



University of Hawai`i at Mānoa  
William S. Richardson School of Law  
International Human Rights Advocacy Group

UPR Submission  
Islamic Republic of Pakistan-28th session  
(November 6 -17, 2017)

Submitted by:

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**The International Human Rights Advocacy Group**  
**William S. Richardson School of Law, University of Hawai`i at Mānoa**

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1. The International Human Rights Advocacy Group at the University of Hawai`i at Mānoa is a student group committed to investigating and reporting on human rights abuses abroad. As one of our human rights advocacy projects, we are working to protect human rights in Pakistan by reporting on five specific human rights violations affecting the people of Pakistan. The violations include a threat to free speech, minimal efforts to end honor killings, a law criminalizing ‘blasphemy’, an inhumane death penalty, and a need to address special courts. It is our aim to keep the momentum going forward on the advancement of human rights in Pakistan by highlighting the areas where reform is available and within reach. Due to the varying nature of the human rights violations discussed herein, the reasons for these violations are just as diverse and will be addressed individually.

**Five Serious Human Rights Violations in the Islamic Republic of Pakistan**

**I. Free Speech (waiting for his ok on edits and to put his recommendations at the end)**

2. Although Pakistan has committed to the International Covenant on Civil and Political Rights<sup>1</sup>, the number of crimes against journalists has increased since 1992<sup>2</sup> making Pakistan one of the most dangerous countries in the world for free speech. More than 35 journalists and media workers have been killed since 2010.<sup>3</sup> Twelve killings were recorded between 2013 and 2014 alone.<sup>4</sup> Violence, intimidation, and the harassment of journalists in Pakistan have continued to escalate in 2016 and 2017. The escalation of harassment, threats, stalking, online tracking,<sup>5</sup> abductions, and killings have a chilling effect on Pakistani journalists and activists’ freedom of

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<sup>1</sup> United Nation Human Rights, Office of the High Commissioner, UPR 2nd cycle- Pakistan, Oct-2012.

<sup>2</sup> See Statistics made by: Committee to Protect Journalist, 60 Journalists Killed in Pakistan since 1992/Motive Confirmed, <https://cpj.org/killed/asia/pakistan/> (last visited on March 27, 2017).

<sup>3</sup> See Human Rights Watch report: Pakistan: *Journalist Hit with Travel Ban*, Oct 13, 2016, <https://www.hrw.org/news/2016/10/13/pakistan-journalist-hit-travel-ban> (last visited on March 27, 2017).

<sup>4</sup> See *Supporting Safety of Journalists in Pakistan- An Assessment based on UNESCO’s, Journalists’ Safety Indicators*, 2016, Pgs. 25, [http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/publications/pakistan\\_jsi\\_final\\_working\\_document\\_20072016.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/publications/pakistan_jsi_final_working_document_20072016.pdf) (last visited on March 27, 2017).

<sup>5</sup> See *Supporting Safety of Journalists in Pakistan- An Assessment based on UNESCO’s, Journalists’ Safety Indicators*, 2016, Pgs. 27, [http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/publications/pakistan\\_jsi\\_final\\_working\\_document\\_20072016.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/publications/pakistan_jsi_final_working_document_20072016.pdf) (last visited on March 27, 2017).

speech.<sup>6</sup> Due to these issues, Pakistan ranks among the bottom 5 countries for supporting free speech.<sup>7</sup>

3. Despite the fact that journalists are at higher risk of being targeted by violence, the government has not taken sufficient precautions to ensure their safety. Pakistan has established no mechanism or law that directly addresses or guarantees the safety of journalists.<sup>8</sup> This disproportionately at-risk profession is not protected as such.<sup>9</sup> Additionally, the Committee to Protect Journalists' 2015 Global Impunity Index lists Pakistan as ninth highest for impunity for crimes against journalists.<sup>10</sup> The lack of sufficient investigation of murders and abductions of journalists<sup>11</sup> and the death of effective laws and safeguards play a role in the high frequency of impunity for crimes against journalists in Pakistan.

4. Pakistan also exercises policies that restrict free speech. In August 2016, the Pakistan government adopted the Cyber Crime Bill in order to prevent electronic crimes. However, the bill restricts freedom of expression by limiting the public's access to information,<sup>12</sup> and impedes the work of journalists.<sup>13</sup> Journalists fear that the CCB will be used to prosecute government criticism and dissidence. Websites and blogs addressing sensitive subjects, such as government corruption,<sup>14</sup> security, terrorism,<sup>15</sup> religious freedom, and religious minorities<sup>16</sup> are routinely blocked. Pakistan has banned several crucial forums for online discourse including WordPress, Twitter, YouTube, Facebook, and Wikipedia.<sup>17</sup> The government has increased censorship of allegedly blasphemous material in recent years.<sup>18</sup> These restrictive policies contradict Pakistan's

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<sup>6</sup> See Human Rights Watch report: *Pakistan: Bloggers feared abducted* (January 10, 201),

<https://www.hrw.org/news/2017/01/10/pakistan-bloggers-feared-abducted> (last visited on March 27, 2017).

<sup>7</sup> See Pew Research Center, *AMERICANS MORE TOLERANT OF OFFENSIVE SPEECH THAN OTHERS IN THE WORLD* (October 2016), [http://www.pewresearch.org/fact-tank/2016/10/12/americans-more-tolerant-of-offensive-speech-than-others-in-the-world/ft\\_16-10-15\\_freedom-of-expression/](http://www.pewresearch.org/fact-tank/2016/10/12/americans-more-tolerant-of-offensive-speech-than-others-in-the-world/ft_16-10-15_freedom-of-expression/) (last visited on March 27, 2017).

<sup>8</sup> See Article 19 & 19 (A) of The Constitution of Pakistan.

<sup>9</sup> See *Supporting Safety of Journalists in Pakistan- An Assessment based on UNESCO's, Journalists' Safety Indicators.2016. State Involvement*, Pg. 11, [http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/publications/pakistan\\_jsi\\_final\\_working\\_document\\_20072016.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/publications/pakistan_jsi_final_working_document_20072016.pdf) (last visited on March 27, 2017).

<sup>10</sup> See Committee to protect Journalist, *The Impunity Index Table* (October 8, 2015), <https://cpj.org/reports/2015/10/impunity-index-getting-away-with-murder.php#table> (last visited on March 27, 2017).

<sup>11</sup> See Committee to Protect Journalist, *January 2017*, <https://cpj.org/2017/01/pakistani-journalist-murdered-in-baluchistan.php> (last visited on March 27, 2017).

<sup>12</sup> See DAWN Pakistani news paper. *Cyber crime bill passed by NA: 13 reasons Pakistanis should be worried*, August 2016, <https://www.dawn.com/news/1276662> (last visited on March 27, 2017).

<sup>13</sup> See *Internet Rights and Legislation in Pakistan: A Critique on Cyber Crime Bill*, 2016. [http://www.netfreedom.pk/wp-content/uploads/2016/06/CSO-criticism-on-PECB-2016\\_IssuePaper.pdf](http://www.netfreedom.pk/wp-content/uploads/2016/06/CSO-criticism-on-PECB-2016_IssuePaper.pdf), (last visited on March 27, 2017).

<sup>14</sup> See Committee to Protect Journalists. *October 2016*, <https://cpj.org/blog/2016/10/protecting-journalists-who-cover-corruption-is-goo.php#more> (last visited on March 27, 2017).

<sup>15</sup> See UNESCO, *Communication and Information, Killers strike in mosque*, February 2012, <http://www.unesco.org/new/en/communication-and-information/freedom-of-expression/safety-of-journalists/beyond-the-statistics/mukarram-khan-aatif/> (last visited on March 27, 2017).

<sup>16</sup> See BBC News Report, *Pakistani Activist Khurram Zaki Murdered in Karachi*, May 2016, <http://www.bbc.com/news/world-asia-36241017> (last visited on March 27, 2017).

<sup>17</sup> See LinkedIn; *Websites Blocked In Pakistan: Twitter, YouTube & WordPress Banned In Pakistan*, by Gulshan Sirohi, March 2015, <https://www.linkedin.com/pulse/websites-blocked-pakistan-twitter-youtube-wordpress-banned-sirohi-5987445975352905728> (last visited on March 27, 2017).

<sup>18</sup> See Freedom House: *Pakistan Report, Freedom Press 2016*, <https://freedomhouse.org/report/freedom-press/2016/pakistan> (last visited on March 27, 2017).

obligations under the International Covenant on Civil and Political Rights, Article 19(2) and international principles of law in general.<sup>19</sup>

## II. Honor Killings

5. At least 1000 honor killings occur in Pakistan annually.<sup>20</sup> This number is said to be a drastically underestimated due to “lack of focused reporting and recording of Honor Killings.”<sup>21</sup> Previous UPR review cycles have stated that the Pakistani government must address the honor killings problem. Pakistan responded to those allegations in their 2012 state party report stating they would eradicate honor killings by raising societal awareness and a shifting society’s views on the matter.<sup>22</sup> In October 2016, Pakistan passed a law<sup>23</sup> that amended their Penal Code and Code of Criminal Procedure.<sup>24</sup> This amendment imposes a mandatory life sentence for those convicted of honor killings and closed a notorious loophole used to avoid prosecution by disallowing the victim’s family to pardon the killer.<sup>25</sup>

6. Despite this new legislation, Pakistan still faces various challenges that could prevent honor killing convictions such as underreporting, lack of evidence, and a perceived religious justification.<sup>26</sup> Many honor killings already go unreported due to the private nature of the crime.<sup>27</sup> The mandatory life sentence following conviction will likely result in fewer confessions like the one Muhammad Waseem gave during the summer of 2016 regarding the murder of his sister.<sup>28</sup> Without confessions that explain murderer’s motive, it is difficult for police officials to gather evidence proving a case was an honor killing rather than an ordinary murder. The presence of a religious justification provides yet another incentive for the families and communities to destroy evidence and/or underreport the actual murders.<sup>29</sup> Pakistan must face

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<sup>19</sup> International Covenant on Civil and Political Rights. Article 19(2).

<sup>20</sup> See Honor Based Violence Awareness Network, *Statistics and Data*, <http://hbv-awareness.com/statistics-data/> (last visited on March 27, 2017).

<sup>21</sup> See *id.*

<sup>22</sup> See Universal Periodic Review National Report, (Pakistan), 2012, A/HRC/WG.6/14/PAK/1, pg. 11, paragraph 54, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G12/157/18/PDF/G1215718.pdf?OpenElement> (last visited on March 27, 2017).

<sup>23</sup> See Kelly Chen and Sofia Saifi, *Pakistan passes legislation against ‘honor killings’* (October 8 2016), <http://www.cnn.com/2016/10/06/asia/pakistan-anti-honor-killing-law/> (last visited on March 27, 2017)

<sup>24</sup> See A BILL further to amend the Pakistan Penal Code, 1860 and the Code of Criminal Procedure, 1898, [http://www.na.gov.pk/uploads/documents/1475762285\\_283.pdf](http://www.na.gov.pk/uploads/documents/1475762285_283.pdf) (last visited on March 27, 2017).

<sup>25</sup> See Amendment of section 311, Act XLV of 1860, [http://www.na.gov.pk/uploads/documents/1475762285\\_283.pdf](http://www.na.gov.pk/uploads/documents/1475762285_283.pdf) (last visited on March 27, 2017).

<sup>26</sup> See John Alan Cohan, *Honor Killings and the Cultural Defense*, 40 Cal. W. Int'l L.J. 177 (2010) (arguing that honor killers who claim their acts were justified though the teachings of the Koran are simply wrong.).

<sup>27</sup> See Caitlin Steinke, *Male Asylum Applicants Who Fear Becoming the Victims of Honor Killings: The Case for Gender Equality*, 17 CUNY L. Rev. 233 (2013) (“It is especially difficult to obtain accurate statistics since honor killings are often viewed as private family affairs instead of crimes worthy of condemnation by society at large. Additionally, since honor killings are motivated by cleansing the dishonor and shame brought upon the family, cooperating with researchers would only bring more attention to the family's tarnished reputation.”).

<sup>28</sup> See Arsalan Iftikhar, *Honor Killings are a Global Problem*, <http://time.com/4415554/honor-killing-qandeel-baloch/> (last visited on March 27, 2017) (explaining that Mr. Waseem strangled his sister because he felt she was bringing dishonor to his family through her line of work. He is quoted as saying: “I am proud of what I did... I drugged her first, then I killed her. She was bringing dishonor to our family.”).

<sup>29</sup> See John Alan Cohan, *Honor Killings and the Cultural Defense*, 40 Cal. W. Int'l L.J. 177 (2010) (explaining that this justification “is not based on the Koran or any related Muslim teachings.”).

these real barriers to prosecution in order to use their new law to its fullest potential and bring honor killers to justice.

7. By ratifying the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination against Women, Pakistan has international obligations to promote the destruction of the honor killing practices in the country. Passing this new piece of legislation that amended the Pakistan Penal Code and Code of Criminal Procedure is not enough. We commend this step forward, but honor killings are still a serious problem in Pakistan. Therefore, we urge the government to take their efforts even further in order to end the practice of honor killing and fulfill their international human rights obligations.

### III. Death Penalty

8. In 2015, Pakistan executed over 327 people, the most it has executed in a decade.<sup>30</sup> Pakistan joined Iran, China, and Saudi Arabia as the countries that, when combined, perform almost 90% of the world's executions.<sup>31</sup> In contrast, as of 2015, a majority of the world's countries have abolished the death penalty, and many more have effectively ceased executions.<sup>32</sup> Pakistan had imposed a moratorium on executions in 2008, becoming one of the leaders of the international community in combating the death penalty. However, Pakistan resumed executions in 2012, lifted its moratorium in 2014, and has executed an increasing number of people each year.<sup>33</sup>

9. Pakistan says that it resumed executions to combat terrorism.<sup>34</sup> However, many of those executed in recent years were not terrorists, but were murderers, who had offended decades ago.<sup>35</sup> Furthermore, most modern criminologists doubt the deterrent effects of the death penalty.<sup>36</sup> On the other hand, we commend Pakistan for not executing for lesser crimes such as drug offenses, adultery, and kidnapping.<sup>37</sup> However, international guidelines only allow the death sentence for the most serious crimes – usually recognized to mean murder or espionage.<sup>38</sup> Thus, Pakistan's mere allowance of the death sentence for these crimes violates international standards, custom, and principles of law.<sup>39</sup>

10. The death penalty is particularly worrisome today because it magnifies other problems in Pakistan's justice system. Pakistan has been executing criminals who were juveniles at the time

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<sup>30</sup> See Human Rights Comm'n of Pakistan, *State of Human Rights in 2015: Jails, prisoners, and disappearances*, 7 (March 2016).

<sup>31</sup> See Amnesty Int'l, *Death penalty 2015: Alarming Surge in Recorded Executions Sees Highest Toll in More Than 25 Years*, (6 April 2016), <https://www.amnesty.org/en/latest/news/2016/04/Alarming-surge-in-recorded-executions-sees-highest-toll-in-more-than-25-years/> (last visited on March 27, 2017).

<sup>32</sup> See Amnesty Int'l, *Death Sentences and Executions in 2015*, Amnesty International Global Report 4 (2016).

<sup>33</sup> See Human Rights Comm'n of Pakistan, *State of Human Rights in 2015: Administration of justice*, 3 (March 2016).

<sup>34</sup> See BBC News, *Pakistan resumes executions after Peshawar school attack*, (December 19, 2014), <http://www.bbc.com/news/world-asia-30556260> (last visited on March 27, 2017).

<sup>35</sup> See HRCP Statistics, Executions reported from January 1, 2016 to December 31, 2016.

<sup>36</sup> See Radelet, M. L., & Lacoock, T. L., *Do Executions Lower Homicide Rates?: The views of leading criminologists*, 501 *The Journal of Law and Criminology* 99(2), 2009.

<sup>37</sup> *Id.*, executions reported from January 1, 2012 to December 31, 2016.

<sup>38</sup> See UN OHCHR GAOR resolution 44/128, *Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty* (15 December 1989).

<sup>39</sup> See UN OHCHR, *Pakistan: UN human rights experts welcome Supreme Court ruling on death penalty*, (April 2015).

of the offense, in defiance of the Convention on the Rights of the Child.<sup>40</sup> Additionally, high-profile cases have covered Pakistan's apparent willingness to execute the mentally and physically disabled, in potential defiance of Convention on the Rights of Persons with Disabilities.<sup>41</sup> Additionally, abuse of judicial discretion, corruption, and use of torture in extracting confessions are all potential due process violations that face Pakistan's legal system today and that would make affected death sentences even more unjust.<sup>42</sup>

#### IV. Blasphemy Laws

11. Pakistan is known as the country that has the harshest laws against blasphemy. When compared to other countries<sup>43</sup> that also have blasphemy laws, Pakistani blasphemy laws have strict penalties. For example, Pakistani Penal Code (PPC)<sup>44</sup> §295-A provides 10 years' imprisonment for "insulting another's religious feelings", PPC §295-B provides life imprisonment for "defiling, damaging or desecrating the Qur'an", and PPC §295-C provides death penalty for "defiling Prophet Muhammad". The United Nations Human Rights Committee found that blasphemy laws should not be criminalized according to ICCPR<sup>45</sup> article 19 in General Comment No.34 Article 19: Freedom of opinion and expression, paragraph 48<sup>46</sup>.

12. Being put to death as a penalty for breaking blasphemy laws is against international human rights standards. ICCPR article 6(2) says "...the death penalty, sentence of death may be imposed only for the most serious crimes." The issue is whether blasphemy can be considered as one of the most serious crimes. Human Rights Committee adopted General Comments NO.6 Article 6 that states in section 7, "...most serious crime must" be read restrictively to mean that the death penalty should be a quite exceptional measure.' Amnesty International clarified that 'religious "offences" such as blasphemy do not fall under the category of "most serious crimes"'.<sup>47</sup>

13. The enforcement of blasphemy laws disproportionately affects religious minorities. They are misused to settle personal vendettas and persecute religious minorities<sup>48</sup>, which sometimes leads to mob violence or vigilante attacks. Some blasphemy defendants have been killed while in

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<sup>40</sup> See UN OHCHR, *Death Penalty News: Pakistan continues to execute child offenders in spite of UN experts' appeals*, (October 2015).; See Convention on the Rights of the Child, Article 37(1)(a).

<sup>41</sup> See Shantha Rau Barriga, *Will Pakistan Execute a Man With Schizophrenia?* Human Rights Watch, (October 3, 2016), <https://www.hrw.org/news/2016/10/03/will-pakistan-execute-man-schizophrenia>.; Shantha Rau Barriga, *Dispatches: Pakistan's Death Row Dilemma*. Human Rights Watch, (August 26, 2015), <https://www.hrw.org/news/2015/08/26/dispatches-pakistans-death-row-dilemma>.; See Convention on the Rights of Persons with Disabilities, Articles 10, 15.

<sup>42</sup> See Human Rights Comm'n of Pakistan, *State of Human Rights in 2015: Administration of justice*, 6, 13 (March 2016).

<sup>43</sup> See Laws of Malaysia. Act 574 Penal Code §295-298A, <http://www.agc.gov.my/agcportal/uploads/files/Publications/LOM/EN/Penal%20Code%20%5BAct%20574%5D2.pdf>. (last visited on March 8, 2017).

<sup>44</sup> See Pakistani Penal Code, <https://www.oecd.org/site/adboecdanti-corruptioninitiative/46816797.pdf>. (last visited on March 10, 2017).

<sup>45</sup> Pakistan ratified ICCPR in 2010. ICCPR, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>. (last visited on March 10, 2017)

<sup>46</sup> See General Comment No.34: Article 19 (Freedom of opinion and expression), <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf> (last visited on March 10, 2017).

<sup>47</sup> See Amnesty International Public Statement 2012, <https://www.amnesty.org/download/Documents/24000/mde170012012en.pdf> (last visited on March 10, 2017).

<sup>48</sup> See Justice Project Pakistan (JPP)'s Alternative Report to the Human Rights Committee July 2016, <http://www.omct.org/reports-and-publications/pakistan/2016/07/d23872/> (last visited on March 10, 2017).

police custody. In addition, some lawyers have also been killed by mob.<sup>49</sup> These lawyers represented the alleged blasphemers and religious figures who called for legal reform.

14. Additionally, some people who are accused of blasphemy rarely receive fair trials, which is in defiance of ICCPR Article 6(2) and Article 14<sup>50</sup>. For instance, in Aasia Bibi case (2010), there were suspicious evidence and testimonies at the trial<sup>51</sup>. It is hard to say that Ms. Bibi had a fair trial.

## V. Abolition of Special Court

15. Sections 12 and 13 of The Anti-Terrorism Act, 1997 (“ATA”)<sup>52</sup> and Section 8 of the Protection of Pakistan Act (“PPA”),<sup>53</sup> which expired on July 15, 2016, allow the government to create special courts in order to try civilians that commit certain acts. Section 28 of The Pakistan Army Act states that “Any person subject to this act who commits any of the following offences ... shall on conviction by court- martial.”<sup>54</sup> An important distinction is that special courts are not military courts nor a court martial. These courts traditionally have jurisdiction over soldiers. Section 13 of ATA provides the jurisdiction for special courts to try any case which contains in section 12 of ATA. Intentionally, special courts try civilians who commit the crime consists under section 12 of ATA. Counterterrorism does not justify trying civilians by secret special courts that are supervised by the army.

16. Terrorism is indeed a serious problem in Pakistan; it has caused injury, death, and economic loss. However, General Comment No. 29 of the Human Right Committee held that “ State parties may in no circumstances invoke article 4 of the Covenant as justification for acting in violation of humanitarian law or peremptory norms of international law, for instance by taking hostages, by imposing collective punishments, through arbitrary deprivations of liberty or by deviating from fundamental principles of fair trial, including the presumption of innocence”<sup>55</sup> Following the criminal procedure law discussed below, the creation of special court is a gross violence of the ICCPR.

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<sup>49</sup> See Human Rights First Submission to the Office of the High Commissioner for Human Rights. Universal Periodic Review: Pakistan 2012, [https://www.upr-info.org/sites/default/files/document/pakistan/session\\_14\\_-\\_october\\_2012/hrfuprpaks142012humanrightsfirste.pdf](https://www.upr-info.org/sites/default/files/document/pakistan/session_14_-_october_2012/hrfuprpaks142012humanrightsfirste.pdf). (last visited on March 11, 2017).

<sup>50</sup> See <sup>3</sup>.

<sup>51</sup> See Facing the Death Penalty for Blasphemy in Pakistan. Human Rights Watch. (October 12, 2016), <https://www.hrw.org/news/2016/10/12/facing-death-penalty-blasphemy-pakistan> (last visited on March 10, 2017) (explaining that Aasia Bibi was the first woman in Pakistan who was sentenced to death for blasphemy.).

<sup>52</sup> See The Anti-Terrorism Act No.13,14 of 1997. <http://www.ppra.org.pk/doc/anti-t-act.pdf> (last visited Mar22, 2017)

<sup>53</sup> See Protection of Pakistan Act, No.8 of 2014.

[http://www.na.gov.pk/uploads/documents/1404714927\\_922.pdf](http://www.na.gov.pk/uploads/documents/1404714927_922.pdf) (last visited Mar 22, 2017).

<sup>54</sup> See The Pakistan Army Act, No 28 of 1952. <http://pakistancode.gov.pk/english/UY2FqaJw1-apaUY2Fqa-ap%2BYaQ%3D%3D-sg-jjjjjjjjjjjj> (last visited Mar 22, 2017)

<sup>55</sup> See U.N. Human Right Committee, General Comment No. 29, CCPR/C/21/Rev.1/Add.11 (August 31 2001) ( It said, “The proclamation of certain provisions of the Covenant as being of a non-derogable nature, in article 4, paragraph 2, is to be seen partly as recognition of the peremptory nature of some fundamental rights ensured in treaty form in the Covenant (e.g., articles 6 and 7). However, it is apparent that some other provisions of the Covenant were included in the list of non-derogable provisions because it can never become necessary to derogate from these rights during a state of emergency (e.g., articles 11 and 18). Furthermore, the category of peremptory norms extends beyond the list of non-derogable provisions as given in article 4, paragraph 2. States parties may in no circumstances invoke article 4 of the Covenant as justification for acting in violation of humanitarian law or peremptory norms of international law, for instance by taking hostages, by imposing collective punishments, through arbitrary deprivations of liberty or by deviating from fundamental principles of fair trial, including the presumption of innocence” ).

17. The special courts enacted under the ATA are not impartial nor are they independent. Independence Judicial independence means the judicial branch should be independent from the executive and legislative branches. The judicial branch should not be controlled or interfered with by any other body. It should make its own decisions and cannot be under supervision of anybody. According to the 20 Point National Action Plan<sup>56</sup>, however, the special trial court is under the supervision of the Army. There is no guarantee of an impartial court, due process or a public hearing in this forum.

18. According to Section 7 of Amendment of ATA (2014)<sup>57</sup> (an amendment of section 21), “trials may be held inside jails or through video communication.” It allows the trials not only to be held in a secret place, but also to be held in a “jail” where the defendants are detained or even tortured. This degrades the dignity of the defendants and creates an environment that makes it hard for them to speak up for themselves. This procedure violates Article 14 of the ICCPR guaranteeing a public hearing, fair trial, and due process requirements.

19. There is a presumption of guilt associated with defendants tried in these courts. This presumption is only used in special courts under the PPA.<sup>58</sup> This presumption violates section 2 of Article 14 of ICCPR’s presumption of innocence.

20. Pakistan passed a constitutional amendment on January 6, 2015 for special courts that mimic the special courts under the ATA and the PPA.<sup>59</sup> Furthermore, according to The Hindu News, India’s national newspaper, Pakistan introduced a constitutional amendment bill to Parliament in order to create the special military courts to try hardcore militants on March 10 2017.<sup>60</sup> In conclusion, special courts infringe upon civilians’ rights to fair trial and due process; it cannot be justified by a state of emergency (i.e., terrorism) nor supported through a constitutional amendment.

## **VI. Recommendations**

20. With regard to free speech, we recommend that Pakistan must conduct timely and effective investigations for crimes against journalists and activists and bring those who are responsible for these crimes to justice. The Pakistan government must also create new regulations and precautionary measures to prevent harassment and attacks against journalists. Finally, Pakistan must remove its restrictions on website, blogs, and social media access.

21. With regard to the presence of honor killings, we recommend the Pakistani government allocate funds to help a local human rights organization lead a community education initiative. This initiative would help Pakistan raise societal awareness of the issues surrounding honor killings in order to face the challenges to successful prosecution of honor killers. The curriculum

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<sup>56</sup> See 20 Points of National Action Plan, No.2 of 2016.<http://www.ppra.org.pk/doc/anti-t-act.pdf> (last visited Mar 1,2017)

<sup>57</sup> See The Anti-terrorism Act, No.7 of 2014.

<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/99625/118978/F928173987/PAK99625.pdf> (last visited March 27, 2017).

<sup>58</sup>See Protection of Pakistan Act, No.15 of 2014.

[http://www.na.gov.pk/uploads/documents/1404714927\\_922.pdf](http://www.na.gov.pk/uploads/documents/1404714927_922.pdf) (last visited Mar 22, 2017).

<sup>59</sup> See PAKISTAN CONST. amend. XXI pmb1.

<sup>60</sup>See Pakistan to Amend Constitution to Set up Military Courts, THE HINDU NEWS, Mar. 20, 2017.

<http://www.thehindu.com/news/international/pakistan-to-amend-constitution-to-set-up-military-courts/article17441787.ece> (last visited Mar 22, 2017).



should focus on what the law does, the importance of its passing, and lack of relationship between Islam and honor killings.<sup>61</sup>

22. With regard to the death penalty, we urge Pakistan to cease all executions and reinstate its moratorium. Pakistan has regressed far below international standards by resuming executions. Furthermore, we remind Pakistan to disallow the death penalty for all crimes other than the most serious, pursuant to ICCPR's Second Optional Protocol. Even though no executions have recently been carried out for lesser crimes, we encourage Pakistan to officially revise their laws to eliminate the death sentence for these crimes. For the long term, we urge Pakistan to rejoin the international movement towards humanitarian justice by ceasing executions, and eventually abolishing the death penalty outright.

23. With regard to blasphemy laws, we urge Pakistan to decriminalize their blasphemy laws because they violate several human rights. Furthermore, Pakistan must disallow the death penalty for blasphemy laws, as it does not fall under the international definition of "most serious crimes". Finally, Pakistan must protect and secure blasphemy defendants and all those who speak out against the blasphemy laws.

24. With regard to the special courts, we urge Pakistan government should abolish special courts and stop the constitutional amendment for controversial special military courts in order to fulfill their obligations under article 14 of ICCPR.

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<sup>61</sup> A good example of the initiatives is found from the activities of Human Rights Focus Pakistan or Pakistan International Human Rights Organization could be promoted. See Human Rights Focus Pakistan, *Our Focus*, [http://www.hrfp.org/pages/What\\_We\\_Do.html](http://www.hrfp.org/pages/What_We_Do.html) (last visited on March 27, 2017) ("HRFP conducts and facilitates the human rights education of target groups about their constitutional, legal, social, political & economic rights. The organization sensitized the duty bearers about their responsibilities/legal binding to ensure the rights of the marginalized communities."). See Pakistan International Human Rights Organization, *About PIHRO*, <https://pihro.org/what-we-do/human-rights/> (last visited March 27, 2017) ("The Pakistan International Human Rights Organization (PIHRO) was established in 1999 as an independent non-profit, non-political and non-governmental Organization working for the uplifts of human rights in Pakistan.").