

VOLUNTARINESS AND THE PERSON IN AUTHORITY DOCTRINE: A COMPARATIVE STUDY OF COUNTER-TERRORISM EVIDENTIARY STANDARDS IN THE UK AND PAKISTAN

Wasim Qasim Khan¹, Hidayat Ur Rehman^{*2}

¹ LLM Scholar at Abdul Wali Khan University, Mardan

^{*2} Assistant Professor of Law Abdul Wali Khan University, Mardan

¹adv.wasimqasimkhan@gmail.com, ^{*2}hidayat@awkum.edu.pk

Corresponding Author: *

Hidayat Ur Rehman

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ABSTRACT

This article looks at a growing problem in modern law: how can we really tell if a confession is voluntary when the government is dealing with serious terrorism cases? The research focuses on the "Person in Authority" rule. In simple terms, this means a confession should only count if it wasn't pushed or pressured out of someone by a person they see as powerful or in charge. The core issue is that while the law is supposed to protect free will, counter-terrorism rules often create exceptions that make it easier for pressured statements to enter the courtroom. By comparing the legal systems of the United Kingdom (hereinafter referred to as the UK) and the Islamic Republic of Pakistan (hereinafter referred to as Pakistan), the study examines how different statutes—like PACE 1984 in the UK and the ATA 1997 in Pakistan—handle the "Person in Authority". The research finds a troubling gap: in the UK, judges have a lot of personal power to decide what is fair, whereas in Pakistan, a "Rule of Prudence" requires courts to be cautious about confessions that the accused later withdraws. The key question is whether these protections are strong enough to block "tainted evidence" or confessions obtained through psychological pressure or torture. The study concludes that without strict rules requiring additional proof or corroboration, the right to a fair trial is at risk.

Keywords: Voluntariness, Person in Authority, Counter-Terrorism, Retracted Confessions, Corroboration, PACE 1984, ATA 1997.

1. INTRODUCTION

In modern law, voluntariness is the most important protection for anyone accused of a crime. It means a confession can only be used if it comes from the person's free choice, not from threats, false promises, or extreme pressure. This idea is based on an old rule: *Nemo tenetur seipsum accusare*, which means no one should be forced to accuse themselves (Melro, 2023a). While this seems straightforward, it becomes much harder to apply in counter-terrorism cases, where the line

between honestly searching for the truth and pressuring someone can easily become unclear.

One of the biggest hurdles in this area is understanding the role of the "Person in Authority" (hereinafter referred to as PIA). Traditionally, a PIA is anyone the accused believes has the power to change their legal fate—someone who could offer a lighter sentence or make things much worse. In a normal case, this is usually a police officer or a judge. However, in terrorism

investigations, new players like intelligence agents and foreign officers enter the picture. That being said, the law is often slow to catch up with these changes. For instance, in the United Kingdom (hereinafter referred to as the UK), agents from MI5 may not have the official power to arrest someone, but they still hold massive "de facto" or practical power over a suspect's life (Rushton, 2015). This article aims to look at how these shifting definitions of authority can sometimes put the fairness of a trial at risk.

The legal systems in the UK and the Islamic Republic of Pakistan handle these pressures in very different ways. In the UK, the focus is often on the Police and Criminal Evidence Act 1984 (hereinafter referred to as PACE 1984) and whether the police followed the right procedures (Cho, 1999). In Pakistan, the law is governed by the Qanun-e-Shahadat Order 1984 (hereinafter referred to as QSO 1984). While Pakistani law is generally very suspicious of confessions made to the police, a major exception is found in the Anti-Terrorism Act 1997 (hereinafter referred to as ATA 1997), which allows confessions made to high-ranking officers (Iqbal, 2015). This creates a strange contradiction: does a higher rank really make an officer less likely to use pressure?

Another major goal of this article is to explore why people take back their confessions and how courts should react when they do. Retracted confessions—where a person says they are guilty but later changes their mind—are often the result of "Coerced-Compliant" or "Coerced-Internalized" behavior. This happens when someone is so tired or scared that they confess just to end a stressful interrogation, or worse, they are manipulated into actually believing they committed a crime they didn't commit. In Pakistan, the "Rule of Prudence" is used to handle this, meaning a court usually won't convict someone based only on a retracted confession unless there is other solid proof, known as corroboration, to back it up. The UK, however, relies more on the discretion of the judge to warn the jury about the risks, which some critics argue might not be enough in high-stakes terrorism cases.

Finally, this article looks at the moral and legal duty to exclude any evidence obtained through torture. International rules, such as the United

Nations Convention against Torture (hereinafter referred to as UNCAT), state that any confession extracted through pain must be thrown out (Haider, 2024). This isn't just about whether the confession is true or false; it is about keeping the court system honest. Whether it is the UK dealing with "tainted evidence" from foreign countries or Pakistan struggling to stop custodial pressure at home, the ultimate objective is to see if the law is actually strong enough to protect human rights when national security is on the line.

2.1 Theoretical Foundations: Voluntariness and the 'Person in Authority' Doctrine

The concept of voluntariness is the foundation of the modern criminal jurisprudence of self-incrimination (Vatjus-Anttila, 2025). The legal system should be based on the principle that a statement of guilt should be the result of the free will of the accused, without threats, promises, or oppressive behavior (Haider, Ali, et al., 2024). This question may seem simple, but it can be very confusing, especially when mixed with the idea of authority. The whole structure of a fair trial is based on the principle which is contained in the maxim: *Nemo tenetur seipsum accusare*—no one is bound to accuse himself (Melro, 2023b).

2.1.1 The Common Law Doctrine of Voluntariness and Exclusions

The doctrine of voluntariness was not the result of an interest in the rights of the accused, but of a deeper, more practical interest in reliability (Lederer, 1976). Traditionally, English courts became suspicious of confessions obtained under external influence not only due to the fact that they were contrary to fairness, but also because they were considered unreliable. Jurists argued that an individual who is in danger of being harmed or promised mercy may make a false confession just to get out of a short-term situation, not because he is guilty. The contemporary exclusionary rule is characterized by this two-fold justification, the avoidance of unreliability and the imposition of fairness (Haider, Raza, et al., 2023). The doctrine is generally stated as demanding that the confession be made freely and voluntarily, that is, it must not be obtained:

1. By fear of prejudice or hope of advantage: This includes any threat or inducement made by a person in a position to do it.

2. By oppression: This is the action of the police that drains the spirit and undermines the capacity of the suspect to resist, whether there was a direct threat or promise or not.

The aftermath of a non-voluntary confession is that it cannot be used as evidence. This exclusionary rule is not just an optional tool—it is a compulsory protection. The underlying reasoning, which is based on the adversarial system, is that when the state has undermined the evidence, then the evidence is no longer probative and it becomes prejudicial. That being said, even the definition of voluntariness is subjective and contextual. For example, how do we judge the will of a tired, weak, or unrepresented suspect? (Haider, 2023) The first main difference between the UK and Pakistani systems is how they interpret this idea.

2.1.2 Legal Authority: Statutory and Judicial Interpretations in Counter-Terrorism

The Person in Authority is a very important supplement to the doctrine of voluntariness (Alvarez, 2016). This term is used to describe any person whom the accused has a reasonable belief has the authority to affect the formal legal procedure, either through receiving a pardon, reduction of punishment, or worse treatment. The presence of such an individual increases the chances of an invalid confession since the threat or promise is real.

2.1.3 The Statutory Challenge

In general criminal law, the Person in Authority is mostly the investigating police officer, the magistrate, or the prosecutor. But counter-terrorism laws tend to misinterpret this definition, which creates serious interpretive issues:

1. In the UK (PACE 1984): The Act mainly concerns confessions to the police officers and specifically governs their actions. However, a question arises: Is a threat made by a non-uniformed MI5 officer considered a threat by a person in authority for evidentiary purposes? Although MI5 does not have the formal authority of arrest under PACE, they have control over

surveillance, terms of detention, and, ultimately, the commencement of prosecution, which gives them an extensive *de facto* power over the accused. The judicial interpretation is continuously changing to deal with this blurring of the boundaries between law enforcement and intelligence agencies (Zander, 2011).

2. In Pakistan (QSO 1984 and ATA 1997): The main idea of the QSO is clear—police officers generally should not be the ones to receive admissible confessions. This court decision reflects a long-standing distrust of police behavior, seeing officers as People in Authority who may be intimidating. The Anti-Terrorism Act (ATA) 1997, however, provides a radical exception in that it permits confessions to high-ranking police officers (e.g., Superintendent of Police). This produces an internal legal contradiction—does the simple increase in rank automatically deprive the Person in Authority of his/her coercive possibilities? This legal exception has often been called a compromise by jurists like Justice M. Munir, as it creates a risky situation where coerced evidence can be used in the name of counter-terrorism. The legal question of interest, then, is whether the contemporary counter-terrorism legislation, through the provision of special authority or the introduction of new participants, has succeeded in establishing a category of Person in Authority that is not subject to the legal scrutiny that is required to ensure voluntary confessions (Buksh et al., 2022).

2.1.4 Non-Police Actor (Intelligence and Foreign Agents) and Authority

The era of global terrorism demands transnational investigations, which introduces non-police participants into the domestic evidentiary discourse, such as intelligence agents and foreign state agents. This is probably the most challenging part of the Person in Authority doctrine.

1. The Veil of National Security and Intelligence Agencies:

Intelligence agents (such as MI5 in the UK) are not subject to the strict procedural guidelines of police (such as the PACE) (Gregory & Langley, 2012). They question suspects, collect data, and make arrests. Two questions come to mind when an

admission is obtained by an intelligence officer: Is the intelligence officer a Person in Authority because he is an agent of the state and can influence the prosecution? Although they may not be considered an authority, does their behavior amount to 'oppression' to the extent that it would bar the evidence under the more liberal voluntariness doctrine? Legal theories of apparent authority imply that when the accused believes that the agent has the power of the state and can affect the future direction of their freedom, then the confession must be subjected to the same rigorous examination. The inability to use these precautions casts doubt on the quality of the evidence, no matter what the title of the agent is.

2. The Foreign Agent Conundrum:

The most frustrating situation, especially for the UK, is when police or intelligence in another country obtain a confession in ways that would be illegal at home (for example, in places where torture is common). When a confession is obtained by a foreign state and subsequently handed over to the UK to prosecute a domestic case, is the foreign officer a Person in Authority to be tried in the UK? The legal discussion changes from the definition of domestic authority to the application of the doctrine of non-complicity in human rights violations (Haider, Ahmad, et al., 2023); (Ahmad et al., 2024); (Ghani et al., 2025). Although the foreign officer is not an agent of the UK state, the fact that the evidence was obtained through the blatant violation of human rights makes the domestic court a beneficiary of such a violation. The court has to take into account the overall fairness of admitting such evidence, whether the initial interrogation was within the technical meaning of a local Person in Authority or not, as Lord Steyn put it in one of his most famous judgments. Here, the principle of voluntariness goes beyond the principle of reliability and is a question of moral and international legal duty.

3. Reliability, Corroboration, and Retracted Confessions

As soon as an accused individual pleads guilty and later withdraws the confession, it becomes not a strong piece of evidence, but a highly disputed

legal object. The fact of a retracted confession instantly presents a deep quandary to the court: is the initial confession a true statement of fact, or is the retracted confession a late statement of innocence in the face of a coercive atmosphere? This conflict brings out the main evidentiary issue of reliability and the need for legal protection, the most important being the need for corroboration. *Confessio facta in judicio omni probatione major est* (A confession made in court is greater than all proof). But a confession retracted attacks this very premise, and requires judicial care (Mhatre & Mundhra, 2023).

3.1 Psychological Reasons that cause False and Retracted Confessions

Whereas the legal theory considers a confession as a voluntary act, forensic psychology unveils the coercive nature that may result in false and withdrawn confessions. Jurists now must admit that not every confession is given due to the guilt of the accused—it may be a logical reaction to an irrational pressure. Modern research identifies three main types of false confessions:

1. Voluntary False Confessions: These are made without any direct coercion by the police (e.g., to save a family member, to gain fame, or because of a mental illness). Although they are uncommon in terrorism cases, they are problematic *per se*, as they are legally problematic since they compromise the search for the truth.
2. Coerced-Compliant False Confessions: This category happens when a suspect confesses just to escape a difficult situation, like being in custody, being tired, or facing tough questioning (which often happens in counter-terrorism cases). The suspect is aware of his innocence, but he/she make a rational decision to cooperate to get released or to get better treatment. When the suspect goes back to a normal setting (e.g., before a magistrate or in court), he/she immediately withdraw the statement.
3. Coerced-Internalized False Confessions: This is the most disturbing category, in which the suspect, through the use of manipulative interrogation techniques, confusion, or suggestibility, comes to believe that he/she actually committed the crime, even when he/she has no involvement. This mental weakness is increased in

cases where the accused is socially isolated or under constant and excessive pressure.

The presence of such mechanisms changes the legal question of simply determining whether the procedure was adhered to (the primary concern of the UK) to the question of whether the statement itself is psychologically sound. The mere withdrawal is the legal expression of this psychological weakness. To what extent does the court have to go into the state of mind of the suspect and the psychological effect of the custodial environment before it can declare a retraction invalid? (Ahmad et al., 2025) The response to this question distinguishes a procedural system, such as the UK system, and a more cautious system, such as the Pakistan system.

3.2 The Legal Weight of Retraction: Evidentiary Rules and Judicial Caution

In the case of a retraction, the weight of evidence is grossly reduced. Though admissible in principle, the original confession should be handled with immense caution.

1. The UK Approach (PACE and Judicial Discretion): In the UK, attention is still mainly on the admissibility of the original confession under the Police and Criminal Evidence Act (PACE) 1984. In case the original confession passes the admissibility test (i.e., it was not acquired by force or makes the evidence unreliable because of the violation of the procedure), it is admitted. The retraction is then considered as additional evidence that the jury (or judge) should consider. The common law tradition is that a confession is *prima facie* true. That being said, the courts send a powerful judicial message, reminding the jury of the natural risks of trusting a retracted statement, especially in the face of the threat of miscarriages of justice. The UK system has been criticized as relying too much on the discretion of the judge to control this risk, but this has been criticized as inadequate in high-stakes terrorism cases, where the bar of fairness can be subconsciously reduced by national security considerations (Turner & Corteen, 2023).

2. The Pakistani Approach (Rule of Prudence and Magistrate Role): The Pakistani legal system is based on the Qanun-e-Shahadat Order (QSO) 1984, which is much more sceptical

of confessions, particularly retracted ones. A confession made in the presence of a magistrate (under Section 164 of the Code of Criminal Procedure) has a greater presumption of voluntariness than a confession made to a police officer (which is generally not) (Joshi, 2022). But the Rule of Prudence applies even to a judicial confession which is afterwards retracted. This is an established rule of Pakistani jurisprudence according to which a confession that has been retracted cannot, in itself, be the foundation of a conviction. It is not *per se* inadmissible, but its substantive evidentiary value is low unless there is independent, material evidence that links the accused to the crime. This is much more conservative and openly recognizes the possibility of police coercion, which puts a greater burden of proof on the prosecution.

The difference is dramatic—the UK is largely dealing with the retraction by judicial warning (a procedural remedy), whereas Pakistan is dealing with it by the Rule of Prudence and a corroboration requirement (a substantive evidentiary requirement) (Anisuzzaman & Efat, 2015). Does the procedural regulation of the UK offer adequate protection against the psychological risks known, or is the natural skepticism of the Pakistani system a better protection in the high-pressure counter-terrorism investigations?

3.3 Corroboration Requirement: A Protection against Unreliability

Corroboration refers to the act of trying to find independent evidence to substantiate the contents of the confession, and thus minimizing the chances of false conviction due to a retracted or suspicious confession.

1. The Theoretical Necessity: The necessity of corroboration is based directly on the old maxim *testis unus testis nullus* (One witness is no witness). Although a confession is a kind of self-testimony, its self-serving character (when retracted) requires external confirmation. This is not just to verify the facts of the crime, but to verify the truthfulness of the confession. Corroboration is therefore a functional reliability test (Anisuzzaman & Efat, 2015).

2. Corroboration in Pakistani Law: In Pakistan, the corroboration, especially in relation

to retracted judicial confessions and the confessions admissible under the ATA 1997, is practically obligatory under the Rule of Prudence. The corroborative evidence should not be dependent on the confession itself and should be able to link the accused with the commission of the offence. It cannot be a trifle—it has to be material evidence. This is a strong legal requirement that sets a high standard that is clear and high on the prosecution to establish the guilt of the accused beyond self-admission (Jawad, 2022).

3. Corroboration in UK Law: The UK system does not typically demand corroboration of a confession to support a conviction. In case the confession is admitted in evidence (after passing the voluntariness and PACE tests), the jury can convict based on the confession alone, as long as they are convinced that it is true. Even though judges warn about the risks of false confessions, there is a problem that there is no strict rule requiring extra evidence. This is a big weakness, especially in terrorism cases, where the evidence is tricky, and emotions run high. In these situations, juries might not realize how risky it is to trust a confession that has been taken back without any backup proof.

4. Human Rights, Torture, and Evidentiary Admissibility

The ultimate ethical and legal challenge of any criminal justice system is the judicial treatment of confessions that are claimed to be obtained by torture or inhuman treatment. The ban on torture is an absolute criterion based on the inherent dignity of the individual, unlike the general doctrine of voluntariness, which is concerned with the reliability of the evidence. This section examines the non-derogability of this prohibition and its implications on the evidentiary admissibility, which preconditions a critical comparison of the way in which the UK and Pakistan are walking this moral boundary in the context of counter-terrorism. The rule of the case is harsh—*Ex turpi causa non oritur actio* (no right of action arises from a dishonorable cause). The law system cannot enrich itself or another state on its or their gross misconduct (Williams, n.d.).

4.1 The Absolute Prohibition of Torture in International Law (UNCAT/ICCPR)

The ban on torture, and on inhuman or degrading treatment, is one of the few universally accepted norms of jus cogens, a powerful principle of international law, out of which no state may derogate (Haider, Ahmad, et al., 2024). This absolute nature is written in several major human rights documents (Fatima et al., 2025); (Amelia et al., 2024):

1. Article 7 of the International Covenant on Civil and Political Rights (ICCPR): This gives the basic right against torture or cruel, inhuman, or degrading treatment or punishment. Most importantly, Article 4 of the ICCPR provides that this right is non-derogable and thus a state cannot legally suspend this right even during a period of public emergency that endangers the life of the nation—a clause that is directly applicable in cases of terrorism (Butt, 2024).

2. The United Nations Convention against Torture (UNCAT): This convention goes beyond prohibition to positive obligations on the signatory states. Article 1 provides a broad definition of torture, and Article 2 obligates states to adopt effective legislative, administrative, judicial, or other measures to avert acts of torture in any territory within their jurisdiction. Most importantly to this study, Article 15 of UNCAT has created the absolute evidentiary rule—it states that any statement that has been proved to have been made under torture shall not be used as evidence in any proceedings. This is an absolute international legal requirement of exclusion (Turunen, 2020); (Haider, Yousaf, et al., 2024).

3. Article 3: The European standard strengthens the same absolute prohibition. The European Court of Human Rights (ECtHR) has always believed that Article 3 is applicable regardless of the situation and that evidence collected in contravention of this article must be omitted (Addo & Grief, 1998).

The importance of this ban is that the exclusion of confessions obtained through torture is not concerned with the reliability of the confession; it is concerned with the integrity and legitimacy of the legal process itself (Ali et al., 2025). When a court admits evidence acquired by torture, it is tantamount to endorsing the torture, and the state

is thus involved in a violation of human rights. This poses the key question to both jurisdictions (Haider, 2025): Are domestic counter-terrorism frameworks entirely indicative of the non-derogable character of UNCAT Article 15, or are judicial loopholes being established to allow the admission of evidence in high-stakes cases?

4.2 The Tainted Evidence Principle: The Exclusion of Statements Obtained by Torture

The complete ban on torture naturally leads to the so-called Tainted Evidence or Fruit of the Poisonous Tree rule, according to which not only the confession obtained under coercion, but also any evidence obtained based on it, should be considered with suspicion or omitted altogether (Ali et al., 2024).

1. The Core Taint: Direct Use and Indirect Complicity

In cases where the confession is obtained through direct coercion by torture, it is usually easy to exclude it under international law as well as domestic law (e.g., Section 76 of the PACE 1984 of the UK and the corresponding sections of the QSO 1984 of Pakistan) (Weekly, 2017). The complexity occurs in two aspects:

a. Causation: The defense should demonstrate that the confession was a direct consequence of torture or coercion. Without physical evidence, it is a contest of credibility, which in many cases is the word of the accused versus the word of the state officials. To what level should the bar of proof be raised against the defense, especially in a system where custodial violence is the rule (Pakistan) or where intelligence agents are shielded by state immunity (UK)?

b. Transnational Taint (The Foreign Agent Problem): This is the final test of the UK judiciary. In the case where a confession is taken by a foreign state (e.g., the US, a Middle Eastern country) with a reputation for dubious interrogation methods and then provided to the UK authorities, the UK has to make a decision on whether to accept it. This was a question that the House of Lords (since renamed the Supreme Court) struggled with in cases like *A (FC) and others (FC) v Secretary of State for the Home Department* [2004] UKHL 56 (the Belmarsh case), in which the court was required to

establish the boundaries of admissibility of evidence obtained under torture in foreign countries. It is generally held that such evidence, even when collected by a third party, contravenes the basic right to a fair trial in Article 6 of the ECHR, when interpreted together with the absolute prohibition in Article 3. Using blood-stained evidence, as it is commonly called, undermines the integrity of UK courts (Lock, 2023).

2. Practical Gap in Pakistan: Police Practice vs. Judicial Principle

In Pakistan, although the law *per se* does not admit police confessions and judicial pronouncements are always against torture, the actual situation of custodial coercion creates a serious gap. There are legal ways to exclude evidence, but law enforcement culture can weaken them. The most important aspect to analyze is not the prohibition of torture (which is the case) but the effectiveness of the judicial system in enforcing the exclusion. The case law interpretation in this jurisdiction should be based on whether the confessions are strictly excluded in cases where there are even plausible claims of torture, or whether the terrorism prosecution pressure causes a more liberal interpretation of the exclusion rule, which may be contrary to the UNCAT Article 15 in practice. The comparative analysis should examine how the legal emphasis of the UK on non-complicity with foreign torture (an external problem) or Pakistan on internal enforcement of the anti-torture laws (an internal problem) leads to a stronger and rights-compliant system in the long run (Pattenden, 2006); (Ali et al., 2026).

4.3 The Scope of Judicial Discretion in Excluding Coerced Evidence.

Although the absolute prohibition of torture is not directly involved, confessions obtained by means of some lesser coercion, e.g., prolonged interrogations, deprivation of sleep or lawyers, psychological control, etc., are included in the general term of oppression. Judicial discretion is the last, flexible protection against injustice, and the power to exclude such evidence (Haider et al., 2025); (Haider, Rana, et al., 2024).

1. The Reliability vs. Fairness Balance of Judicial Discretion in the UK

Section 78 of PACE in the UK provides the court with discretion to exclude evidence where its admission would otherwise have such an adverse impact on the fairness of the proceedings that the court should not admit it (Choo, 2013). This discretion is critical—it enables the judges to rule out evidence despite the police acting within the spirit of the law but violating the spirit of fairness. The judge has to weigh the probative value (how relevant and useful the confession is) against the prejudicial effect (how unfairly it may affect the jury). The judicial balance in terrorism cases is on the verge of collapse. The gravity of the crime is often so high that the probative value of any confession appears to be too high, and this fact can unconsciously reduce the perception of the judge of the unfairness threshold. Does the perceived danger to national security unwillingly limit the exercise of judicial discretion, resulting in the admission of slightly coerced evidence that would be otherwise excluded in a typical criminal trial?

2. Judicial Discretion in Pakistan: The Constitutional Requirement

In Pakistan, judicial discretion in matters of coercion is usually applied in the constitutional provisions of Article 9 (Security of Person) and Article 10A (Right to Fair Trial and Due Process) (Jamali et al., 2024). The Pakistani superior courts often refer to fundamental rights in the context of the admissibility of confessions, and the problem is not only a rule of evidence, but a constitutional compliance. The discretion in this case is usually applied to confessions made under the controversial ATA 1997. In the case where the defense claims that such a confession was obtained through coercion, the judge not only has to ensure that the procedure is checked, but also conducts a more profound, constitutional examination. This often includes an investigation into the physical and mental state of the suspect during the recording in the presence of the magistrate. Jurists like Hamid Khan and Asma Jahangir believe that the omission of coerced evidence in Pakistan is not so much about non-compliance with the procedures but rather the constitutional dignity of the accused. These conflicting approaches to

discretion should be assessed in the final comparative analysis. The UK judge uses statutory fairness to bar evidence, whereas the Pakistani judge uses the constitutional requirement to protect the fundamental rights of the accused. That being said, the success of both discretionary authorities depends solely on the institutional autonomy and boldness of the judiciary to confront the executive and the law enforcement in times when the national security demands are at their highest. The study will need to determine whether this judicial boldness is consistently enforced in the presence of alleged torture and coercion in both legal environments. This comprehensive overview of the human rights aspect and the admissibility of coerced evidence will be the final step in the theoretical background of our thesis, and the comparative chapters (3 and 4) will be examined not only through a legal perspective, but also through a compulsory human rights perspective.

Conclusion

This research shows that voluntariness is not just a technical rule – it is at the heart of a fair trial. The comparison between the UK and Pakistan suggests that the “Person in Authority” doctrine is struggling to keep its shape under the pressure of modern counter-terrorism. Laws may say that confessions must be given freely, but the reality of security work – with intelligence agencies, special powers, and secretive procedures – often makes it hard to see where persuasion ends and coercion begins.

A key finding is how differently the two countries deal with the risk of false or later-retracted confessions. In the UK, judges rely on their discretion and the safeguards in PACE 1984. Yet this system can come under strain when national security is treated as more important than protecting individual rights. Pakistan, by contrast, takes a more cautious approach. Through the “Rule of Prudence” and the strict need for independent corroboration, its law is, at least on paper, less willing to trust confessions on their own. However, there is still a serious gap between the protection promised by the law and how investigations are actually carried out on the ground.

In the end, any justice system stands or falls on whether it refuses to use “tainted” evidence. It makes little difference whether a confession is beaten out of someone, or obtained through long, exhausting questioning without a lawyer: in both cases, the search for truth is distorted. Going forward, both the UK and Pakistan need to recommit to absolute standards set by international law, such as UNCAT. The protection offered by the “Person in Authority” doctrine has to remain real and effective, so that the state is never allowed to trade away fundamental rights in return for an easier or faster conviction.

References

- Addo, M. K., & Grief, N. (1998). Does article 3 of the European Convention on Human Rights enshrine absolute rights? *European Journal of International Law*, 9(3), 510–524. <https://academic.oup.com/ejil/article-abstract/9/3/510/381117>
- Ahmad, I., Haider, A., & Afzal, J. (2024). The geopolitical and economic impact of BRICS on the Middle East. *FWU Journal of Social Sciences*, 18(4), 80–95. https://www.researchgate.net/profile/Aftab-Haider-3/publication/387663966_The_Geopolitical_and_Economic_Impact_of_BRICS_on_the_Middle_East/links/6776b2d0117f340ec3ee4829/The-Geopolitical-and-Economic-Impact-of-BRICS-on-the-Middle-East.pdf
- Ahmad, I., Haider, A., & Ahmad, K. (2025). The Impact of Judicial Activism on Environmental Protection and Justice in Pakistan: A Statistical Analysis. *Journal of Asian Development Studies*, 14(2), 1–10. <https://poverty.com.pk/index.php/Journal/article/view/1190>
- Ali, A., Aatif, M., & Haider, A. (2026). *PROCEDURAL JUSTICE IN THE ERA OF ALGORITHMS: A CRITICAL EVALUATION OF AI GOVERNANCE AND DIGITAL RIGHTS*. https://www.researchgate.net/profile/Aftab-Haider-3/publication/400616290_PROCEDURAL_JUSTICE_IN_THE_ERA_OF_ALGORITHMS_A_CRITICAL_EVALUATION_OF_AI_GOVERNANCE_AND_DIGITAL_RIGHTS/links/698b1f37ca66ef6ab991aa63/PROCEDURAL-JUSTICE-IN-THE-ERA-OF-ALGORITHMS-A-CRITICAL-EVALUATION-OF-AI-GOVERNANCE-AND-DIGITAL-RIGHTS.pdf
- Ali, A., Bukhari, S. N. B., & Haider, A. (2025). Role of the International Criminal Court (ICC) in Preventing and Prosecuting Genocide: A Critical Analysis. *PAKISTAN JOURNAL OF LAW, ANALYSIS AND WISDOM*, 4(12), 138–150. https://www.researchgate.net/profile/Aftab-Haider-3/publication/400662832_Role_of_the_International_Criminal_Court_ICC_in_Preventing_and_Prosecuting_Genocide_A_Critical_Analysis/links/698c14d37247bc6473dfa9f5/Role-of-the-International-Criminal-Court-ICC-in-Preventing-and-Prosecuting-Genocide-A-Critical-Analysis.pdf
- Ali, A., Shakoor, A., Khan, M. Z., Qureshi, A. N., Ullah, K., Shah, I. A., & Haider, A. (2024). Analysis Of India-Pakistan Conflictual Relations In The Context Of Kulboshan Jadhav Case: International Law Perspective. *Migration Letters*, 21(S11), 610–618. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4884773
- Alvarez, M. (2016). The Concept of Voluntariness. *Jurisprudence*, 7(3), 665–671. <https://doi.org/10.1080/20403313.2016.1237568>

- Amelia, T., Rahmania, N., & Haider, A. (2024). Legal Protection of Personal Data as Listed in Court Decision: A Discourse Renewal. *Jurnal IUS Kajian Hukum Dan Keadilan*, 12(3), 502–516. <https://www.jurnalius.ac.id/ojs/index.php/jurnalIUS/article/view/1560>
- Anisuzzaman, S., & Efat, S. I. J. (2015). Admissibility and evidentiary value of confession: Conflicts and harmony between rules of law and rules of prudence in Bangladesh, India and Pakistan. *South East Asia Journal of Contemporary Business, Economics and Law*, 7(4), 54–62. http://seajbel.com/wp-content/uploads/2015/09/KLIBEL7_Law-35.pdf
- Buksh, I., Ramzan, M., & Javed, K. (2022). An investigative study on the confessional statement and its impact on criminal trial in Pakistan. *Liberal Arts and Social Sciences International Journal (LASSIJ)*, 6(1), 56–69. <https://ideapublishers.org/index.php/lassij/article/view/608>
- Butt, A. (2024). International covenant on civil and political rights (ICCPR). Available at SSRN 4856071. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4856071
- Cho, K. (1999). Reconstruction of the English criminal justice system and its reinvigorated exclusionary rules. *Loy. LA Int'l & Comp. LJ*, 21, 259. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/loyint21§ion=15
- Choo, A. L.-T. (2013). England and Wales: Fair Trial Analysis and the Presumed Admissibility of Physical Evidence. In S. C. Thaman (Ed.), *Exclusionary Rules in Comparative Law* (Vol. 20, pp. 331–354). Springer Netherlands. https://doi.org/10.1007/978-94-007-5348-8_14
- Fatima, A., Haider, A., & Batool, A. (2025). The Human Rights Implications of Scientific Progress: A Case Study on Gene Editing and Disability Rights. *Journal of Engineering, Science and Technological Trends*, 2(1). <https://journals.scopua.com/index.php/JESTT/article/view/13>
- Ghani, H. U., Gong, X., Haider, A., & Khan, A. (2025). The Indian concern on China-Pakistan Economic Corridor (CPEC) and justification from the perspective of international law. *China and WTO Review*, 11(2), 25–39. <http://cwto.net/index.php/CWR/article/view/300>
- Gregory, F., & Langley, D. (2012). Ethical working and MI5. In *Handbook of Policing, Ethics and Professional Standards* (pp. 118–138). Routledge. <https://www.taylorfrancis.com/chapters/edit/10.4324/9780203097403-16/ethical-working-mi5-frank-gregory-david-langley>
- Haider, A. (2023). Beyond Borders and Bars: Exploring the Transformative Influence of the UN Convention against Transnational Organized Crime. *Pakistan JL Analysis & Wisdom*, 2, 1. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/pknjlolw2§ion=6
- Haider, A. (2024). Application of the United Nation Convention against Transnational Organized Crime: An Analysis. Available at SSRN 4686710. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4686710
- Haider, A. (2025). The Impact of Islamic International Law on Contemporary Global Conflicts. *International Journal of Sharia and Law*, 1(1), 1–28. <https://journal.qiyam.or.id/index.php/sharia-law/article/view/5>

- Haider, A., Ahmad, I., & Gohar, M. (2023). Analyzing International Human Rights Law: Global Enforcement and Treaties. *INTERNATIONAL JOURNAL OF HUMAN AND SOCIETY*, 3, 229-236. <https://scholar.google.com/scholar?cluster=17065946018534265802&hl=en&oi=scholar>
- Haider, A., Ahmad, I., & Yaseen, M. (2024). Jus cogens and the right to self-determination: A study of its peremptory status and erga omnes effects. *Pakistan JL Analysis & Wisdom*, 3, 59. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/pknj3§ion=121
- Haider, A., Ali, A., & Zeb, B. (2024). Broken laws, broken lives: When organized crime shreds human rights. *Al-Nasr*, 1-18. <https://www.alnasrjournal.com/index.php/journal/article/view/97>
- Haider, A., Mathlouthi, N., Rahal, M. S., & Afzal, J. (2025). Can Islamic Law and Secular Law Coexist Without Conflict. *Al-Istinbath: Jurnal Hukum Islam*, 10(2), 485-512. <https://journal.iaincurup.ac.id/index.php/alistinbath/article/view/11331>
- Haider, A., Rana, M. Z. R., & Anwaar, K. (2024). The Democracy Mirage in the Wake of the Arab Spring: Legal Perspectives on External Dynamics. *Pakistan JL Analysis & Wisdom*, 3, 20. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/pknj3§ion=70
- Haider, A., Raza, S., & Khan, B. Z. (2023). Organized Crime and the Objectives of the Islamic Penal System. *Al-Qamar*, 6(2), 63-82. <https://www.alqamarjournal.net/index.php/alqamar/article/view/1269>
- Haider, A., Yousaf, U., Shah, N. H., & Azeem, W. (2024). UNTOC's Role in Combating Transnational Organized Crime: An International Response. *Pakistan JL Analysis & Wisdom*, 3, 178. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/pknj3§ion=183
- Iqbal, K. (2015). Defining 'Terrorism' in Pakistan's Anti-Terrorism Law-A Jurisprudential Analysis. *Working Research Paper, Khyber Pakhtunkhwa Judicial Academy, Peshawar, August*, 24. <http://kpja.edu.pk/sites/default/files/digitallibrary/Terrorism%20Definition%2024%20Aug%2015%20pdf.pdf>
- Jamali, N. H., Yi, Y., Wu, H., Khoso, A. G., Mahar, W. F., & Bano, A. (2024). A Comparative Analysis of the Right to a Fair Trial in Pakistan in Context with ICCPR's Set out Standards. *Beijing L. Rev.*, 15, 231. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/beijl15§ion=19
- Jawad, A. (2022). An evaluation of Anti-Terrorism laws in Pakistan: Lessons from the past and challenges for the future. *Security and Defence Quarterly*, 38(2), 16-30. <https://www.cceol.com/content-files/document-1091292.pdf>
- Joshi, A. A. (2022). A Comprehensive Analysis on Recording of Confession and Statements under Section 164 of Code of Criminal Procedure 1973. *Part 1 Indian J. Integrated Rsch. L.*, 2, 1. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/injl2§ion=84
- Lederer, F. I. (1976). The Law of Confessions-The Voluntariness Doctrine. *Mil. L. Rev.*, 74, 67. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/milrv74§ion=6
- Lock, D. (2023). *The protection of ECHR rights in UK national security law* [PhD Thesis, UCL (University College London)]. <https://discovery.ucl.ac.uk/id/eprint/10168360/>
- Melro, A. (2023a). Principle nemo tenetur se ipsum accusare and the means of evidence attainment in Cybercrime Law. *Rev. Brasileira de Direito Processual Penal*, 9, 979. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/rbdpp9§ion=33

- Melro, A. (2023b). Principle nemo tenetur se ipsum accusare and the means of evidence attainment in Cybercrime Law. *Rev. Brasileira de Direito Processual Penal*, 9, 979. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/rbdpp9§ion=33
- Mhatre, K. P., & Mundhra, S. (2023). Confession and Its Relevance in the Indian Evidence Act. *Issue 1 Indian JL & Legal Rsch.*, 5, 1. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/injlo1w10§ion=124
- Pattenden, R. (2006). Admissibility in Criminal Proceedings of Third Party and Real Evidence Obtained by Methods Prohibited by UNCAT. *The International Journal of Evidence & Proof*, 10(1), 1–41. <https://doi.org/10.1350/ijep.2006.10.1.1>
- Rushton, B. A. (2015). *The Legal Accountability of the UK Intelligence Services* [PhD Thesis, University of Central Lancashire]. <https://clock.uclan.ac.uk/id/eprint/12868/>
- Turner, J., & Corteen, K. (2023). Police and Criminal Evidence Act 1984. In *Forensic Psychology, Crime and Policing* (pp. 214–219). Policy Press. <https://bristoluniversitypressdigital.com/display/book/9781447359418/ch036.xml>
- Turunen, E. (2020). *The admissibility of torture evidence: Content and scope the exclusionary rule of Article 15 of the United Nations Convention against Torture*. <https://helda.helsinki.fi/items/d8cf13b6-8b6c-4495-acf0-57ce2a56b7d3>
- Vatjus-Anttila, J. (2025). A Conceptual Framework for Voluntary Confessions and the Privilege Against Self-Incrimination. *Criminal Law and Philosophy*, 19(1), 19–38. <https://doi.org/10.1007/s11572-024-09727-6>
- Weekly, J. (2017). *Suspect Rights in Danger From PACE Amendments*. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/cljw181§ion=46
- Williams, E. v. (n.d.). *maxim: Ex turpi causa non oritur actio-no right of action arises from a base cause*. Over the years, this principle has frequently been applied in the fields of insurance and contract law, but its relevance to the law of tort has always been a matter of doubt. There have been. Retrieved 8 November 2025, from https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/canbarev47§ion=9
- Zander, M. (2011). PACE (The Police And Criminal Evidence) Act 1984: Past, Present And Future. *Nat'l L. Sch. India Rev.*, 23, 47. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/nlsi23§ion=9