



Pakistan v. Mir Shakeel-ur- Rehman

April 2024

TRIALWATCH FAIRNESS REPORT

A CLOONEY FOUNDATION **FOR** JUSTICE INITIATIVE

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ABOUT THE CLOONEY FOUNDATION FOR JUSTICE'S TRIALWATCH INITIATIVE

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The authors assigned this trial a grade of D:

The criminal proceedings instituted against Mir Shakeel-ur-Rehman, a prominent Pakistani journalist, failed to meet international standards for a fair trial and violated Pakistan's obligations under international human rights law.

Mr. Rehman was subject to prolonged pre-trial detention in connection with specious criminal charges concerning events which took place 34 years prior to the charges. These charges were based on untenable facts and interpretations of the applicable laws. For example, during the proceedings, key witnesses refused to authenticate documents tendered by the Government as evidence of Mr. Rehman's alleged crimes and admitted that Mr. Rehman was not subject to the law the Government was attempting to enforce against him. The law that formed the basis of the crime was also introduced four years after the alleged crimes occurred and did not have retrospective effect. Mr. Rehman was finally acquitted after being subject to proceedings for more than two years, of which he spent almost eight months in pre-trial detention.

Given the above circumstances, there is strong evidence that the Government's effort to arrest and prosecute Mr. Rehman was politically motivated and pursued with the intention of chilling free speech and criticism of the Government.

For decades, journalists in Pakistan that are perceived as critical of State authorities have been subjected to threats, harassment, torture, murder, forced disappearances and arbitrary arrests. In particular, the Government has repeatedly acted to curtail media freedom and suppress dissent, including by using its National Accountability Bureau ("**NAB**"). Originally established as a State anti-corruption watchdog, the NAB has been repurposed by the Government and regularly used as a means to prosecute journalists and opposition political figures critical of the Government.

Between 2020 and 2022, the Government used the NAB to prosecute Mir Shakeel-ur-Rehman. Mr. Rehman is the Chief Executive and Editor-in-Chief of the Jang Media Group and owner of Geo Television Network ("**Geo TV**")—a prominent media conglomerate in Pakistan that has criticized allegedly unlawful and improper conduct committed by State authorities and officials, including the NAB. In February 2020, the NAB instituted a criminal investigation into Mr. Rehman in respect of a land transaction that took place in 1986 (*i.e.* 34 years prior) for an offence that did not exist at the time. The relevant law came into effect in 1990, and did not have retrospective effect. This investigation was initiated on the same day that Mr. Rehman's network televised a discussion accusing the NAB of being compromised by politicization and partiality.

Based on this investigation, the NAB immediately arrested Mr. Rehman in violation of its own protocols, and then subjected him to continuous pre-charge detention for eight months. It was only after nearly two years of litigation before various judicial forums that Mr. Rehman succeeded in having the NAB's charges dismissed.

This report finds that the NAB's prosecution of Mr. Rehman violated his due process rights under international law, including the right not to be subject to arbitrary and prolonged pre-trial detention. Pakistan's prosecution of Mr. Rehman is one of many examples of the Government's suppression of dissent and limitations on media freedom, in violation of its legal obligation to respect the right to free expression.

BACKGROUND INFORMATION



A. POLITICAL AND LEGAL CONTEXT

As Pakistan's media sector has grown, the State has increasingly curtailed media freedom in Pakistan by targeting journalists who are perceived as criticizing the Government with harassment and unlawful detention.¹ Pakistan ranks 150 out of 180 States on the most recent World Press Freedom Index.²

One of the State authorities' tools of repression has been the National Accountability Bureau ("**NAB**"), Pakistan's anti-corruption body. As Freedom House has put it, Government opposition parties have "*faced a succession of charges from the [NAB], the government's anticorruption body, leading to multiple court appearances and periodic detentions.*"³ In fact, the NAB "*has investigated, tried and jailed at various times all prime ministers since 2008 including [then-]current premier Shehbaz Sharif, former president Asif Ali Zardari, and other top political figures.*"⁴ Most recently, the arrest of former Prime Minister Imran Khan on the basis of a NAB warrant prompted widespread protests that engulfed the State.⁵

The case of Mir Shakeel-ur-Rehman reflects the intersection of these two trends. Mr. Rehman, Group Chief Executive and Editor-in-Chief of the Jang Media Group and owner of Geo TV—a prominent media organization that has reported on alleged misconduct by State authorities—was arrested by the NAB in 2020 for charges related to a property transaction that took place in 1986. As explained below, at the time Mr. Rehman was charged, there was little to no evidence of the offenses alleged against him. Thus, there are credible grounds to conclude that Mr. Rehman's arrest forms part of Pakistan's larger crackdown against Government critics in the media.⁶

¹ See, e.g., 'World Report 2023: Pakistan: Events of 2022', HUMAN RIGHTS WATCH (2023), <https://www.hrw.org/world-report/2023/country-chapters/pakistan>; 'Pakistan: Freedom in the World 2023', FREEDOM HOUSE (2023), <https://freedomhouse.org/country/pakistan/freedom-world/2023>.

² 'Pakistan', REPORTERS WITHOUT BORDERS (2023), <https://rsf.org/en/country/pakistan> (noting that "[d]espite changes in political power, a recurring theme is apparent: political parties in opposition support press freedom but are first to restrict it when in power").

³ See 'Pakistan: Freedom in the World 2023', FREEDOM HOUSE (2023), <https://freedomhouse.org/country/pakistan/freedom-world/2023>.

⁴ Asif Shahzad, 'Pakistan Anti-Graft Agency that Arrested Imran Khan Has Wide Powers', REUTERS, 12 May 2023, <https://www.reuters.com/world/asia-pacific/pakistan-anti-graft-agency-that-arrested-imran-khan-has-wide-powers-2023-05-12/>.

⁵ 'Pakistan Top Court Orders Release of Former PM Imran Khan', AL JAZEERA, 11 May 2023 ("Khan, 70, was arrested in a corruption case by the National Accountability Bureau (NAB) during a court appearance on Tuesday, triggering violent protests across the country,"), <https://www.aljazeera.com/news/2023/5/11/pakistan-top-court-orders-nab-to-present-imran-khan-in-an-hour>.

⁶ Cf. Letter to the Government of Pakistan, AL PAK 5/2020, Special Rapporteur on the promotion and protection of the right to freedom of expression and the Working Group on Arbitrary Detention, 15 Apr. 2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25185> ("Concerns are expressed at the alleged arbitrary arrests of Mr. Shakil-ur-Rahman, which seems related to his role as editor-in-chief..."); 'Pakistan: Free Editor; Stop Harassing Family Members', HUMAN RIGHTS WATCH, 10 June 2020 ("Pakistani authorities should immediately drop politically motivated charges and release Mir Shakilur Rehman"), <https://www.hrw.org/news/2020/07/10/pakistan-free-editor-stop-harassing-family-members>; 'CPJ Demands Pakistan Release Jang Media Group CEO Mir Shakil-ur-Rehman', COMMITTEE TO PROTECT JOURNALISTS, 12 Mar. 2020 (describing the case as "'obviously drummed-up'"), <https://cpj.org/2020/03/cpj-demands-pakistan-release-jang-media-group-ceo/>.

Treatment of Journalists

For many decades, journalists in Pakistan have been the subject of threats, harassment, torture, murder, forced disappearances and arbitrary arrests. Between 1990 and 2020, one source reports that 2,658 journalists in Pakistan were murdered.⁷

On numerous occasions, State authorities have initiated frivolous legal proceedings against journalists. According to Freedom Network, 15 journalists were “*slapped with legal cases*” from September 2018 to January 2020.⁸ In the case of Mr. Arshad Sharif, an investigative journalist and television news presenter, 16 criminal complaints (First Information Reports (“**FIRs**”)) “*were registered...under sedition and treason charges*” “*reportedly in connection with his reporting of the alleged corruption of the ruling party and his criticism of state institutions.*”⁹ In another instance, the Federal Investigation Agency filed an FIR against investigative journalists Ahmad Noorani and Shahid Aslam who “*published an article looking at the tax records and assets of a former Pakistan army chief*” stating that “*the tax documents he reviewed in his coverage were illegally obtained.*”¹⁰ The Committee to Protect Journalists stated that the case “*is a clear intimidation and [a] threat to press freedom.*”¹¹

While in some cases, those proceedings were ultimately never concluded or were dismissed, the journalists who were targeted were subject to physical and emotional abuse. For example, in September 2020, journalist Mr. Asad Ali Toor was investigated by State authorities for allegedly disseminating “*negative propaganda*” through social media posts that were critical of the Government.¹² Investigators ultimately closed the case, informing the Lahore High Court that no evidence had been collected against Mr. Toor revealing the commission of any offense.¹³ But shortly after the case was closed, Mr. Toor was beaten by three unidentified men who entered his apartment in Islamabad.¹⁴ In a

⁷ ‘Pakistan faces tough questions on media’s existential crisis, journalists’ security’, ANI, 31 Jan. 2022, <https://www.aninews.in/news/world/asia/pakistan-faces-tough-questions-on-medias-existential-crisis-journalists-security20220131163307/>.

⁸ ‘Murders, Abduction & Intimidation of Journalists Fail to Figure in Over 60 Cabinet Meetings, Imran Govt Admits’, Freedom Network, 25 Sept. 2020, <https://www.fnpc.org/murders-abduction-intimidation-of-journalists-fail-to-figure-in-over-60-cabinet-meetings-imran-govt-admits/>.

⁹ Communication to ‘Mandates of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression and the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions’, AL PAK 7/2023, 5 Oct. 2023, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=28360>. After fleeing Pakistan and while living in Kenya, Mr. Sharif was shot dead by Kenyan police on 23 October 2022. A fact-finding team constituted by the Prime Minister found that his “*death was a result of a planned and targeted assassination by transnational actors.*” Hasnaat Malik, ‘Arshad Sharif’s murder “planned assassination”, says fact-finding team’, THE EXPRESS TRIBUNE, 7 December 2023, <https://tribune.com.pk/story/2389865/arshad-sharifs-murder-planned-assassination-says-fact-finding-team>.

¹⁰ Nilofar Mughal, ‘Journalist Says Investigative Reporting is a Risky Business in Pakistan’, VOA, 23 June 2023, <https://www.voanews.com/a/journalist-says-investigative-reporting-is-a-risky-business-in-pakistan/7150701.html>.

¹¹ ‘Pakistani Journalists Ahmad Noorani and Shahid Aslam Targeted in Leak Case’, COMMITTEE TO PROTECT JOURNALISTS, 8 June 2023, <https://cpj.org/2023/06/pakistani-journalists-ahmad-noorani-and-shahid-aslam-targeted-in-leak-case/>.

¹² Tanika Godbole, ‘Pakistan: Journalist critical of military attacked at home’, DW, 26 May 2021, <https://www.dw.com/en/pakistan-journalist-critical-of-military-attacked-at-home/a-57665723>.

¹³ Rehan Piracha, ‘FIR Against Journalist Asad Toor Pointless: LHC’, VOICEPK.NET, 18 Nov. 2020, <https://voicepk.net/2020/11/fir-against-journalist-asad-toor-pointless-lhc/>.

¹⁴ ‘Pakistan: Escalating Attacks on Journalists’, INTERNATIONAL COMMISSION OF JURISTS, 3 June 2021, <https://www.icj.org/pakistan-escalating-attacks-on-journalists/>.

similar incident, journalist Mr. Absar Alam—widely known to be a vocal Government critic—had a FIR filed against him alleging sedition and other offenses based on comments he made on Twitter about State institutions.¹⁵ While the case was being investigated, Mr. Alam was shot and wounded outside of his house in April 2021.¹⁶

According to Reporters Without Borders, “[a]ny journalist who crosses the red lines dictated by Inter-Services Public Relations (ISPR) – an intelligence agency offshoot – is liable to be the target of in-depth surveillance that could lead to abduction and detention for varying lengths of time in the state’s prisons or less official jails.”¹⁷ There are many reports of journalists who have been abducted or gone missing.¹⁸ Family members seeking to locate the abducted or missing journalists and pursue redress in Pakistani courts by seeking information from intelligence agencies and State authorities are, according to Amnesty International, often denied due process and fair trial rights.¹⁹

Pakistan has also taken steps to censor the content broadcast by the media. For example, the Pakistan Media Development Authority Law has been used by the Government to pressure editors and media owners to dilute reporting that could be perceived as critical of the Government.²⁰ The Government has also blocked cable operators and television channels that air programs critical of the Government. In July 2020, the Pakistan Electronic Media Regulatory Authority (“**PEMRA**”) ordered the channel 24NewsHD to be taken off the air. While the asserted basis was the “*illegal transmission of news and current affairs content*,”²¹ it is widely alleged that the channel was taken off the air because it was critical of the Government.²² In May 2022, PEMRA warned news outlets and broadcasters that they would be fined or suspended if they aired content that “*ridicules*” the judiciary and army.²³ Most recently, PEMRA banned the airing of former Prime Minister Imran Khan’s speeches, and subsequently took a channel off the air that did so.²⁴

¹⁵ ‘Pakistan: Escalating Attacks on Journalists’, INTERNATIONAL COMMISSION OF JURISTS, 3 June 2021, <https://www.icj.org/pakistan-escalating-attacks-on-journalists/>. For other instances of the coercion, censorship and arrests of journalists in Pakistan, see *Pakistan 2022*, AMNESTY INTERNATIONAL, 2021, <https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/pakistan/report-pakistan>.

¹⁶ ‘Pakistan: Escalating Attacks on Journalists’, INTERNATIONAL COMMISSION OF JURISTS, 3 June 2021, <https://www.icj.org/pakistan-escalating-attacks-on-journalists/>.

¹⁷ ‘Pakistan’, REPORTERS WITHOUT BORDERS (2023), <https://rsf.org/en/country/pakistan>.

¹⁸ See, e.g., ‘Pakistani Journalist Sami Abraham ‘Abducted,’ Imran Riaz Khan Missing’, COMMITTEE TO PROTECT JOURNALISTS, 25 May 2023, <https://cpj.org/2023/05/pakistani-journalist-sami-abraham-abducted-imran-riaz-khan-missing/>.

¹⁹ Asad Hashim, ‘Amnesty urges Pakistan to end ‘abhorrent’ enforced disappearances’, AL JAZEERA, 22 Nov. 2021, <https://www.aljazeera.com/news/2021/11/22/amnesty-pakistan-abhorrent-enforced-disappearances-human-rights>.

²⁰ ‘Working conditions for media worsened last year, says CPNE’, DAWN, 1 Feb. 2022, <https://www.dawn.com/news/1672569>.

²¹ ‘Pakistan: Escalating Attacks on Journalists’, INTERNATIONAL COMMISSION OF JURISTS, 3 June 2021, <https://www.icj.org/pakistan-escalating-attacks-on-journalists/>.

²² ‘Pakistan: Escalating Attacks on Journalists’, INTERNATIONAL COMMISSION OF JURISTS, 3 June 2021, <https://www.icj.org/pakistan-escalating-attacks-on-journalists/>.

²³ Ayaz Gul, ‘Pakistani Journalists Face Criminal Proceedings for Criticizing Military’, VOA NEWS, 23 May 2022, <https://www.voanews.com/a/pakistani-journalists-face-criminal-proceedings-for-criticizing-military-/6586070.html>.

²⁴ ‘Pakistan Bans Broadcasting of ex-PM Imran Khan’s Speeches, Suspends ARY News Channel’, COMMITTEE TO PROTECT JOURNALISTS, 6 Mar. 2023, <https://cpj.org/2023/03/pakistan-bans-broadcasting-of-ex-pm-imran-khans-speeches-suspends-ary-news-channel/>. See also ‘Pakistan’s Embattled Imran Khan Faces Blackout on Local Media’, REUTERS, 5 June 2023 (“Coverage of Pakistan’s former Prime Minister Imran Khan has disappeared from all mainstream news channels in the country after the media regulator asked networks to block out people involved in rioting last month.”), <https://www.reuters.com/world/asia-pacific/pakistans-embattled-imran-khan-faces-blackout-local-media-2023-06-05/>.

Lawmakers have taken some steps to protect journalists. In November 2021, Pakistan's National Assembly and Senate passed the Protection of Journalists and Media Professionals Act ("**Act**"). The Act states that its objective is to "*promote, protect and effectively ensure the independence, impartiality, safety and freedom of expression of journalists and media professionals,*" and to hold the Government accountable for ensuring that laws are not used arbitrarily to hinder the work of media professionals.²⁵ Section 12 of the Act contemplates the creation of an "*Independent Commission for the Protection of Journalists and Media Professionals*" to monitor implementation of the Act.²⁶

However, Reporters Without Borders has identified several shortcomings in the Act. For example, the composition of the Commission for the Protection of Journalists and Media Professionals gives the Government disproportionate influence, with eight members representing the Government compared to only one member who is a journalist.²⁷ The Act also creates vague, undefined obligations to regulate journalistic conduct. For example, Section 6 of the Act prohibits media professionals from spreading "*false information*" without defining what constitutes "*false information.*"²⁸ Accordingly, while symbolically a positive development, the Act does not appear likely to prevent the Government from continuing to intimidate media outlets and journalists or from continuing to silence dissent.²⁹

Due Process and Fair Trial Rights

Article 10A of the Pakistani Constitution guarantees persons within Pakistan's jurisdiction the fundamental right to a fair trial.³⁰ Despite this constitutional protection, there are significant concerns regarding the fairness of proceedings in politically-charged cases.³¹ In its most recent review of Pakistan, the UN Human Rights Committee expressed concern at "*the challenges facing the judiciary in strengthening its independence and effectiveness.*"³²

For example, in November 2019, human rights defender Mr. Idris Khattak was attacked and disappeared. In June 2020, the Ministry of Defense admitted that Mr. Khattak was being held in State custody on charges related to alleged spying after anonymous sources claimed he had provided sensitive information to a "foreign intelligence agency."³³ In

²⁵ Protection of Journalists and Media Professionals Act of 2021, pmbi.

²⁶ Protection of Journalists and Media Professionals Act of 2021, § 12.

²⁷ '*RSF and partner hail Pakistani law protecting journalists but call for improvements*', REPORTERS WITHOUT BORDERS, 7 Dec. 2021, <https://rsf.org/en/rsf-and-partner-hail-pakistani-law-protecting-journalists-call-improvements>.

²⁸ Protection of Journalists and Media Professionals Act of 2021, § 6.

²⁹ '*Pakistani Journalists, Activists Remain at Risk While New Restrictions Against Online Dissent Passed*', MONITOR CIVICUS, 3 Mar. 2022, <https://monitor.civicus.org/updates/2022/03/03/pakistani-journalists-activists-remain-risk-while-new-restrictions-against-online-dissent-passed/>.

³⁰ The Constitution Of The Islamic Republic Of Pakistan ("**Constitution**"), art. 10A.

³¹ See, e.g., '*Pakistan 2022 Human Rights Report*', U.S. DEPARTMENT OF STATE (2023) ("*The law provides for an independent judiciary, but according to NGOs and legal experts, the judiciary often was subject to external influences, such as fear of reprisal from extremist elements in terrorism or blasphemy cases and public politicization of high-profile cases.*"), <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/pakistan/>.

³² Concluding Observations on the Initial Report of Pakistan, UN HUMAN RIGHTS COMMITTEE, UN Doc. CCPR/C/PAK/CO/1, 23 Aug. 2017, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/246/36/PDF/G1724636.pdf?OpenElement>.

³³ '*Pakistani Journalists, Activists Remain at Risk While New Restrictions Against Online Dissent*

December 2021, Mr. Khattak was sentenced to 14 years imprisonment on these charges of espionage.³⁴ Reportedly, in breach of his due process and fair trial rights, Mr. Khattak's lawyer was only able to meet with him twice before his trial proceedings began and Mr. Khattak's lawyer and family were denied access to his case information.³⁵

Another key issue impacting due process and fair trial rights is the significant backlog of cases. Sources describe that "*the glacial speed of the 'regular' judicial process*" "*undercuts one of the fundamental prerequisites of fair trial — the right to be tried without undue delay.*"³⁶

The NAB

The NAB was created in 1999 by the President's National Accountability Ordinance ("**Ordinance**")³⁷ and functions as a federal executive agency empowered to end corruption across Pakistan through enforcement, prosecution, awareness, and prevention initiatives.³⁸ The NAB is allegedly meant to be independent of the Government in power, led by a Chairman who is appointed to a four-year term by Pakistan's President in "*consultation*" with the Prime Minister and the Leader of Opposition of Pakistan's National Assembly (the popularly-elected legislature).³⁹ The Ordinance also created an "*Accountability Court*" specifically empowered to try corruption offences.⁴⁰

The Ordinance concentrates significant powers in the NAB. For example, the NAB is empowered to arrest and detain anyone during a corruption investigation, with the Ordinance (as of 2020) permitting pre-trial detention for a period of 90 days after arrest.⁴¹ The NAB regularly wields this detention power, which has contributed to a widespread fear of arbitrary arrest and detention that is more pronounced for those in the political opposition.⁴² Since its inception, the NAB has been accused of overt politicization and serving the interests of the Government and military through the selective prosecutions of

Passed, MONITOR CIVICUS, 3 Mar. 2022, <https://monitor.civicus.org/updates/2022/03/03/pakistani-journalists-activists-remain-risk-while-new-restrictions-against-online-dissent-passed/>.

³⁴ '*Pakistani Journalists, Activists Remain at Risk While New Restrictions Against Online Dissent Passed*', MONITOR CIVICUS, 3 Mar. 2022, <https://monitor.civicus.org/updates/2022/03/03/pakistani-journalists-activists-remain-risk-while-new-restrictions-against-online-dissent-passed/>.

³⁵ '*Pakistani Journalists, Activists Remain at Risk While New Restrictions Against Online Dissent Passed*', MONITOR CIVICUS, 3 Mar. 2022, <https://monitor.civicus.org/updates/2022/03/03/pakistani-journalists-activists-remain-risk-while-new-restrictions-against-online-dissent-passed/>; Patricia Grossman, '*Pakistan Sentences Rights Defender to 14 Years in Prison*', HUMAN RIGHTS WATCH, 6 December 2021, <https://www.hrw.org/news/2021/12/06/pakistan-sentences-rights-defender-14-years-prison>.

³⁶ '*Right to Fair Trial*', DAWN, 22 June 2022, <https://www.dawn.com/news/1696117/right-to-fair-trial>.

³⁷ Under Article 89 of the Pakistani Constitution, Pakistan's President may issue an "*ordinance*," a legislative instrument which is to have the "*same force and effect*" as an Act of Parliament.

³⁸ National Accountability Bureau, "*About Us*," [https://nab.gov.pk/CBS-NAB\(KP\)/about.html](https://nab.gov.pk/CBS-NAB(KP)/about.html).

³⁹ See National Accountability Ordinance, § 6(b).

⁴⁰ See National Accountability Ordinance, § 5(g).

⁴¹ National Accountability Ordinance, § 24(d). After this maximum detention period expires, the NAB can file a request with the Accountability Court seeking authorization for an extension of the pre-trial detention period in 15-day increments. See National Accountability Ordinance, § 24(d). This 90-day period has since amended twice: in 2022, it was reduced to 14 days, and then in 2023, increased to 30 days. See Ordinance 1 of 2023, 4 July 2023, § 3(B).

⁴² S.F. Shah et. al., "*An Evaluation of the National Accountability Bureau (NAB) as Anti-Graft Body in the Political Perspective of Accountability in Pakistan*," PUBLIC INTEGRITY (25:1), 104-116, 107, 10 Jan. 2022, <https://doi.org/10.1080/10999922.2021.2012022>.

opposition politicians, bureaucrats and businessmen.⁴³ In fact, the Supreme Court of Pakistan has itself noted that “*the [NAB] has attracted ignominy and notoriety beyond our frontiers too. In a recent review, the European Commission also highlighted NAB’s partisan conduct.*”⁴⁴

B. CASE HISTORY

Mir Shakeel-ur-Rehman, the owner and editor-in-chief of the Jang Group, is a prominent figure in the Pakistani media industry with over 45 years of experience as a journalist and news businessman.⁴⁵ The Jang Group is the longest-standing media group in Pakistan and publishes both Urdu and English language newspapers. Mr. Rehman also expanded his work into television broadcasting through the establishment of Geo TV in 2002. Geo TV is now the country’s largest private broadcaster.⁴⁶

Geo TV has historically resisted attempts by State authorities to infringe its editorial independence.⁴⁷ Nevertheless, the Government has periodically attempted to exert influence over Geo TV. In 2014, for example, PEMRA implemented short-term bans of Geo TV on the basis of alleged “*anti-state*” and “*blasphemous*” content.⁴⁸ Amnesty International has criticized these bans as an attack on freedom of expression, and has observed that the Government has targeted Geo TV for failing to support the Pakistani military.⁴⁹ Since these bans, Geo TV has continued to face periods of unexplained blockages in transmission by local cable operators.⁵⁰

Geo TV as well as its personnel and journalists have been subject to threats and harassment.⁵¹ For example, in July 2019, Geo TV’s news channel Geo News aired a story that included a video of the NAB’s then-Chairman, Retired Justice Javed Iqbal, engaging in what appeared to be misconduct.⁵² PEMRA responded with financial sanctions against

⁴³ S.F. Shah et. al., “*An Evaluation of the National Accountability Bureau (NAB) as Anti-Graft Body in the Political Perspective of Accountability in Pakistan*,” PUBLIC INTEGRITY (25:1), 104-116, 107, 10 Jan. 2022, <https://doi.org/10.1080/10999922.2021.2012022>. See also Asif Shahzad, ‘*Pakistan anti-graft agency that arrested Imran Khan has wide powers*’, REUTERS, 12 May 2023, <https://www.reuters.com/world/asia-pacific/pakistan-anti-graft-agency-that-arrested-imran-khan-has-wide-powers-2023-05-12/>.

⁴⁴ *Khawaja Salman Rafique & Khawaja Saad Rafique v. National Accountability Bureau*, Supreme Court of Pakistan, Civil Petitions Nos. 2243-L and 2986-L of 2019, 17 Mar. 2020, ¶ 68.

⁴⁵ See *Mir Shakil Ur Rehman v. The Chairman, NAB and others*, W.P. No. 21938, 11 May 2020, ¶¶ 1, 3.

⁴⁶ ‘*Pakistan: Ban of major private TV network is ‘attack on press freedom*’, AMNESTY INTERNATIONAL, 6 June 2014, <https://www.amnesty.org/en/latest/news/2014/06/pakistan-ban-major-private-tv-network-attack-press-freedom/>.

⁴⁷ See ‘*Pakistan’s private Geo TV says forced to shut down*’, REUTERS, 16 Nov. 2007, <https://www.reuters.com/article/us-pakistan-media-geo/pakistans-private-geo-tv-says-forced-to-shut-down-idUSL1626797920071116>.

⁴⁸ ‘*Pakistan: Ban of major private TV network is ‘attack on press freedom*’, AMNESTY INTERNATIONAL, 6 June 2014, <https://www.amnesty.org/en/latest/news/2014/06/pakistan-ban-major-private-tv-network-attack-press-freedom>.

⁴⁹ ‘*Pakistan: Ban of major private TV network is ‘attack on press freedom*’, AMNESTY INTERNATIONAL, 6 June 2014, <https://www.amnesty.org/en/latest/news/2014/06/pakistan-ban-major-private-tv-network-attack-press-freedom>.

⁵⁰ ‘*Pakistan: Ban of major private TV network is ‘attack on press freedom*’, AMNESTY INTERNATIONAL, 6 June 2014, <https://www.amnesty.org/en/latest/news/2014/06/pakistan-ban-major-private-tv-network-attack-press-freedom>.

⁵¹ ‘*UN body asks govt to clarify reported prosecution of the media*’, DAWN, 17 June 2020, <https://www.dawn.com/news/1564049>.

⁵² ‘*Pemra slaps Rs1mn fine on Geo News for programme deemed ‘highly seditious and scandalous*’, DAWN, 6 Aug. 2019, <https://www.dawn.com/news/1498430>. See also *Mir Shakil Ur Rehman v. The Chairman, NAB and others*, W.P. No. 21938, 11 May 2020, ¶¶ 6-7.

Geo News for what it called a “*highly seditious and scandalous*” program, and directed Geo News to establish an in-house editorial committee responsible for reviewing and approving content before broadcasting.⁵³

Shortly after the program aired, in December 2019 and January 2020 respectively, an anonymous complainant and a Pakistani journalist⁵⁴ filed two separate criminal complaints with the NAB against Mr. Rehman, alleging he was part of a “*state land scam*” in 1986 (*i.e.*, roughly 34 years before the complaints were filed). In those complaints, Mr. Rehman was accused of conspiring with public officials (including former Prime Minister Nawaz Sharif) to purchase Government land at a lower-than-market price and below what was allegedly permissible under Pakistani land laws and exemption policies. These restrictive land policies only came into effect four years after the land was purchased.

Based on these allegations, the NAB prosecuted Mr. Rehman pursuant to the Ordinance for an offence relating to “*corruption*” and “*corrupt practices*.”⁵⁵ The Ordinance itself was enacted sixteen years after the events in question allegedly occurred, and does not have retrospective effect.

⁵³ ‘*Pemra slaps Rs1mn fine on Geo News for programme deemed ‘highly seditious and scandalous’*’, DAWN, 6 Aug. 2019, <https://www.dawn.com/news/1498430>.

⁵⁴ The journalist was Mr. Asad Kharal, an investigative journalist and television anchor.

⁵⁵ See NAB Warrant of Arrest, 12 Mar. 2020.

Pre-Trial Proceedings

On 28 February 2020, Geo TV aired a talk show on its news channel, during which the show's host was critical of the NAB, accusing it of politicization. On the same day of the show's telecast, the NAB issued a Show Cause Notice to Mr. Rehman on the basis of the two complaints made in December 2019 and January 2020, alleging that Mr. Rehman, with the acquiescence of Government officials (including ultimately of then Chief Minister of Punjab Nawaz Sharif, who went on to become Pakistan's Prime Minister), purchased more land (and in a different configuration) than what prevailing land policies allowed to be "exempted" (or released) from Government ownership. The notice also alleged that Mr. Rehman paid lower consideration for this land (*i.e.*, lower than "market" price) than he was legally required to. On these bases, he was accused of causing the Government significant monetary losses. In the notice, the NAB ordered Mr. Rehman to appear at the NAB's office on 5 March 2020⁵⁶ and to provide a "complete record" of a property purchase he made in Pakistan's Lahore District in 1986 (34 years prior).⁵⁷

On the next day, the PEMRA issued its own Show Cause Notice to Mr. Rehman, accusing him of running a program that was "one sided," "highly unprofessional" and "biased" and that ran afoul of Pakistani media law.⁵⁸ Mr. Rehman was asked to "stop repeating such violations" and asked to appear for a personal hearing before PEMRA on 9 March 2020 to "show cause why appropriate legal action may not be taken against [his] channel."⁵⁹

As directed by the NAB, Mr. Rehman appeared at the NAB's office on 5 March 2020 and answered NAB officials' questions for about two hours. Mr. Rehman brought to this meeting all the notes and materials he could gather relating to the decades-old property transaction.⁶⁰

On 10 March 2020, Mr. Rehman received a second NAB notice summoning him to reappear before the NAB two days later, on 12 March 2020, and to be prepared to respond to a specific questionnaire.⁶¹ Both notices Mr. Rehman received stated that these inquiries were part of NAB's "complaint verification" stage.⁶²

Mr. Rehman continued to comply with the NAB's requests.⁶³ He arrived at the NAB's offices on 12 March 2020 with draft replies to the questionnaire, along with some other personal possessions. However, pursuant to an arrest warrant that had been issued by the NAB Chairman earlier that day, upon arrival, Mr. Rehman was arrested and placed into detention. The arrest warrant cited his "commission of the offence of corruption and corrupt practices" under the Ordinance as the reason for his arrest and authorized

⁵⁶ NAB Call Up Notice, 28 Feb. 2020.

⁵⁷ NAB Call Up Notice, 28 Feb. 2020.

⁵⁸ PEMRA Show Cause Notice, 29 Feb. 2020, p. 1.

⁵⁹ PEMRA Show Cause Notice, 29 Feb. 2020, p. 2. It is unclear if Mr. Rehman appeared before the PEMRA on 9 March 2020.

⁶⁰ See *Mir Shakil Ur Rehman v. The Chairman, NAB and others*, W.P. No. 21938, 11 May 2020, ¶ 16.

⁶¹ NAB Second Call Up Notice, 10 Mar. 2020.

⁶² See NAB Call Up Notice, 28 Feb. 2020; NAB Second Call Up Notice, 10 Mar. 2020. The complaint verification stage is when "the complainant is called for confirming the evidence available with him and submit affidavit. Once it is determined that the alleged offence falls under NAO and available material justifies for further process, the same is processed for subsequent action." PR No. 157 NAB'S Effective Enforcement Strategy Yielding Divided...Chairman NAB Islamabad, PID, https://pid.gov.pk/site/press_detail/741.

⁶³ See *Mir Shakil Ur Rehman v. The Chairman, NAB and others*, W.P. No. 21938, 11 May 2020, ¶ 18.

“detention for such period as may be necessary for finalization of the investigation.”⁶⁴

On 13 March 2020, the NAB produced Mr. Rehman before the Accountability Court, seeking his physical custody for another 15 days.⁶⁵ Mr. Rehman’s counsel resisted the request on the ground that the alleged violations took place decades ago with no new evidence, and that, in any event, the relevant transaction complied with land exemption policies in place at the time.⁶⁶ Mr. Rehman’s counsel argued that no criminal offence was established and that the arrest warrant was issued without due consideration by the authorities, in violation of Pakistani law.⁶⁷ The Accountability Court, however, observed that despite the decades that had passed, the land exemption Mr. Sharif granted to Mr. Rehman “need[ed] inquiry” and ordered that Mr. Rehman be kept in physical custody for another 12 days (*i.e.*, until 25 March 2020).⁶⁸

On 14 March 2020, Mr. Rehman and his wife, acting on his behalf, filed writ petitions with the Lahore High Court challenging the legality of his arrest and detention. On 7 April 2020, while Mr. Rehman was still in custody, the Lahore High Court dismissed the writ petitions as “*meritless and premature*” because the inquiry into Mr. Rehman was still at the “*initial stage*.” The Accountability Court justified its continued physical detention of Mr. Rehman on the premise that “*the inquiry is in progress, therefore, physical remand of [the] accused is extended*.”⁶⁹ The Court did not provide an explanation for the need to continue to detain Mr. Rehman, nor stated any reason for denying bail.

Mr. Rehman thus filed another writ petition to the Lahore High Court seeking post-arrest bail. On 8 July 2020, despite the months of detention he had endured, the Lahore High Court again rejected this request.⁷⁰ Subsequently, Mr. Rehman submitted a petition seeking post-arrest bail to the Supreme Court of Pakistan.⁷¹ On the basis of this petition, on 9 November 2020, after eight months of pre-charge detention for alleged conduct that was non-violent and historical, the Supreme Court granted Mr. Rehman bail and he was released from detention.⁷²

While these bail proceedings were ongoing, on 16 June 2020 (at which time Mr. Rehman had been detained for more than three months), the NAB filed an Accountability Reference against him and three others who allegedly had facilitated the land transaction subject to

⁶⁴ NAB Warrant of Arrest, 12 Mar. 2020.

⁶⁵ *The State v. Mir Shakeel-Ur-Rehman*, Inquiry No. 1(9)HQ/2173/NAB-L, Accountability Court (Lahore), 13 Mar. 2020 (Order), PDF p. 1.

⁶⁶ *The State v. Mir Shakeel-Ur-Rehman*, Inquiry No. 1(9)HQ/2173/NAB-L, Accountability Court (Lahore), 13 Mar. 2020 (Order), PDF p. 2.

⁶⁷ *The State v. Mir Shakeel-Ur-Rehman*, Inquiry No. 1(9)HQ/2173/NAB-L, Accountability Court (Lahore), 13 Mar. 2020 (Order), PDF p. 2.

⁶⁸ *The State v. Mir Shakeel-Ur-Rehman*, Inquiry No. 1(9)HQ/2173/NAB-L, Accountability Court (Lahore), 13 Mar. 2020 (Order), PDF p. 3.

⁶⁹ *The State v. Mir Shakeel ur Rehman etc.*, Inquiry Authorization No. 1(9) HQ/2173/NAB-L, Accountability Court (Lahore), 18 April 2020, p. 5.

⁷⁰ At this time, Mr. Kharal, one of the complainants against Mr. Rehman, petitioned the Lahore High Court to issue directions to the NAB to also arrest Mr. Rehman’s wife and children as alleged beneficiaries of the land transaction in question. See APP, ‘*LHC seeks replies on whether MSR’s wife and children – 8, 6, 4 and 1 year old in 1986 – should also be arrested*’, GEO NEWS, 10 July 2020, <https://www.geo.tv/latest/297225-lhc-seeks-reply-from-nab-on-plea-to-arrest-editor-in-chiefs-wife-and-children>.

⁷¹ ‘*Jang Group CEO Approaches Supreme Court For Bail*’, DAWN, 30 Sept. 2020, <https://www.dawn.com/news/1579064>.

⁷² *Mir Shakil-Ur-Rehman and Another v. National Accountability Bureau*, C.P. Nos. 2292, 2014 and 2027 of 2020, Supreme Court, 9 Nov. 2020, ¶¶ 4-5.

the NAB Notice. An Accountability Reference is a document containing allegations and evidence that initiates legal proceedings, through which an Accountability Court determines if there is sufficient evidence to file criminal “charges” against an accused for which an accused will have to stand trial.

Mr. Rehman’s Accountability Reference was decided by Accountability Court No. 1 over 15 hearings between 26 June 2020 and 28 January 2021. During these proceedings, the NAB repeatedly failed to bring Mr. Rehman to appear before the Court on the alleged basis of COVID-19 risks, thereby delaying the proceedings, leading the presiding judge to note that the NAB needed to make greater efforts to comply with the Ordinance’s requirement that cases be decided “*expeditiously*.” Moreover, despite the Accountability Court’s approval of Mr. Rehman’s request to have returned to him his personal items that were seized upon his arrest, the NAB officials did not do so. In fact, on 15 December 2020, three months after its approval, the Accountability Court issued a direct warning to the NAB for contemptuous actions by failing to return Mr. Rehman’s personal items.

On 28 January 2021, 11 months after the NAB issued its Show Cause Notice, the NAB formally charged Mr. Rehman and his three co-accused, charging Mr. Rehman with “*corruption*” and “*corrupt practices*” under the Ordinance.⁷³ The NAB charged Mr. Rehman with violating section 9(a)(ix) of the Ordinance, which criminalizes the “*dishonest induce[ment] of members of the public to deliver any property including money or valuable security to any person*.”⁷⁴ This provision did not appear in the Ordinance until 2002 (*i.e.*, 16 years after the alleged offence had taken place) and did not have retrospective effect.⁷⁵

Moreover, although a charge sheet should include a brief description of the evidence submitted against an accused, in the charge sheet for Mr. Rehman, the NAB failed to include any references to evidence submitted against him or his co-accused.⁷⁶

Mr. Rehman and his co-defendants pled not guilty and demanded a trial.

⁷³ *The State v. Mir Shakeel ur Rehman etc.* ACR No. 15/2020, Accountability Court (Lahore), 28 Jan. 2021 (Charge Sheet), PDF p. 2.

⁷⁴ *The State v. Mir Shakeel ur Rehman etc.* ACR No. 15/2020, Accountability Court (Lahore), 28 Jan. 2021 (Charge Sheet), PSF p. 2.

⁷⁵ See National Accountability Bureau (Amendment) Ordinance, 2002, §§ 1, 10(f).

⁷⁶ *The State v. Mir Shakeel ur Rehman etc.* ACR No. 15/2020, Accountability Court (Lahore), 28 Jan. 2021 (Charge Sheet).

Trial Proceedings

Hearings in Mr. Rehman’s trial took place before the Lahore Accountability Court from 16 February 2021 to 31 January 2022. During these proceedings, the NAB submitted some documentary and testimonial evidence in support of its case, including several different witnesses who testified to the circumstances surrounding Mr. Rehman’s purchase of the land in 1986.

In brief, the NAB’s theory was that in 1986, Mr. Rehman purchased more land from the Lahore Development Authority (“**LDA**”) than he was entitled to under prevailing land laws and exemption policies. The NAB alleged that Mr. Rehman was only entitled to purchase (or “*exempt*” from government ownership) 30% of the land the LDA had acquired from Mr. Rehman’s predecessors-in-interest.⁷⁷ The NAB alleged that Mr. Rehman, in collusion with various Government officials who approved the purchase, purchased land in excess of this 30% limit while also obtaining a “*compact block*” of land—which included public roads—that was purportedly barred by the policy.⁷⁸ The NAB also alleged that Mr. Rehman had failed to pay the “*market price*” for this excess land, as he was purportedly required to do.⁷⁹

However, under cross-examination by Mr. Rehman’s counsel, some witnesses disclaimed any responsibility for, and refused to verify the authenticity of, the documents that the NAB had tendered as evidence against Mr. Rehman. This included the land acquisition collector of the LDA (identified as witness PW-05), who is responsible for determining the value of the LDA’s land, and the “*Patwari*” (registrar) of the LDA (identified as witness PW-06), who maintains the LDA’s landholding records.

Mr. Rehman’s counsel also objected to the admissibility of some of the NAB’s documentary evidence. For example, he argued that the Revenue Department “*Tehsildar*” (collector) (identified as witness PW-03) had no legal authority to prepare the “*Demarcation Report*” that the NAB had submitted as proof of the LDA’s jurisdiction over Mr. Rehman’s land purchase. In addition, the LDA director (identified as witness PW-07) confirmed on cross-examination that the reserve pricing policy at issue—which purportedly required that “*market*” price be paid for the relevant land—only became effective in 1990 (*i.e.*, after Mr. Rehman purchased his property in 1986) and was not applicable retrospectively. Mr. Rehman’s counsel also submitted in court that the policy’s inapplicability to the relevant transaction was confirmed on at least two subsequent occasions, in 1998 and 2009, when outstanding dues on the property were assessed by Government agencies as part of routine procedures as being nil.⁸⁰

Accordingly, on 29 June 2021, Mr. Rehman submitted an application to the Accountability Court seeking his acquittal from the charges, arguing that the criminal allegations against him were clearly pretextual, entirely baseless and did not disclose the commission of a crime.⁸¹ The application explained that the NAB’s material witnesses had failed to provide

⁷⁷ *The State v. Mir Shakeel ur Rehman etc.* ACR No. 15/2020, Accountability Court (Lahore), NAB Reply to Acquittal Application, 24 Jan. 2022, ¶ 5.

⁷⁸ *The State v. Mir Shakeel ur Rehman etc.* ACR No. 15/2020, Accountability Court (Lahore), NAB Reply to Acquittal Application, 24 Jan. 2022, ¶ 6.

⁷⁹ *The State v. Mir Shakeel ur Rehman etc.* ACR No. 15/2020, Accountability Court (Lahore), NAB Reply to Acquittal Application, 24 Jan. 2022, p. 12.

⁸⁰ See *The State v. Mir Shakeel-Ur-Rehman*, ACR No. 15/2020, Accountability Court (Lahore), Application On Behalf Of Accused No. 1 Under Section 265-K Cr.P.C. To Seek Acquittal, 29 June 2021, pp. 9-10.

⁸¹ See *The State v. Mir Shakeel-Ur-Rehman*, ACR No. 15/2020, Accountability Court (Lahore), Application On Behalf Of Accused No. 1 Under Section 265-K Cr.P.C. To Seek Acquittal, 29 June 2021, pp. 6-7.

testimony that connected him with the commission of any offense.⁸² He also argued that none of the NAB's remaining witnesses could provide sufficient testimony to support a conviction.⁸³ However, on 8 September 2021, the Accountability Court denied Mr. Rehman's application as "*premature*" because further witness testimony was anticipated.⁸⁴ Mr. Rehman challenged this order before the Lahore High Court, which directed him to file a new acquittal application before the Accountability Court that could be considered afresh.⁸⁵

Pursuant to the High Court's direction, Mr. Rehman filed a second acquittal application with the Accountability Court on 19 January 2022.⁸⁶ In this application, Mr. Rehman noted that the NAB's authorization of the inquiry and his arrest on the same day "*in a matter [] more than 34 years old smacks volumes of malafide and bad faith.*"⁸⁷ Mr. Rehman further argued that the prosecutors had not shown that he had received "*any personal gain or pecuniary benefit*" such that a criminal offence could even be alleged.⁸⁸ Moreover, the NAB had furnished no evidence of actual financial "*loss*" purportedly suffered by the State, nor that Mr. Rehman had actually criminally induced, or conspired with, the relevant Government officials to approve his land purchase.⁸⁹ Finally, Mr. Rehman observed that he had properly followed contemporaneous land exemption policies (a subsequent change in which could not be retrospectively applied against him).⁹⁰

In response to the acquittal application, the NAB argued that there had been no change in circumstances from when the first acquittal application was dismissed to require a different result.⁹¹ The NAB also repeated its primary contention that Mr. Rehman was the "*illegal beneficiary of land/plots exempted to him.*"⁹² The NAB failed to specifically respond to Mr. Rehman's arguments that the Ordinance provision under which he was charged did not have retrospective effect.⁹³ The NAB also seemed to concede that the 1990 pricing policy

⁸² See *The State v. Mir Shakeel-Ur-Rehman*, ACR No. 15/2020, Accountability Court (Lahore), Order, 8 Sept. 2021, ¶ 8.

⁸³ See *The State v. Mir Shakeel-Ur-Rehman*, ACR No. 15/2020, Accountability Court (Lahore), Order, 8 Sept. 2021, ¶ 8.

⁸⁴ See *The State v. Mir Shakeel-Ur-Rehman*, ACR No. 15/2020, Accountability Court (Lahore), Order, 8 Sept. 2021, ¶¶ 10-11.

⁸⁵ *Mir Shakil ur Rehman v. The Chairman NAB*, W.P. No. 2788/2022, Order, 18 Jan. 2022. See also *The State v. Mir Shakeel-Ur-Rehman*, ACR No. 15/2020, Accountability Court (Lahore), 18 Jan. 2022 (Order), p. 2.

⁸⁶ See *The State v. Mir Shakeel-Ur-Rehman*, ACR No. 15/2020, Accountability Court (Lahore), 19 Jan. 2022 (Order), p. 2.

⁸⁷ See *The State v. Mir Shakeel-Ur-Rehman*, ACR No. 15/2020, Accountability Court (Lahore), Application On Behalf Of Accused No. 1 Under Section 265-K Cr.P.C. To Seek Acquittal, 19 Jan. 2022, p. 6.

⁸⁸ See *The State v. Mir Shakeel-Ur-Rehman*, ACR No. 15/2020, Accountability Court (Lahore), Application On Behalf Of Accused No. 1 Under Section 265-K Cr.P.C. To Seek Acquittal, 19 Jan. 2022, p. 8.

⁸⁹ See *The State v. Mir Shakeel-Ur-Rehman*, ACR No. 15/2020, Accountability Court (Lahore), Application On Behalf Of Accused No. 1 Under Section 265-K Cr.P.C. To Seek Acquittal, 19 Jan. 2022, p. 13.

⁹⁰ See *The State v. Mir Shakeel-Ur-Rehman*, ACR No. 15/2020, Accountability Court (Lahore), Application On Behalf Of Accused No. 1 Under Section 265-K Cr.P.C. To Seek Acquittal, 19 Jan. 2022, pp. 8-10.

⁹¹ See *The State v. Mir Shakeel-Ur-Rehman*, ACR No. 15/2020, Accountability Court (Lahore), Reply to Acquittal Application, 24 Jan. 2022, p. 4.

⁹² See *The State v. Mir Shakeel-Ur-Rehman*, ACR No. 15/2020, Accountability Court (Lahore), Reply to Acquittal Application, 24 Jan. 2022, p. 8.

⁹³ See *The State v. Mir Shakeel-Ur-Rehman*, ACR No. 15/2020, Accountability Court (Lahore), Reply to Acquittal Application, 24 Jan. 2022, p. 11 (Asserting only in response that "[A]ll the proceedings [against Mr. Rehman] have been conducted strictly in accordance with law").

did not apply retrospectively to a 1986 land transaction.⁹⁴ Oral arguments on the applications were heard on 26 January 2022.⁹⁵

On 31 January 2022, the Accountability Court acquitted Mr. Rehman and his three co-accused.⁹⁶ The Accountability Court stated in its verdict that "[t]here is no supportive material with the prosecution to prove involvement of petitioner/accused Mir Shakeel-ur-Rehman and his co-accused in this case and there is no probability of the petitioner/accused and his co-accused of being convicted hence further proceedings in this case would be nothing but a futile exercise which must be curbed."⁹⁷ By the time of his acquittal, the proceedings against Mr. Rehman had lasted almost two years, during which Mr. Rehman spent nearly eight months in pre-trial detention before being charged with a crime.

⁹⁴ See *The State v. Mir Shakeel-Ur-Rehman*, ACR No. 15/2020, Accountability Court (Lahore), Reply to Acquittal Application, 24 Jan. 2022, p. p. 12 (Stating in response to Mr. Rehman's contention that the 1990 policy did not apply to him that the "price of land exempted illegally and in violation of exemption policy is irrelevant.").

⁹⁵ See *The State v. Mir Shakeel-Ur-Rehman*, ACR No. 15/2020, Accountability Court (Lahore), 26 Jan. 2022 (Order).

⁹⁶ See *The State v. Mir Shakeel-Ur-Rehman*, ACR No. 15/2020, Accountability Court (Lahore), 31 Jan. 2022 (Order).

⁹⁷ See *The State v. Mir Shakeel-Ur-Rehman*, ACR No. 15/2020, Accountability Court (Lahore), 31 Jan. 2022 (Order), ¶ 24.

METHODOLOGY



A. MONITORING PHASE

As part of the Clooney Foundation for Justice's TrialWatch initiative, this case was monitored through a combination of in-person monitoring in court and review of case documents.

B. ASSESSMENT PHASE

To evaluate the proceedings' fairness and arrive at a grade, the authors reviewed the TrialWatch monitoring notes taken throughout the proceedings as well as official documents related to the case such as court orders, writ petitions, acquittal applications, etc.

As set out below, the pre-trial phase in this proceeding was marred by significant due process violations. Further, there are sufficient grounds to characterize the proceedings against Mr. Rehman as an act of reprisal by NAB officials in response to Geo TV's reporting, which they perceived to be critical of the Government. NAB officials acted *ultra vires* to unnecessarily and unlawfully detain Mr. Rehman, and Mr. Rehman was charged with crimes that appeared to have no factual or legal foundation. Although Mr. Rehman was ultimately acquitted, Mr. Rehman was unlawfully detained for eight months, and the proceedings against him continued for almost two years and had an overall chilling effect on the media in Pakistan.

ANALYSIS



A. APPLICABLE LAW

Mr. Rehman was prosecuted by the NAB before an Accountability Court that is required to comply with due process standards set out in Pakistani law, including the Pakistani Constitution. In addition, Pakistan has ratified the International Covenant on Civil and Political Rights (“ICCPR”) and is bound by the international law standards of due process incorporated therein.⁹⁸ The following analysis assesses the compatibility of Mr. Rehman’s treatment with Pakistan’s due process obligations under international law, drawing on domestic law where relevant to that analysis.

B. INVESTIGATION AND PRE-TRIAL STAGE VIOLATIONS

The NAB officials’ actions during the investigation and pre-trial stages of the case violated Mr. Rehman’s rights under international law. In particular, as set out below, Mr. Rehman was subject to arbitrary arrest, and arbitrary and prolonged pre-charge detention.

The Right Not To Be Subject To Arbitrary Detention

Article 9(1) of the ICCPR provides that “[e]veryone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”⁹⁹

Mr. Rehman’s arrest and pre-charge detention was arbitrary and not in accordance with the procedures established by law. Mr. Rehman was arrested pursuant to Section 18(e)¹⁰⁰ and Section 24(a)¹⁰¹ of the Ordinance. However, the NAB’s discretion to effect an arrest and physically detain a suspect pursuant to these provisions is subject to review under Pakistani law “on the ground of fairness, proportionality, reasonableness, and necessity.”¹⁰² Under international law, the UN Human Rights Committee has confirmed that “elements of reasonableness, necessity, and proportionality” must be considered when assessing if an

⁹⁸ Status of Ratification Interactive Dashboard, UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER, <https://indicators.ohchr.org/>, last accessed 16 Jan. 2023.

⁹⁹ International Covenant on Civil and Political Rights, art. 9(1).

¹⁰⁰ National Accountability Ordinance, s. 18(e) (“The Chairman NAB and such members, officers and/or servants of the NAB shall have and exercise, for the purposes of an inquiry and/or investigation the power to arrest any person, and all the powers of an officer-in-charge of a Police Station under the Code, and for that purpose may cause the attendance of any person, and when and if the assistance of any agency, police officer or any other official or agency, as the case may be, is sought by the NAB such official or agency shall render such assistance provided that no person shall be arrested without the permission of the Chairman or any officer duly authorized by the Chairman NAB.”).

¹⁰¹ National Accountability Ordinance, § 24(a) (“The Chairman NAB shall have the power, at any stage of the investigation under this Ordinance, to direct that the accused, if not already arrested, shall be arrested.”).

¹⁰² *Khawaja Salman Rafique and Another v. NAB*, C.P. Nos. 2243 and 2986 of 2019, Supreme Court, 17 Mar. 2020, ¶ 71.

arrest and detention was arbitrary.¹⁰³ Accordingly, “*remand in custody on criminal charges must be reasonable and necessary in all the circumstances.*”¹⁰⁴ Moreover, in the case of pre-charge detention, the Human Rights Committee has held that detention is only appropriate to prevent flight, interference with evidence, or the recurrence of a crime.¹⁰⁵ The Supreme Court of Pakistan has confirmed a similar assessment applies under domestic law.¹⁰⁶

In this case, **Mr. Rehman was subject to more than eight months of arbitrary detention before he had even been charged with any crime.** This pre-charge detention was arbitrary because: (i) it was not in accordance with the procedures established by law; and (ii) in any event, it was not proportional, reasonable, or necessary.

First, Mr. Rehman was arrested in apparent contravention of the NAB’s Standard Operating Procedures (“**SOP**”). The SOP covers the entire process of investigation, from complaint verification, to inquiry, to investigation and finally to filing an accountability reference before an accountability court.¹⁰⁷ If the investigation is of a business person, the SOP requires the NAB to provide notice to the business person of the allegations against them and an opportunity to reply.¹⁰⁸ Thereafter, the NAB can follow up with a questionnaire to obtain more information. The NAB should then review the answers before further escalating the matter and summoning the alleged offender for a personal appearance.¹⁰⁹

The NAB did not give Mr. Rehman the opportunity to submit responses to the questionnaire, and, therefore, the NAB did not review any responses before Mr. Rehman was arrested. Having only been given two days to come to the NAB’s offices to respond to the questionnaire, Mr. Rehman arrived at the NAB’s offices with a draft response and was ready to cooperate with the authorities. Yet, instead of following the SOP (which required that the NAB allow Mr. Rehman to respond to the questionnaire and the NAB to review the responses), the NAB Chairman issued a warrant for Mr. Rehman’s arrest before he even arrived at the offices, and arrested him before he had the opportunity to furnish his responses to the questionnaire.¹¹⁰

¹⁰³ ICCPR General Comment No. 35, HUMAN RIGHTS COMMITTEE, 16 Dec. 2014, ¶ 12. See also *Zhagiparov v. Kazakhstan*, U.N. Doc. CCPR/C/124/D/2441/2014, 29 Nov. 2018, ¶ 13.3 (Noting that any restriction on the exercise of freedoms of opinion and expression “*must conform to the strict tests of necessity and proportionality. Restrictions must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.*”).

¹⁰⁴ ICCPR General Comment No. 35, HUMAN RIGHTS COMMITTEE, 16 Dec. 2014, ¶ 12.

¹⁰⁵ *Mikhail Marinich v. Belarus*, U.N. Doc CCPR/C/99/D/1502/2006, 16 July 2010, ¶ 10.4.

¹⁰⁶ *Khawaja Salman Rafique and Another v. NAB*, C.P. Nos. 2243 and 2986 of 2019, Supreme Court, 17 Mar. 2020, ¶ 72 (“*Arrest of any person is a grave matter. Capricious exercise of the power to arrest has deleterious consequences, this highlighting the need to exercise it with care, caution and sensitivity. Arrest of a person has to be justified not only by referring to prima facie evidence and adequate actionable material sufficiently connecting the person with the offence/crime complained of, but also by showing that in the given circumstances, there was no less intrusive or restrictive means available. The power of arrest should not be deployed as a tool of oppression and harassment.*”).

¹⁰⁷ ‘*NAB has ‘perfected’ procedures to yield excellent results in graft cases, says chairman*’, DAWN, 23 Oct. 2019, <https://www.dawn.com/news/1512485>.

¹⁰⁸ See *Mir Shakil Ur Rehman v. The Chairman, NAB and others*, W.P. No. 21938, 11 May 2020, ¶¶ 14-16

¹⁰⁹ ‘*NAB violated its own guidelines in Jang Group Editor-in-Chief’s arrest*’, THE NEWS, 13 Mar. 2020, <https://www.thenews.com.pk/print/628444-nab-violated-its-own-guidelines-in-jang-group-editor-in-chief-s-arrest>.

¹¹⁰ In addition, Mr. Rehman was denied timely access to the case record to meaningfully challenge his detention, with largely illegible documents provided to his counsel, upon application, only in December 2020. Legible copies were provided upon court direction a month later.

At the time Mr. Rehman was arrested (and all times thereafter), there was no probative evidence supporting the charges against him. Moreover, the NAB took three months to file an accountability reference in the case, and then slowly moved forward with the proceeding without affording Mr. Rehman any opportunity to challenge the allegations against him (which should have been afforded, at a minimum, through the NAB's questionnaire process referenced above).

Second, at no stage did Pakistani authorities (including the Chairman of the NAB, who issued the arrest warrant against Mr. Rehman, the Accountability Court, or the Lahore High Court) conduct a proportionality, reasonableness, or necessity analysis to determine whether Mr. Rehman's arrest and pre-charge detention were appropriate.¹¹¹ Both the Accountability Court and the Lahore High Court ordered that Mr. Rehman's pre-charge detention could continue on the basis that the inquiry into his conduct was pending.¹¹² At no stage did the NAB or other Pakistani authorities raise concerns regarding Mr. Rehman absconding, interfering with evidence, or reoffending to justify his pre-charge detention.

Moreover, the circumstances of this case make clear that pre-charge detention was not warranted. The crimes Mr. Rehman was ultimately charged with were non-violent in nature and took place more than 34 years prior, and there was no allegation that he would interfere or tamper with evidence. Mr. Rehman also actively cooperated with authorities and their investigations into him since receiving notice of the NAB's investigation. Indeed, the NAB Prosecutor General later admitted to the Supreme Court that, in cases similar to Mr. Rehman's, the NAB would grant bail secured by payment of a security and surrender of an accused's passport.¹¹³ When the Supreme Court finally ordered Mr. Rehman's release on 9 November 2020, after eight months of pre-charge detention, this is what the Supreme Court ordered as surety for his release. Mr. Rehman complied with both conditions.

The Right Not To Be Subject To Prolonged Pre-Trial Detention

Article 9(3) of the ICCPR provides in relevant part that “[a]nyone arrested or detained on a criminal charge . . . shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial.” The Human Rights Committee has explained that “[p]ersons who are not released pending trial must be tried as expeditiously as possible, to the extent consistent with their rights of defence.”¹¹⁴ While “[i]mpediments to the completion of the investigation may justify additional time,” reliance on “general conditions of understaffing or budgetary constraint do not.”¹¹⁵ Accordingly, “[w]hen delays become necessary, the judge must reconsider alternatives to pretrial detention.”¹¹⁶

Here, Mr. Rehman was subject to pre-charge detention for almost eight months before being released on bail. It took almost a year for the Accountability Court to charge Mr. Rehman and for his trial to begin. The record of the proceedings demonstrates that the

¹¹¹ See NAB Warrant of Arrest, 12 Mar. 2020.

¹¹² See NAB Warrant of Arrest, 12 Mar. 2020.

¹¹³ See *Mir Shakil-Ur-Rehman and Another v. National Accountability Bureau*, C.P. Nos. 2292, 2014 and 2027 of 2020, Supreme Court, 9 Nov. 2020, ¶ 4.

¹¹⁴ ICCPR General Comment No. 35, HUMAN RIGHTS COMMITTEE, 16 Dec. 2014, ¶ 37.

¹¹⁵ ICCPR General Comment No. 35, HUMAN RIGHTS COMMITTEE, 16 Dec. 2014, ¶ 37. See also *Fillastre and Bizouarn v. Bolivia*, U.N. Doc. CCPR/C/40/D/336/1988, 5 Nov. 1991, ¶ 6.5; *Sextus v. Trinidad and Tobago*, U.N. Doc. CCPR/C/72/D/818/1998, 16 July 2001, ¶¶ 4.2, 7.2.

¹¹⁶ ICCPR General Comment No. 35, HUMAN RIGHTS COMMITTEE, 16 Dec. 2014, ¶ 37.

NAB officials were dilatory in advancing their so-called investigation against Mr. Rehman, and obstructed the proceedings by failing to take Mr. Rehman to court when summoned. The NAB officials were also criticized by the Accountability Court for failing to execute non-bailable warrants against Mr. Rehman's co-accused, causing further delays in the proceedings.

C. OTHER FAIRNESS CONCERNS

Principle of Legality

Article 15(1) of the ICCPR provides that “[n]o one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed.”¹¹⁷ The European Court of Human Rights has explained that by application of this principle, known as the principle of legality, only a law can define a crime and prescribe a penalty, and that it must do so clearly and precisely.¹¹⁸

The NAB repeatedly violated the principle of legality in its prosecution of Mr. Rehman. The NAB charged Mr. Rehman under Section 9(a)(ix) of the Ordinance, which criminalizes “dishonestly induc[ing] members of the public at large to deliver any property including money or valuable security to any person.”¹¹⁹ While the Ordinance (enacted 13 years after the land transactions in question took place in 1986) was given retroactive effect from 1985 onwards,¹²⁰ Section 9(a)(ix) was introduced by amendment in 2002 and did not have retroactive effect.¹²¹ Thus, the charging provision relied on by the NAB was explicitly inapplicable to Mr. Rehman, as he argued in his acquittal application.¹²² Moreover, the NAB's theory of Mr. Rehman's guilt was premised, in part, on the application of a land reserve policy that only came into force in 1990, four years after the relevant transactions took place. As such, the NAB's prosecution of Mr. Rehman violated Article 15(1) of the ICCPR.

Criminalizing Expression

Article 19 of the ICCPR states that “[e]veryone shall have the right to freedom of expression” including the right to “receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”¹²³ The Human Rights Committee has further stated that the right to freedom of expression includes the right of individuals to criticize or openly and publicly evaluate their Governments without fear of interference or punishment.¹²⁴ Accordingly, in

¹¹⁷ International Covenant on Civil and Political Rights, art. 15(1).

¹¹⁸ *Kononov v. Latvia*, App. No. 36376/04, European Court of Human Rights, 17 May 2010, ¶ 185.

¹¹⁹ See National Accountability Ordinance, § 9(a)(ix).

¹²⁰ See National Accountability Ordinance, § 2 (“*This Ordinance shall come into force at once and shall be deemed to have come into force from the 1st day of January 1985.*”)

¹²¹ See National Accountability Bureau (Amendment) Ordinance, 2002, §§. 1, 10(f).

¹²² See *The State v. Mir Shakeel-Ur-Rehman*, ACR No. 15/2020, Accountability Court (Lahore), Application On Behalf Of Accused No. 1 Under Section 265-K Cr.P.C. To Seek Acquittal, 19 Jan. 2022, p. 8.

¹²³ International Covenant on Civil and Political Rights, art. 19.

¹²⁴ See *Marques v. Angola*, U.N. Doc. CCPR/C/83/D/1128/2002, 18 Apr. 2005, ¶ 6.7.

Mavlonov and Sa'di v. Uzbekistan, the Human Rights Committee held that a State had violated Article 19 of the ICCPR when the editor of a newspaper was not permitted to re-register his publication (and, therefore, impart information) due to allegations that the publication had previously been improperly registered due to a technicality.¹²⁵ Similarly, in *Zhagiparov v. Kazakhstan*, the Committee held that Kazakhstan's detention of a journalist for a total of 22 days "*solely for being critical of the Government or political system*" was arbitrary in nature and violated his rights to impart information under Article 19.¹²⁶ On this basis, the Committee recommended that Kazakhstan review Zhagiparov's convictions and provide him with "*adequate compensation*" and other "*appropriate measures of satisfaction*."¹²⁷

The Human Rights Committee has also confirmed that freedom of opinion and expression are "*indispensable conditions for the full development of persons*," and that it is unlawful for a State to prosecute someone for the legitimate exercise of their rights.¹²⁸ A determination as to whether such an unlawful prosecution has taken place requires an analysis of the circumstances surrounding the allegations in addition to the allegations themselves.¹²⁹

Although Government officials publicly stated that Mr. Rehman's arrest was unrelated to the violations PEMRA found against Geo TV, the historical animus between Geo TV and the Government suggests that the Government initiated Mr. Rehman's baseless and unjustified prosecution as a retaliatory measure against critical media coverage. Geo TV has repeatedly refused to agree to restrictive Government media regulations,¹³⁰ been subject to fines and transmission bans,¹³¹ and, alongside other media companies, been subject to increasingly restrictive legislation.¹³² Moreover, Geo TV has specifically broadcast coverage that is critical of the NAB and its officials,¹³³ including on the same day the NAB issued its first notice against Mr. Rehman in this case.¹³⁴ Consequently, there are strong grounds to conclude that the criminal allegations brought against Mr. Rehman in this case (which, as explained above, were not substantiated by evidence and had no legal basis), were likely contrived for the ulterior purpose of harassing a public figure who ran a company that broadcast information that was critical of the Government.

¹²⁵ See *Mavlonov and Sa'di v. Uzbekistan*, U.N. Doc. CCPR/C/95/D/1334/2004, 19 Mar. 2009, ¶ 8.4.

¹²⁶ *Zhagiparov v. Kazakhstan*, U.N. Doc. CCPR/C/124/D/2441/2014, 29 Nov. 2018, ¶¶ 13.6, 13.6.

¹²⁷ *Zhagiparov v. Kazakhstan*, U.N. Doc. CCPR/C/124/D/2441/2014, 29 Nov. 2018, ¶ 15.

¹²⁸ *Zhagiparov v. Kazakhstan*, U.N. Doc. CCPR/C/124/D/2441/2014, 29 Nov. 2018, ¶¶ 13.2, 13.3. See also *Khadzhiyev and Muradova v. Turkmenistan*, U.N. Doc. CCPR/C/122/D/2252/2013, 24 May 2018, ¶ 7.7.

¹²⁹ See *Khadzhiyev and Muradova v. Turkmenistan*, U.N. Doc. CCPR/C/122/D/2252/2013, 24 May 2018, ¶ 7.7.

¹³⁰ See 'Pakistan's private Geo TV says forced to shut down', REUTERS, 16 Nov. 2007, <https://www.reuters.com/article/us-pakistan-media-geo/pakistans-private-geo-tv-says-forced-to-shut-down-idUSL1626797920071116>.

¹³¹ See, e.g., 'Pakistan: Ban of major private TV network is 'attack on press freedom'', AMNESTY INTERNATIONAL, 6 June 2014, <https://www.amnesty.org/en/latest/news/2014/06/pakistan-ban-major-private-tv-network-attack-press-freedom/>.

¹³² See 'Pakistan', REPORTERS WITHOUT BORDERS (2023), <https://rsf.org/en/country/pakistan> (noting that "[d]espite changes in political power, a recurring theme is apparent: political parties in opposition support press freedom but are first to restrict it when in power"); Ayaz Gul, 'Pakistani Journalists Face Criminal Proceedings for Criticizing Military', VOA NEWS, 23 May 2022, <https://www.voanews.com/a/pakistani-journalists-face-criminal-proceedings-for-criticizing-military-/6586070.html>.

¹³³ See 'Pemra slaps Rs1mn fine on Geo News for programme deemed 'highly seditious and scandalous'', DAWN, 6 Aug. 2019, <https://www.dawn.com/news/1498430>. See also *Mir Shakil Ur Rehman v. The Chairman, NAB and others*, W.P. No. 21938, 11 May 2020, ¶¶ 6-7.

¹³⁴ See NAB Call Up Notice, 28 Feb. 2020.

The NAB's unjustified prosecution of Mr. Rehman is part of a larger pattern. The international community has recognized a Government practice of intimidating reporters and journalists who are critical of the Government and military.¹³⁵ Previously, State authorities have reportedly sought to silence journalists through charges brought under the sedition law, Prevention of Electronic Crimes Act and various penal provisions.¹³⁶ With respect to the NAB, the Supreme Court of Pakistan has observed that “[t]he NAB Ordinance from its very inception became increasingly controversial, its image has come under cloud and there is a wide spread perception of it being employed as a tool for oppression and victimization of political opponents by those in power.”¹³⁷ This case confirms that State authorities are attempting to use the NAB as another tool to curb press freedom.

Although the NAB was ultimately unsuccessful in convicting Mr. Rehman, their actions in targeting and harassing Mr. Rehman, subjecting him to eight months of pre-charge detention, and nearly two years of having to defend himself in unjustified criminal proceedings, have undoubtedly had a chilling effect on freedom of expression as they demonstrated the hardship the State can impose upon individual members of the media who are perceived as Government critics.¹³⁸

¹³⁵ ‘UN body asks govt to clarify reported prosecution of the media’, DAWN, 17 June 2020, <https://www.dawn.com/news/1564049>.

¹³⁶ See Asad Hashim, ‘Chilling pattern’: Pakistani journalists ‘targeted’ by cyber law’, AL JAZEERA, 2 Nov. 2021, <https://www.aljazeera.com/news/2021/11/2/pakistan-journalists-targeted-cyber-crime-law-press-freedom>; ‘Pakistan: Authorities register multiple cases against journalists’, IFJ, 23 May 2022, <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/pakistan-authorities-register-multiple-cases-against-journalists>.

¹³⁷ See *Khawaja Salman Rafique and Another v. NAB*, C.P. Nos. 2243 and 2986 of 2019, Supreme Court, 17 Mar. 2020, ¶ 67.

¹³⁸ See ‘Supreme Court tells NAB not to harass businessmen’, THE NEWS, 18 Feb. 2022, <https://www.thenews.com.pk/print/934506-sc-tells-nab-not-to-harass-businessmen>.

CONCLUSION

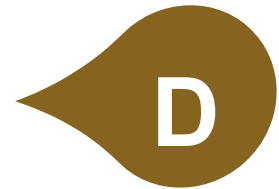


The Government of Pakistan initiated retaliatory criminal proceedings against Mr. Rehman in response to his media company broadcasting programs that are critical of the Government. Although the charges against Mr. Rehman lacked both legal and factual foundation and Mr. Rehman was ultimately acquitted of those charges, he was nevertheless subject to pretrial detention without cause for almost eight months in violation of international law standards and forced to defend himself over almost two years in multiple legal proceedings.

These proceedings against Mr. Rehman took place within a broader context of media silencing in Pakistan. Mr. Rehman's case is emblematic of the Government's use of its State power, including the NAB in particular, as a tool to silence political dissent and criticism.

For these reasons, the trial is given a 'D' Grade.

GRADE:





A. GRADING METHODOLOGY

Experts should assign a grade of A, B, C, D, or F to the trial reflecting their view of whether and the extent to which the trial complied with relevant international human rights law, taking into account, *inter alia*:

- The severity of the violation(s) that occurred;
- Whether the violation(s) affected the outcome of the trial;
- Whether the charges were brought in whole or in part for improper motives, including political motives, economic motives, discrimination, such as on the basis of “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,”¹³⁹ and retaliation for human rights advocacy (even if the defendant was ultimately acquitted);
- The extent of the harm related to the charges (including but not limited to whether the defendant was unjustly convicted and, if so, the sentence imposed; whether the defendant was kept in unjustified pretrial detention, even if the defendant was ultimately acquitted at trial; whether the defendant was mistreated in connection with the charges or trial; and/or the extent to which the defendant’s reputation was harmed by virtue of the bringing of charges); and
- The compatibility of the law and procedure pursuant to which the defendant was prosecuted with international human rights law.

Grading Levels

- A: A trial that, based on the monitoring, appeared to comply with international standards.
- B: A trial that appeared to generally comply with relevant human rights standards excepting minor violations, and where the violation(s) had no effect on the outcome and did not result in significant harm.
- C: A trial that did not meet international standards, but where the violation(s) had no effect on the outcome and did not result in significant harm.
- D: A trial characterized by one or more violations of international standards that affected the outcome and/or resulted in significant harm.
- F: A trial that entailed a gross violation of international standards that affected the outcome and/or resulted in significant harm.

¹³⁹ ICCPR, Article 26.