

Pakistan ratified the Covenant on 23<sup>rd</sup> June 2010, and thus undertook to impart legal vitality for the values and rights incorporated therein and protect its people by national legislation against cruel, inhumane or degrading treatment by State agencies.

Like any other ratifying country, it (Pakistan) recognised the right of every human being to life, liberty, privacy and security of person . More particularly, "... the Covenant prohibits slavery, guarantees the right to a fair trial and protects the persons against arbitrary arrest or detention. It recognises freedom of thought, conscience and religion; freedom of opinion and expression, the right of peaceful assembly and of emigration, and freedom of association". Pakistan is thus bound to respect these values and under international law (laws) and treaty (treaties). According to the adopted mechanism of elected committee of the Covenant, now it is its jurisdiction which "... may consider communication from a State party alleging violations by any other state party. The mechanism and process thus laid down impart locomotion to Covenant rights. The new World Human Order should have taken of what with the jurisprudence of Human Justice having the backing of the trinity of instruments, namely the Universal Declaration of Human Right, the International Covenant on Economic, Social and Cultural Rights, and the under discussion Covenant - often called the Magna Carta of humanity. Whether the Party State is fulfilling its covenant obligations? Whether what the government is saying in its report it is practically doing the same accordingly. Frequently, complication arises from the fact that states are permitted to make reservation to their acceptance of (the) treaty and subsequently the derogate from some articles of it, such conduct of states in one pretext or the other overrides the permeable of the Charter, which reaffirms faith in fundamental rights, the thrust of Article 55 that the UN must promote universal respect for, and observance of, human rights and freedoms and the categorical commitment in Article 65 by the member state.

Since Pakistan has submitted its report and the Committee framed the list of issues, the Baluchistan Human Rights Council of France is an NGO impartially submits it shadow report or additional information as under:

1. In this context, it is my humble submission to the committee, keeping in view that Pakistan is derogating from these articles, which is violating article (Article) 53 of the Vienna Convention on the Law of Treaties. That without any prejudice I have to say that Pakistan has not (yet) taken any concrete measure yet, unfortunately the provisions of the Covenant are not being applied neither in (either at) federal nor in (or at) provincial level, so for (as far as) Federally Administrated Tribal Areas is concerned, its people are being denied protection by all laws of the land including the Constitution. There is a draconian piece of legislation which is being applied, namely Frontier Crimes Regulation (FCR), due to which the citizens are being deprived (denied opportunities) to file an appeal against the decision of a trial court, have no right to engage a lawyer so he or she can argue and defend the accused in a court. It is pertinent to state here that neither the Covenant was invoked prior, nor after, the ratification in Pakistan's courts. The dilemma in Pakistan is that there is lack of political will in parliamentarians and among) politicians and due to a fear from

extremists and fundamentalists; therefore they are reluctant to make efforts in this regard to harmonise the provisions of sharia law and its interpretation into line to 3 6,7,18 and 19 with the Covenant. Especially (Specifically) Article 3 of the Covenant, the States parties undertake to ensure the equal rights of men and women to the enjoyment of all the relevant rights set forth in the covenant. The term “human rights” is perhaps better referred to as “the human rights of women” to emphasize the universality and indivisibility of all human rights and their full application to women as human beings. Mindful (The) Holy Quran in (the) Islamic world, in particular in Pakistan, is a supreme law which negates that notion which is enshrined in the Covenant. Therefore it is not inclined to withdraw its reservation from articles 3 and 25 of the Covenant. Sharia law is the prime impediment in (the) country; speaking generally, many fundamental freedoms of the international magna carta are even in our Constitution but due to Islamic injunctions therefore the citizens are not enjoying those rights; rather, (they) are being seriously infringed in (this, the ) 21st century, which is the era of individuals’ human rights, (more) especially women rights. This has led the country to lag behind. Prime facie we are living in (a) medieval age due to prevailing laws and a judicial system, before renaissance Europe and other Western countries had the same problems. By virtue (Because) of the Renaissance movement, The Church was separated from the State; 500 (five hundred) years ago The Church had instrumentally used State affairs by (instruments in) the name of religion. The tragedy with Pakistan, including Muslim countries, are (is) that the Renaissance has not yet reached them in 21st century. Still Medieval age draconian law and thought which are out dated are prevailing (prevail). Therefore people in Pakistan and other Muslim countries have fallen in chaos ,where there is(experience) bloodshed and civil (conflict).

2. So far the paragraph 2 is concerned, it is regrettable that Pakistan literally calls itself a democratic country, but practically by its behaviour it is established as a security state where all policies of Pakistan in respect of human rights and rule of law are controlled by the security establishment, as it considers itself the guardian of the state. Prime facie, they are the real ruler without their sweet will and consent, the civilian government has no political will to perform its inherent constitutional responsibility, which is a gigantic step back in Pakistan’s political culture. It is also an established fact that the intelligence agencies do not like the dissentient (dissent) of any NGO or human rights activist in the name of counter terrorism and national security. Therefore, the intelligence agencies don’t (do not) tolerate any opposition. That is the main reason why the Federal and provincial authorities are not adequately funded. It is relevant to mention here that where there the security forces are grossly violating the fundamental rights and freedom of people, they do not allow any human rights defender or NGO to visit there and make impartial reports. In the eyes of security establishment, all the NGOs and human rights defenders, including the national commission of human rights of Pakistan are disliked and unfavoured.

Non- discrimination and equality between men and women (arts 2,3 and 26)

3. It is incorrect, rather the vital issue in Pakistan is that art 25-27 of (the) constitution are not being implemented, which is incompatible and not aligned with

art 2(1) , 3 and 26 of covenant, because these provisions in one way or other are related to Sharia law, which is conflicted with the referred art of covenant, especially inheritance law, the status of woman is inferior that one man is equal to two women as well as in field of testimony, two women are witness, which negates art 25-27 of the Constitution. Although due to international pressure upon the government in this age of globalisation, Pakistan has to some extent enacted legislation in this regarding laws and acts, but unfortunately implementation in Pakistan is the 'Achilles heel'. Since 90% of substantive law of the lands are Sharia law and society is a conservative due to state policies and Pakistan has not yet taken initiatives to decriminalise same-sex relations.

Violence against and domestic violence (arts 2,3,6,7, 14 and 26)

4. That so far, Paragraph 4, which is concerned to the state party is not serious in this regard, although non-stakeholders NGOs have mounted pressure upon government to enact law in this regard, but the religious parties and organisations are (a) prime impediment in the way of enactment (of laws), especially in the implementation in Punjab of the 2016 law on domestic violence; there was resistance from religious parties due to which (and so) it is not being properly implemented. It would also be relevant to state here that in this regard of civil society, (the lives of) human right activists and NGOs, their lives are in threat at the hands of extremists and fundamentalists. So (As) far the role of Council of Islamic Ideology is concerned, its role is very negative, orthodox and (it) is also against the arena of 21st century dimension for judicial justice, rule of law and human rights, (and) rather vehemently causing (putting) obstacles in the way of enactment and appropriate implementation. Yes It is correct it has recommended that husbands are entitled to "lightly beat" their wives in this age of enlightenment. So far, such violence has been reported and investigated, thereafter were convicted, it its rarely (but convictions are rare).

5. That Although in this regard due to pressures of the NGOs and civilised world the government had taken measures to eradicate and prevent the practice of "honour killing" after the tragic and ruthless killing of Qundeel Baluch by her brother, the law which was enacted it has flawed and lacuna. Punishment is 25 years imprisonment even if the heirs of victims pardon the perpetrator. Under section 302 of the PPC the perpetrator in the (a) simple murder case may get life or 14 years imprisonment of 14 years or a maximum of death penalty. The legislation on honour killing would not achieve the desired result as the accused may claim that he had carried out the murder for other reasons such as a dispute over property etc. Hence, the accused may be charged with section 302 of the PPC and a family member may pardon him under section 309 of the PPC which is compoundable according to pros and cons of of Qisas and Diyat ,which are islamic legal terms. As far as Jirga (tribunal councils) is concerned, it is in fact a mafia which is consists of feudal and law enforcers, rather it had emerged as an industry for earning of money. Mindful (that) the "honour killing" is multidimensional, sometimes the selfish husbands want to kill their old age wives so that they can get marry to a young girl. Occasionally they killed their enemies with the allegation of Karikori. And in consideration they pay the Jirga (tribal councils) a sound amounts for a favourable decision .Most of feudals are parliamentarians from interior of country. The police is under their influence, therefore this menace is strengthening day by day.

## Right to life and security of person ( arts.6,7and 9)

Since Pakistan is a conservative society, the people do not consult with state authority, whether it may be health department or law enforcement agencies the girls or women do not want someone to be aware that she is pregnant. However, if a couple agree and request for abortion, the doctors, often due to corruption, help them with abortion violating the law, namely section 338.

7. That after having adopting 23<sup>rd</sup> constitutional amendment, which is related with restoration of Military Courts and in conjunction with reinstatement of moratorium on death penalty, it has become equal to impossible now state party reinstate the moratorium. Unfortunately in Pakistan judicial system is not working properly. As far as the offences of the blasphemy and narcotics are concerned, there is serious kinds of lacunas and flaws in these legislation, since both were enacted on the desires of foreign countries, namely narcotics legislation under US pressure and blasphemy for Saudi Arabia respectively.

According to the Federal Shariat Court's judgment dated October 30, 1990 Blasphemy is a *hadd* punishment.<sup>[22]</sup> Although, **section 295-C** sets out the death penalty to be one of the few available punishments, it makes the death penalty, a *ta'zir* crime, by giving the judge the power to choose a punishment. The Federal Shariat Court of Pakistan has imposed the death penalty as the proper mandatory punishment.<sup>[23]</sup> This means that the law of the *Hanafi* school of thought, which is generally followed in Pakistan, has been ignored as it states that Blasphemy is only a *ta'zir* crime, its punishment does not come within ambit of death penalty. therefore it is also not in compliance with the application of 6(2).

Hence in process of these legislations international norms were not considered: both of the offences are not compatible with article 6 (2) the Covenant. A prudent mind never expects from a military courts that they observe the international standards and dispense justice, keeping in view fair trial and due process, In this regard there is popular satire saying that "Military justice is to Justice what military music is to music". So far denying of pleas of clemency is concerned, without any prejudice it is to say that in our country mercy and humanity have not been considering, the security forces are willfully executing, arbitrarily exterminating their peoples in the name of counter-terrorism and national security, therefore the concerned authorities do not bother clemency and mercy. 426 individuals were sentenced to death and 419 executions were carried out since the lifting of the moratorium. There are 27 crimes those are punishable by death. There are 444 mercy petitions were sent to president, including one for schizophrenic Imdad Ali and Abdul Basid who is a paraplegic prisoner, and non-mercy petitions were accepted. There are 800 prisoners currently on death row were convicted by Special Terrorism Courts. In fact the 266 prisoners having no link with terrorism, remaining 562 cases concluded only 2016 those sentenced to under ATA genuinely were or are 20 % terrorists.

8. That to some extent it has already been discussed in paragraph 7, however Shafquat Hussain was fourteen years of boy at the time of committing the crime he was executed on August, 3 2015. even he was involved in an offence of kidnapping, which does not fall within ambit of ATA.

9. It is relevant to mention here that the Secretary General of Baloch Student Organisation (BSO), Raza Jahangir along with a leader of Baloch National Movement (BNM), Imdad Bojer Baloch was willfully killed in Turbat, Balochistan in 2014. It's Central chairperson Zahid Baloch and another leader Asad Baloch in front of his colleagues, who are available as eyewitness, were arrested and then forcibly disappeared by Frontier Corps in Quetta on 18 March 2014.. It's another leader, the Information Secretary,

Shabir Baloch

was arrested in October 2016 and is still missing. Beside all the court petitions, public

protests, press conferences and even the cases submitted to the UN working group on

enforced and involuntary disappearance. In October 2016, one of its leaders, 18 years

old Khumar Baloch was killed in a combined attack of Frontier Corps and an Islamic

militant group, locally called 'Daash', a local variant of 'Daesh', the official Arabic name of ISIS. Islamist militants attacked the students from one side and when they tried to escape from other sides, paramilitary force, FC sealed the other routes and opened fire. No one knows Khumar Baloch was killed by bullet of security forces or the Dásh. 11. Unfortunately in Baluchistan and Sindh, in the name of counter-terrorism and national security, de facto government is Core Commander or Inspector General of Frontier Core of Baluchistan and Ranger of Sindh. Rather across the Baluchistan there is the order of day of extrajudicial-killing or custodial death, enforced disappearance and liquidation. The armed personnel and law enforcement agencies are enjoying all kind of impunity as a state policy. According to the Chairmen of Baluch Missing persons circa 20000 innocent citizens are in illegal custody of security forces in Baluchistan without any specific charges. In Khuzdar District a mass grave was discovered where more than hundred dead bodies were recovered. The relatives missing persons understand these were the bodies of the missing persons who have been extra-judicially killed in custody by the state authorities. It reveals the atrocities of security forces. In addition to that there is a report of UN groups, wherein the finding committee also established this as the state policy. The link about the UN subcommittee 2012 is mentioned below:

<http://tribune.com.pk/story/440082/missing-persons-un-fact-finding-mission-points-finger-at-agencies/>.

The government has not taken any steps yet, in respect of an order dated 10.12.2013, by the Supreme Court (SC) which is known the case of Mohabat Shah. The Court observed that there was no law which allowed for "undeclared internment". The Court gave the following directions:

"There must be some legislation to control such like activities and the Federation through chief executive must ensure that in future no enforced disappearance takes place." In its order dated 10.01.2014, the Supreme Court observed that the 2013 order was not complied with. Unfortunately government has no political will to legislate in this regard. It is pertinent to mention here that the government accepted a recommendation during 2012 Universal Periodic Review to make the practice a distinct crime, and reiterated that the crime of enforced disappearance be expressly include in Pakistan criminal code. But it is regrettable that it did not comply with its pledge. Although it is an additional information submission of Pakistan report on (ICCPR) in our side, but the established practice is that after ratifying the Covenant the state party under article 40 shall submit its reports to committee within one year. Since Pakistan has submitted its report inordinate delay, therefore the report comes and will be dealt with according to the mechanism of Universal Periodic Review jurisdiction of the UN. Precisely, therefore this forum has jurisdiction to ask Pakistan to implement its commitment made during in 2012 UPR and to enshrine the International Convention for the Protection of All Persons from Enforced

Disappearance in its criminal jurisprudence justice system.

<http://www.dawn.com/news/world-focus-on-disappearance>

Without any prejudice and exaggeration it is pertinent to state here that Pakistan is one of the most corrupt countries in the world. It is absolutely correct that without illegal gratification the police officers do not register an FIR. Even the investigating officers demand bribes from dependents of accused persons during investigation and beat the accused persons only for the purpose of getting bribe from accused persons. This is an entrenched culture in Pakistan. Neither the government has courage to say the police to register first information report against the perpetrators nor the police, whereas all the cases of enforced disappearance and extrajudicial killing are heinous crimes which are cognizable offences, it is the inherent right of police to register FIR. Non-perpetrators were investigated and prosecuted. It is regrettable to state here that the police has no dare to arrest and prosecute the perpetrators frankly speaking they are intelligence agency personnel and consider themselves the guardian of state and they are above to law and constitution.

Counter-terrorism measures (arts.4,6,7,9,10 and 14)

10. The Protection of Pakistan Act, is a draconian piece of legislation which totally negates and is inconsistent with arts. 4,6,7,9,10 and 14 of the Covenant. The aim and object of the Act is to provide shelter to perpetrators, on account of which the fundamental rights of citizens are being seriously infringed. All those who were or are in illegal custody of security forces, rather are being killed in the name of encounter and has been enforced disappearance due to retrospective effect of the Act, their misdeeds can be easily vanished, it is meant to clear them from their committed atrocities. Yes this law empowered the law enforcement agencies with sweeping power to detain citizens in contravention of Pakistan's international obligation as well as its constitutional obligation. The Act provides prolonged preventive administrative detention without considering the fundamental rights of citizens, especially the authorising of the secret and unknown detention. Unfortunately in Baluchistan the security forces have been treating the non-combatants as combatants, mostly they are innocent civilians namely teachers, doctors, lawyers, journalists and professors etc. Prima facie under PoPA are being used to target Baluch missing persons, political activists and leaders in the name of counter-terrorism and national security. The perpetrators have been exempted from any accountability. The security forces involved in heinous crimes enjoy the right to register an FIR, and subsequent investigation and prosecution of the accused persons. How only four courts were established each for a respective province, namely Baluchistan, Punjab, Sindh and Pashto Khawa, of a country of 200 million, with a vast and scattered population, it is impossible to properly proceed to trial the accused persons, rather it was enacted for two years without any result, thereafter it was once again renewed for the purpose of to protect the security establishment instead of protection of Pakistan. Whereas the settled procedure and practice of legislation in Commonwealth Countries is that 'sunset' legislation for the expiry of all subordinate legislation not renewed. But unfortunately the State Party renewed and extended this draconian law once again so that to protect the perpetrators who have committed enforced disappearances and custodial killings in

the name of encounter. Under the guise of such draconian laws, military courts have persecuted and tortured the innocent citizens, especially the thousands of Baluch who were in their custody.

11. That as it has been already to some extent indicated that majority of cases do not come within the definition of terrorism, Pakistani law enforcement agencies with mala fide intention treated ordinary offences were mentioned in FIR under the offences of Anti-Terrorism Act 1997. It is also pertinent to mention here that all those cases which were or are submitted to Anti-Terrorism Courts prior to establishment of the military courts or after, the cases are being tried by the military courts. The proceedings of military court are not consistent to art.14 of the Covenant as well as to the constitution of Pakistan. The army officers without proper qualification to conduct judicial proceeding are carrying out such role. Although, according to 23<sup>rd</sup> constitutional amendment, a session judge also sits in proceeding but in Pakistan "might is right" and such observer are helpless. A prudent mind never expects from a military courts that they observe the international standards and dispense justice, keeping in view fair trial and due process. In this regard there is popular satire saying that "Military justice is to Justice what military music is to music". So far denying of pleas of clemency is concerned in Pakistan, mercy and humanity have not been taken into consideration by the security forces while executing and arbitrarily exterminating the peoples in the name of counter-terrorism and national security. therefore the concerned authorities do not bother clemency and mercy. Irony is that the president of Pakistan constitutionally has jurisdiction to entertain the mercy petition but he has not dared to accept a mercy petition fearing military retributions, so far. In nutshell 426 were sentenced to death, while 419 execution were carried out since the lifting of the moratorium. There are 27 crimes those are punishable by death in Pakistan. 444 mercy petitions were sent to president, including one for schizophrenic Imdad Ali and Abdul Basid who is a paraplegic prisoner. Non of mercy petitions were accepted. There are 800 prisoners currently on death row that were convicted by Special Terrorism Courts. In fact the 266 prisoners have no pretence link with terrorism, remaining 562 cases concluded only in 2016 are those sentenced under ATA. Of that 20 % might have been terrorists. Torture, enforced disappearance and custodial killing is the order of day in the county, especially in Baluchistan at the hands of security forces. They are above law and the covenant and the constitution.

Torture, ill-treatment and deprivation of liberty ( arts.7, 9 and 10 )

11. That the government has not explicitly criminalised torture yet, nor it has legislated in this regard, Torture, Custodial Death is the order of day especially in Baluchistan. Despite of the fact there is being protest across Pakistan against (prevention and punishment) Bill, 2015, government is reluctant to in line the unpopular Bill in compliance with international standards. The section 21-H is not only against the spirit of art. 7 of the Covenant it is also against of section 164 of Cr PC, and the Constitution.

13. That it would be not out of place to mention here that, there is an un-ending elements atrocity including torture and impunity culture is prevailing in Pakistan. Rather Pakistan is flouting all those Core International Instrument which are enshrined and adopted by U.N Commission on Human Rights in 2005, generally speaking known as Basic Principles and Guidelines on the Right to Remedy and Reparation for victims of gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. Whereas it is mandatory for all States of United Nations to implement it and put to end the impunity and uphold the Rule of Law. It is pertinent to mention

here the The Human Rights Cell of the Supreme Court is helpless ,precisely because perpetrators mostly belong to intelligence agencies , as it has been observed in Mohabat Shah case the Supreme Court has shifted its entrusted responsibility to chief executive of State namely Prime Minister,while the Supreme Court had initiated contempt proceeding against the sitting Prime Minister and convicted and sentenced Yosuf Rsaza Galani but the court has no courage to convict and sentence a Colonel or an army officer they are not accountable before any court of law,it is the tragedy with our country.

14.That according to annual reproof HRCP published in 10 may 2017 in respect of Pakistani prisons had 84,315 prisoners. Panjab jails held 49,603 prisoners against a capacity of 23,617, Sindh 20,308 against 12,245 and Khyber Pakhtunkhwa 11,200 against 7,547 .It would be relevant to mention here that Baluchistan is not included , while the situation of Baluchistan is worse ,there is no such a day innocent Baluch peoples are not being enforced disappearance and not being arbitrary arrested.According to the Chairman of missing persons of Baluchistan approximately 20000 thousand were or are in illegal custody of security forces and probably more then 2000 thousands have been custodial and in the name encounter killed . So far art.10 (4) of the Constitution is concerned although it is harsh and contravene the Covenant and basic rights of individual ,but despite of that the innocent persons are in illegal detention with security forces for a period of 4 or 5 years without the appropriate Review Board reviewing ,in the same vein art.10 (5) has been seriously violating, unfortunately neither the Chief Justice of Supreme Court is asking the perpetrators not the High Courts of provinces, it is a mockery with justice and law in Pakistan . Detention without trial has become habitual and the grounds are easy because the courts are helpless .A considerable number of Baluch detainees languishing in Baluchistan and Sindh in illegal custody of security forces.The story of human rights casualties is long and disgraces our record. Justice is dead !Long live law! Respected Sir/ Madam do not ask for compensation the victims of unlawful detention ,we are praying day and night for them ,lest their dead body not be thrown and dump in a desolate place .

“If though didst ever hold me in thy heart,  
Absent thee from felicity awhile,  
And in this harsh world draw thy breath in pain.  
to tell my story,”

———Shakespeare  
(In Hamlet)

15.That for the purpose of brevity please see paragraph 14 in respect overcrowding prisons ,in addition to that it is pertinent to mention here that the system of prisons and living condition of the inmates are not good and rather not in line with international standard and practice,and condition are miserable. There are thousands of missing persons and their whereabouts are unknown.The inmates are the people who are in illegal custody of security forces.They have not been properly care of.Their accommodation, health and other



amenities are unknown. The few who have been released by security forces, they have been badly beaten and tortured, they are suffering from post-traumatic stress disorder, due to fear they do not go to any psychiatric hospital especially in Baluchistan. They have not been provided with basic needs.

Bonded labour and human trafficking (arts. 2(2), 8 and 26.

16. No comments

17. No comments.

18. That it is regrettable to say here without prejudice that in our country the constitution and the federal laws are not being implemented, so for the highest courts of State party are concerned in this regard we have already discussed in paragraph 14 in detail. The Federally Administrated Tribal Areas's peoples have been deprived from those fundamental rights which are enshrined in arts 8-28 in Chapter 11 of the Constitution. Unfortunately to day in 21st century in FATA the draconian law Frontier Crimes Regulation is enforceable. It is pertinent to mention here that 90% of Substantive laws in Pakistan are Islamic, which are being treated supreme to secular laws. Crucial example is the inheritance law, according to which 2 women's share from their parents is equal to one man, testimony and blood money are also half, there is another unnatural principle that if a son or daughter dies prior to their parents, the son's children or daughter's children cannot get any share from their grandparent's inheritance

whereas wisdom dictates that the orphan to be considered first.

Although Article 8 of constitution is comprehensive and broad in its nature, but due its non-compliance, it can be considered dead. A crucial example is the recent restoration of military courts in 23 amendment of constitution, which totally negate Article 8 of the constitution as well as silent feature of the constitution. Article 8 of the Constitution is also in conflict with Article 2 A and preamble of the Constitution and the practice is that Article 2A is being considered prior to Article 8. Precisely, the reason is due to Islamic characteristics and clusters. Due to giving priority, Islamic laws and injunctions and all other laws and act which were enacted are not being properly enforced and implemented. It is a good practice and settled principle that the appellant court against Federal Shariat Court is Supreme Court which can sit aside the decision Federal Shariat Court. The vital issue is that ( Enforcement of Hadd ) Orders, 1979, the trial courts are session judges and appellant court is the Federal Shariat court which is situated in Islamabad, it is hard for a convicted person to file an appeal before the Federal Shariat Court and the load of appeals are so heavy in number within two years they can wait for hearing the . It is unfortunate that the High Courts are reluctant to entertain its inheritance jurisdiction under art. 199 of the Constitution, when a relative of an enforced disappearance in respect of habeas approach the courts for corpus orders, where the armed forces are involved, especially in Baluchistan the performance of High Court is worse.

19. That that in Pakistan Pakistan judicial system is not satisfactory, there are parallel system of judiciary due to which non of them are performing their responsibility properly, therefore its peoples are suffering hardship. The appointment of judges are being on the recommendation of parliamentarians committee, the committee recommends those lawyers who are politically their royal, without considering any prescribed criteria and merit, sometime the chief justice of

supreme court and the chief justice higher court court bargain for induction of their juniors who are practicing lawyers in their chamber, in nutshell there is no any transparency in process of appointing judges , therefore the system is eroded and ruined . Finance constrain is a big issue for independence of judiciary ,the federal and provincial governments allocate budget which is always insufficient and does not meet the requisite needs. It is also correct that there are shortage judges ,in lower courts, qualitatively and quantitatively . Corruption is a cancer in judiciary ,there is a popular saying do not hire a lawyer to bribe the hire fees to a judge is better to win the case. The world justice project ; Rule of index places Pakistan at 98th out of 102 countries. The hire which has been fixed for pauper by state is very little amount therefore competent lawyers never defend them for that amount due to which pauper accused suffered. It is a fact that the lawyers, judges and witnesses including victims are unprotected ,instead of providing the security forces judicial powers and responsibility they should be principally deploy for their protection. After having appointment of lower judicial officers once they would have been provided opportunity of training which insufficient and unreasonable. The entire education system of Pakistan is not satisfactory ,if a student can not get admission in other lucrative field as such doctors engineers than the last option is law graduation, therefore quality education in law field is very poor.

Freedom of religion, conscience and belief ( arts , 2(2), 14, 18, 19 and 26)

20. That it is pertinent to express here that minority especially Ahmadis are leading a miserable life the sunni fanatics and fundamentalist always attack them and worships and are seriously violating art.20. The extremists regularly killed their intellectuals, doctors ,professors ,in Baluchistan also same modus operandi is carrying out by the fundamentalist in support of security agency for the purpose of counter the secular liberation movement of Baluchistan are exterminating Baluch professors ,teacher, doctors ,lawyer and journalist ,as a state policy. Ahmadis are not being allowed to profess, practice and propagate their religion belief openly which had been provided in art,20 of the constitution , as well as the right which are enshrined in art.18 are being seriously violated by the state 's supported extremists groups .All minorities in Pakistan are hostage by the sunni majority namely Hindu, Christian, Shia even Baluch zigri are being ruthlessly killed forcibly conversion and Hindus are being forcibly marriage. Despite of that landmark judgement of Supreme Court the situation is day by day becoming worse ,in Pakistan the vital issue is implementation of law, constitution and adjudications of court ,due to lack of political will and commitment. Unfortunately the curriculum of school and textbooks as well as conservative publication especially in urdu are the apple of discord, due to its disseminating negative and biased ideas , the civil society has fallen in chaos and other source of propagate is the Tibligi Jamayat, surprisingly the government is supporting them precisely reason is that Saudi Arabia is generously funding the madrassa also wherein they are brainwashing and training the terrorists crucial example is Haqani network and its madrasa .Its means government is totally involved in this nefarious plan as a state policy. In this connection there a book was published named Faith-Based Violence and Deobandi military in Pakistan, written by four scholars namely Jawed Saeed, Edwina P I o, Tahir Kamran, which reveals that all Islamic oriented party including Tabligi Jamat are disseminating the fundamentalist approach protected by security establishment. This has made the situation of Pakistan terrible and irremediable with extreme chaos and bloodshed.

21. According to the Federal Shariat Court in a judgment dated October 30, 1990 Blasphemy is a

*hadd* punishment.<sup>22</sup> Although, **section 295-C** sets out the death penalty to be one of the few available punishments, it makes the death penalty, a *ta'zir* crime, by giving the judge the power to choose a punishment. The Federal Shariat Court of Pakistan has imposed the death penalty as the proper mandatory punishment.<sup>23</sup> This means that the law of the *Hanafi* school of thought, which is generally followed in Pakistan, has been ignored as it states that Blasphemy is only a *ta'zir* crime, its punishment does not come within ambit of death penalty. It is pertinent to point out here due to textbooks of Islamic law which are incorporated in law curriculum, the majority of judges are conservative and reactionary, they interpenetrate the law in orthodox manner. It is regrettable to mention here that the State party is not serious in this regard due to pressure of security forces, notable example is that when Salman Haider and three other Bloggers raised the issue of enforced disappearance of Baluchistan the security forces enforced them and civil society and their relatives protested against security forces, they threaten that the Bloggers are involved in commission of blasphemy law. Recently Mashal Khan was a 23-year-old a mass communication student, was attacked and killed by a mob on April 15 on the pretext for publishing blasphemous content online, actually the story is totally different, Mashal Khan has exposed the corruption of the Abdul Wali Khan University in reaction the employees of University engineered that plot of blasphemy case against him and his tragic death occurred. Until and unless the security establishment of State Party does not change its mind set and discard the elements of extremism and fundamentalism approach from foreign policy of the country civilian government can not do anything in this regard. There is no such a workable mechanisms by virtue of which the judges can be protected, therefore incident of violence against judges and lawyers increased sense of insecurity among law people. According to URCP annual report published on 10 May, 2017, in Gilgit-Baltistan, 13 cases were related of honour killing. In Khyber Pakhtunkhwa in the first 10 month of 2016 40 were linked of honour killing. 15 people, 10 Muslims and five non-Muslims, were booked for blasphemy. Two Muslims and as many Christians were sentenced to death for blasphemy. One person charged with blasphemy who had been languishing in jail for four years was acquitted by the Lahore High Court.

#### Privacy and freedom of expression (arts 17 and 19)

22. That in Pakistan privacy of individuals and their family have always been in jeopardising, especially politicians, Human Right Defenders, political activists and journalists are under surveillance. They are being blackmailed by some invisible authorities. Media is also controlled which never consistent with article 17 of the Covenant. In the name of counter-terrorism and national security. In Baluchistan neither domestic media nor international media are allowed to visit and perform their professional responsibilities, even rarely they debates the atrocity of intelligence agencies were killed and attempt to murder Sabeen Mamud, Arshad Mastiv, Ahmad Mir and Salman Haider are textbook examples, when they raised the burning issue of Baluchistan namely enforced disappearance they met the cruelty of security forces.

23. That in this age of globalisation and technology the people of Pakistan are being deprived by the modern devices, the regulatory system of state monopoly is badly

affecting the individual rights of the citizen.

24. No comment.

#### Right to freedom of assembly and association (arts. 20 and 21)

25. That it is relevant to state here that in the State party, generally speaking arts 8-28 are enshrined in Chapter 11 of the Constitution as fundamental rights, it is unfortunate the people can't enjoy these rights. Director HRCP I.A Rehman, Mama Qadeer, Farzana, and Mir Mohammad Talpur and Professor Aasim Sajjad organised a program "Un-silencing Baluchistan" was scheduled at Lahore University of Management Science on 09 April was cancelled by intelligence agency, thereafter, the program was scheduled on 24 April in Sabeen Mahmud's (T2F) at Karachi was gunned down, the same program was scheduled at Karachi University was not allowed, in Baluchistan it is impossible to mobilise the mass without the affinity of security establishment, therefore Magistrate can not matter. The interior ministry in fact is running by security establishment, it is the sweet will of it to arbitrarily select which one to be declared prohibited and which one is a pro-state, there are members of Jahadi namely extremists who have been elected as a parliamentarian. The secular parties raised this issue but all went in vain. Precisely reason was that he was a blue-eyed boy of establishment. It is pertinent to mention here that non-parties were referred to the Supreme after declaring them as anti-state political parties, two most popular political party and student union, namely Baluch National Movement, which is purely a democratic party and belief in democratic struggle, similarly Baluch Student Azad an student union struggle for Baluch students rights in college and university were declared arbitrary without referring the declaration orders or notification within fifteen days to the Supreme Court. Prima facie the aims and objectives of establishment is by hook or by crook to control the belief and expression of the people in this era of enlightenment, human right and democracy. In Pakistan there is another ridiculous practice Students Union were banned by dictator Zia-ul-haq now it is mandatory that a student in process of submitting his or her admission form also have to submit an affidavit wherein by saying that the student does not participate in political activities, then the state party should be asked it would be better to exclude the subject of "Political Science" from the curriculum, ironically instead of it further include Sunni and Wahabi school of thought textbook which suit the establishment.

Right to marriage and family (arts 2 (2), 3, 23 and 26)

26. That so far as 2 (2) is concerned to some extent legislation is there but crucial point is that the Covenant, enacted law and particularly the Constitution are being implemented, not at all. Article 3 is pertinent to women rights, precisely it states that "The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the the present Covenant". But unfortunately the State Party entered reservation in respect of art.3 in this age where the women or feminist are struggling for the political, economic and social equality of men and women and should enjoy equal rights and opportunities. This reservation deprived the half population of Pakistan from their natural and

basic rights, the reservation also is conflicted with Peremptory norm reflected in art.53 of the 1969 Vienna Convention the law of Treaties, that states that a fundamental principle of international law that is accepted by international community of states as a norm from which no derogation is permitted, it also frustrates the purpose of the Covenant. It would be reasonable for the State Party to remove this impediment in the interest of most vulnerable section of society namely women. The situation of children in State Party is miserable .

Protection of children (arts.2 (2),3, 24 and 26)

28. No comments.

Right to take part in public affairs(25)

29. No comments.

Dissemination of information relating to the covenant

Human Rights Council of Balochistan.