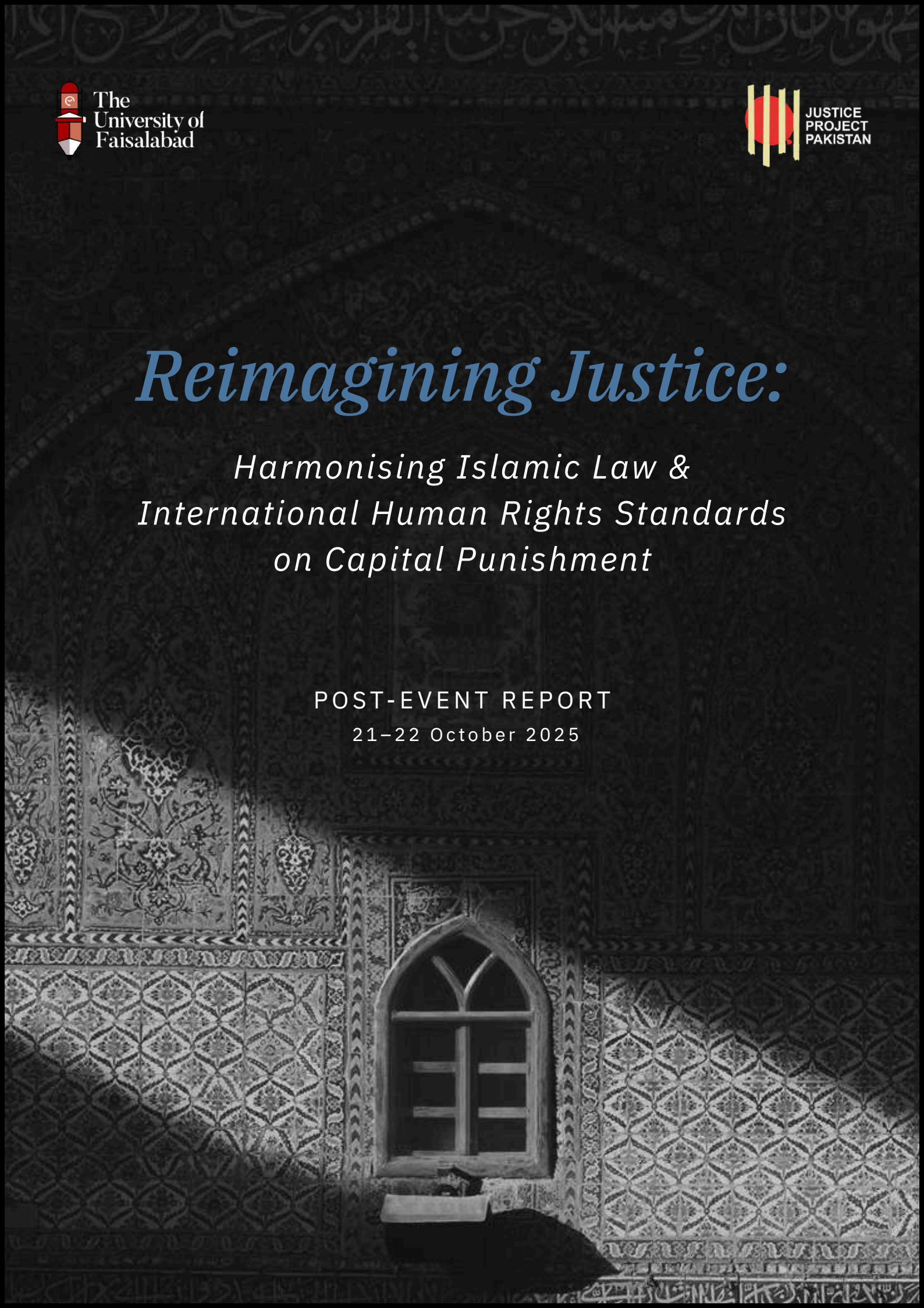


Reimagining Justice:

*Harmonising Islamic Law &
International Human Rights Standards
on Capital Punishment*

POST-EVENT REPORT

21-22 October 2025





On 21–22 October 2025, **Justice Project Pakistan**, in collaboration with **The University of Faisalabad**, hosted an international conference titled “**Reimagining Justice: Harmonising Islamic Law & International Human Rights Standards on Capital Punishment**” at The University of Faisalabad. The conference aimed to initiate a comprehensive national dialogue on the intersection of Islamic jurisprudence and international human rights norms regarding the death penalty. It featured focused sessions exploring the legal and ethical frameworks within both Islamic law and international human rights law that govern the use of capital punishment, with particular attention to shared principles such as mercy, mental capacity, evidentiary thresholds, and protections for vulnerable groups.

The conference brought together high-level stakeholders from the federal government, distinguished international scholars and academics, current and former members of the superior judiciary, medical and mental health professionals, senior UN representatives, and legal and civil society sectors. This report synthesises the discussions and insights shared during the two-day convening, offering a narrative and analytical overview of the conference proceedings.

@justiceprojectpak
www.jpp.org.pk/



INTRODUCTION

The conference was formally opened by Professor **Dr. Sami Ur Rahman, Dean of the Faculty of Law at The University of Faisalabad**, who welcomed participants and underscored the significance of this being the first academic forum in Pakistan to critically examine the death penalty through the dual lenses of Islamic jurisprudence and international human rights law. Dr. Sami also acknowledged the leadership of the university's Board of Governors for supporting this pioneering initiative. In his remarks, he outlined five key aims for the convening: to deepen understanding of the doctrinal limits Islam places on capital punishment and their alignment with international norms; to examine shared protections such as mercy, mental capacity, evidentiary standards, and safeguards for vulnerable groups; to contribute to rights-based legal reform by drawing on the expertise of scholars, practitioners, and civil society; to promote dialogue between faith-based and human rights actors in order to prevent the instrumentalisation of religion in justifying overly broad capital statutes; and to support the development of a more coherent legal framework rooted in the shared values of justice, restraint, and procedural fairness. He emphasised that this conference was only the beginning of a larger national conversation on reforming Pakistan's capital punishment framework in line with both Islamic and international principles.

SPEAKERS



Prof. Dr. Mohammad Habbash
Former Director of the Islamic
Studies Centre, Damascus



Barrister Sarah Belal
Executive Director, Justice
Project Pakistan



Prof. Dr. Aman Ullah Malik
Rector, University of Faislabad



Prof. Dr. Muhammad Mushtaq Ahmad
Chairman Department of Law at Shifa
Tameer-e-Millat University



Dr. Sadiq Kakar
Assistant Professor,
Bahria University



Justice (R) Khalil-Ur-Rehman
Ramdey, Supreme Court of
Pakistan



Ms. Ambika Satkunanathan
Member Membership Council of Penal
Reform International & the UN Voluntary
Trust Fund for Victims of Torture



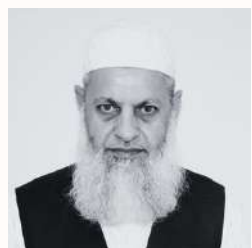
Prof. Dr. Stefaan Smis -
Faculty of Law and Criminology of
the Vrije Universiteit Brussels



Ms. Namra Gilani
Team Lead Legal, Justice
Project Pakistan



Dr. Roop Zainab Rana -
CEO, The Healing Triad
Medical Doctor, Psychiatrist



Dr. Inamullah
Director General for Research
Council of Islamic Ideology



Dr. Qibla Ayaz
Judge, Shariat Appellate Bench
Supreme Court of Pakistan.



Ms. Denny LaBoeuf
Head of the Jon Adams
Project, ACLU



Barrister Qasim Ali Chowhan, Advocate
Supreme Court/ formerly Additional
Advocate General Punjab



OPENING CEREMONY

“Both traditions (Islamic Law and International Human Rights Law), though rooted in different historical and philosophical foundations, converge on a common principle that the sanctity of life is inviolable and justice must never be arbitrary.”

- Prof. Dr. Aman Ullah Malik

The opening remarks were delivered by **Prof. Dr. Aman Ullah Malik, Rector of The University of Faisalabad**, who reflected on the profound moral and legal complexities surrounding capital punishment. He welcomed the diverse assembly of Islamic jurists, international law experts, human rights defenders, and policymakers, noting the significance of creating an academic platform to discuss an issue that is often considered too sensitive to raise in public discourse. Drawing on his own academic experience across Pakistan, the United States, and Australia, he emphasised the need for respectful, intellectually grounded dialogue guided by both faith and reason.

Prof. Malik observed that the question of capital punishment remains one of the most complex and morally charged issues confronting contemporary legal systems. He emphasised that the core challenge lies in ensuring that justice is administered with fairness, compassion, and an unwavering respect for human dignity. Islamic law, he noted, establishes exceptionally rigorous evidentiary requirements and places mercy and forgiveness at the heart of its moral framework. International human rights law similarly maintains that, where retained, the death penalty must be limited to the most serious crimes and applied with strict safeguards. Despite their different origins, he underscored that both traditions converge on a foundational principle: the sanctity of life is paramount, and any system of punishment must avoid arbitrariness, excess, or vengeance.

He expressed hope that this landmark convening would foster a spirit of mutual understanding and reform—where faith and human rights not only coexist but work hand in hand in the service of a more compassionate, just, and enlightened society.



WELCOME ADDRESS

“Islamic jurisprudence and international human rights law are two distinct traditions that are deeply aligned in their reverence for justice, mercy, and the sanctity of life.”

- Sarah Belal

The opening session continued with a welcome address by **Barrister Sarah Belal, Executive Director** of Justice Project Pakistan, who described the conference as a landmark moment—both for Pakistan and for the broader Muslim world. She noted that this was the first national forum dedicated to critically examining capital punishment through the twin frameworks of Islamic jurisprudence and international human rights law.

Though often treated as distinct, these traditions are deeply aligned in their reverence for justice, mercy, and the sanctity of life. Drawing on nearly two decades of advocacy and legal representation, she reflected that never before had such a conversation—situated in both Islamic and rights-based frameworks—taken place in Pakistan. It marked, in her words, the beginning of a long-aspired dialogue. She underscored that the challenge of capital punishment lies not only in its moral weight, but also in the disconnect between theory and the practical realities of Pakistan’s justice system. With over 3,394 people currently on death row, and 29 offences still carrying the death penalty, Pakistan remains one of the most prolific users of capital punishment globally. However, she also highlighted a series of promising reforms. In recent years, the Ministry of Law has removed the death penalty for four non-lethal offences, while landmark Supreme Court judgments have reaffirmed critical safeguards—reserving capital punishment for only the “most serious crimes,” exempting individuals with severe mental illness, and recognising prolonged death row incarceration as cruel and inhuman treatment.

Framing the conference as part of this ongoing shift, she urged participants to explore how evidentiary certainty, mercy, and human dignity can more meaningfully shape the justice system.

The Quran, she noted, prescribes the death penalty in only two instances; intentional killing and fasad fil-ard, and in both cases, introduces mercy and alternative punishments. This is remarkably consistent with the international legal standard, which limits the death penalty to intentional killing alone. In this light, she identified, the goal is not to debate doctrine, but to engage in informed, critical enquiry, centred on shared values, and to develop a framework that narrows the use of the death penalty while protecting the most vulnerable and fulfilling Pakistan’s legal and moral obligations. Framing the conference as part of this ongoing shift, she urged participants to explore how evidentiary certainty, mercy, and human dignity can more meaningfully shape the justice system. The Quran, she noted, prescribes the death penalty in only two instances; intentional killing and fasad fil-ard, and in both cases, introduces mercy and alternative punishments. This is remarkably consistent with the international legal standard, which limits the death penalty to intentional killing alone. In this light, she identified, the goal is not to debate doctrine, but to engage in informed, critical enquiry, centred on shared values, and to develop a framework that narrows the use of the death penalty while protecting the most vulnerable and fulfilling Pakistan’s legal and moral obligations.



PRESENTATION

The opening address was followed by a presentation by **Haris Zaki**, Policy and Advocacy Team Lead at Justice Project Pakistan, who provided a data-driven overview of the current state of capital punishment in Pakistan. Drawing on JPP's latest research, he highlighted that 3,394 individuals remain on death row, despite the suspension of executions since 2019.

Mr. Zaki traced key policy and judicial developments over recent decades, including a gradual reduction in the number of death-eligible offences, the removal of capital punishment for drug-related crimes, and the recognition of severe mental illness as a bar to execution following the Supreme Court's landmark Safia Bano judgment.

He also noted reforms linked to Pakistan's international commitments, including sentencing and procedural safeguards adopted in response to obligations under the ICCPR and the GSP+ framework. At the same time, Mr. Zaki drew attention to enduring systemic challenges within Pakistan's death penalty regime.

These include the disproportionate impact of capital punishment on vulnerable and marginalised groups, poor and often degrading conditions on death row, and the chronic underutilisation of constitutional clemency mechanisms. He concluded that while incremental reforms have created important openings, these gaps point to the need for sustained policy engagement, rigorous empirical research, and deeper institutional reflection to ensure that Pakistan's capital punishment framework is aligned both with its Islamic jurisprudential foundations and its international human rights obligations.

Access Haris
Zaki's presentation on
*Pakistan and the
Death Penalty*



Access JPP's report
*The Death Penalty in
Pakistan 2025*



“Reframing the discussion from aligning Islamic law with international human rights standards to aligning Islamic law and international human rights standards reflects a fundamental change in approach. It rejects prioritizing one framework over the other, inviting a soul-searching convergence that reimagines justice in the context of capital punishment.”

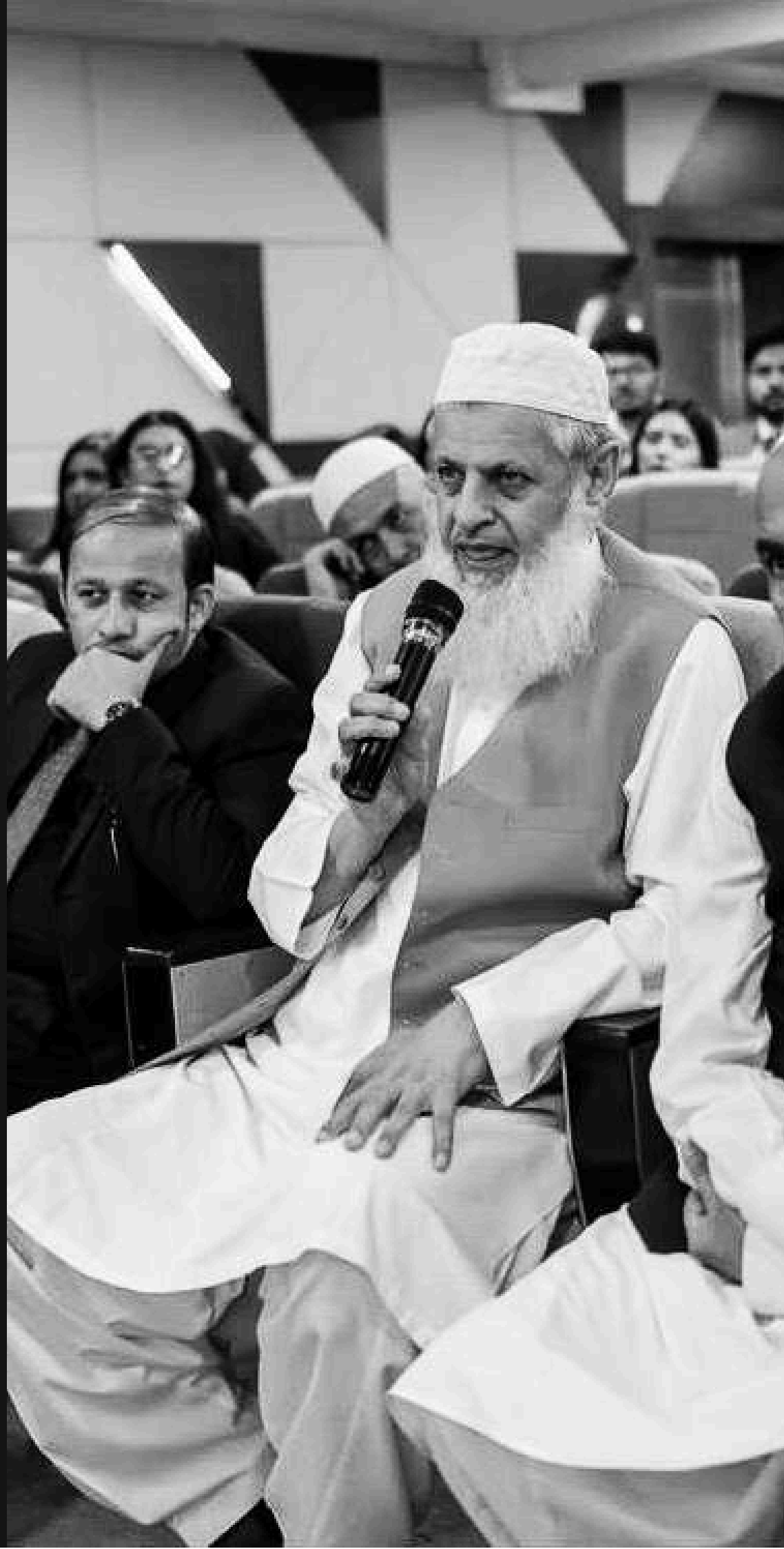
- Professor Dr. Mushtaq Ahmed

The keynote address was delivered by Professor **Dr. Mushtaq Ahmed**, Chairman of the Department of Law at Shifa Tameer-e-Millat University, who opened by reflecting on the significance of reframing the inquiry from “harmonising Islamic law with international human rights standards” to “harmonising Islamic law and international human rights standards.” This linguistic shift, he argued, signaled a deeper conceptual transformation. Rather than positioning one framework as a benchmark against which the other must be measured, it invites a more honest and intellectually rigorous engagement with both traditions as parallel systems concerned with justice, dignity, and restraint. Situating international human rights law within its historical context, Dr. Mushtaq traced the emergence of claims to universality through competing ideological traditions—liberal, socialist, and post-colonial—and the political conditions of the mid-twentieth century, including decolonisation and the Cold War. He emphasised that international human rights law is not a culturally neutral or ahistorical project, but one shaped by particular philosophical and geopolitical trajectories of the time. He underscored the competing ideologies of the Eastern bloc and the Western bloc that gave birth to two generations of rights, economic, social and cultural rights and civil and political rights, respectively

Against this backdrop, he described Islamic law as a deeply coherent legal and moral tradition, representing nearly one-fifth of humanity, which has endured and adapted despite colonial legal impositions. He stressed that Islamic law recognises inalienable, God-given rights and cannot be understood through the Qur’an alone, but through the broader jurisprudential tradition, including the Sunnah and classical fiqh. Dr. Mushtaq further argued that debates surrounding rights—whether equality, liberty, dignity, or freedom of belief—must acknowledge that all legal systems make normative choices when balancing competing claims. Islamic constitutionalism, he noted, explicitly recognises this tension, as reflected in Pakistan’s constitutional commitment to ensure that laws and rights conform to Islamic principles.

¹ Justice Project Pakistan, The Death Penalty in Pakistan 2025, <https://www.jpp.org.pk/the-death-penalty-in1-pakistan-2025>

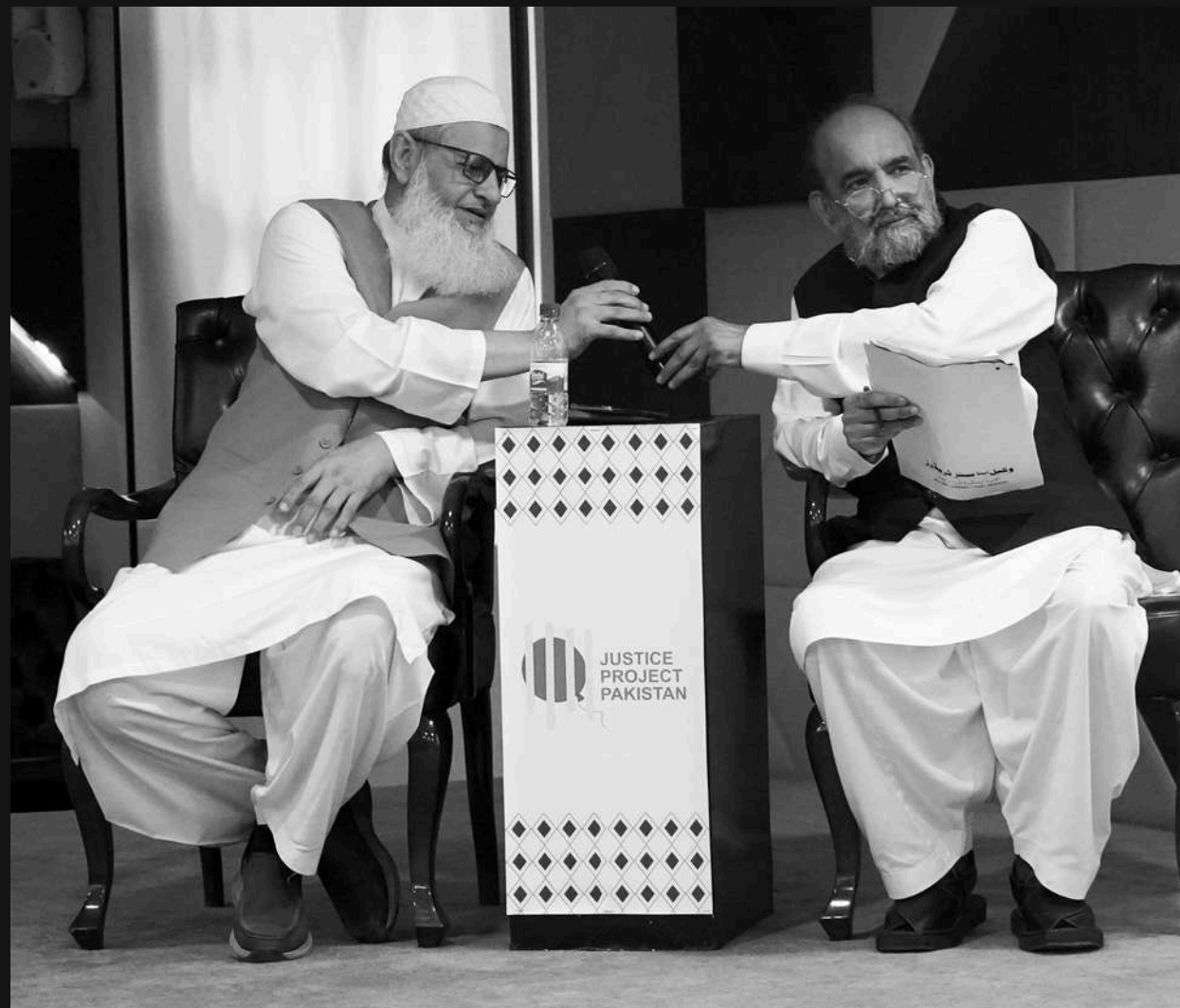
KEYNOTE ADDRESS



Drawing on the scholarship of his mentor, **Imran Ahsan Khan Nyazee**, he explained how Islamic law distinguishes between the rights of God and the rights of individuals, situating both within the higher objectives of Shariah—objectives that anchor justice beyond legislation, political expediency, or majoritarian preference.

Turning to capital punishment, Dr. Mushtaq cautioned against narrowly framing the debate around deterrence, and instead called for sustained attention to mercy, proportionality, and procedural safeguards embedded within Islamic criminal law. Drawing on his experience as *amicus curiae* before the Supreme Court in cases under the Anti-Terrorism Act, he underscored that even in the gravest offences, Islamic law insists on keeping the door to mercy open—before, during, and after punishment. He noted that the Qur’an prescribes the death penalty only in limited circumstances, subject to exceptionally high evidentiary and procedural thresholds, often rendering its application rare in classical jurisprudence. He concluded that any meaningful engagement with capital punishment reform in Pakistan must take seriously the ethical commitments of Islamic law—restraint, mercy, and rigorous safeguards—while engaging constructively with international human rights standards that reflect closely aligned concerns.

MORNING PLENARY: CAPITAL PUNISHMENT AND PRISONERS' RIGHTS IN ISLAMIC JURISPRUDENCE AND INTERNATIONAL LAW



Moderated as a high-level discussion featuring **Ms. Ambika Satkunanathan, Dr. Mohammad Habbash, Prof. Dr. Qibla Ayaz, Dr. Inamullah, and Professor Dr. Stefaan Smis**, the morning plenary brought together leading voices from Islamic jurisprudence and international human rights law. The discussion centred on one of the conference's core analytical propositions: that far from being in tension, Islamic law and international human rights law share significant points of convergence in their approach to capital punishment and the treatment of prisoners, particularly in their emphasis on restraint, mercy, and the protection of the vulnerable.

The session opened with Ms. Ambika Satkunanathan, Member of the Membership Council of Penal Reform International and the UN Voluntary Trust Fund for Victims of Torture, who grounded the discussion in empirical realities before turning to legal standards. Drawing on comparative research from South Asia—particularly India and Sri Lanka—she presented detailed data on the socio-economic profiles of individuals sentenced to death, demonstrating that capital punishment overwhelmingly affects those who are economically marginalised, poorly educated, and socially excluded. Referencing a landmark study by Project 39A in India, she noted that the vast majority of individuals on death row were first-time offenders, primary or sole income earners for their families, had little or no formal education, and socially excluded.

Referencing a landmark study by Project 39A in India, she noted that the vast majority of individuals on death row were first-time offenders, primary or sole income earners for their families, had little or no formal education, and disproportionately belonged to marginalised castes or religious minorities. Similar patterns, she explained, emerged from Sri Lankan data, where most death-sentenced individuals came from rural areas, lived below subsistence income levels, and lacked meaningful access to legal representation. Ms. Satkunanathan emphasised that this profiling exercise was critical to assessing the credibility of legal safeguards in practice. Rather than asking whether rights exist on paper, she urged participants to consider whether individuals facing such extreme socio-economic disadvantages possess the knowledge, resources, and capacity to access those rights at all. This structural exclusion, she argued, renders the application of the death penalty inherently arbitrary and raises serious concerns about discrimination and fairness. Situating her analysis within Article 6 of the International Covenant on Civil and Political Rights, she stressed that the right to life prohibits arbitrary deprivation not only through flawed laws, but also through criminal justice systems that systematically fail the poor. Her intervention highlighted a key point of convergence with Islamic jurisprudence: both traditions prioritise mercy, rehabilitation, and restraint, and caution against punitive responses that entrench inequality rather than address the root causes of crime.

Building on the preceding discussions, **Dr. Mohammad Habbash, former Director of the Centre for Islamic Studies in Damascus**, situated the death penalty within the broader architecture of Islamic criminal law and its underlying ethical commitments.

He began by acknowledging the comprehensiveness of Professor **Dr. Mushtaq Ahmed's** remarks, noting that they had already addressed many of the key questions he intended to raise—particularly the relationship between Islamic law and international human rights norms, and the place of capital punishment within Islamic jurisprudence. Drawing on his published work with international criminal law reform organisations, Dr. Habbash advanced the proposition that Islamic law not only restricts the death penalty, but also provides doctrinal pathways through which its use may be effectively curtailed or abandoned altogether.



Dr. Habbash explained that the Qur'an explicitly prescribes capital punishment in only two contexts: qisas in cases of intentional killing, and haraba in cases of violent public disorder. Even within the broader corpus of classical fiqh, he noted, the number of death-eligible offences remains limited—traditionally identified as no more than nine. By contrast, contemporary legal systems in many Muslim-majority countries have dramatically expanded the scope of capital punishment.

He cited comparative examples to illustrate this divergence, noting that Syria currently retains 41 death-eligible offences, Yemen 51, and Egypt as many as 105—figures that far exceed any plausible basis in Islamic law. This widening gap, he argued, reflects the incorporation of punitive statutory regimes rather than fidelity to Islamic jurisprudential principles. Central to Dr. Habbash's intervention was his articulation of fourteen doctrinal mechanisms within Islamic law that operate to prevent or restrict the application of the death penalty.

He clarified that qisas itself is not synonymous with capital punishment, but rather a framework of retributive justice that affords victims' families a choice between execution, acceptance of diyah (compensation), or afw (forgiveness). He stressed that the very concept of a "death penalty" is foreign to Islamic legal terminology, as the authority to take life ultimately belongs to God alone. The Qur'an, he noted, mentions capital punishment only once, while references to forgiveness and amnesty appear approximately twenty times—underscoring mercy as the dominant ethical orientation. Dr. Habbash further explained that Islamic law imposes multiple procedural and moral barriers to execution. If even a single heir of the victim exercises forgiveness, the death penalty is barred; where no private claimant exists, the state has no authority to pursue execution, as qisas is fundamentally a personal right rather than a public one.

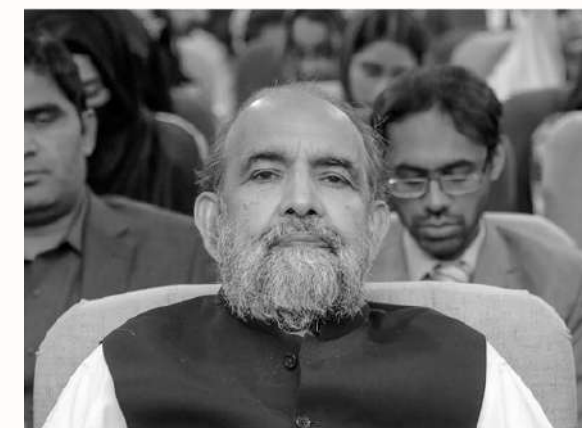


He highlighted the principle of shubha, under which any degree of doubt precludes capital punishment, and the strong encouragement of diyah, including communal support mechanisms that allow families or tribes to assist in its payment. He also noted that individuals who help secure diyah fall within the category of gharmeen, making them eligible beneficiaries of zakat. Additional safeguards include Islam's prohibition of revenge, its preference for reconciliation (sulh), the recommendation of amnesty, the requirement of scholarly consensus on death-eligible offences, and unanimity among judges before such a sentence can be imposed. Taken together, Dr. Habbash argued, these safeguards demonstrate that Islamic criminal law is fundamentally oriented toward restraint, reconciliation, and the prioritisation of mercy over punishment. Far from mandating expansive use of capital punishment, Islamic jurisprudence erects layered doctrinal barriers that render its application exceptionally rare—offering a powerful internal framework for rethinking contemporary death penalty regimes in Muslim-majority contexts.

There is one ayah in the Quran about the death penalty, but 20 about forgiveness and mercy.
- Dr. Habbash



Prof. **Dr. Qibla Ayaz**, former Chairperson of the Council of Islamic Ideology (CII), reaffirmed these principles while emphasising the state's authority, and responsibility, to exercise mercy. Referring to the Council's jurisprudence in the context of Pakistan's GSP+ obligations, he noted that the CII has recognised multiple areas in which capital punishment may be replaced with ta'zir penalties. His remarks highlighted the existence of a strong institutional and doctrinal basis within Pakistan for recalibrating the use of the death penalty in a manner consistent with both Islamic law and international commitments.



Dr. Inamullah, Director General (Research) at the Council of Islamic Ideology, further clarified the Council's advisory role in reviewing Pakistan's death penalty framework at the request of the Ministries of Interior and Human Rights. He observed that while Pakistan previously had 33 death-eligible offences, the CII has recommended substantial reductions and affirmed that Islamic law mandates capital punishment for only seven offences. For all other crimes, he explained, the state retains the discretion to impose alternative punishments.

²The Council of Islamic Ideology is a constitutional body that advises the legislature whether or not a certain law is repugnant to Islam

³The GSP+ is the special incentive arrangement for Sustainable Development and Good Governance that supports vulnerable developing countries. Compliance with various international obligations is mandated by the EU for the award of the GSP+ status.

Dr. Inamullah addressed common misconceptions that the CII would always favor retaining the death penalty, emphasizing that its jurisprudence reflects a principled commitment to proportionality, restraint, and limiting the application of the death penalty in line with Islamic doctrine.



Closing the session, Professor **Dr. Stefaan Smis** of Vrije Universiteit Brussels, who supervised research on Islam and the death penalty as a scholar, situated Pakistan's reform trajectory within the broader international human rights framework. Professor Smis noted that many Islamic countries, including Pakistan, have ratified core international human rights treaties and now engage in sustained dialogue with international supervisory bodies regarding their implementation.

He highlighted the Universal Declaration of Human Rights as a foundational reference point, particularly Article 3 on the right to life and Article 5 prohibiting torture and cruel, inhuman, or degrading treatment or punishment. While the Declaration itself does not explicitly address the death penalty, these provisions, he explained, have shaped the normative evolution of international standards governing state use of lethal punishment.

Turning to the International Covenant on Civil and Political Rights (ICCPR), which Pakistan ratified in 2010, Article 6 of the ICCPR, he noted, does not prohibit the death penalty outright, but strictly limits its application and reflects a clear normative direction toward abolition. The Covenant recognises the death penalty as an exceptional measure, permissible only under the most restrictive conditions and subject to rigorous procedural safeguards.

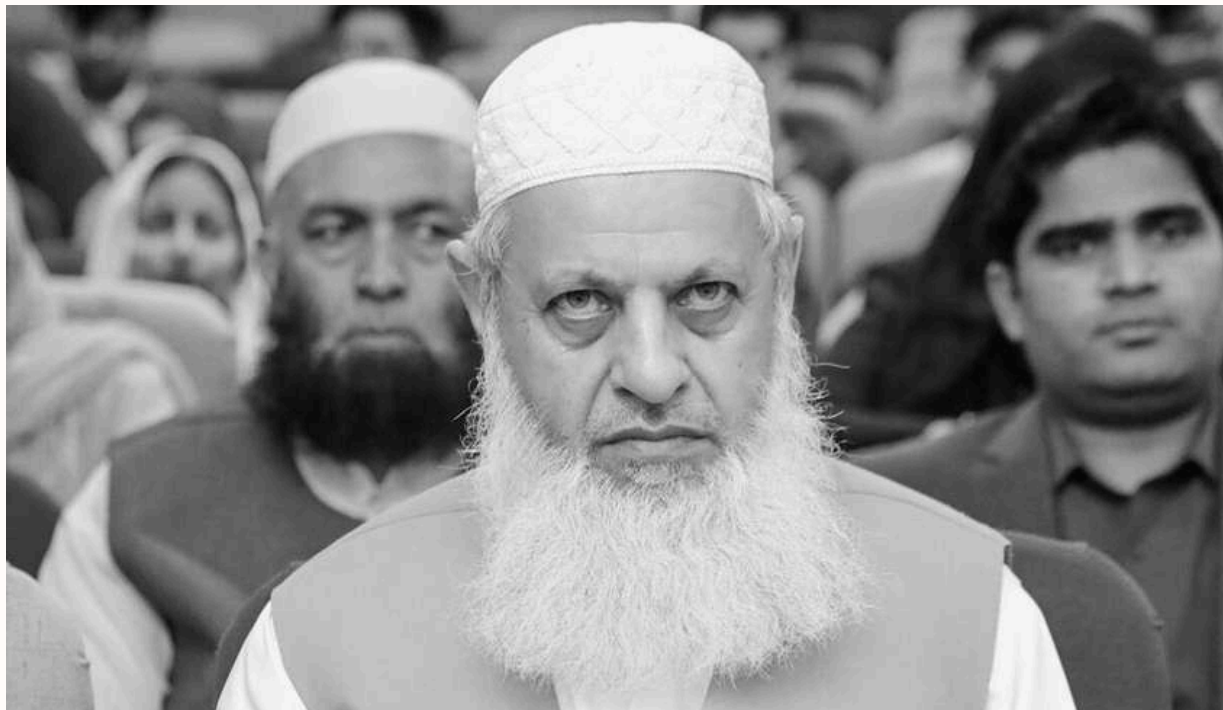
He observed that this approach mirrors the trajectory of many Muslim-majority states that retain capital punishment while progressively narrowing its scope through legislative reform, judicial interpretation, and engagement with international oversight mechanisms.

Collectively, the plenary reaffirmed that both Islamic and international legal traditions impose stringent safeguards on the use of capital punishment and prioritise mercy, due process, and the protection of vulnerable groups. The discussion demonstrated that aligning Pakistan's death penalty regime with these principles is not an externally imposed project, but one deeply grounded in the country's constitutional framework, religious tradition, and international legal obligations.

Collectively, the plenary reaffirmed that both Islamic and international legal traditions impose stringent safeguards on the use of capital punishment and prioritise mercy, due process, and the protection of vulnerable groups. The discussion demonstrated that aligning Pakistan's death penalty regime with these principles is not an externally imposed project, but one deeply grounded in the country's constitutional framework, religious tradition, and international legal obligations.



PANEL 1: SAFEGUARDS IN ISLAMIC AND INTERNATIONAL LAW: MERCY, EVIDENCE AND THE SANCTITY OF LIFE



Moderated by Advocate **Ramis Sohail**, this session brought together a distinguished panel comprising former Senior Justice of the Supreme Court, Hon. Justice (R) **Khalil-ur-Rehman Ramday**, JPP Executive Director Barrister Sarah Belal, and Islamic law scholar **Dr. Sadiq Kakar**. Building on the plenary’s core argument, the discussion explored how Islamic jurisprudence provides a dense and principled framework of safeguards, often more exacting than statutory law, designed to prevent the arbitrary or excessive application of the death penalty.

Opening the panel, Hon. Justice (R) Khalil-ur-Rehman Ramday, who served as senior judge of the Lahore High Court and Supreme Court of Pakistan for more than 2 decades, emphasised that judicial responsibility in capital cases extends well beyond the mechanical application of legal provisions. He stressed that the imposition of the death penalty must be approached with exceptional caution and grounded in a holistic assessment of the accused, including age, mental condition, intent, and the surrounding circumstances of the offence. Justice Ramday emphasised that *diyah* should not be understood as a punishment in itself, but as compensation payable to the victim’s.

Theirs, and that its availability reflects Islam’s preference for reconciliation over retribution. He observed that within Pakistan’s legal framework, particularly under section 302 of the Pakistan Penal Code, murder may attract a wide range of punishments, from brief imprisonment to life imprisonment or death, depending on the circumstances of each case. The law, he stressed, does not mandate capital punishment in all cases of intentional killing, and judges are required to consider factors such as motive, age, mental capacity, and surrounding circumstances before determining a sentence.

Turning to evidentiary standards, Justice (R.) Ramday noted that Islamic law demands heightened caution where the consequences are most severe. The graver the punishment, the more exacting the standard of proof must be; a principle that resonates with modern notions of due process. He explained that *tazkiyah al-shuhood*, often misunderstood or mystified due to its terminology, historically referred to assessing the credibility of witnesses at a time when formal procedural safeguards did not exist.

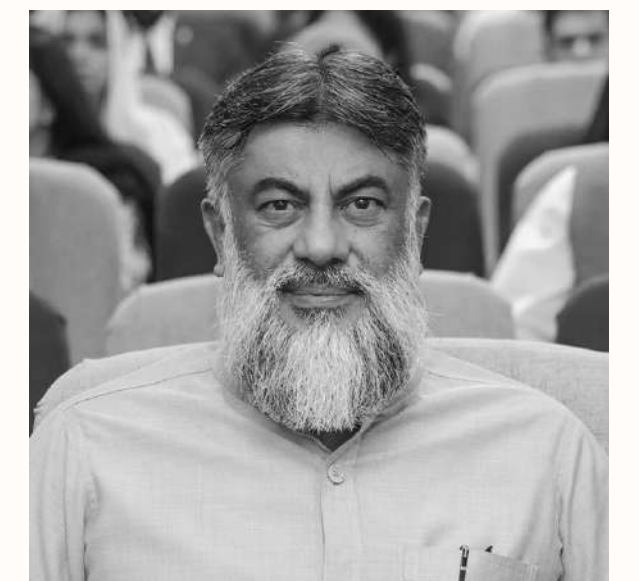
Justice Ramday underscored that not every instance of intentional killing warrants capital punishment, and that Islamic law as well as Pakistan’s legal framework provide for alternative sanctions. His remarks reinforced a foundational principle shared by both Islamic jurisprudence and international human rights law: that the death penalty, where retained, must operate strictly as a measure of last resort.

In contemporary legal systems, he suggested, rigorous cross-examination and procedural protections serve this function, ensuring reliability of evidence without departing from Islamic principles. Any reluctance to award punishment under *qisas*, he observed, often stems not from doctrinal constraint but from uncertainty in applying these principles within a modern procedural framework.



He further clarified that *qisas* signifies proportionality or similarity of treatment, i.e., punishment that corresponds to the nature of the harm inflicted. He noted that this principle is not unique to Islamic law, but finds expression in earlier legal traditions, including the Old Testament, which articulated the notion of “life for life, eye for eye.” The Qur’an, he explained, reaffirmed this standard while introducing a significant development: the possibility of forgiveness. Whereas earlier legal traditions recognised no scope for pardon in cases of murder, Islamic law permitted forgiveness as an act of mercy, underscoring that while *qisas* affirms justice, mercy remains central to its application.

Justice (R.) Ramday illustrated Islam’s insistence on restraint through prophetic practice, recalling the rare instances in which *hudood* punishments were imposed during the Prophet’s time, and only after extraordinary caution and repeated opportunities for withdrawal or repentance. These examples, he argued, demonstrate that Islamic criminal law does not seek punishment for its own sake, but demands deliberation, proportionality, and mercy—principles that should continue to guide judicial discretion in capital cases today.



Dr. Sadiq Kakar, a scholar of Islamic law and capital punishment, further examined the divergence between Pakistan’s statutory death penalty framework and the far more restrictive approach embedded within Islamic jurisprudence. He observed that while Pakistan currently retains 29 death-eligible offences, only a small number—approximately five—have any doctrinal basis in Islamic law. This gap, he argued, underscores the urgency of legislative review, particularly in relation to non-lethal offences such as drug-related crimes and kidnapping for ransom, which lack justification under Sharia as grounds for capital punishment. Reflecting on Pakistan’s recent removal of the death penalty for drug offences, Dr. Kakar noted that this reform is consistent with both Islamic legal principles and Pakistan’s obligations under the International Covenant on Civil and Political Rights. He concluded by calling for a systematic harmonisation of domestic criminal law with these overlapping Islamic and international human rights standards.

Building on these reflections, Barrister Sarah Belal emphasised the role of clemency as a critical safeguard embedded within both Islamic jurisprudence and international human rights law. She explained that clemency mechanisms, most notably the President’s constitutional power to pardon, exist to ensure that mitigating circumstances which may have been overlooked, misunderstood, or unavailable at trial can still be meaningfully considered. In this context, she underscored that clemency is not a discretionary favour but a constitutionally protected expression of mercy. As she noted, “In *Nazar Hussain v. State* (2010), the Supreme Court described Article 45 as a constitutional embodiment of mercy unfettered by subordinate laws. Any attempt to limit clemency—such as exclusions for terrorism—would be constitutionally impermissible.” Drawing on international human rights jurisprudence, she further stressed that clemency processes must be effective, accessible, and transparent, rather than symbolic or perfunctory.

Collectively, the panel reaffirmed that Islamic law’s emphasis on mercy, exceptionally high evidentiary thresholds, and the availability of alternative punishments provides a robust normative foundation for re-evaluating Pakistan’s capital punishment framework. The discussion revealed a striking consensus across Islamic scholars, human rights practitioners, and judicial authorities on the centrality of mercy and the indispensability of strict procedural safeguards in all capital cases.

⁴ [Nazar Hussain 2010 SC 1021](#)

PANEL 2: MENTAL ILLNESS AND CRIMINAL RESPONSIBILITY – A SHARED STANDARD OF PROTECTION



Moderated by **Ayesha Gardezi**, and featuring **Barrister Qasim Chowhan, Dr. Roop Zainab Rana, Ms. Denny LaBoeuf, and Ms. Namra Gilani**, Panel 2 examined the intersection of mental health and criminal responsibility in capital cases. The discussion highlighted one of the clearest areas of convergence between Islamic jurisprudence and international human rights law: the categorical prohibition on executing individuals who lack full mental capacity. Despite the clarity of this shared standard, the panel underscored persistent gaps in implementation within Pakistan’s criminal justice system, pointing to the need for structural reforms to ensure meaningful protection for defendants with mental illness.

The panel opened with Ms. Denny LaBoeuf, Head of the John Adams Project at the American Civil Liberties Union (ACLU), who drew on nearly two decades of experience representing individuals facing the death penalty, including detainees held at Guantánamo Bay. Reflecting on the erosion of legal protections during the so-called “war on terror,” she described how deliberate departures from established legal standards, coupled with racial prejudice and Islamophobia, became normalised, resulting in widespread violations of due process and severe psychological harm.

Many detainees, she noted, entered detention without pre-existing mental illness but developed profound and lasting mental impairments as a direct consequence of torture—an outcome well-documented under international law. Ms. LaBoeuf emphasised that mental illness in capital cases is frequently misunderstood because it does not always present in obvious or extreme forms. Conditions such as post-traumatic stress disorder with psychotic features, traumatic brain injury, and trauma-induced cognitive impairment often go undetected, even by skilled practitioners, unless sustained time is spent with the individual. She cautioned against reducing the legal inquiry to narrow questions of insanity or trial competence alone. Many individuals, she explained, may appear outwardly coherent yet remain incapable of understanding complex legal proceedings, meaningfully assisting counsel, or comprehending the consequences of a death sentence. Drawing on the Supreme Court’s judgment in *Safia Bano*, she argued that Pakistan has effectively embraced the international standard prohibiting the execution of individuals with mental disabilities, a principle that also resonates strongly with Islamic notions of shared communal responsibility for the protection of the vulnerable.

The Safia Bano judgment has completely adopted the international standard: the death penalty cannot be fairly imposed on a person suffering from mental disability.”

— Denny LaBoeuf



Barrister Qasim Chauhan, formerly Additional Advocate General Punjab who represented the state in the *Safia Bano* case, offered rare practitioner-level insight drawn from his direct involvement in the *Safia Bano* litigation, particularly from the perspective of state counsel. He reflected that when the petition was first filed, it was treated as an unremarkable attempt to delay execution, and the government initially opposed it on the assumption that claims of mental illness were being exaggerated or fabricated. He described the difficulty of persuading the Court to revisit its earlier view in a legal culture where mental health has historically received little recognition or seriousness. Drawing attention to systemic failures at the trial stage, Barrister Chauhan recalled that in the *Safia Bano* case, an early application raising concerns about mental illness was summarily dismissed by a district judge who concluded that the accused appeared “reasonably sane” based on ordinary courtroom interaction—despite lacking any clinical expertise to make such an assessment.

He noted that such lay evaluations remain commonplace, reflecting broader societal tendencies to trivialise mental illness and dismiss it as exaggeration or “drama. The *Safia Bano* judgment, he argued, marked a crucial jurisprudential shift by affirming that mental illness must be assessed through proper medical expertise and that criminal responsibility cannot be determined without considering its impact on both mens rea and conduct. Emphasising that mental capacity cannot be presumed—particularly in cases involving prolonged trauma, institutionalisation, or untreated psychiatric conditions—he called for mandatory, systematic mental health assessments at every stage of capital proceedings, from investigation through appeal.

Dr. Roop Zainab Rana, psychiatrist, co-author of *Mental Health Awareness Toolkits*, and Chief Executive Officer of *Healing Triad*, deepened the discussion by unpacking the pervasive misconceptions that shape both public and institutional responses to mental illness in criminal cases.



She explained that society often assumes that the more serious or “bizarre” a crime appears, the more likely it must have been committed by someone who is mentally ill—a belief she described as both widespread and deeply flawed. Conversely, she cautioned that some offences occur precisely because individuals do not fully understand what is happening around them and act impulsively in an effort to escape overwhelming psychological distress. Dr. Rana emphasised that the presence of mental illness does not automatically negate criminal responsibility, but it fundamentally alters how responsibility must be assessed. She challenged the common suspicion that defendants feign mental illness to evade punishment, clarifying that the role of psychiatrists is not to “get anyone off,” but to conduct rigorous clinical assessments that go far beyond surface-level conversation. Psychiatric evaluations, she explained, assess not only what is said, but how it is expressed—examining thought processes, mood, judgment, cognitive function, and intellectual capacity—through methodologies that cannot be easily manipulated. She further highlighted that mental illness may also have medical origins, such as thyroid disorders, reinforcing the need for multidisciplinary expertise during criminal trials

Drawing attention to the jurisprudential importance of the Safia Bano judgment, Dr. Rana underscored the requirement that where there is any suspicion of mental illness, courts must constitute a board of qualified medical professionals, including psychiatrists, psychologists, and medical doctors, to conduct a proper assessment. Without specialised training for judges, prosecutors, defence counsel, and prison officials, she warned, symptoms of mental illness are frequently misread as defiance, aggression, or lack of remorse—leading the legal system to compound, rather than mitigate, the vulnerability of individuals with psychosocial disabilities.



Namra Gilani, Legal & Investigation Team Lead at Justice Project Pakistan, brought the discussion into sharp focus by examining how the Safia Bano judgment has begun to permeate Pakistan’s criminal jurisprudence, while simultaneously exposing the persistent gap between legal recognition and lived reality. She observed that the judgment is increasingly cited across trial and appellate decisions, particularly in relation to provisions governing competence to stand trial and criminal responsibility, signalling a gradual shift in judicial and legal understanding of mental health.



While this jurisprudential seepage reflects important progress, she cautioned that its transformative impact remains uneven—especially for prisoners who have exhausted all appellate remedies and no longer have direct access to the courts. Drawing on JPP’s ongoing representation of clients affected by the Safia Bano judgment, Ms. Gilani illustrated how legal victories often fail to translate into meaningful protections on the ground. She highlighted the cases of Ghulam Abbas, Kanizan Bibi, and Imdad, noting that while their death sentences were ultimately commuted due to severe mental illness, all three remained institutionalised for extended periods under deeply restrictive conditions. In Ghulam Abbas’s case, she recounted how, despite the Supreme Court’s intervention and the constitution of a medical board following the issuance of a black warrant, his mental health deteriorated significantly—necessitating the resubmission of his mercy petition.



Her remarks underscored that while Safia Bano has reshaped legal doctrine, its promise remains incomplete without robust mechanisms to ensure enforcement, continuity of care, and dignity for the most vulnerable within Pakistan’s detention system.

Taken together, the panel underscored that meaningful reform cannot be achieved through legal doctrine alone. Ensuring the rights of defendants with mental illness requires building institutional capacity, including mandatory psychiatric evaluations, dedicated mental health units in prisons, and specialised training for legal and judicial actors.



RECOMMENDATIONS

The discussions across the plenary and panel sessions highlighted several priority areas where Pakistan can strengthen safeguards around the use of capital punishment, drawing from Islamic principles.

The recommendations below offer a broader blueprint for states seeking to restrict the application of capital punishment to the narrowest possible scope, ensure robust procedural safeguards, and embed mercy, proportionality, and human dignity at the heart of criminal justice systems. While these recommendations are grounded in Pakistan’s constitutional, legal, and religious context, they are equally relevant for other Muslim-majority countries that retain the death penalty.

1. Align Capital Punishment Laws With Islamic and International Standards

- Review Pakistan’s 29 capital offences to identify those without basis in Islamic jurisprudence or international law.
- Prioritise removing the death penalty from non-lethal offences such as kidnapping and drug-related crimes.

2. Strengthen Clemency Mechanisms

- Standardise and operationalise clemency procedures with international-law compliant rules.
- Introduce timelines and transparent decision-making processes to ensure clemency functions as an effective safeguard.

3. Enhance Evidentiary and Procedural Safeguards in Capital Trials

- Strengthen evidentiary standards in capital cases in line with Islamic law’s rigorous thresholds and international fair-trial guarantees.
- Provide dedicated training for judges and prosecutors on burden of proof, mitigating circumstances, and the Islamic principle that doubt nullifies punishment (shubha).
- Promote consistent application of due process protections, as guaranteed in Islamic Law, to prevent arbitrary or excessive use of the death penalty.

4. Implement Safia Bano’s Mental Health Protection Framework in Capital Cases

- Codify the Safia Bano judgment to ensure that individuals with severe mental illness or intellectual disability are exempt from execution, in line with Islamic principles.
- Introduce mandatory psychiatric evaluations at all stages of capital proceedings—trial, sentencing, and pre-execution review.
- Provide specialised training for judges, lawyers, prison staff, and mental health professionals on identifying and responding to mental illness in criminal cases, in light of Islamic and international law.

5. Improve Conditions for Individuals on Death Row

- Ensure death row facilities comply with the ICCPR and the Mandela Rules, including by reducing overcrowding and improving death row conditions, healthcare, and visitation.
- Expand legal aid, psychosocial support, and rehabilitation programs for individuals on death row.
- Support reintegration and post-commutation pathways for those removed from death row under judicial or administrative reforms.

6. Strengthen Research, Monitoring, and Comparative Learning

- Publish an annual Islamic-law review of capital punishment jurisprudence to track how courts apply—or diverge from—Islamic principles.
- Develop a centralised database of capital cases capturing mental health status, socio-economic background, quality of legal representation, and sentencing outcomes.
- Conduct comparative studies of reforms in other Muslim-majority jurisdictions to provide policymakers with models of Islamic-aligned legal change.





The
University of
Faisalabad



JUSTICE
PROJECT
PAKISTAN