



Pakistan

Stakeholder Report on the Death Penalty for the United Nations Universal Periodic Review

Submitted by **The Advocates for Human Rights**,
a non-governmental organization in special consultative status
The World Coalition Against the Death Penalty
Legal Awareness Watch Pakistan
Marvi Rural Development Organization
and
The Human Rights Commission of Pakistan

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Founded in 1983, **The Advocates for Human Rights** (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

The World Coalition Against the Death Penalty (WCADP), an alliance of more than 150 NGOs, bar associations, local authorities, and unions, was created in Rome on 13 May 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

Legal Awareness Watch Pakistan (LAW) registered in October 1999. LAW has been raising awareness in Pakistan on human rights of vulnerable prisoners i.e. children and women facing severe punishment i.e. life sentence without the prospect of parole and the death penalty. Similarly LAW provides pro-bono legal defense to individuals particularly women and children facing or convicted of offences carrying life imprisonment and the death penalty.

Marvi Rural Development Organization (MRDO)'s vision is the social and economic

empowerment of underprivileged women and communities at the grassroots level. Its mission is to enhance the role and socio-economic status of people, especially women, of deprived communities by providing them assistance and sustainable prospects.

The Human Rights Commission of Pakistan (HRCP) is a non-political, not-for-profit organisation committed to realising the entire ambit of human rights for all persons in the country, using the framework provided by the Constitution of Pakistan as well as international human rights instruments, to some of which Pakistan is a state party.

EXECUTIVE SUMMARY

1. This report addresses Pakistan’s compliance with its international human rights obligations with respect to the death penalty. Pakistan noted all the third-cycle Universal Periodic Review recommendations related to the death penalty. Pakistan has not implemented a moratorium on the death penalty, nor has it limited the application of the death penalty to the most serious crimes.
2. This report examines the current state of the death penalty in Pakistan and makes the following recommendations: (1) ensure lower courts maintain precedent set by the Supreme Court; (2) codify sentencing guidelines for non-violent crimes that eliminate the death penalty as punishment; and (3) ensure that juvenile offenders and people with serious psycho-social disabilities are not subject to the death penalty.

I. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

D23 Death penalty

Status of Implementation: Not accepted, not implemented

3. In the third cycle Universal Periodic Review in 2017, member countries made 34 recommendations related to Pakistan’s use of the death penalty or capital punishment. Pakistan noted all of these recommendations.¹ To date, two recommendations—both related to the death penalty for defendants who have serious psycho-social disabilities—have been partially implemented.² Pakistan has not implemented the remaining 32 recommendations.
4. The 34 total recommendations can be divided into the following categories:
Reinstate a moratorium of the death penalty, and/or abolish the death penalty.
5. 31 of the 34 recommendations called on Pakistan to reinstate its moratorium on the death penalty with the aim of abolishing the death penalty.³ These recommendations also called on Pakistan to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights and the Convention against Torture.⁴ Some recommendations specifically requested that Pakistan “[a]bolish the death penalty for all crimes.”⁵
6. Since 2017, Pakistan has not ratified any of the above mentioned treaties⁶ or reinstated its moratorium on the death penalty.⁷ Instead, as judicial proceedings resumed after authorities lifted COVID-19-related restrictions and after some courts increased the use of virtual hearings, courts have stepped up the number of death sentences handed down.⁸ Studies indicate that the number of death sentences in Pakistan has increased by more than 250 percent.⁹
7. Pakistan continues to vote against the UN General Assembly resolution calling for a moratorium on the death penalty, most recently in 2020.¹⁰ Pakistan has also “failed to enact laws criminalizing torture despite their obligation to do so under the Convention against Torture.”¹¹

8. Many thousands of people currently face capital punishment in Pakistan.¹² It is estimated that Pakistan has more than 3,800 people on death row.¹³ Since the moratorium on the death penalty was lifted in December 2014, Pakistan has executed 511 persons.¹⁴ In a very promising and notable sign, however, current records indicate that since 2019, **no** persons have been executed.¹⁵
9. In another promising development, upon review of death penalty sentences in 2018, Pakistan’s Supreme Court overturned death sentences in nearly 97% of capital cases.¹⁶ Yet, review by the Supreme Court typically occurs after people have spent approximately ten years in prison,¹⁷ and some are executed while their appeals are still pending.¹⁸ Even though the Supreme Court regularly overturns convictions for which the death penalty has been handed down, or commutes death sentences, lower courts regularly sentence people to death for non-lethal offenses.¹⁹

Limit the scope and use of the death penalty as it relates to certain crimes.

10. Five of the 34 recommendations were to limit the applicability and use of the death penalty as it relates to certain crimes.²⁰ For instance, the Republic of Moldova recommended that Pakistan “[i]nitiate a legislative process to revise the Penal Code in order to limit the death penalty to cases in which the accused has committed an intentional killing.”²¹
11. In the intervening four years, Pakistan has not limited the use of the death penalty to certain crimes in which the defendant committed an intentional killing. Rather, courts have sentenced people to death for less serious crimes, such as drug-related offenses, and for civil offenses related to blasphemy.²²
12. The death penalty is available for 33 separate offences²³:
 - Murder;²⁴
 - Robbery resulting in death;²⁵
 - Terrorism;²⁶
 - Kidnapping or abduction of a minor;²⁷
 - Kidnapping or ransom for extortion;²⁸
 - Abduction to subject someone to unnatural lust;²⁹
 - Blasphemy;³⁰
 - Adultery;³¹
 - Stripping a woman’s clothes;³²
 - Rape;³³
 - Gang rape;³⁴
 - Harabaha with murder;³⁵
 - Sexual abuse;³⁶
 - Unnatural offences;³⁷
 - Mutiny and insubordination;³⁸
 - Abetment of mutiny;³⁹
 - Disclosure of parole, watchword, or countersign;⁴⁰

- Giving or fabricating false evidence with intent to procure conviction of a capital offence;⁴¹
 - High treason;⁴²
 - Offences against the state;⁴³
 - Offences in relation to the enemy;⁴⁴
 - Arms trading;⁴⁵
 - Drug smuggling, transport, possession, and other narcotics offences;⁴⁶
 - Importing and exporting dangerous drugs into and from Pakistan;⁴⁷
 - Inter-provincially importing and exporting drugs, or manufacturing drugs;⁴⁸
 - Hijacking and harboring hijacking;⁴⁹
 - Sabotage of the railway system.⁵⁰
13. The Supreme Court upholds death sentences only for crimes that end in death: murder; murder and terrorism; and murder, kidnapping and terrorism.⁵¹ Although the Supreme Court does not uphold death sentences for less serious crimes, Pakistani lower courts still have the option to impose a death sentence for less serious crimes. Supreme Court precedent states that only in the most exceptionally aggravated offences is “the infliction of the death penalty” justified,⁵² consistent with article 6 of the International Covenant on Civil and Political Rights.⁵³
14. Even though the Supreme Court has limited the applicability of the death penalty to the most serious crimes, lower courts routinely impose death sentences for even non-violent crimes.⁵⁴ Lower courts routinely sentence people to death for non-lethal and non-aggravated offences.⁵⁵ Additionally, some courts continue to sentence people to death for drug offences. In *Muhammad Janas and Another v. State*, the court sentenced two men to death on drug-related charges even though they were arrested far from the car transporting the drugs and there was no evidence connecting the accused to the car.⁵⁶

D26 Conditions of detention

15. Persons facing the prospect of the death penalty and persons under sentence of death for crimes of blasphemy and terrorism are generally kept in solitary confinement, allegedly for security reasons,⁵⁷ in violation of Rules 45-47 of the Nelson Mandela Rules.

D51 Administration of justice and fair trial

16. Lower court decisions and trial practices reveal, as the Supreme Court has noted, serious evidentiary issues in the lower courts that lead the Supreme Court to order acquittals and commute death sentences.⁵⁸ Evidentiary issues cited include reliance on unreliable witness testimony, sentencing the accused when they have not properly been identified, application of the death penalty despite a lack of evidence, reliance on evidence corrupted or tainted by law enforcement, conviction despite the prosecution’s failure to establish certain elements of the crime (e.g. failure to establish intent or motive), or reliance on involuntary confessions.⁵⁹

17. With regard to coerced confessions, the Criminal Code of Pakistan provides that a confession may be recorded only in court. Statements made at a police station or during police interviews are inadmissible in court during trial and on appeal.⁶⁰
18. Defendants in capital cases face multiple fair trial issues in lower courts. The Supreme Court routinely overturns decisions by the lower courts for reliance on unreliable testimony, sentencing despite lack of evidence, sentencing an improperly identified individual, and arbitrary application of the death sentence. Two brothers, Qadir and Sarwar Ghulam, sat on death row for 10 years for crime that took place in 2002.⁶¹ Finally in 2016, the Supreme Court acquitted the brothers due to discrepancies in eyewitness testimony.⁶² Tragically, the Court's decision came too late; authorities had hanged the brothers in 2015. Authorities had failed to notify the brothers' state-appointed lawyer of the executions; he learned of them only after the belated acquittal.⁶³ The Human Rights Commission of Pakistan called this execution "a stark reminder of the criminal neglect of the justice system."⁶⁴ The case is an example of the systematic flaws in the Pakistani justice system that lead to the deaths of innocent people.⁶⁵ The case, however, is not an isolated incident.⁶⁶
19. The Supreme Court is acutely aware of the unreliability of eyewitness evidence in capital cases.⁶⁷ In *Qasir Pervez v. State*, the Supreme Court threw out a conviction because "the witnesses were found false while deposing on oath taken to tell the truth . . . being false witnesses, they cannot be safely relied upon without strong corroboration."⁶⁸ The Supreme Court has described its role in capital cases as "sifting the grains from the chaff," and in the words of Justice Ejaz Afzal Khan, it is the Court's duty to separate "the lies, distortions, and half-truths" from the reliable evidence.⁶⁹ The Supreme Court often has to acquit the accused on one or more of four grounds that arise frequently. The witness testimony is not corroborated by, or it even directly contradicts, the physical evidence.⁷⁰ There is no proof that the witness was present at the crime scene at the relevant time and there was no reason for the witness to be there (deemed a "chance witness").⁷¹ The witness has altered his or her testimony throughout the course of the investigation and trial to make "false improvements" to support the prosecution's case.⁷² The witness testimony was credited by the lower court despite the witness having a serious conflict of interest with the accused or another interest in the case.⁷³ Despite the trends and guidance of the Supreme Court, lower courts continue to impose death sentences on the basis of unreliable witness testimony.
20. Beyond unreliable witness testimony, lower courts routinely justify death sentences based on no evidence at all.⁷⁴ Justice Dost Muhammad Khan stated, "The principle of law, consistently laid down by this Court, is that different pieces of such evidence have to make one chain, an unbroken one where one end of it touches the dead body and the other the neck of the accused. In case of any missing link in the chain, the whole chain is broken and no conviction can be recorded in crimes entailing capital punishment."⁷⁵ Despite this sentiment, many lower courts still hand down death sentences based on a broken chain of circumstantial evidence.⁷⁶ The Supreme Court is also aware of lower courts relying on

planted evidence to support convictions in capital cases resulting in death sentences.⁷⁷ Former Chief Justice of Pakistan Khosa repeatedly warned lower courts to watch out for such interference with evidence.⁷⁸ Despite this warning, authorities and lower courts have taken no action to correct such practices.⁷⁹

21. Further, the lower courts continue to sentence individuals to death despite improper identifications. Many falsely accused individuals spend a lengthy amount of time on death row even though authorities used improper procedures to identify them.⁸⁰ In *Haider Ali v. State*, the Supreme Court acquitted a person who had been convicted based on an identification parade which took place more than a year after the alleged murder and was not attended by any eyewitness identified in the First Information Report, noting that “it was unbelievable that witnesses who had a fleeting look at the assailants would still be able to identify them” after so much time.⁸¹ In another case, the trial court convicted two co-accused based on a joint identification parade which identified both of them, despite the Supreme Court having clearly established since 1981 that joint identification parades are not admissible.⁸²
22. Finally, the Supreme Court has identified fair trial violations in the lower courts when individuals face different results based on the same evidence. In *Sardar Bibi v. Munir Ahmed*, for example, an eyewitness gave testimony that five co-accused had together killed a victim by decapitation.⁸³ The trial court acquitted two of the accused in the face of this testimony while a High Court acquitted a third person based on the same testimony.⁸⁴ Inexplicably, the High Court confirmed the death sentences imposed upon the final two co-accused.⁸⁵ Such cases show that Pakistan’s application of the death penalty is arbitrary. The case of Mazhar Farooq is another such example. A court convicted Farooq of murder and sentenced him to death after a flawed trial.⁸⁶ The Supreme Court raised alarms when it discovered that Farooq’s co-accused was acquitted under the same evidence.⁸⁷ The Supreme Court subsequently acquitted Farooq after he spent 24 years on death row for a crime he did not commit.⁸⁸

F34 Children: Juvenile justice

Status of implementation: Not accepted, not implemented

23. Four of the 34 recommendations related to death penalty practices as they related to persons with psycho-social disabilities or those who were juveniles at the time of their alleged crimes.⁸⁹ For example, Germany recommended that Pakistan “[r]einstate the moratorium on executions, and ban the death penalty for defendants who suffer from mental illness or who were minors at the time of their alleged crimes.”⁹⁰ Pakistan noted these recommendations.
24. According to the Supreme Court, age, especially for defendants who are between the age of 18 and 25, is a mitigating factor for young offenders.⁹¹

25. Although the Juvenile Justice System Act of 2018 abolished the use of capital punishment for people under the age of 18, it is unclear whether, since that time, the death penalty has been applied to persons who were minors at the time of their alleged crimes.⁹²
26. Minors are routinely sentenced to death.⁹³ Because of inadequate age determination procedures, investigators often consider people who had been children at the time of the offense to be adults, in violation of section 8 of the Juvenile Justice System Act. Trial courts and even appellate courts generally ignore section 8.⁹⁴ The last notable execution of a juvenile offender was in 2015.⁹⁵
27. The Supreme Court, however, has consistently commuted sentences for people who were minors at the time of their crimes.⁹⁶ Yet, even so, authorities routinely charge juveniles with capital offenses and courts routinely sentence them to death.⁹⁷ Due to the backlog of cases, these people may spend years waiting for the Supreme Court to review, and eventually commute, their sentences.⁹⁸ These delays are due, in large part, to the fact that lower courts inquire very little into whether the accused is over the age of majority.⁹⁹
28. Determinations of juvenility are an important component of the Juvenile Justice System Act of 2018, but courts often fall short. “Judicial inquiries into the juvenility of criminal defendants are crucial in Pakistan, where more than 70 percent of children are not registered at birth, especially children belonging to religious or minority groups and children living in rural areas.”¹⁰⁰ Also, since defendants are rarely informed of the fact that they might have a mitigating circumstance such as age, and because they often lack legal representation, they often fail to raise this issue in court.¹⁰¹
29. Under the 2018 Juvenile Justice System Act, the trial court cannot ignore a plea of juvenility if the defendant presents any documentation such as a birth certificate. If the defendant is unable to provide such documentation, a scientific test called an ossification test is used to determine the defendant’s age. The investigating officer has the primary duty to determine the age of the defendant. If the officer fails to do so, section 8(2) of the Act requires the court to make a determination of age.¹⁰²

F4 Persons with Disabilities

Status of Implementation: Not accepted, partially implemented

30. As described in paragraph 3 above, Pakistan has partially implemented two recommendations related to the death penalty as applied to people with serious psycho-social disabilities.
31. Since 2017, the Supreme Court has refused to sustain death sentences for people with serious psycho-social disabilities in at least one case.¹⁰³
32. The Supreme Court recently banned application of capital punishment for persons with serious psycho-social disabilities, observing that the Pakistan Jail Manual of 1978 does not

have any provisions or procedures for carrying out executions of people with psycho-social disabilities. Since that judgment, however, authorities have not introduced or promulgated any statutes to ensure that death penalty practices in Pakistan do not violate the rights of persons with psycho-social disabilities.¹⁰⁴ Authorities routinely charge people with serious psycho-social disabilities with capital offenses and courts routinely sentence them to death.¹⁰⁵ As is the case with juvenile offenders sentenced to death, due to the backlog of cases, and lower courts' failure to inquire as to whether the accused has a serious psycho-social disability, these people may spend years waiting for the Supreme Court to review, and eventually commute, their sentences.¹⁰⁶ Also, as is the case with juvenile offenders, since defendants are rarely informed of the fact that they might have a mitigating circumstance such as disability, and because they often lack legal representation, they often fail to raise this issue in court.¹⁰⁷

33. The Supreme Court's decision entitles defendants only to a review by a medical board for the possibility of their death sentence to be commuted.¹⁰⁸ Certainly, this requirement is a critical first step, but in order to be sufficient, it must go further. In September 2022, a court sentenced a 64-year-old man to death for blasphemy. He had requested that the court constitute a medical board to determine his mental state, but the trial court dismissed that request and sentenced him to death.¹⁰⁹

II. RECOMMENDATIONS

34. The authors of this joint stakeholder report suggest the following recommendations for the Government of Pakistan:
- Abolish the death penalty and replace it with a fair and proportionate sentence aligned with international human rights standards.
 - In the meantime, reinstate the official moratorium on executions.
 - In the meantime, amend the Penal Code to limit the death penalty to crimes in which the defendant had the intent to kill and did in fact kill.
 - Align the use of solitary confinement for people under sentence of death with Rules 45-47 of the Nelson Mandela Rules.
 - Ensure that all courts understand, respect, and maintain precedent set by the Supreme Court of Pakistan by:
 - Reducing the amount of time prisoners spend in confinement.
 - Reviewing Supreme Court jurisprudence and developing guidance on the burden of proof necessary in capital cases, with a focus on motive and intent, and the weight of evidence necessary to issue such a sentence.
 - Ensuring that all accused and convicted persons have a meaningful judicial remedy if new evidence is discovered that could serve as a basis to mitigate their sentence.

- Reviewing all convictions and sentencing determinations in capital cases with the aim of voiding any death sentences for non-lethal offenses.
- Implementing statutory requirements that lower courts follow the law and guidance established by the Supreme Court.
- Setting a clear timeline to review the processes by which courts consider eyewitness identifications, and align police and judicial practices with respect to such identifications with best practices and Supreme Court guidance.
- Reviewing and revising the rules of evidence by which witness testimony is used and aligning them with best practices.
- Reviewing and revising the evidence-collection practices of law enforcement agencies, with the aim of aligning them with best practices, including the use of modern technology.
- Launching independent investigations into cases alleging coerced confessions; juvenility or serious psycho-social disability.
- Ensuring the right to effective counsel throughout the all stages of investigation and judicial proceedings in capital cases, including by enhancing training for state-appointed lawyers in capital cases.
- Establishing a mandatory right of appeal to the Supreme Court when the High Court confirms a death sentence.
- Ensuring that no person may be executed while their case awaits review by the Supreme Court.
- Codify non-violent crimes sentencing guidelines that eliminate the death penalty as a punishment by:
 - Amending the Criminal Code to remove the death penalty for any non-violent or non-lethal crime.
 - Initiating a legislative process to revise the Pakistan Penal Code and other laws to limit the death penalty to crimes in which the accused is found to have killed and to have intended to kill.
 - Prohibiting application of the death penalty for blasphemy and other non-violent crimes, and ensuring an immediate commutation for any person currently under sentence of death for such crimes.
- Ensure that juvenile offenders and people with serious psycho-social disabilities are not subject to the death penalty by:
 - Desisting from seeking the death penalty or executing anyone for a crime committed when the person was under the age of 18, or when there is any reasonable doubt that the person was over the age of 18 at the time of the offense.
 - Introducing a statutory prohibition on the death penalty for people who were under the age of 18 at the time of the crime.

- Ensuring fair trial rights of people with intellectual and psycho-social disabilities and, in the meantime, prohibiting the use of capital punishment for such people.
- Ensuring the right to effective counsel throughout the investigative and judicial process in capital cases, including by providing expanded training for state-appointed lawyers in capital trials.
- Collaborating with civil society to train all stakeholders in the criminal legal system—especially judges at the trial court level—on the 2018 Juvenile Justice System Act and monitor its implementation.

¹ See Rep. of the Working Group on the U.P.R., at 2, U.N. Doc A/HRC/37/13/Add.1 (2018).

² Louis Linel, *Pakistan’s Supreme Court Repeals Death Penalty for People with Intellectual Disability* (Feb. 10, 2021), <https://worldcoalition.org/2021/02/10/pakistans-supreme-court-repeals-death-penalty-for-people-with-intellectual-disability/#:~:text=In%20a%20landmark%20decision%20issued,meet%20the%20ends%20of%20justice%E2%80%9D>.

³ See Rep. of the Working Group on the U.P.R., at 10–25, U.N. Doc A/HRC/37/13/Add.1 (2018). See recommendations 152.2–152.5, 152.7, 152.103–152.121, 152.125–152.129, and 152.135

⁴ *Id.*

⁵ See *id.* at 15.

⁶ See *Status of Ratification Interactive Dashboard*, UNITED NATIONS HUMAN RIGHTS – OFFICE OF THE HIGH COMMISSIONER, <https://indicators.ohchr.org/> (last visited July 5, 2022).

⁷ See generally Amnesty International, *Death Sentences and Executions: 2021*, by Amnesty International (London: Amnesty International Ltd, 2022), <https://www.amnesty.org/en/documents/act50/5418/2022/en/>.

⁸ *Id.* at 13.

⁹ *Id.*

¹⁰ See *Asian Nations Reject UN Vote Against Death Penalty*, HUMAN RIGHTS WATCH (Nov. 24, 2020), <https://www.hrw.org/news/2020/11/25/asian-nations-reject-un-vote-against-death-penalty>.

¹¹ *World Report 2021: Events of 2020*, HUMAN RIGHTS WATCH 522. https://www.hrw.org/sites/default/files/media_2021/01/2021_hrw_world_report.pdf.

¹² JUSTICE PROJECT PAKISTAN, <https://data.jpp.org.pk/en/page/6mhr9wutz9d> (last visited on June 17, 2022).

¹³ *Id.*

¹⁴ JUSTICE PROJECT PAKISTAN, *supra* note 3

¹⁵ CORNELL L. SCH. CTR. ON THE DEATH PENALTY, <https://deathpenaltyworldwide.org/database/#/results/country?id=56#fn-f0d1c041-53fa-40a6-a5c6-0736192e664b> (last visited on June 17, 2022).

¹⁶ Foundation for Fundamental Human Rights & Reprieve, *The Pakistan Capital Punishment Study*, 6 (2019).

¹⁷ *Id.* at 2

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ See Rep. of the Working Group on the U.P.R., at 10–25, U.N. Doc A/HRC/37/13/Add.1 (2018). See recommendations 152.122–152.124, 152.128, and 152.129.

²¹ *Id.* at 16.

²² Amnesty International, *Death Sentences and Executions: 2021*, by Amnesty International (London: Amnesty International Ltd, 2022), 34–35. <https://www.amnesty.org/en/documents/act50/5418/2022/en/>.

²³ Correspondence with LAW Pakistan, July 8, 2022, on file with The Advocates for Human Rights.

²⁴ Pakistan Penal Code 1860 (PPC) sections 301, 302

²⁵ PPC sec.396

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- ²⁶ Anti-Terrorism Act 1997 sec.7
- ²⁷ PPC sec.364-A
- ²⁸ PPC sec.365-A
- ²⁹ Offence of Zina (Enforcement of Hudood) Ordinance 1979 (Hudood Ordinance) sec.12; The Pakistan Capital Punishment Study 42
- ³⁰ PPC sec.295-C
- ³¹ Hudood Ordinance sections 10(4), 5 & 6
- ³² PPC sec.354-A
- ³³ PPC sections 375 & 376
- ³⁴ PPC sec.376 (2)
- ³⁵ Offences Against Property (Enforcement of Hudood) Ordinance 1979 sections 15 & 17
- ³⁶ PPC sections 377B & 376(1A)
- ³⁷ PPC sections 377 & 376(1A)
- ³⁸ Pakistan Army Act 1952 sec.31
- ³⁹ PPC sec.132
- ⁴⁰ Pakistan Army Act 1952 sec.26
- ⁴¹ PPC sec.194
- ⁴² High Treason Act 1973 sec.2
- ⁴³ PPC sec.121
- ⁴⁴ Pakistan Army Act 1952 sec.24
- ⁴⁵ Pakistan Arms (Amendment) Ordinance 1996 sec.13-A
- ⁴⁶ Control of Narcotics Substances Act 1997 sec.9
- ⁴⁷ Dangerous Drugs Act 1930 sections 13 & 14
- ⁴⁸ Dangerous Drugs Act 1930 sec.13
- ⁴⁹ PPC sec.402-B
- ⁵⁰ Railways (Amendment) Act 1995 sec.127
- ⁵¹ Foundation for Fundamental Human Rights & Reprieve, The Pakistan Capital Punishment Study, 21 (2019)
- ⁵² Muhammad Sharif v. the State (2009 PLD 709) (confirming Iftikhar Ahmed Khan v. Asghar Khan & another (2009 SCMR 502)).
- ⁵³ Pakistan ratified the ICCPR in 2010. Office of the United Nations High Commissioner for Human Rights, ‘Ratification Status for Pakistan’, available at: https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=131&Lang=EN; 4 Article 6(1) of the International Covenant on Civil and Political Rights enshrines the right to life. Article 6(2) recognizes that the death penalty may be imposed as a criminal sanction only for “the most serious crimes”. International Covenant on Civil and Political Rights, GA res. 2200A (XXI) of 16 Dec. 1966, available at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.
- ⁵⁴ Foundation for Fundamental Human Rights & Reprieve, The Pakistan Capital Punishment Study, 21 (2019).
- ⁵⁵ See, e.g., Mehboob Bibi v. the State (2017 SCMR 1835) (accused sentenced to death by trial court and confirmed by High Court for kidnapping); Gul Badshah v. the State (2012 SCMR 567) (accused sentenced to death by trial court and confirmed by High Court for drug offence); Shaukat Ali al Billa v. the State (2015 SCMR 308) (accused sentenced to death by trial court and confirmed by High Court for drug offence).; Mazhar Abbas alias Baddi v. the State (2017 SCMR 1884) (death sentence commuted to life in part because murder was caused by a single dagger blow); Sardar Muhammad & another v. Athar Zahoor & others (2017 SCMR 1668) (death sentence commuted to life in part because murder was by a single shot and might have been a “sudden affair”).
- ⁵⁶ Muhammad Janas & another v. the State (2010 SCMR 1016).
- ⁵⁷ Correspondence with LAW Pakistan, July 8, 2022, on file with The Advocates for Human Rights.
- ⁵⁸ *Id.* at 7

⁵⁹ *Id.*

⁶⁰ Correspondence with LAW Pakistan, July 8, 2022, on file with The Advocates for Human Rights.

⁶¹ Rafia Zakaria, ‘Acquittal After Execution’ Dawn, 7 Dec. 2016, available at: <https://www.dawn.com/news/1300922>

⁶² *Id.*

⁶³ Irfanul Haq, ‘Acquittal Verdict: Executed Brothers’ Kin in Distress’, Dawn, 23 Oct. 2016, available at: <https://www.dawn.com/news/1291711>

⁶⁴ HRCP, ‘State of Human Rights in 2016’, p.66, available at: <https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2017-State-of-human-rights-in-2016-EN.pdf>

⁶⁵ Supreme Court of Pakistan, Crim. App. Nos. 249 & 250 of 2010, para.9 (6 Oct. 2016)

⁶⁶ International Federation for Human Rights (FIDH) & HRCP, ‘Slow March to the Gallows: Death Penalty in Pakistan’, p.18, Jan. 2007 (citing a report in The Daily Times on 30 May 2006), available at: <https://www.fidh.org/IMG/pdf/Pakistan464angconjointpdm.pdf>

⁶⁷ Qaiser Pervez & another v. the State (2015 SCMR 1142), para.26.

⁶⁸ *Id.*

⁶⁹ *See, e.g.*, Mazhar Hussain v. the State (2011 SCMR 455); Mst. Sughra Begum v. the State (2015 SCMR 1142); Irfan Ali v. the State (2015 SCMR 840).

⁷⁰ *See, e.g.*, Mazhar Hussain v. the State (2011 SCMR 455); Pathan v. the State (2015 SCMR 315)

⁷¹ *See, e.g.*, Mst. Sughra Begum v. the State (2015 SCMR 1142).

⁷² *See, e.g.*, Muhammad Ali v. the State (2015 SCMR 137)

⁷³ *See, e.g.*, Irfan Ali v. the State (2015 SCMR 840); Qaiser Pervez & another v. the State (2015 SCMR 1142)

⁷⁴ Ch. Barkat Ali v. Major Karam Elahi Zia (1992 SCMR 1047)

⁷⁵ Azeem Khan v. Mujahid Khan (2016 SCMR 274)

⁷⁶ *See, e.g.*, Imran alias Dully v. the State & others (2015 SCMR 155); Nasir Javaid v. the State (2016 SCMR 1144); Muhammad Ashraf v. the State (2016 SCMR 1617); Faisal Mehmood v. the State (2016 SCMR 2138); Azeem Khan v. Mujahid Khan (2016 SCMR 274); Hashim Qasim v. the State (2017 SCMR 986); Ghulfam v. the State (2017 SCMR 1189).

⁷⁷ Haleem & others v. the State (2017 SCMR 709); Mst. Sughra Begum v. Qaiser Pervez & another (2015 SCMR 1142).

⁷⁸ Hashim Qasim v. the State (2017 SCMR 986)

⁷⁹ *See, e.g.*, Mst. Sughra Begum v. Qaiser Pervez & another (2015 SCMR 1142) (“[the] entire investigation . . . appears to have been dishonestly conducted”); Muhammad Asif v. the State (2017 SCMR 486) (“no prudent mind would believe such fantastic story which appears to be the hand-Art of the local police because in a night occurrence of this nature, remaining un-witnessed, the police imprudently indulges in such like tactics to mislead the court of law and justice”); Shahbaz v. the State (2016 SCMR 1763) (“post-mortem examination of the [victim] was noticeably delayed . . . It appears that time had been consumed by the complainant party and the local police in procuring and planting eyewitnesses and in cooking up a story for the prosecution”).

⁸⁰ *See, e.g.*, Haider Ali v. the State (2016 SCMR 1554); Javed Khan alias Bacha v. the State (2017 SCMR 524); Ghulfam v. the State (2017 SCMR 1189); Azhar Mehmood & others v. the State (2017 SCMR 135).

⁸¹ Haider Ali v. the State (2016 SCMR 1554)

⁸² Ifam v. the State (2017 SCMR 1189); *See, e.g.*, Lal Pasand v. the State (PLD 1981 SC 142); Ziaullah alias Jaji v. the State (2008 SCMR 1210); Bacha Zeb v. the State (2010 SCMR 1189); Shafqat Mehmood & others v. the State (2011 SCMR 537)

⁸³ Sardar Bibi & another v. Munir Ahmed & others (2017 SCMR 344)

⁸⁴ *Id.* at para. 2

⁸⁵ *Id.*

⁸⁶ Nasir Iqbal, ‘Death-row Convict Found Not Guilty – After 24 years’, Dawn, 25 Nov. 2016, available at: <https://www.dawn.com/news/1298706>.

⁸⁷ Hasnaat Malik, ‘Supreme Court Acquits Death Row Prisoner Jailed for 20 Years’, Express Tribune, 26 Nov. 2016, available at: <https://tribune.com.pk/story/1245035/supreme-court-acquits-death-row-prisoner-jailed-20-years/>

⁸⁸ Geo News, ‘Who is Mazhar Farooq?’, 25 Nov. 26, available at: <https://www.geo.tv/latest/121633-Who-is-Mazhar-Farooq>

⁸⁹ See Rep. of the Working Group on the U.P.R., at 10–25, U.N. Doc A/HRC/37/13/Add.1 (2018). See recommendations 152.102, and 152.125 –152.127.

⁹⁰ *Id.* at 16.

⁹¹ See *Amjad Shah v. the State* (PLD 2017 SC 152) (where a “[y]outhful tendency toward excitement and impulsiveness” common in minors should be a “mitigating circumstance” weighing against a death sentence.)

⁹² See CORNELL L. SCH. CTR. ON THE DEATH PENALTY, <https://deathpenaltyworldwide.org/database/#/results/country?id=56#fn-f0d1c041-53fa-40a6-a5c6-0736192e664b> (last visited on June 17, 2022).

⁹³ *Pakistan: Poor and marginalized suffer disproportionately from capital punishment*, International Federation for Human Rights 30 (Oct 2019), *Pakistan: Poor and marginalized suffer disproportionately from capital punishment* (fidh.org)

⁹⁴ Correspondence with LAW Pakistan, July 8, 2022, on file with The Advocates for Human Rights.

⁹⁵ See *id.*

⁹⁶ Amnesty International, *Death Sentences and Executions: 2021*, by Amnesty International (London: Amnesty International Ltd, 2022), 34–35. <https://www.amnesty.org/en/documents/act50/5418/2022/en/>.

⁹⁷ *Pakistan: Poor and marginalized suffer disproportionately from capital punishment*, International Federation for Human Rights 30 (Oct 2019), *Pakistan: Poor and marginalized suffer disproportionately from capital punishment* (fidh.org)

⁹⁸ *Id.* at 28.

⁹⁹ Allard K. Lowenstein, *A “Most Serious Crime”: Pakistan’s Unlawful Use of the Death Penalty*, JUSTICE PROJECT PAKISTAN 27 (Sept. 2016), https://law.yale.edu/sites/default/files/area/center/schell/2016_09_23_pub_dp_report.pdf.

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 27–28.

¹⁰² Correspondence with LAW Pakistan, July 8, 2022, on file with The Advocates for Human Rights.

¹⁰³ Rida Tahir, *Supreme Court of Pakistan prohibits execution of condemned prisoners with mental illnesses: A promising start towards reforming Pakistan’s death penalty problem?*, OXFORD HUMAN RIGHTS HUB (Mar. 15, 2021), <https://ohrh.law.ox.ac.uk/supreme-court-of-pakistan-prohibits-execution-of-condemned-prisoners-with-mental-illnesses-a-promising-start-towards-reforming-pakistans-death-penalty-problem/>.

¹⁰⁴ Correspondence with LAW Pakistan, July 8, 2022, on file with The Advocates for Human Rights.

¹⁰⁵ *Pakistan: Poor and marginalized suffer disproportionately from capital punishment*, International Federation for Human Rights 30 (Oct 2019), *Pakistan: Poor and marginalized suffer disproportionately from capital punishment* (fidh.org)

¹⁰⁶ *Id.* at 28; Allard K. Lowenstein, *A “Most Serious Crime”: Pakistan’s Unlawful Use of the Death Penalty*, JUSTICE PROJECT PAKISTAN 27 (Sept. 2016), https://law.yale.edu/sites/default/files/area/center/schell/2016_09_23_pub_dp_report.pdf.

¹⁰⁷ *Id.* at 27–28.

¹⁰⁸ Linel, *supra* note 2.

¹⁰⁹ Correspondence with LAW Pakistan, July 8, 2022, on file with The Advocates for Human Rights.