

Honorable Prime Minister Mr Mian Muhammad Nawaz Sharif
Honorable President Mr Asif Ali Zardari
Honorable Interior Minister Mr Chaudhry Nisar Ali Khan
Honorable Secretary for Law, Justice and Human Rights Mr Muhammad Raza Khan

16 August 2013

Subject: Open letter regarding resumption of executions in Pakistan

Your Excellencies,

The International Commission of Jurists (ICJ) and Human Rights Watch are deeply concerned by your government's recently announced decision to resume executions in Pakistan. We urge you to renew the moratorium on executions with a view to abolishing the death penalty.

Pakistan has had a moratorium on the death penalty since June 2008, with only the exception of Muhammad Hussain's execution in November 2012 following a court martial.

Your government decided not to renew the moratorium when it expired in June 2013. The ICJ and Human Rights Watch understand that an anti-terrorism court in Sindh province has issued 'black warrants' for the execution of two members of the banned sectarian and militant group Lashkar-e-Jhangvi, Attaullah alias Qasim and Muhammad Azam alias Sharif, who were convicted by an anti-terrorism court in July 2004 for the killing of a Shia doctor. They are scheduled to be executed between 20 and 22 August 2013.

The ICJ and Human Rights Watch believe that those who commit acts of terrorism should be prosecuted before competent, independent and impartial courts that meet international due process standards. However, we oppose the death penalty under all circumstances as an inherently cruel and irreversible punishment that violates the right to life.

In recent years, the debate on the abolition of the death penalty has intensified in Pakistan. In 2008, the Pakistan Federal Cabinet adopted a proposal to commute death sentences to life imprisonment. Before its

term expired, the Pakistan People's Party-led government reportedly planned to table a bill in Parliament to commute death sentences to life imprisonment. Currently, a petition calling for the commutation of death sentences is also being considered by the Supreme Court of Pakistan.

The resumption of the death penalty puts Pakistan in opposition to the global and regional movement towards the abolition of the death penalty.

Currently, 150 countries worldwide, including 30 states in the Asia-Pacific region, have abolished the death penalty in law or in practice. The decision not to renew the moratorium on executions and carrying out executions constitutes a major step back for human rights in the country. This decision is all the more alarming given that more than 7,000 people are on death row in Pakistan.

Over the years, the United Nations has adopted various instruments in support of the call for the worldwide abolition of the death penalty. In 2007, the UN General Assembly adopted a resolution emphasizing that 'that the use of the death penalty undermines human dignity' and calling for the establishment of a moratorium on the use of the death penalty 'with a view to abolishing the death penalty.' The resolution was reaffirmed in 2008, 2010, and most recently in December 2012, when an overwhelming majority of 110 UN member countries voted in favor of a worldwide moratorium on executions as a step towards the death penalty's abolition.

Death Penalty Violates Pakistan's Human Rights Obligations

The ICJ and Human Rights Watch oppose the death penalty in all cases without exception. We believe that the use of the death penalty constitutes a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading punishment.

In any event, and beyond the circumstances of the two present cases, the inconsistent and disproportionate application of capital punishment breaches the legal prohibition on the arbitrary deprivation of life.

Pakistan ratified the International Covenant on Civil and Political Rights (ICCPR) in 2010. Article 6 of the ICCPR guarantees the right to life and requires that states restrict capital punishment to only the 'most serious crimes'. Since 2006, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions has interpreted the 'most serious crimes' as limited to those cases where there was an intention to kill, which resulted in the loss of life.

In Pakistan, capital punishment is prescribed for 27 different offences, including blasphemy, sexual intercourse outside of marriage, kidnapping or abduction, rape, assault on the modesty of women and the stripping of women's clothes, smuggling of drugs, arms trading and sabotage of the railway system. Many of these crimes do not meet the threshold of 'most serious crimes' stipulated by Article 6 of the ICCPR.

Death Penalty does not Deter Crime

The decision to resume executions is reportedly in reaction to the high levels of crime and insecurity in Pakistan. However, there is no evidence that the death penalty acts as a more effective deterrent against crime than other forms of punishment.

A comprehensive survey conducted for the UN Committee on Crime Prevention and Control in 1988 and later updated in 1996 and 2002 concluded that research 'has failed to provide scientific proof that executions have a greater deterrent effect than life imprisonment. Such proof is unlikely to be forthcoming. The evidence as a whole still gives no support to the deterrent hypothesis.'

The ICJ and Human Rights Watch urge the Pakistani government to demonstrate its commitment to its international human rights obligations and renew the moratorium on use of the death penalty. Specifically, we call on your government to:

- Halt all executions and immediately adopt a moratorium on the death penalty.
- Abolish the death penalty permanently in domestic law.
- Accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights on the abolition of the death penalty.

We would be happy to discuss these issues with you at your convenience.

Yours sincerely,

Wilder Tayler

Secretary-General

International Commission of Jurists

Ali Dayan Hasan

Pakistan Director

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