

Death Penalty Suspension Approach in Pakistan with Chinese Characteristics

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Abstract

Since the death penalty abolition campaign started, Pakistan is lagging behind to do any substantive reforms in the penal system. The reason for retention of death penalty is rooted in the Islamic injunctions which Pakistan being Islamic Republic cannot ignore. Any contradictory provision will be declared null and void and unconstitutional as the preamble of Constitution of Pakistan 1973 expressly mention it. Keeping in mind the case of Pakistan where complete abolition seems difficult but is willing to reduce it to maximum extent. The article doing a comparative analysis of penal system of Pakistan and China, bring a suitable model that can help reduce the death penalty. Pertaining to the situation of China which is also ambitious to reduce the execution but not convinced yet to complete abolition, the Chinese model of “suspended death penalty” which is well recognized and practical to reduce the executions can serve as a good model for Pakistan to follow. The article will provide the analysis of situation of Pakistan penal system and the compatibility of Chinese model as a perfect extension for reducing the number of executions though not complete abolition. It also narrates the working mechanism of suspended death penalty of China and its effectivity regarding civilizing death penalty regime.

Keywords: Death penalty, suspended death penalty, abolition, China, Pakistan penal code

1. Introduction

The world is becoming more and more concerned about the protection of human rights. Death penalty abolition is among the most important in contemporary human rights protection campaigns. The most active proponent of death penalty abolition is the United Nation (UN). The United Nation’s International Covenant on Civil and Political Rights (ICCPR) initiated the global campaign for abolition of death penalty by declaring it fundamental violation of the ‘right to life’ and the ‘right to be free from cruel, inhuman, or degrading treatment or punishment’ (United Nations, 1976). Since the beginning of rights movement till now, almost 141 states have abolished the death penalty in law or in practice.(Note 1) The article 6(2) of ICCPR, accept the death penalty as an exception to the right to life only for most serious crimes and impose ultimate responsibility on party states to abolish the death penalty.(Note 2) The Rome Statute of the International Criminal Court in 1998 solidified the abolitionist cause by making life imprisonment, a substitute for death penalty for extremely serious crimes such as genocide, crimes against humanity and war crimes(Schabas, 2000).

However, the global trend of complete abolition is not so easy to solidify smoothly. As Otterbein (1986) put it, the death penalty deeply entrenched in “cultural trait” of all known societies and been practiced as ultimate criminal sanction. The gradual slope regarding death penalty started with the way of killing and ultimately reached to a cross roads of no more death. The reasons for abolition stir and the willingness of governments are expressed by different scholars in different ways. As the article relates to the efforts and the resultant median approach adopted by China and the efforts of Pakistan to abolish the death penalty, hence the literature concerning these two countries is more important to mention here. Among the scholars concerning the death penalty regime focusing on these two countries they have their opinions emphasized on socio-economic, political and cultural factors that determine the government attitude either to abolish or retain the death penalty.

2. Theoretical Framework

According to the Marxist theories for death penalty retention, the economic cleavages and class struggle are among the main reasons. Kent (2010) observed, the poor and working class in economically unequal societies, can attempt to pursue the redistribution of wealth as well as to challenge the already existing power structure tend to commit violent crimes. The ruling bourgeoisies compel the governments to use the death penalty as a counter to the threats of economic underclass and maintain the class domination (Garland, 1991). The emergence of China’s reliance on death penalty started in the similar context of class struggle and controlling violent crimes in early 1980s with a notorious but famous tag of “strike hard”(Miao, 2013). Racial or ethnic threat theories argue that in the ethnic power ties, the dominant group compel the government to use death penalty as a social control tool to avoid the threats from the recessive group. The increase in the size of subordinate groups make the socio-economic and political factors more pressing to maintain the dominance from the powerful one (Susan Trevasques, 2016, Ferrandino, 2015).

Typical approach in the religious context affirm the punishment of death and retaliation. The followers of

Judaism, Christianity and Islam furnish revelational stance for retention of death penalty. (Note 3,4) Islamic states, in general perception, are more prone to active and public executions of death penalty to achieve collective goals of collective sanctity (Greenberg & West, 2008). Amnesty International figures for 2016 approve this fact where the top places in terms of number of executions are kept by Muslim countries. (Note 5) Schabas (2000) holds the opinion that the Islamic countries play alibi with Quranic injunctions and exploit Quran to secure the political motives with active death penalty which according to Justice Project Pakistan is exactly the case in Pakistan. (Note 6) Contrary to Islamic states, the Catholic Christians states are more enthusiastic to abolish the death penalty. In 1969, Pope Paul VI abolish the death penalty in Vatican City. Since that time, the Catholic approach has been milder and inclined towards abolition (Greenberg & West, 2008; Mathias, 2013). Judaism, although supports death penalty in religious scriptures, also condemn the usage of death penalty. The qualifications to impose death penalty mentioned in 'Turah' is almost the same as mentioned in 'Quran' but the practical use have been abolished long ago. According to some scholars, the death penalty in Jewish have been ended in the first century of common era (Ledewitz & Staples, 1977).

Examining the reasons for death penalty retention of prominent scholars which contemplate the historical and existing internal situation in both countries. The intention and so-called efforts of both countries to abolish the death penalty also require a strong reason to argue with. One set of explanations emphasizes the importance of domestic political regimes. In general, it is accepted that democratic states are more likely to abolish the death penalty than dictatorship (Greenberg & West, 2008; Kent, 2010; Neumayer, 2008). The reason lies in the general tendency to respect the constitutional bounds in exercising powers belong to government. The other reason is the pace of contemporary political ideology and direction of changes. A radical change in political ideology can avail the opportunity to harness the complete abolition in the transition of penal system calibrated through political ideology (Susan Trevaskes, 2010). This is because the radical change offers policy makers opportunity to learn more about human right norms.

The beginning of 21st century also initiated a change in the mentality of Chinese government to create a harmonious society and ensure rule of law in the country (Susan Trevaskes, 2011). At the same time the China Communist Party also depict its transitional thoughts by declaring that, at a systemic level, it is no longer a 'revolutionary' but rather a 'ruling party' that needed to modernize and adjust its systems of management (CCP Central Committee 2005) (Saich, 2016). The same is the example of Pakistan. Since the establishment of Pakistan in 1947, martial law and democracy are in strong power ties (Khan, 2001) casting alternating regimes of power convergence. The new government took office in 2008 and brought back the democracy suspended for almost a decade since 1999. The change in the aptitude of both countries regarding death penalty started almost the same time. The intention of both countries is to reduce the usage rather complete abolition at the moment. With the highest of all, China since its intention to reduce the usage, have made practical efforts that ratify the practicality and seriousness of its efforts. Whereas, Pakistan initially showed an abrupt reaction but could not sustained that reaction for long time. With this study, the author intends to relate the death penalty reduction measures of China with that of Pakistan to find the elements suitable to import and implement in the penal system of Pakistan.

China and Pakistan have different legal systems and traditions. Chinese legal system is motivated by 'Socialist legal system' primarily based on civil law model whereas as the legal system in Pakistan is the continental model based on common law traditions remixed with Islamic Law. It may appear counter-intuitive to recognize that China and Pakistan— two countries with fundamentally distinct political regime, legal tradition and social structure - share some common features in their penal institutions and policy. As a matter of fact, the legal machinery of both countries is focusing to reduce the number of executions. The current official policy towards capital punishment in both countries aimed at civilizing its capital punishment machinery, rather than absolute abolition (Chen, 2013; Cohen, 2011). The efforts started in the beginning of 21st century in both countries. Pakistan started its struggle in 2008 by signing the International Covenant on Civil and Political Rights (ICCPR), whereas the efforts in China started in 2007 with the death penalty reforms by supreme people's courts. Pakistan showed an abrupt reaction for its firm motivation to abolish the death penalty and imposed moratorium in 2008, which lasted for 6 years with just one execution in 6 years. The situation of terrorism and prevalent unstable political landscape unquestionably affect the national policy. Pakistan has been exerting great efforts to eradicate terrorism and a major player in war against terrorism. Keeping in mind the contemporary situation of both countries this study contains high literary and practical importance in not only analyzing the current death penalty reduction efforts but also recommend a cross boarder model for achieving the desired results.

The point of novelty this piece of research presents is the first cross country comparative analysis between China and Pakistan regarding death penalty abolition. The multi-million cooperation between two countries in China-Pakistan Economic Corridor project makes it important to increase the legal and economic collaboration between two countries. The methodology used in this paper is pretty simple based on the personalized discussion analysis and literature review of death penalty legislation regime in both countries. The author in this paper attempt to do a legal analysis of the current prevailing death penalty abolition campaign in China and Pakistan.

The analogy in this paper has the segmented structure based on separate topics and divided into four parts. The first part comprehends the capital crimes and their nature and casting effects relevant to public emotions and punishment function to the society. The Chinese efforts in transition of reduction in death penalty is given in second part. Third part comprises the analysis of both countries and practical acknowledgement regarding efforts. The last part contains the conclusion and highlight other areas for further research.

3. Punishment for Serious Crimes in Pakistan

Since the establishment of Pakistan on 14th August 1947, the death penalty and life imprisonment has been present in the penal statutes of Pakistan. The authoritative statute dealing with the crimes and punishments in Pakistan is the Pakistan Penal Code 1860 (hereinafter PPC) derived from Indian Penal Code 1860, which after independence amended and enforced accordingly in Pakistan. Death penalty and life imprisonment, according to PPC, are used typically for the crimes of aggravated murder, murder, other offenses resulting in death, terrorism-related offenses resulting in death, rape, kidnapping, drug trafficking, adultery, apostasy, treason, military related crimes, abetment resulted in death, and blasphemy. (Note 7,8,9,10) There is no any statutory procedure available in Pakistan that automatically commutes the death penalty into life imprisonment or lighter sentence, contrarily as present in China where if the death penalty does not require immediate execution can be suspended for two years. (Note 11) The death condemnation can be given by a trial court for most serious crimes under section 31(2) of Code of Criminal Procedure 1898 (CrPC). (Note 12) The confirmation of High Court (HC) is necessary to confirm the execution which normally secured by appeal. (Note 13) The last legal resort is the appeal in Supreme Court (SC). In case an appeal is rejected from SC, the prisoner via jail authorities can send mercy appeal to President as the last resort. This is the only way of concession available by way of application to the respective authority under section 402 of CrPC or by the amnesty appeal to the president under article 45 of the constitution of Pakistan 1973. The death penalty after commutation can be converted into life imprisonment or other punishment. (Notes 14, 15)

The life imprisonment in Pakistan does not extend for whole life in prison. The PPC mark a boundary of twenty-five years on the life imprisonment and does not provide any punishment which is equivalent to life imprisonment without parole (LWOP), as present in other jurisdictions such as United States and China. (Note 16,17,18) PPC and CrPC allows for the addition of punishments in case a criminal is liable for more than one offense under PPC. Further, PPC under section 71, imposes limitation on the extent of culpability and corresponding punishment, where the whole series of acts of offender contribute to parts of the same crime, rather contribute to separate distinct crime. In this case, the court is bound to consider whole series of acts contributing parts of crime as one crime and calculate the corresponding punishment for it. If the acts done in persuasion of criminal act contributes to more than one crime. The sentencing judge can pronounce separate sentences for different crimes. So far as the date of commencement of different sentences for the same criminal in one trial or different trails concerned, the sentencing judge has the discretionary right under CrPC (382-B) and CPC (397) to either commence all punishments concurrently or consecutively. (Note 19) The same is the case where a convict is already convicted for a crime and he/she subsequently commits another crime before the expiry of the previous term of conviction, the court can pronounce punishment for the second or subsequent crime to start either concurrently or consecutively with the first term. The punishment where a criminal is sentenced for a specific term of imprisonment along with fine, the court in case of default of payment of fine, have the authority to enhance the term of imprisonment as per law to be served additionally with the pervious term of imprisonment. (Note 20)

The reasons for retaining the death penalty on board are many fold in Pakistan. Among the most important reasons is the increased crime rates, terrorism, and unreasonably short term of life imprisonment sentence after obtaining commutation and other concessions. The increased execution rate in Pakistan do not provide any solution for these problems. In fact, according to a report published by Justice Project Pakistan in 2017, death penalty is being used as a political tool with less or even no deterrent function. (Note 21) The government of Pakistan as well as the apex judiciary is trying to reduce the use of death penalty. Another important factor regarding death penalty abolition is the constitutional restriction which in the preamble expressly condemn any law repugnant to Islamic injunctions. Realizing the legal battle could invoke constitutional review, the Government of Pakistan made efforts in 2008 to divert the focus of practice from execution towards life imprisonment through commutation making the presence of death penalty a symbol of presence rather a real punishment. The evidence of this struggle is the moratorium imposed on death penalty since 2008-2014, which on the public pressure lifted after the deadliest militant attack on Army Public School in Peshawar depriving 148 children from their lives. (Note 22) After the government reinstated the death penalty execution, 465 criminals have been executed, remaining almost 8000 offenders on death row. On an appeal relating to the restoration of death penalty for the criminals which have their death penalty commuted to life imprisonment, the Supreme Court of Pakistan highlighted his concern on amending the statutory limitation of 25 years for life imprisonment to reduce the death sentence with longer period of sentence. (Notes 23, 24) Pakistan is facing the same concerns

as faced by China since it started to do the penal reforms to denounce the death penalty in the beginning of 21st century. The next section provides a comprehensive survey of death penalty reforms in China.

4. Death Penalty and Life Imprisonment in China

China is well known for its death penalty (Liang, 2005). The first Criminal Law of China 1979 contains 28 crimes punishable by death which subsequently rose to 68 in 1997 (CCL) revision (Noakes, 2014a). The changing socio-economic set up of the country at end of 1970s initiated a stir of crimes in the country. The crimes included economic crimes and crimes done by juveniles in group and other gangs carrying on criminal activities (Liang, 2005). To ensure the law and order situation and political stability in China, the authorities implemented the policy of severe and swift punishment typically known as “strike hard 严打 (yanda) (Noakes, 2014b). The strike hard style of justice adopted for couple of years in different times comprising an active and inactive period, giving them the name of campaigns as per their style of implementation in historical context. This temperament of severe and swift punishment under strike hard tagging lasted for more than two decades. Death penalty and executions, thus became the new normal during this period of strike hard (Susan Trevaskes, 2010). (Note 25, 26)

The change in Criminal policy occurred when the Supreme People’s Court (SPC) took back review power from lower courts regarding finalization of death penalty in 2007. The down slope of harsh temperament started with the policy rhetoric of “harmonious society” given by Hu Jintao in 2005 and the resultant practical policy of “balance leniency and severity” in deciding criminal cases (Minas, 2007). The new policy began to mold penal design of CCL and bring it into conformity with criminal justice system practically. The major concern of the new policy was to reduce the use of death penalty. In 2011, came the eighth amendment to the CCL, reducing the number of capital crimes from 68 to 55 as well as other concessions regarding death penalty for elders, juveniles and pregnant women. In 2015, the ninth amendment to the CCL has passed, and abolished further 9 capital crimes, reducing the number to 46. (Note 27, 28)

Xiao Yang, the Chief Justice of the SPC from 1998 to 2008, was the most reform minded jurist in decades (Lin & Shen, 2017). He along with other like-minded in the SPC configure the system intelligently to control the use of death penalty and restrict the frequent executions. The efforts started initially through the political lever of socialist discourse of ‘harmonious society’ and then through the development of a new criminal justice policy that preaches for a greater balance between dispensing out severe punishment (death) and less severe punishment (the suspended death sentence) (S. Trevaskes, 2013). The suspended death sentence is a punishment which delays the immediate condemnation of the prisoner to death rather offers him a two-year period of suspension. (Note 29) The post treatment with the prisoner after the suspension period divided into three categories. In the first category, the suspended death sentence commuted to life imprisonment, condition precedent no ‘intentional crime’ occurs during the ensuing two years. It further divided into two categories. One is the life imprisonment and the other is life imprisonment with restricted commutation. The life imprisonment can further be converted into fixed-term imprisonment or parole as according to the regular procedure. Whereas the one with restricted commutation do not follow the regular procedure of commutation as given in CCL rather sentencing judge impose restriction of term that the offender have to pass to be eligible for other commutation procedures or parole. The second is the fixed-term imprisonment. The third is execution, if the offender commit any intentional crime during two years suspension period. (Note 30, 31)

According to ninth amendment passed on 29 August 2015, for the crimes of huge corruption and bribery, the suspended death sentence can be converted into ‘life imprisonment without parole (LWOP)’ under article 383 of CCL. This is the debut of LWOP in China and undoubtedly, this material action carries the conscience of Chinese government to meet its great concern of corruption eradication harshly. Although LWOP is also criticized as ‘slow death’ (Civil & Union, 2013) but it satisfies the Chinese government concern of being harsh while respecting the basic right to life of the offender. The LWOP satisfy the Chinese government harsh aptitude for anti-corruption whereas the suspended death penalty with restricted commutation satisfy the over leniency of commutation procedure. Suspended death sentence is a perfect mechanism to shift away from executions. According to Susan Trevaskes (2013), suspended death penalty provides a double edged solution not only for reduction in the use of death penalty but a good alternative to it.

5. How Pakistan can Reduce the Death Penalty

Taking the system of suspended death sentence and life imprisonment in China. It provides a good example of crafted legal setup that helps to reduce the death penalty to much extend for Pakistan. The campaign started by Chinese government in 2007 aimed to shift away from incremental habitual reliance on capital punishment (S. Trevaskes, 2013). Under article 48 of CCL, if the immediate execution of the death penalty is not deemed necessary, it can be suspended for two years. The two-year suspension period and the subsequent period of imprisonment after commutation to any of three post suspension treatments save the life of the offender. The CCL enumerates commutation rules which obligates the convict to follow the rules for early release from the

prison. This develops in the Chinese penal system greater reformatory function in whole scheme of suspended death penalty and the pertaining rules stipulated for early release. (Note 31)

Life imprisonment in China is of two kinds, one is the life imprisonment and the other is life imprisonment without parole (LWOP). The life imprisonment under ninth amendment to CCL last for twenty-five years whereas the LWOP, under article 383, applies only for the crimes of bribery and embezzlement of especially huge amount of money and in especially serious circumstances. This is relatively new addition in CCL held in 2015 pertaining to address the cases of especially huge bribery and embezzlement. The basic aim of this new addition was to satisfy the principle of proportionality which under the comparatively lenient system of commutation bring the offender out after couple of years (Lin & Shen, 2017) (Xiumei, Chenguang, Zhu, & Zhijuan, 2017). The adoption of LWOP came up with a balanced penal strategy to secure the life from immediate condemnation and prevention from early release from prison. Although, the life imprisonment system in China is pretty lenient because of commutation and parole system. Whereas under the PPC, the commutation system does not provide any review mechanism based on conduct of convict in prison for death penalty. Although the prison rules do recognize conduct and extraordinary achievement of the offenders but still do not reach the reformatory extent as that of Chinese penal system.

Death penalty in China can be given for 46 crimes including the economic crimes (G, 2016). But the feature of suspended death sentence makes it more acceptable internationally, that shows seriousness of Chinese government to reduce execution rate. In practice life imprisonment and death penalty is not applicable for economic crimes in Pakistan. The penal system in Pakistan is comparatively lenient but the presence of death penalty eclipses the whole system. Only 27 crimes bear the death penalty which in majority of cases commuted to life imprisonment through amnesty appeal from president or appeal to higher court. According to report sent to European Union (EU), Pakistan is willing to reduce the number of death eligible crimes to 15, retaining the death penalty only for the crimes related to aggravated homicide and other religion related crimes. The same approach has been expressed while acceding the International Covenant on Civil and Political Rights (ICCPR), when Pakistan made reservations on a number of articles stating that the articles would apply to the extent they are not repugnant to the Constitution or Shari'a law. (Note 32, 33)

Pakistan is an Islamic Republican country and the preamble of constitution of Pakistan 1973 clearly mentions any law repugnant to Holy Quran and Sunnah as 'null and void.' It creates a difficult situation for Pakistan to remove death penalty in domestic legal system when it is ratified by Islamic Law; that laid the foundational ideology of creation of Pakistan (Jaffrelot, 2002). Following the Chinese model of suspended death penalty, Pakistan can overcome its substantive problem of abolishing or at least reducing the number of executions immediately. With a much less death eligible crimes in Pakistan, the addition of death penalty with suspended execution for two years can provide a suitable solution for not only satisfying the international concerns of abolitionist community, also the constitutional concerns of respecting Islamic law and shari'a. (Note 34, 35)

6. Conclusion

Indeed, it is general tendency to think one's own penal culture and legal institutions distinct and fundamentally unique to compare with other jurisdictions evolved on legally and culturally different characteristics. Nonetheless, it is always useful to take notice of, and be enthusiastic to examine other jurisdictions to extract the useful catalytic traces of virtue that can speed up the development process and help solve the problem sharing the same background. Keeping in mind the imminent stress situation of Pakistan to reduce and ultimately abolish the use of death penalty, the Chinese model of suspended death sentence furnishes a better solution in this regard. Keeping in mind the cultural fabric of Pakistan with its roots deeply entrenched in religious model of criminal justice. The absolute abolition of death penalty seems not possible. The better option Pakistan can avail to satisfy the international concerns by reducing the number of death eligible crimes as done by China in eighth amendment and further adopt the suspended death penalty approach in domestic criminal justice system. This will not only enhance the reformatory function of punishment but also reduce the number of executions to much extent.

The overly lenient system of sentence commutation is tackled by China in eighth and ninth amendment by introducing life imprisonment and restricted imprisonment. The same concern can also be tackled by mirroring the similar amendments in Pakistan. The penal statute of Pakistan already provides much flexibility regarding term of sentences in case of multiple crimes committed by one criminal. The only thing required is to promote the consecutive punishment for longer prison terms rather to condemn the criminals to death. In the existing setup of penal institutions and ideological constraints, the best approach both countries can adopt is to civilize the capital punishment machinery, rather than fully embracing abolitionist aspirations. China is comparatively successful and even struggling more to improve the system by standardization of sentences. Whereas, Pakistan is lagging behind but still picked up the tract leading to abolition.

References

- Chen, X. (2013). SENTENCING REFORMS IN CHINA: TOWARDS THE STANDARDISATION OF SENTENCING. *Zeszyty Prawnicze*, 13(1), 197–214.
- Civil, A., & Union, L. (2013). Life without Parole for Nonviolent Offenses, (November).
- Cohen, J. A. (2011). REFORMING CHINA'S CRIMINAL PROCEDURE: AN INTRODUCTION TO THIS SYMPOSIUM. *Columbia Journal of Asian Law*, 24(2), 214–227. <https://doi.org/10.1525/sp.2007.54.1.23>.
- Ferrandino, J. (2015). Minority Threat Hypothesis and NYPD Stop and Frisk Policy. *Criminal Justice Review*, 40(2), 209–229. <https://doi.org/10.1177/0734016814564989>
- G, H. (2016). Death Penalty in China after the Ninth Amendment: Legislatively Abolishing and Judicially Limiting. *Journal of Forensic Science & Criminology*, 4(3). <https://doi.org/10.15744/2348-9804.4.303>
- Garland, D. (1991). Sociological Perspectives on Punishment, 14, 115–165. Retrieved from http://www.antonioacasella.eu/restorative/Garland_1991.pdf
- Greenberg, D. F., & West, V. (2008). Siting the Death Penalty Internationally. *Law & Social Inquiry*, 33(2), 295–343. Retrieved from <http://onlinelibrary.wiley.com/store/10.1111/j.1747-4469.2008.00105.x/asset/j.1747-4469.2008.00105.x.pdf?v=1&t=jah2v0dc&s=6baa6f5a209d6bd1196359e09fecccc097eee7c7&systemMessage=Wiley+Online+Library+usage+report+download+page+will+be+unavailable+on+Friday+24th+November+2017+at+21%3A00+EST+%2F+02.00+GMT+%2F+10%3A00+SGT+%28Saturday+25th+Nov+for+SGT+>
- Jaffrelot, C. (2002). Pakistan: nationalism without a nation?, 356. Retrieved from https://books.google.com.tw/books?id=I2avL3aZzSEC&dq=two+nation+theory+pakistan&lr=&source=gbs_navlinks_s
- Keith F. Otterbein. (1986). The ultimate coercive sanction: A cross-cultural study of capital punishment. Retrieved from https://scholar.google.com/scholar_lookup?hl=en&publication_year=1986&issue=2&author=KF+Otterbein&title=The+Ultimate+Coercive+Sanction:+A+Cross-Cultural+Study+of+Capital+Punishment
- Kent, S. L. (2010). Predicting Abolition: A Cross-National Survival Analysis of the Social and Political Determinants of Death Penalty Statutes. *International Criminal Justice Review*, 20(1), 56–72. <https://doi.org/10.1177/1057567709360333>
- Khan, H. (2001). Constitutional and Political History of Pakistan. Oxford University Press.
- Ledewitz, B. S., & Staples, S. (1977). Reflections on the Talmudic and American Death Penalty. *University of Florida Journal of Law and Public Policy*. Retrieved from http://heinonline.org/HOL/Page?handle=hein.journals/ufpp6&div=7&g_sent=1&casa_token=&collection=journals
- Liang, B. (2005). Severe strike campaign in transitional China. *Journal of Criminal Justice*, 33(4), 387–399. <https://doi.org/10.1016/j.jcrimjus.2005.04.008>
- Lin, X., & Shen, W. (2017). Do the “Haves” come out ahead in China’s prisons? – An empirical study of China’s commutation procedures. *International Journal of Law, Crime and Justice*, 48, 1–13. <https://doi.org/10.1016/j.ijlcj.2016.09.003>
- Mathias, M. D. (2013). The Sacralization of the Individual: Human Rights and the Abolition of the Death Penalty. *American Journal of Sociology*, 118(5), 1246–1283. <https://doi.org/10.1086/669507>
- Miao, M. (2013). Capital punishment in China: A populist instrument of social governance. *Theoretical Criminology*, 17(2), 233–250. <https://doi.org/10.1177/1362480613476788>
- Minas, S. (2007). “KILL FEWER, KILL CAREFULLY”: AN ANALYSIS OF THE 2006 TO 2007 DEATH PENALTY REFORMS IN CHINA Stephen Minas *. *PACIFIC BASIN LAW JOURNAL*, 27(36), 36–70.
- Neumayer, E. (2008). Death Penalty Abolition and the Ratification of the Second Optional Protocol. *The International Journal of Human Rights*, 12(1), 3–21. <https://doi.org/10.1080/13642980701725160>
- Noakes, S. (2014a). “Kill Fewer, Kill Carefully.” *Problems of Post-Communism*, 61(3), 18–30. <https://doi.org/10.2753/PPC1075-8216610302>
- Noakes, S. (2014b). “Kill Fewer, Kill Carefully.” *Problems of Post-Communism*, 61(3), 18–30. <https://doi.org/10.2753/PPC1075-8216610302>
- Saich, T. (2016). How China’s citizens view the quality of governance under Xi Jinping. *Journal of Chinese Governance*, 1(1), 1–20. <https://doi.org/10.1080/23812346.2016.1138690>
- Schabas, W. A. (2000). Islam and the Death Penalty. *William & Mary Bill of Rights Journal*, 9. Retrieved from <http://heinonline.org/HOL/Page?handle=hein.journals/wmbrts9&id=231&div=18&collection=journals>
- Trevaskes, S. (2010). The shifting sands of punishment in China in the era of “Harmonious Society.” *Law and Policy*, 32(3), 332–361. <https://doi.org/10.1111/j.1467-9930.2010.00323.x>
- Trevaskes, S. (2011). Political Ideology, the Party, and Politicking: Justice System Reform in China. *Modern China*, 37(3), 315–344. <https://doi.org/10.1177/0097700410394776>

- Trevaskes, S. (2013). China's Death Penalty: The Supreme People's Court, the Suspended Death Sentence and the Politics of Penal Reform. *British Journal of Criminology*, 53(3), 482–499. <https://doi.org/10.1093/bjc/azt002>
- Trevaskes, S. (2013). The supreme people's court, the suspended death sentence and the politics of penal reform. *British Journal of Criminology*, 53(3), 482–499. <https://doi.org/10.1093/bjc/azt002>
- Trevaskes, S. (2016). Using Mao to Package Criminal Justice Discourse in 21st-century China. *The China Quarterly*, 226(May), 299–318. <https://doi.org/10.1017/S0305741016000266>
- United Nations. International Covenant on Civil and Political Rights (1976). Retrieved from <http://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf>
- Xiumei, W., Chenguang, Z., Zhu, B., & Zhijuan, C. (2017). Is Life Imprisonment without Parole or Commutation an Effective Anti-Corruption Measure for China? *JOURNAL OF ANTI-CORRUPTION LAW*, 1(1), 70–87. Retrieved from <http://www.jacl.org.za/images/stories/XIUMEI.pdf>

Notes

- Note 1. See Amnesty International “The Death penalty in 2016: Facts and figures,” available at; <https://www.amnesty.org/en/latest/news/2017/04/Death-penalty-2016-Facts-and-figures/>, last visited Oct. 25, 2017
- Note 2. The ICCPR made it clear in article 6(6) that abolition is the ultimate direction that states should follow “Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant”
- Note 3. “Whosoever sheddeth man's blood, by man shall his blood be shed” (Genesis 9:6)
- Note 4. “...Take not life which Allah has made sacred except by way of justice and law. ...” (Quran 6:151)
- Note 5. See Amnesty International “The Death Penalty in 2016, facts and figures”, available at; <https://www.amnesty.org/en/latest/news/2017/04/Death-penalty-2016-Facts-and-figures/>, last visited 5/9/2017
- Note 6. See Dawn “Death penalty in Pakistan being used as political tool, researchers say,” Available at; <https://www.dawn.com/news/1343622>, last visited; Aug. 10, 2017
- Note 7. Pakistan Penal Code Act of 1860, secs. 300, 301, 302, 305, 307, 309, 311, 314, amended by Criminal Laws Amendment Act of 2006.
- Note 8. Pakistan Penal Code, as amended by Criminal Laws Amendment Act of 2006, sec. 194, Act No. 65, Oct. 6, 1860.
- Note 9. See Pakistan Penal Code, as amended by Criminal Laws Amendment Act of 2006, sec. 132, Act No. 65, Oct. 6, 1860; Giving up military passwords or intentionally using unassigned military passwords, assisting the enemy, treachery, mutiny and cowardice are punishable by death.
- Note 10. In Pakistan's legislative system death penalty is enforced in around 27 crimes of various nature embodied in Constitution of Pakistan 1973, High Treason Act, Pakistan Criminal Code (PPC) 1860, Army Act of Pakistan, Offence of Zina (Enforcement of Huddod), Pakistan Arms Ordinance, Railways (Amendment) Act, Control of Narcotics Substances Act, Anti-Terrorism Act and prevention of Electronic Crimes Ordinance.
- Note 11. See Article 48: The death penalty is only to be applied to criminal elements who commit the most heinous crimes. In the case of a criminal element who should be sentenced to death, if immediate execution is not essential, a two-year suspension of execution may be announced at the same time the sentence of death is imposed. Available at: <http://www.fmprc.gov.cn/ce/cgvienna/eng/dbtyw/jdwt/crimelaw/t209043.htm> accessed on 17 Nov 2017
- Note 12. In the judicial system of Pakistan, District or Session Court is the trial court that can give the death penalty.
- Note 13. Sections 31(25), 374 and 376 Code of Criminal Procedure
- Note 14. The Constitution of Islamic Republic of Pakistan 1973
- Note 15. See P L D 1993 SC 17 “EID MUHAMMAD AND ANOTHER V/S STATE” available at; <https://pakistanconstitutionlaw.com/p-l-d-1993-sc-17/>, last visited 17 Nov, 2017
- Note 16. see Section 57: Fractions of terms of punishment. In calculating fractions of terms of punishment, imprisonment for life shall be reckoned as equivalent to imprisonment for twenty-five years. Available at; <http://www.lawsofpakistan.com/wp-content/uploads/2012/03/Pakistan-Penal-Code.pdf>. Accessed on 18 Nov, 2017
- Note 17. See Habitual Offender Laws (commonly referred to as three-strikes laws) were first implemented on March 7, 1994; under this several offenses can get the punishment of LWOP.
- Note 18. See Article 383 of The Criminal Law of Peoples Republic of China 1997
- Note 19. See Section 71 of PPC and Section 35, 397 & 398 of CrPC
- Note 20. See Section 33 & 35 of CrPC
- Note 21. See Dawn “Death penalty in Pakistan being used as political tool, researchers say,” Available at; <https://www.dawn.com/news/1343622>, last visited; 10 Aug, 2017

Note 22. See Dawn “Death penalty moratorium lifted completely in Pakistan: Officials,” Available at: <https://www.dawn.com/news/1168652> , last visited Oct. 25, 2017

Note 23. See “Justice project Pakistan,” available at; <http://www.jpp.org.pk/465-executed-since-lifting-of-moratorium-on-death-penalty/>, last visited Nov. 17, 2017

Note 24. See Dawn “Life term means 25 years in prison?: Supreme Court seeks legal opinion,” Available at; <https://www.dawn.com/news/377527>, last visited Oct. 25, 2017

Note 25. See Amnesty International “Death penalty 2016: Facts and Figures” <https://www.amnesty.org/en/latest/news/2017/04/Death-penalty-2016-Facts-and-figures/>, last visited 5/9/2017

Note 26. The current Criminal Law was adopted by the Second Session of the Fifth National People's Congress (NPC) on July 1, 1979 and was subsequently amended by the NPC in 1997 and again in 2002 and so on, the latest 10th amendment happened in 2010.

Note 27. Another way to pronounce the policy of “Kill Fewer, Kill Cautiously”

Note 28. See “Eighth Amendment,” to the Criminal Law of People’s Republic of China 1997 passed in 2011

Note 29. See Article 48, Criminal Law of People’s Republic of China 1997

Note 30. See Article 50, Criminal Law of People’s Republic of China 1997

Note 31. See Article 78 The punishment of a criminal sentenced to public surveillance, criminal detention, fixed-term imprisonment or life imprisonment may be commuted if, while serving his sentence, he conscientiously observes prison regulations, accepts education and reform through labor and shows true repentance or performs meritorious services; the punishment shall be commuted if a criminal performs any of the following major meritorious services: (1) preventing another person from conducting major criminal activities; (2) informing against major criminal activities conducted inside or outside prison and verified through investigation; (3) having inventions or important technical innovations to his credit; (4) coming to the rescue of another in everyday life and production at the risk of losing his own life; (5) performing remarkable services in fighting against natural disasters or curbing major accidents; or (6) making other major contributions to the country and society. After commutation, the term of punishment actually to be served by those sentenced to public surveillance, criminal detention or fixed-term imprisonment may not be less than half of the term originally decided; for those sentenced to life imprisonment, it may not be less than 10 years. Article 79 If punishment to a criminal is to be commuted, the executing organ shall submit to a People's Court at or above the intermediate level a written proposal for commutation of punishment. The People's Court shall form a collegiate panel for examination and, if the criminal is found to have shown true repentance or performed meritorious services, issue an order of commutation. However, no punishment shall be commuted without going through legal procedure.

Note 32. Pakistan showed its willingness to reduce the number of death eligible to meet the qualifying criteria of getting the membership of the European Union’s Generalized System of Preferences Scheme. Generalized System of Preferences: Handbook on the Rules of Origin of the European Union, Special incentive arrangement: Eligibility criteria, the country must have ratified 27 core international conventions required under GSP Plus. For further details visit; http://unctad.org/en/PublicationsLibrary/itcdtsbmisc25rev4_en.pdf.

Note 33. Pakistan made reservations to articles 3, 6, 7, 18 and 19; Status, Declarations, and Reservations, ICCPR, 999 U.N.T.S. 171, Dec. 16, 1966, available at; http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en, last accessed July. 2, 2017.

Note 34. Primary and secondary sources of law in Islamic legal system.

Note 35. See Dawn “The principle of Qisas,” available at; <https://www.dawn.com/news/1053308>, last visited Oct. 3, 2017