

BLASPHEMY AND THE DEATH PENALTY IN PAKISTAN

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Death penalty moratorium lifted completely in Pakistan. Dawn News, December 19, 2014



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INTRODUCTION

The death penalty is one of the most contentious human rights issues globally, especially when imposed for non-violent crimes. According to Amnesty International (2024), many countries continue to impose the death penalty for offences such as drug-related crimes and blasphemy, despite widespread international condemnation.

Application of the death penalty for non-violent offences is considered an egregious breach of international human rights law and, in particular, of the right to life provided for under Article 6 of the International Covenant on Civil and Political Rights (ICCPR). Although Article 6 of the ICCPR allows the application of the death penalty, it is only permitted in very restrictive cases, for the most ‘serious’ crimes. Imposing the death penalty for non-violent crimes is thus considered contradictory to the spirit of such a provision. Amnesty International and Human Rights Watch have documented numerous instances of executions for non-violent offences, highlighting issues such as arbitrariness, discrimination, and disproportionate impact on vulnerable groups. The application of the death penalty often targets less powerful and economically disadvantaged groups, including minorities. As a result, the arbitrary and disproportionate application of such a punishment cements and intensifies existing social inequalities. Application of the death penalty in such cases thus raises questions about its fairness and alignment with international human rights law.

In recent years, there has been a clear global shift towards the abolition of the death penalty, largely driven by international legal frameworks. The Second Optional Protocol of the ICCPR, adopted by many nations, calls for the gradual elimination of capital punishment, urging states to either abolish it entirely or restrict its use to the most serious crimes. The United Nations General Assembly has also repeatedly passed resolutions, including in 2021, advocating for a moratorium on executions, particularly for non-violent offences. Similarly, the UN Human Rights Council, in resolutions from 2021 and 2023, urged member states to halt executions for non-violent crimes. Consequently, applying the death penalty in non-violent cases increasingly infringes upon these international standards.

Currently, more than two-thirds of countries have abolished the death penalty either in law or in practice. For instance, Mexico, the Philippines and Kyrgyzstan have completely abolished the death penalty. This shift towards abolition is particularly pronounced in the context of non-violent offences, with many countries explicitly banning its use in such cases. Iran and Malaysia, for example, have significantly limited the use of the death penalty by abolishing it for drug offences and other non-violent crimes. This change indicates a growing international consensus that the death penalty is inappropriate for non-violent crimes.

In light of these developments, the abolition of the death penalty for non-violent crimes is a moral and legal imperative. This report examines the use of the death penalty in Pakistan, both historically and at present. The arbitrariness of the blasphemy laws, the application thereof because of personal or political reasons, and their disproportionate effects on minorities and younger people will also be discussed. Focusing on these problems, the report then aims to contribute to the greater discourse concerning human rights and the current worldwide trend towards the abolition of the death penalty.

1. DEATH PENALTY

DEATH PENALTY IN INTERNATIONAL LAW

According to Article 6(2) of the ICCPR, signed and ratified by Pakistan, only the most serious crimes should be punishable by death. The concept of the ‘most serious’ crimes is not internationally defined and individual countries have the capacity to determine it. However, General Comment No. 36 of the Human Rights Committee has stated that the most serious crimes can be considered to be those of extreme gravity, those involving intentional harm to life, and removes from the list those related to corruption, robbery, kidnapping, drug-related crimes and sexual crimes (*International Covenant on Civil and Political Rights*, UN). Using this as a reference, there is plausible doubt that some of the crimes punishable by death in Pakistan classify as sufficiently ‘serious’ under international law.

REVIEW OF THE DEATH PENALTY IN PAKISTAN

Today, 27 crimes are currently punishable by death in the Pakistan Penal Code, including some non-violent offences, such as blasphemy and adultery. To understand how the death penalty is imposed in Pakistan and its implications for human rights, it is necessary to first contextualise its establishment and historical background. The use of capital punishment for the most severe crimes is mandated in the Pakistan Penal Code (PPC), which largely hails from Macaulay's Indian Penal Code (IPC) in British India. This was proposed in 1834 and finalised in 1856. In the Code, the death penalty can be admitted for the following offences: ¹

- Criminal conspiracy (120B) ^[1]
- War against the government of India (121) ^[2]
- Mutiny (132) ^[3]
- False evidence provided in a trial warranting a capital offence (194) ^[4]
- Murder (302, 303) ^[5,6]
- Abetting suicide (305) ^[7]
- Kidnap and ransom (364A) ^[8]
- Dacoity (banditry) and murder (396) ^[9]
- Rape whereby a woman is severely injured as a result of the assault (376A) ^[10]
- Rape of a woman under the age of 12 (376AB) ^[11]
- Gang rape of a woman under twelve years (376DB) ^[12]
- Serial rape (376E) ^[13]

Capital punishment could be handed out for the most extreme versions of these crimes and life imprisonment was a common alternative. Interestingly, Macaulay did not promote the use of capital punishment in India (Hor, 2016).

¹ [1] 'Section 120B in The Indian Penal Code, 1860' <<https://indiankanoon.org/doc/1897847/>>

[2] 'Section 121 in The Indian Penal Code, 1860' <<https://indiankanoon.org/doc/786750/>>

[3] 'Section 132 in The Indian Penal Code, 1860' <<https://indiankanoon.org/doc/1874283/>>

[4] 'Section 194 in The Indian Penal Code, 1860' <<https://indiankanoon.org/doc/1274033/>>

[5] 'Section 302 in The Indian Penal Code, 1860' <<https://indiankanoon.org/doc/1560742/>>

[6] 'Section 303 in The Indian Penal Code, 1860' <<https://indiankanoon.org/doc/793437/>>

[7] 'Section 305 in The Indian Penal Code, 1860' <<https://indiankanoon.org/doc/255359/>>

[8] 'Section 364A in The Indian Penal Code, 1860' <<https://indiankanoon.org/doc/1374258/>>

[9] 'Section 396 in The Indian Penal Code, 1860' <<https://indiankanoon.org/doc/958439/>>

[10] 'Section 376A in The Indian Penal Code, 1860' <<https://indiankanoon.org/doc/668689/>>

[11] Section 376AB in The Indian Penal Code, 1860' <<https://indiankanoon.org/doc/73936212/>>

[12] 'Section 376DB in The Indian Penal Code, 1860' <<https://indiankanoon.org/doc/134361871/>>

[13] 'Section 376E in The Indian Penal Code, 1860' <<https://indiankanoon.org/doc/64610953/>>

IMPACT OF THE 2014 TERRORIST ATTACK ON THE DEATH PENALTY

Until the beginning of 2015, Pakistan had made progress towards retiring its use of capital punishment. Previously, the use of Pakistan's death penalty had been challenged internally. The former prime minister Benazir Bhutto exonerated 1889 individuals on death row after coming to power in 1988. In addition, executions were nearly entirely halted from September 2008 and placed under review for the following seven years. However, following the December 2014 terrorist attack on a school in Peshawar, executions and capital punishment were subsequently resumed by Prime Minister Nawaz Sharif in March 2015. 400 people on death row for terrorism were executed (FIDH, 2015 *Pakistan: death penalty moratorium completely lifted*) and around 8000 remain on death row for terrorism currently (rsilpak.org, 2023: *Military Courts and Affront to Human Rights*). Furthermore, military courts were given powers to trial civilians for terrorism-related offences (*Pakistan: Military Justice System Unjust and Ineffective – New ICJ Paper*, 2016) and their status was reinforced (rsilpak.org, 2023: *Military Courts and Affront to Human Rights*) in the National Action Plan of December 2014. Defendants in specialised military courts cannot make appeals without going through the civil courts independently of the verdict.

NUMBERS OF SENTENCES AND EXECUTIONS

In the latest report to be presented to the Human Rights Council at the 57th session on the Death Penalty (UNHCR, 2024; *UN Documents*) A/HRC/57/26, it was stated that the number of people sentenced to death increased significantly from 3,831 in 2022 to 6,039 in 2024. It is noteworthy that already in 2018, those sentenced to death represented 10% of the total population deprived of liberty in Pakistan. Regarding executions, the 520 Pakistani people executed between 2014 and 2019 represented 20% of executions worldwide, and Pakistan was one of the 5 countries in the world with the highest numbers of executions. (WCADP, 2022). Although no executions have been reported since 2020, which is a step in the right direction, the increasing trend of sentencing continues to raise concerns over the fairness of trials and the conditions for prisoners on death row.

HUMAN RIGHTS CONCERNS WITH THE DEATH PENALTY IN PAKISTAN

NGOs such as HRCP and FIDH (FIDH, 2020, 2022) have found that the application of the death penalty in Pakistan does not meet international legal standards. This is due to major defects in the drafting of the laws, in the administration of justice, and in the police services. These deficiencies are often caused by the widespread chronic corruption at all levels of the Pakistani state and society, which increases the already existing discrimination against vulnerable groups, such as religious minorities. This leads to serious failures in the administration of justice, which are further exacerbated when considering that the accused face an irreversible penalty, such as capital punishment (Human Rights Commission of Pakistan, 2020).

MANDATORY DEATH PENALTY

Firstly, the mandatory death penalty continues to exist in Pakistan. This means that the court or judge in charge of hearing certain offences does not have the capacity to examine the particular circumstances and the situation of the accused. Instead, they must automatically sentence them to death. Blasphemy is among these offences, as it is considered an offence to the prophet (Amnesty International, 1994; Human Rights Commission of Pakistan, 2020). This is extremely worrying as it impedes proportionality in sentencing by not taking into account the differing degrees of severity of the crimes or the circumstances in which they were committed. Note this ‘mandatory punishment’ principle is also arguably a violation of Article 6(4) of the ICCPR, which requires states to ensure that ‘Amnesty, pardon or commutation of the sentence of death’ may be granted in all cases.

MILITARY COURTS

Many of Pakistan’s death sentences are handed out in a parallel legal system operated by the military, which is not subject to legal scrutiny. These are the separate ‘military courts’. These were first created after the 1952 Pakistan Army Act in response to a military attempt to overthrow Liaquat Ali Khan’s government (Moiz, 2021; Dryland, 1992), and operate independently of civil courts, dealing primarily with terror and security-related cases. After a brief hiatus during the moratorium, the power of military courts was reinstated in January 2015 following the Peshawar school bombing. This immediately led to the death sentences of

at least 77 civilians (*Pakistan: Military Justice System Unjust and Ineffective – New ICJ Paper*, 2016). The Constitution Act and Pakistan Army Act were both amended, legislating the protection of these courts (rsilpak.org, 2023: *Military Courts and Affront to Human Rights*).

LACK OF PROCEDURAL JUSTICE

Military courts have been criticised for their lack of transparency and robustness, and have been accused of violating fundamental human rights protocols. Defendants are not presented with a choice of defence lawyer (*Pakistan: Military Justice System Unjust and Ineffective – New ICJ Paper*, 2016), with one source alleging that all defendants were represented by the same individual lawyer (icj.org, 2016: *Military Justice in Pakistan*). Moreover, the charges are not disclosed to the defendants before trials and those convicted are not provided with written statements outlining the decision of the jury and the reasons for conviction (*Pakistan: Military Justice System Unjust and Ineffective – New ICJ Paper*, 2016). Many trials are not openly documented or reported, and are held behind closed doors without the presence of the press or the public (Hashim, 2017). Those overseeing the trials are not legally trained and are not equipped to evaluate the weight of evidence used to incriminate (Sajjad, 2023). Even the procedures of the military courts are outlined in the confidential Pakistan Army Rules Manual of 1954, which is not publicly accessible (Sajjad, 2023). These courts demonstrably fail to comply with the procedural safeguards laid down in Article 14 of the ICCPR, which Pakistan has ratified.

Human rights defenders and activists have long suspected Pakistan's military courts of torturing suspects to coerce confessions (*Pakistan: Military Justice System Unjust and Ineffective – New ICJ Paper*, 2016; Sajjad, 2023). It has been noted that nearly all trials in military courts result in confessions, while the likelihood of confession is demonstrably lower in civil courts (Hashim, 2017). This is further supported by the fact that hundreds of previous convictions in military courts were overturned in civil courts following appeals (Sirajuddin, 2018; Ahmed, 2023; Shah, 2020). Since the resuming of military court trials, appeals to civil courts are no longer granted (International Law Blog, 2023). The use of torture to extract confessions directly violates the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), which Pakistan ratified in 2010.

RESTRICTED RIGHT OF APPEAL FOR THOSE SENTENCED TO DEATH

Under Article 6(4) of the ICCPR, those sentenced to death have the right to seek pardon or commutation of the sentence; however, this is not respected under the current system in Pakistan. The process of appealing to the Supreme Court for review of the sentence is long and costly. The average time between conviction and execution or commutation of the sentence is 11 years. These lengthy procedures can be financially stifling for families as access to justice and free legal counsel is quite poor. Likewise, the appeal procedures are quite complex and not all lawyers have the knowledge or ability to carry them out in a solvent way. These issues make prisoners from lower socio-economic situations helpless and more vulnerable to losing the appeal with a firm conviction (prison-insider.com, 2022).

This issue of helplessness is even more important since the regional courts often lack the means and knowledge, especially when it comes to handling evidence, to facilitate a trial with all the necessary procedural safeguards. This fundamental deficiency makes it nearly impossible to guarantee a fair trial. To make matters worse, convicted individuals who attempt an appeal in these courts often face additional barriers, such as financial constraints. Combined with the courts' lack of resources, these obstacles effectively deprive them of any meaningful opportunity to challenge the verdict or pursue justice.

In the event that the appeal to the Supreme Court is rejected and the sentence is not commuted, there is the possibility of seeking a presidential pardon. The President of Pakistan is constitutionally vested with this authority under Article 45 of the Constitution. This pardon must be requested 7 days after the denial by the Supreme Court, until the night before the execution date. However, since 2015, no presidential pardon has been granted.

This is largely due to the influence of Shari'a law, which prohibits presidential pardons for blood crimes. Under Islamic law, only the victim's family has the authority to pardon such offences, and justice is seen as requiring equivalent retribution. Murder is thus no longer considered a public crime, since the convicted person only has to answer to the victim's family and not to society as a whole. This framework creates disparities between convicts of similar crimes, favouring wealthier individuals who can reach financial settlements with the victim's family or heirs.

These rules regarding the presidential pardon are contrary to the Covenant on Civil and Political Rights, ratified by Pakistan, which states in Article 6.4 that state parties are obliged to include in their legislation a system of pardon or commutation of the death penalty. They emphasise that this system cannot be a mere formality and they are obliged to inform the condemned person of all the details so that it can be effective. In many cases, pardon application templates are made available that do not include references to the particular case or situation of the convicted person (Justice Project Pakistan, 2018). Pakistan has been repeatedly failing to comply with this second part, as it is systematically refusing presidential pardons and is therefore in violation of the convention (Justice Project Pakistan, 2018).

HARSH CONDITIONS UNDER DEATH ROW

Regarding the process that starts the moment a person is sentenced to death, he or she is separated from the rest of the prison population. The cells where they are interned are about 8m² and are under constant surveillance, even during visits by family members, lawyers or health personnel, which eliminates any possibility of privacy.

The cells are normally designed for 2 persons, but due to the overcrowding of inmates on death row, they can be inhabited by more than 7 or 8 persons (prison-insider.com, 2022). This overcrowding is caused by the high number of convictions, the time it takes for appeals for commutation of sentence or pardon, but also by the unofficially recognized “suspension” of executions since 2020.

These overcrowded conditions cause, among other things, the proliferation of diseases and infections that endanger the lives and physical condition of the inmates. In addition, the long average time that inmates spend on death row means that they can suffer from the so-called death row syndrome. This is a term used by psychiatrists around the world to refer to the emotional anguish suffered by the condemned due to the uncertainty of when the execution will take place, the isolation and the tremendously harsh conditions to which they are subjected and which causes them deep depression, suicidal feelings or dangerous behaviour for themselves or others.

Living conditions on death row are tremendously precarious and strict. Inmates are only allowed to leave their cells for one hour a day; half an hour in the morning and half an hour in

the afternoon. They are only allowed to walk around the area between cells and during these times they cannot communicate with any other inmates and are handcuffed at all times (Harrison and Tamony, 2010).

Likewise, it is stated that prisoners on death row are more vulnerable to torture or inhuman or degrading mistreatment because they are held in more isolated regimes. In these prisons, or these parts of prisons, people from the outside do not enter so easily, which creates a sense of secrecy that allows or encourages violations of the most basic human rights. Likewise, the various UN institutions, such as the Committee and Subcommittee against Torture and other inhuman or degrading treatment or punishment, consider that excessively harsh conditions in prisons can in themselves be considered torture and against international treaties (prison-insider.com, 2022).

POSITIVE DEVELOPMENTS REGARDING THE DEATH PENALTY IN PAKISTAN

It is important to note other positive developments regarding the situation of the death penalty in the country that were outlined in the aforementioned United Nations report. In July 2023, the death penalty was eliminated for drug-related crimes, but, as reported, there are still people sentenced to death for this type of crime, so it is essential that these sentences are reviewed urgently and adjusted to the new convictions. The death penalty has also been eliminated for the crime of sabotage of railway lines.

In February 2021, the Supreme Court banned the execution of people with severe mental disorders, as they consider that a person with these conditions does not have the capacity to understand the reason behind their punishment and therefore the execution of the death penalty will not satisfy the ends of justice (prison-insider.com, 2022). Consequently, for this legislative change to be effective, it is essential to organise training activities in psychiatry for lawyers, judges, police and prison officials, as well as to carry out a total review of the sentences of those already condemned (United Nations Human Rights Council, 2024).

It should also be noted that, in 2022, Pakistan eliminated from its penal code the possibility of sentencing children under 18 years of age to the death penalty, as required by the Convention on the Rights of the Child and the Convention on Civil and Political Rights, to which

Pakistan is a state party. In spite of this, it is worth denouncing that according to The Advocates for Human Rights (United Nations Human Rights Council, 2024), there are often convictions of people who were minors at the time of committing the crime, even if they were not minors when the conviction took place. Similarly, there are cases of minors who have been sentenced to death due to a lack of rigour in legal procedures and due to a lack of records or documentation regarding date of birth. This violates Article 6(5) of the International Covenant on Civil and Political Rights and Article 37(a) of the Convention on the Rights of the Child to which Pakistan is a state party (*theadvocatesforhumanrights.org*; UN, 1954, 1989).

2. BLASPHEMY

REVIEW OF BLASPHEMY IN PAKISTAN

During the 1980s, under the rule of General Zia ul Huq, blasphemy laws relating specifically to Islam were added to the PPC. It should be noted that the IPC, which formed the basis of Pakistan's original penal code, did include a penalty for hurting religious sentiment, but this was not specific to any religion and the maximum penalty was a three-year jail sentence. Under pressure from conservative clerics, Haq enacted the Hudood Ordinances, Islamic amendments to the legal code, in 1979 (*Hudood Laws*). New offences were added such as adultery and fornication, and punishments such as whipping, amputation and stoning to death were incorporated. In 2006, the Women's Protection Bill granted protection to women from extreme treatment and some forms of punishment (*Protection of Women (Criminal Laws Amendment) Act, 2006*).

List of blasphemy-related amendments in Pakistan's legal code:

- 298A: A prohibition of derogatory remarks related to (Islamic) holy persons (1980)
- 289B: The misuse of holy titles by Ahmadiyas reserved for persons or places (1984).
- 298C: The prohibition of Ahmadiyas openly preaching or propagating their religion, or referring to themselves as "Muslim" (1984).
- 295B: Damaging a Qur'an (1982).
- 295C: Penalty for derogatory remarks related to Muhammed or any other prophet (1990).

Blasphemy cases have inflated since the Hudood Ordinances. Before 1986, there were only 14 reported legal cases for blasphemy (Dawn.com, 2012), however this has grown to over 1500 since 1987 (EFSAS, 2020). This figure excludes extra-judicial murder and lynchings (Amnesty International, 2021; Dogar & Ahmed, 2021).

Within the current PPC, the most controversial provision is section 295-C which reads:

“Whoever by words, either spoken or written, or by visible representations, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet [...], shall be punished with death, or imprisonment for life [...]” (Section 295-C PPC) ^[1].

This offence, which was added to the PPC in 1986 under the rule of Zia ul Haq, is an addition to the general offence of insulting any religious sentiments which is not punishable by death (Section 295-C PPC.) ^[2], as well as the offence of desecrating the Qur’an (Section 295-B PPC) ^[3]. From the application of the law in practice it has become visible that not only defiling the Prophet, but also his family or companions is punishable by death (*Pakistan: Use and Abuse of the Blasphemy Laws*, Amnesty International 1994). Under section 295-C it is not important whether a person had the intention of defiling the Prophet, it is sufficient that their statement or act is considered to damage or insult the purity or appearance of the Prophet by the person who brings forward the accusation. This makes blasphemy a very subjective offence that is easy to prosecute with relatively little proof.²

The very vague wording of this provision, which can include virtually anything, allows for ambiguous and broad application in practice. This gives large discretionary freedom to both police and courts in investigating and judging cases. Section 295-C calls for the death penalty or life imprisonment as a sanction against blasphemy, however, since a court ruling from 1990, the death penalty remains the only possible punishment (*Pakistan: Use and Abuses of the Blasphemy Laws*, Amnesty International 1994). The only exception to this is the conviction of minors, for whom since 2022, are subject to life imprisonment as opposed to the death penalty.

² ‘Pakistan Penal Code (Act XLV of 1860)’ <<https://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html>>

[1] Section 295-C

[2] Sections 295, 295-A

[3] Section 295-B

[4] Sections 298-B, 298-C

CONVICTIONS OF BLASPHEMY

Between 2015 and 2019, there have been at least 13 confirmed convictions of blasphemy under section 295-C PCC which have led to a death sentence, following at least 110 accusations. In light of Article 6 ICCPR, which allows the imposing of a death penalty only for the most serious crimes, this proves highly problematic. According to the Human Rights Committee, the most serious crimes are to be read restrictively and confined to those of extreme gravity involving intentional killing. Blasphemy is generally not considered to fall under this category (Human Rights Committee, General Comment 36). Already at its outset, the death penalty for blasphemy thus constitutes a violation of international human rights law.

DISCRIMINATION AND CORRUPTION

RELIGIOUS DISCRIMINATION

There are multiple additional issues when it comes to the death penalty for blasphemy of the Prophet. The most concerning issue is the discriminatory application of the law when it comes to religious minorities: While Muslims, at 776 cases, remain the majority of those accused of blasphemy between 1987 and 2018, members of the Ahmadiyya community are disproportionately often accused. Even though they make up between 0.22 and 2% of Pakistan's population, as opposed to 96% of Muslims, about 505 Ahmadis have been accused of blasphemy in the same period. Up until 1992, Ahmadis even made up the majority of those charged with blasphemy under section 295-C PCC (*Pakistan: Use and Abuse of the Blasphemy Laws*, Amnesty International, 1994).

The Ahmadiyya community is a group following the teachings of Islam but that is considered as heretical by the orthodox Sunni Muslim majority in Pakistan. Under the PCC, it is illegal for Ahmadis to call themselves Muslims, to employ Islamic nomenclature and appellations, to use Muslim places of worship, or to propagate their faith (Sections 298-B and 298-C PPC)^[4]. This religious discrimination manifests itself in the number of those accused of blasphemy. Next to members of the Ahmadiyya community, members of the Christian minority have increasingly been charged. That religious minorities are disproportionately often accused while simultaneously facing discrimination in Pakistan is in apparent contravention to the freedom of conscience and religion protected under international human rights treaties (United Nations, 1948; 1966)(Article 18 UDHR and ICCPR).

In many cases, the allegations are simply false and are merely brought against individuals precisely because they are members of minority communities, with no reasonable evidence that they have actually committed any act of blasphemy (Amnesty International, 1994). Political or religious disagreement are the main motives for people to accuse Ahmadis and Christians but often personal motives such as (economic) greed, jealousy, or simply dislike form other strong reasons to accuse a minority community member of blasphemy in the knowledge that it carries a mandatory death sentence. The promotion of a teacher, quarrels over debts and petty fights of children, as well as social activism and successful businesses, have previously been reason enough for people to denounce religious minority members, leading to their conviction for blasphemy (Amnesty International, 1994).

The issue of false accusations and accusations for political and personal motives is corroborated by the fact that both police and judges show an obvious bias against persons charged with blasphemy (*Pakistan: Use and Abuse of the Blasphemy Laws*, Amnesty International, 1994). This leads them to maintain otherwise untenable charges which are based on questionable evidence, and to influence and guide investigations, for example by favouring those testimonies that make an accused look guilty (Pakistan: Use and Abuse of the Blasphemy Laws, Amnesty International 1994; FIDH, 2020). Generally, the more vulnerable a member of society the accused is, the more likely they are to confess crimes under duress by police and prosecution, to be tried in unfair trials, and to be sentenced to death.

DISCRIMINATION AGAINST THOSE WITH MENTAL ILLNESSES

This holds true not only for religious minorities but also for people who suffer from mental illnesses. In one case, a young man who was known to suffer from a mental disorder, which had also been attested by multiple doctors, was sentenced to death for defiling the Prophet, despite the defence's effort to exempt him from punishment under the insanity defence (Amnesty International, 1994). This shows that not even an accused's incapacity to understand legal proceedings or their inability to control their own actions can protect individuals from being prosecuted for blasphemy.

This arbitrary enforcement of the law by the police and judiciary naturally opens the gates for abuse. As it can be seen from the situation of Ahmadis and Christians, the law is instrumentalized by the religious majority, to the serious detriment of religious minorities. A striking example here is the case of a 22-year-old student who has very recently been

sentenced to death in March 2024 over the alleged sharing of blasphemous messages and pictures on WhatsApp on what the defence lawyers claim to be a false charge (Ebrahim, 2024; Gossman, 2024; Shami, 2024).

DENIAL OF THE RIGHT TO FAIR TRIAL

Another prominent issue with the death penalty for blasphemy of the Prophet is the stigma that is connected to it, which results in the denial of a fair trial for the accused as well as serious safety threats posed by the public. Police officers and judges are under immense societal pressure to investigate and prosecute blasphemy because it is considered one of the gravest crimes by the Muslim majority (Amnesty International, 1994; FIDH, 2020). This majority also shows itself supportive of the death penalty, given the offence's origin in the Qur'an and thus its God-given nature. Such societal pressure leads officials to rely on questionable evidence, to manipulate suspects and witnesses by the police in favour of a conviction, and hence, to a lack of material evidence in court, as many trials rely exclusively on eyewitnesses (Amnesty International, 1994; FIDH, 2020). Rarely is a defendant's guilt proven convincingly in court, as the smallest amount of evidence is enough for a judge to conclude that the accused is in fact guilty of blasphemy (FIDH, 2020).

In addition to this, almost all lawyers turn down the representation of defendants in blasphemy cases due to a fear of reprisals, leaving many without an adequate defence lawyer (Amnesty International, 1994). Once accused of blasphemy, individuals find their safety seriously compromised: Ill-treatment and torture in jail are common (Amnesty International, 1994), and those who are not in detention are under constant threat of being attacked by the public. As many feel entitled to take the law into their own hands or even see it as their religious duty to bring blasphemy to justice, around 70 people have been lynched outside of the trial in public. The fact that members of the public are willing to enforce the law on blasphemy without having the authority to do so purely out of their desire for retribution, a concept called vigilante justice (*Vigilante Justice*), puts any accused individual at grave risk, especially in light of the public's disregard for evidence which is even bigger than that of the police and judiciary. Such vigilante justice mostly remains without consequences for those taking part in it, given that police officers and judges often consider such actions to be in line with Islamic teachings and therefore do not see a need to press charges, even in cases of serious bodily injury or death (Amnesty International, 1994; FIDH, 2020).

The stigmatisation of blasphemy further affects the families of the accused who are often forced out of their hometowns as they are subject to serious hostilities (Amnesty International, 1994; FIDH, 2020). The costs of the trial as well as the lack of income further have devastating consequences on many families' financial and socio-economic situation (FIDH, 2020). Overall, the right to a fair trial, in particular the safeguards that are guaranteed by the rights of defence and of an independent and impartial judge or jury, are not guaranteed for those accused of blasphemy. Together with the discriminatory application of section 295-C PCC to the detriment of religious minorities, the use of the death penalty for blasphemy in Pakistan thus constitutes a situation of grave human rights abuses.

CONCLUSION

Globally, the application of the death penalty against offences which are non-violent is always controversial, and this is no different in Pakistan. Already at its preface, capital punishment raises serious questions about a state's commitment to international human rights obligations. As this report has shown, the application of the death penalty in Pakistan is oftentimes arbitrary, discriminatory, and disproportionate, and heavily impacts vulnerable groups, including religious minorities and persons with mental illnesses.

This report has shed light on the imperative need for urgent reforms of Pakistan's death penalty laws and practices, especially those related to non-violent crimes such as blasphemy. In light of our findings, we adopt a position in line with a prevailing international consensus that the death penalty is a cruel, inhuman, and degrading punishment with absolutely no place in modern life, and that its use in Pakistan raises serious human rights concerns.

In particular, this report has discussed the following: in Pakistan, the death penalty is imposed for 27 crimes, including non-violent ones like blasphemy and adultery. The application of the death penalty in Pakistan is often marked by a complete lack of transparency, accountability, and due process. Of all the laws in Pakistan, the blasphemy laws have the telltale signs of controversy, being applied most inconsistently and asymmetrically against religious minorities and persons with mental illnesses. It is forbidden for military courts to try civilians, but the prosecution of civilians for offences like blasphemy in military courts gives way to serious doubts regarding the independence and neutrality of the judiciary.

Furthermore, conditions on death row are extremely harsh and inhumane, with prisoners facing overcrowding, poor sanitation, and inadequate medical attention.

In light of these findings, it emerges that the death penalty in Pakistan, especially concerning the offence of blasphemy, is a serious human rights issue that needs immediate attention from the international community. The Government of Pakistan should immediately take steps to tackle the failings in its justice system; it should urgently abolish laws allowing the death penalty for non-violent crimes and establish an independent, impartial judiciary. To that extent, a moratorium is highly advisable. Some wider implications to be considered are that the use of the death penalty in Pakistan manifests not only a human rights concern but also involves the commitment of the country at large to the fundamental values of society and adherence to the rule of law. The international community must press the Government of Pakistan to respect its obligations in the field of human rights and work toward the abolition of the death penalty. It is noteworthy that the United Nations General Assembly has already pushed for a global moratorium in December 2007 (UN Press, 2007), which Pakistan voted against. We acknowledge that it is quite a complex and multi-dimensional issue, which should be dealt with diligently and with the utmost sensitivity to the local particularities. There is no doubt that any attempt at trying to solve the problem of the death penalty in Pakistan must be embedded within a larger commitment towards social and economic development.

Several important questions are posed by this report, for which further consideration by international actors becomes indispensable. These include: What could the international community do to support the Pakistani Government in addressing the root causes of discriminatory policies? What should the international community be doing in order to promote the abolition of the death penalty in Pakistan and other places? What role can civil society organisations continue to play in the promotion of human rights and the rule of law in Pakistan?

To conclude, we warn that the continued practice of the death penalty in Pakistan will further deteriorate the human rights situation of Pakistan and its commitment to the Rule of Law. We call upon the Government of Pakistan to immediately address the failings in its system of justice, specifically to remove the death penalty for non-violent offences and to establish an independent, impartial judiciary.

LEGISLATION

Indian Penal Code (adopted 1860) Act 45

International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR)

Pakistan Penal Code (adopted 1860) Act XLV

Protection of Women (Criminal Laws Amendment) Act (2006)

Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III)

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