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Afghanistan: Case of Abdul Rahman underlines urgent need for judicial reform

Amnesty International today called on the Afghan authorities to urgently commit themselves to judicial reform and the upholding of international standards as Abdul Rahman, 41, reportedly faces calls for his execution in connection with his reported conversion from Islam to Christianity.

According to press reports, Abdul Rahman has been charged in a lower court with converting to Christianity over 15 years ago, while working in Peshawar, Pakistan, where he worked with a foreign NGO assisting Afghan refugees. Abdul Rahman has reportedly been accused of converting to Christianity by estranged members of his family, possibly in connection with a dispute over the custody of children.

State prosecutors, apparently relying on Article 130 of Afghanistan's constitution, have charged Abdul Rahman for his alleged conversion. Article 130 enables prosecutors to bring forward cases of alleged crimes about which there is no codified law "in accordance with the Hanafi jurisprudence". The same article, however, calls on courts to rule "within the limits of the constitution" and "in a way to serve justice in the best possible manner".

Article 7 of the Constitution declares, moreover, that "the state shall abide by the UN Charter, international treaties, international conventions that Afghanistan has signed, and the Universal Declaration of Human Rights".

As a state party to the International Covenant on Civil and Political Rights (ICCPR), the government of Afghanistan is bound to uphold Article 18, which provides that "everyone shall have the right to freedom of thought, conscience and religion" and that "this right shall include freedom to have or to adopt a religion or belief of his choice". In its General Comment on this Article, the Human Rights Committee, the panel of independent UN experts which examine states' implementation to the ICCPR, has stated* that "the freedom to 'have or to adopt' a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views, as well as the right to retain one's religion or belief". It further stated that "the use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs [...], to recant their religion or belief or to convert" is prohibited.

Amnesty International believes that for "justice to be served in the best possible manner", as required by Article 130 of the Constitution, the authorities should ensure that international standards of justice, including human rights law are accorded a primary place, as guaranteed by the Article 7 of the Constitution.

If Abdul Rahman has been charged solely because of his religious beliefs, Amnesty International would consider him a prisoner of conscience and would call for his immediate and unconditional release. The

charges against him should be dropped and if necessary he should be protected against any abuses within the community.

Background

The death penalty is the ultimate cruel, inhuman and degrading punishment. Amnesty International unconditionally opposes its imposition in all cases. Death sentences passed by primary courts are required to be upheld by higher courts and President Karzai for them to be implemented.

* See UN document entitled General Comment No. 22: The right to freedom of thought, conscience and religion (Art. 18); CCPR/C/21/Rev.1/Add.4,30 July 1993, which can be viewed at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/9a30112c27d1167cc12563ed004d8f15?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/9a30112c27d1167cc12563ed004d8f15?Opendocument)