texas legislators introduced bills in 2025 to codify *Atkins* at the state level (HB 688 / SB 432), though these did not advance out of committee. Oklahoma's HB 1693, moving in the opposite direction, illustrates the risk that state-level discretion without a federal floor will continue to produce outcomes that comply with constitutional language while defeating constitutional purpose.

Direct engagement with racial disparity in capital sentencing. The obstacle is *McCleskey v. Kemp*'s holding that systemic statistical evidence is insufficient to establish a constitutional violation in an individual case — a holding that has insulated the documented disparity from legal remedy for nearly four decades. The mechanism that has gone furthest in attempting to reopen what *McCleskey* closed is California's Racial Justice Act, which allows statistical evidence of racial bias to be raised in individual cases. The 2025 amendments — AB 1071 (expanding disclosure and remedy provisions) and SB 734 (addressing the Act's interaction with personnel proceedings) — strengthened the framework. The CRJA is significant because it represents a legislative end-run around a judicial holding that has otherwise proven immovable. Its model has not been replicated in other states. DPI's 2025 data — 32% of those executed were people of colour, race-of-victim bias visible in 15% of cases involving victims of colour — documents the continuing dimension of the problem the CRJA was designed to address.

Scrutiny of Florida's concentration of executions. The obstacle is that capital punishment is largely a state matter and federal intervention is limited. In 2025, one state accounted for 40% of all executions nationwide, scheduled by the governor without published reasoning, independent review, or transparency mechanisms. The mechanisms most available are transparency requirements — public reporting on prosecutorial decisions to seek death, published reasoning for executive scheduling of executions, and judicial review standards that apply consistently across jurisdictions. Florida’s simultaneous enactment of five death-penalty-related laws,

several of which expanded eligibility, including a mandatory death sentence for undocumented immigrants directly contrary to *Woodson*, underscores the absence of structural accountability for the state's outlier role in the national system.

Genuine transparency in clemency decision-making. The obstacle is that clemency is an executive prerogative with almost no procedural requirements attached to it in most jurisdictions. The mechanism is minimum procedural standards: published reasoning for denials, independent review bodies, defined timelines for consideration, and regular public reporting. None currently exist in most states. The 2025 record — two grants among 47 executions, both involving substantial innocence claims, neither resulting from a structured process — documents the near-total absence of the procedural infrastructure that would make clemency function as the constitutional safety valve it is designed to be.

Pakistan

Construction of forensic mental health facilities mandated by *Safia Bano*. The obstacle is a combination of resource constraints and the absence of any enforcement mechanism for Supreme Court implementation orders. The UN Human Rights Committee's 2024 review specifically called for the enforcement of the *Safia Bano* judgment and the enactment of legislation prohibiting the sentencing to death and execution of persons with psychosocial or intellectual disabilities. The mechanism most likely to create movement is conditionality through existing international accountability frameworks — specifically GSP+ review — which creates external pressure that domestic enforcement alone has not produced. JPP's recommendations call for codifying the *Safia Bano* safeguards in domestic statute, including mandatory mental health assessments, proportional sentencing standards, and a statutory prohibition on executing persons with psychosocial or intellectual disabilities.

Systematic review of cases under repealed laws. The obstacle is the absence of any automatic review mechanism when legislation changes. Punjab and Sindh still hold prisoners sentenced to death for narcotics offences that no longer carry the death penalty. The mechanism advanced by civil society organisations is a time-bound judicial commission with a specific mandate to identify and process these cases, rather than leaving them to individual petition. JPP's recommendations also call for initiating systematic reviews of all death sentences imposed under repealed or amended laws to ensure commutation in accordance with current legislation.

A functioning clemency procedure. The obstacle is that mercy petitions are processed, where they are processed at all, as administrative matters with no procedural framework. Justice Mandokhail in *Ghulam Shabbir* called directly for governments to enact policy and amend laws to align the mercy petition process with international standards. The UN Human Rights Committee's 2024 review called for Pakistan to develop comprehensive rules ensuring transparency, due process, and objectivity in the submission and review of mercy petitions. The Committee Against Torture's 2025 List of Issues raised the same concern. The mechanism is a standing clemency review body with fixed response timelines and an obligation to publish reasoning. The

GSP+ monitoring report raised procedural shortcomings in the mercy petition process — making clemency reform a matter on which Pakistan's continued preferential trade access may depend.

Procedural protections in blasphemy capital cases. The obstacle is both political and structural: blasphemy cases carry significant public pressure, the legal aid system does not reliably reach defendants in such cases, and evidentiary standards have been inconsistently applied. JPP documents the need for mandatory independent legal representation in blasphemy capital cases, change of venue provisions where community pressure on proceedings is documented, and mandatory appellate review with strengthened evidentiary standards. The mechanism is a combination of mandatory representation requirements and a specialised appellate process. The theological and political dimensions of blasphemy law are outside this study's scope; the procedural failures in capital cases are not.

Concluding Observations

Three observations close the study. These follow from the findings; they are not recommendations.

The limits of legal reform. The pattern across every section suggests that landmark rulings establish standards but do not change practice on their own. The distance between *Atkins* and the pre-2025 Georgia standard — or between *Safia Bano* and the absence of facilities four years later — or between India's *Manoj* guidelines and 95% non-compliance — measures how far implementation must travel beyond what courts alone can deliver. Effective reform requires investment in implementation mechanisms, monitoring, and accountability.

The role of external accountability. Pakistan, with weaker institutional capacity, has produced more legislative narrowing of capital punishment in three years than the United States has through any mechanism in the same period. That reform correlates with GSP+ monitoring and treaty body review timelines. The United States faces no comparable pressure and has moved to further insulate itself from international scrutiny. The contrast suggests that international accountability, where it operates, does more to constrain capital punishment than domestic processes tend to acknowledge. This study identifies the pattern; it does not claim it is generalisable beyond two cases.

A direction for future research. As executions become less frequent in both countries — Pakistan has not executed anyone since 2019; the United States' execution total, despite the 2025 spike, has declined substantially from its late-1990s peak — the question of what replaces the death sentence, and whether that alternative is subject to comparable scrutiny and procedural accountability, is one the field has not yet adequately addressed. The India report notes an increasing number of life-without-remission sentences being imposed by appellate courts when commuting death sentences — a punishment that carries its own set of human rights concerns and that currently operates without the procedural safeguards developed for capital cases.[213] Whether the procedural scrutiny that capital punishment attracts — and that, as the India report

observes, produces a higher likelihood of wrongful convictions being identified — will survive the penalty's contraction is a question that has implications for criminal justice well beyond the death penalty itself.

In 2025, neither system is meeting the standards it has set for itself. The evidence presented across this study documents that finding across every dimension examined. The United States and Pakistan arrived at this point by different routes, under different institutional conditions, and with different trajectories. That both arrived at the same place — a measurable distance between what the law requires and what the system delivers, with irreversible consequences for the people on whom that distance falls — is a finding that warrants scrutiny beyond these two cases.

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Section 2

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Section 3

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[66] DPI, The Death Penalty in 2025, Table of Executions (Demetrius Frazier, Alabama, 6 February 2025).

[67] DPI, The Death Penalty in 2025, Executions. Governor DeSantis signed Mr. Jones' execution warrant less than eight months after signing legislation authorising $20 million in compensation for individuals abused at Dozier and Okeechobee schools.

[68] The Marshall Project investigation, cited in DPI, The Death Penalty in 2025, Executions.

[69] DPI, The Death Penalty in 2025, Race.

[70] DPI, The Death Penalty in 2025, Race.

[71] DPI, The Death Penalty in 2025, Race.

[72] McCleskey v. Kemp, 481 U.S. 279 (1987).

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[78] DPI, The Death Penalty in 2025, United States Supreme Court (Brenda Andrew). Andrew v. White, 604 U.S. 86 (2025).

[79] DPI, The Death Penalty in 2025, Executions (Veterans).

[80] DPI, The Death Penalty in 2025, Table of Executions (Jeffrey Hutchinson, Florida, 1 May 2025).

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[89] JPP and NCHR, The Death Penalty Report 2025, Access to Medical and Mental Health Services.

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[97] JPP and NCHR, The Death Penalty Report 2025, Women on Death Row.

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[101] DPI, The Death Penalty in 2025, Innocence & Clemency.

[102] DPI, The Death Penalty in 2025, Innocence & Clemency.

[103] DPI, The Death Penalty in 2025, Innocence & Clemency. Wolfe v. Dotson (4th Cir., 2025).

[104] DPI, The Death Penalty in 2025, Innocence & Clemency.

[105] DPI, The Death Penalty in 2025, Innocence & Clemency. Affidavit of Washington County Coroner Timothy Warco, 25 July 2025.

[106] DPI, The Death Penalty in 2025, Innocence & Clemency.

[107] DPI, The Death Penalty in 2025, Innocence & Clemency.

[108] DPI, The Death Penalty in 2025, Innocence & Clemency (Elwood Jones, Ohio).

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[115] DPI, The Death Penalty in 2025, Legislation (Georgia HB 123).

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[117] DPI, The Death Penalty in 2025, Legislation. Similar bills were introduced in the 2017 to 2018, 2021 to 2022, and 2023 to 2024 sessions but never received a committee vote.

[118] DPI, The Death Penalty in 2025, Executions (Byron Black).

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[123] DPI, The Death Penalty in 2025, Legislation.

[124] Florida SB 4C (signed 13 February 2025). See Woodson v. North Carolina, 428 U.S. 280 (1976).

[125] Florida HB 903 (effective 1 July 2025). DPI, The Death Penalty in 2025, Legislation.

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[132] Safia Bano, ibid.

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[135] JPP and NCHR, The Death Penalty Report 2025, Lack of Access to Legal Counsel and Communication.

[136] Muhammad Yasin and another v. the State, 2024 SCLR 23.

[137] Muhammad Yasin, ibid.

[138] JPP and NCHR, The Death Penalty Report 2025, Background. See also Foundation for Fundamental Human Rights and Reprieve, The Pakistan Capital Punishment Study (2019).

[139] JPP and NCHR, The Death Penalty Report 2025, Legislative Reform.

[140] JPP and NCHR, The Death Penalty Report 2025, Punjab section (4 prisoners under CNSA); Sindh section (7 prisoners under CNSA).

[141] JPP and NCHR, The Death Penalty Report 2025, Sindh section.

[142] JPP and NCHR, The Death Penalty Report 2025, Recommendations.

[143] Ghulam Shabbir and another v. the State, Crl. R.P. 103/2017. Ghulam Shabbir had spent 34 years in jail, including 24 years in a death cell.

[144] Ghulam Shabbir, ibid., para 14.

[145] The Square Circle Clinic, Death Penalty in India: Annual Statistics Report 2025, Overview.

[146] The Square Circle Clinic, Death Penalty in India: Annual Statistics Report 2025, Overview. Of 1,085 death sentences adjudicated by High Courts in the past decade, 106 (9.77%) were confirmed; 326 persons were acquitted in 191 cases (34.65%).

[147] The Square Circle Clinic, Death Penalty in India: Annual Statistics Report 2025, Overview. Of 153 death sentences decided by the Supreme Court in the past decade, close to a quarter resulted in acquittal.

[148] Manoj and Ors. v. State of Madhya Pradesh, (2023) 2 SCC 353.

[149] Manoj, ibid.

[150] Vasanta Sampat Dupare v. Union of India, (2025) SCC Online SC 1823.

[151] The Square Circle Clinic, Death Penalty in India: Annual Statistics Report 2025, Sessions Courts in 2025; Compliance with Constitutional Safeguards.

[152] The Square Circle Clinic, Death Penalty in India: Annual Statistics Report 2025, Part II, Compliance with Constitutional Standards (2023 to 2025). Of 216 analysable cases, 208 (96.29%) failed to comply.

[153] The Square Circle Clinic, Death Penalty in India: Annual Statistics Report 2025, Sessions Courts in 2025.

[154] The Square Circle Clinic, Death Penalty in India: Annual Statistics Report 2025, Sessions Courts in 2025.

[155] The Square Circle Clinic, Death Penalty in India: Annual Statistics Report 2025, Conclusion.

[156] The Square Circle Clinic, Death Penalty in India: Annual Statistics Report 2025, High Court Confirmations.

[157] The Square Circle Clinic, Death Penalty in India: Annual Statistics Report 2025, High Court Confirmations.

Section 5

[158] International Covenant on Civil and Political Rights, Art. 6(4).

[159] Constitution of Pakistan, Art. 45.

[160] DPI, The Death Penalty in 2025, Innocence & Clemency (Rocky Myers). Alabama abolished judicial override of jury recommendations in 2017.

[161] DPI, The Death Penalty in 2025, Innocence & Clemency.

[162] DPI, The Death Penalty in 2025, Innocence & Clemency.

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[164] DPI, The Death Penalty in 2025, Innocence & Clemency.

[165] DPI, The Death Penalty in 2025, United States Supreme Court.

[166] DPI, The Death Penalty in 2025, United States Supreme Court.

[167] DPI, The Death Penalty in 2025, United States Supreme Court.

[168] DPI, The Death Penalty in 2025, United States Supreme Court.

[169] DPI, The Death Penalty in 2025, United States Supreme Court.

[170] DPI, The Death Penalty in 2025, United States Supreme Court.

[171] DPI, The Death Penalty in 2025, United States Supreme Court.

[172] DPI, The Death Penalty in 2025, United States Supreme Court. Since Justice Kavanaugh joined the Court in October 2018, it has lifted 89% of lower court stays at state request, often without explanation.

[173] DPI, The Death Penalty in 2025, United States Supreme Court.

[174] DPI, The Death Penalty in 2025, United States Supreme Court.

[175] DPI, The Death Penalty in 2025, United States Supreme Court (Jessie Hoffman, Louisiana, 18 March 2025).

[176] DPI, The Death Penalty in 2025, United States Supreme Court.

[177] DPI, The Death Penalty in 2025, United States Supreme Court.

[178] JPP and NCHR, The Death Penalty Report 2025, Khyber Pakhtunkhwa section.

[179] Ghulam Shabbir and another v. the State, Crl. R.P. 103/2017, para 14.

[180] Ghulam Shabbir, ibid.

[181] Human Rights Committee, Concluding observations on the second periodic report of Pakistan, CCPR/C/PAK/CO/2, 13 November 2024.

[182] Committee against Torture, Concluding observations on the second periodic report of Pakistan, CAT/C/PAK/CO/2, 1 May 2026.

[183] European Commission, GSP+ Monitoring Report on Pakistan (2023).

[184] JPP and NCHR, The Death Penalty Report 2025, Executive Action (Abdul Basit).

[185] JPP and NCHR, The Death Penalty Report 2025, Executive Action.

[186] JPP and NCHR, The Death Penalty Report 2025, Case Study: Iftikhar Ahmed; AJK Interim Constitution, Art. 10.

Section 6

[187] International Covenant on Civil and Political Rights, Art. 6(4).

[188] UN Human Rights Committee, General Comment No. 36 (2018), para. 35.

[189] UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, reports to the Human Rights Council and General Assembly.

[190] UN High Commissioner for Human Rights, Report on the Question of the Death Penalty, A/HRC/60/47 (2025).

[191] Pakistan Penal Code, Section 295-C.

[192] UN Human Rights Committee, General Comment No. 36 (2018), para. 35.

[193] Muhammad Yasin and another v. the State, 2024 SCLR 23.

[194] JPP and NCHR, The Death Penalty Report 2025, Women on Death Row; Background.

[195] JPP and NCHR, The Death Penalty Report 2025, Women on Death Row.

[196] JPP and NCHR, The Death Penalty Report 2025, Recommendations.

[197] JPP and NCHR, The Death Penalty Report 2025, Background. See also Foundation for Fundamental Human Rights and Reprieve, The Pakistan Capital Punishment Study (2019).

[198] JPP and NCHR, The Death Penalty Report 2025, Living Conditions and Treatment of Prisoners on Death Row; Safia Bano v. Home Department (2021).

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[200] See UN General Assembly resolutions on a moratorium on the use of the death penalty, 2007 to 2024. The United States has voted against each resolution.

[201] UN General Assembly, Resolution A/RES/79/179, adopted 17 December 2024: 130 votes in favour, 32 against, 22 abstentions.

[202] Executive Order, "Withdrawing the United States from and Ending Funding to Certain United Nations Organizations and Reviewing United States Support to All International Organizations," 4 February 2025.

[203] UN Human Rights Council, Resolution A/HRC/60/L.12, adopted 7 October 2025: 31 votes in favour, 7 against, 8 abstentions. The United States withdrew from the Human Rights Council in February 2025 and did not participate in the vote.

[204] See, e.g., U.S. Mission Geneva, Explanation of Vote on HRC Resolution on the Question of the Death Penalty, 1 October 2015.

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Section 7

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In 2025, neither system is meeting the standards it has set for itself.

The United States and Pakistan arrived at this point by different routes, under different institutional conditions, and with different trajectories. That both arrived at the same place — a measurable distance between what the law requires and what the system delivers, with irreversible consequences for the people on whom that distance falls — is a finding that warrants scrutiny beyond these two cases.

This is an independent report. Views are the author's. Produced in collaboration with the Death Penalty Information Center.