



Ref: TG ASA/33/2013.002
AI index: ASA 33/009/2013

H.E. Mr. Mian Muhammad Nawaz Sharif
Prime Minister of the Islamic Republic of Pakistan

17 July 2013

Dear Prime Minister

I am writing on behalf of Amnesty International to express deep concern at the Government of Pakistan's reported intention to resume executions. I urge you to support a further Presidential order not to implement death sentences and to commute all death sentences to terms of imprisonment as a significant first step towards abolition of the death penalty.

The death penalty violates the right to life as recognized in the Universal Declaration of Human Rights and is the ultimate cruel, inhuman and degrading punishment. Moreover, in Pakistan many defendants have been sentenced to death following unfair trials, including for non-lethal offences. The resumption of executions would set Pakistan directly against its obligations, as well as against the global trend towards abolition of capital punishment.

The nearly four years' cessation of executions in Pakistan, interrupted only by the execution of soldier Muhammed Hussain, following a court martial, on 15 November 2012, represents an important human rights milestone. This was recognized internationally, including during the consideration of Pakistan's human rights record at the UN Universal Periodic Review in October 2012.

Executions will not improve the law and order situation

There is no convincing evidence that the death penalty has a unique deterrent effect on crime compared to other forms of punishment, as demonstrated for example by the persistently high crime rates for capital offences in many of the states of the USA that retain capital punishment. The most comprehensive study carried out by the UN on the relation between the death penalty and homicide rates concluded: "...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 positive support to the deterrent hypothesis".

Far from being a solution, the death penalty gives the erroneous impression that "firm measures" are being taken against crime, diverting attention from the broader reform efforts in law enforcement and justice that will provide Pakistan with effective and enduring responses to violent crimes and human rights abuses. In the words of the Constitutional Court of South Africa in 1995, "We would be deluding ourselves if we were to believe that the execution of... a comparatively few people each year... will provide the solution to the unacceptably high rate of crime... The greatest deterrent to crime is the likelihood that offenders will be apprehended, convicted and punished".

At a time when Pakistan's justice system is struggling to cope with the law and order situation, it can be all too easy to see the death penalty as a quick fix solution. Instead of resuming executions, Amnesty International urges the Government of Pakistan to seek long-term solutions that result in systemic

improvements in the administration of criminal justice; better co-operation and co-ordination amongst law enforcement authorities with a view to bringing suspects to trial, and increased capacity of the judicial and law enforcement authorities to ensure due process and rule of law, consistent with international human rights law and standards.

Unfair trials are systemic in Pakistan

Amnesty International's concern is heightened by the fact that many death sentences are handed down after trials that do not meet international fair trial standards. These trials are characterized by a lack of access to legal counsel and an acceptance of evidence inadmissible under international law. Statements extracted through torture continue to be used as evidence in court. Defendants often face restrictions in trying to access a lawyer or are given state-appointed lawyers who are often poorly trained and paid, and may not represent their clients vigorously unless given further payments by the defendant or their family.

In addition, the right to fair trial has been undermined in trials before lower courts which continue to sentence people to death. These courts operate with restricted public access and with the requirement for trials to be completed within a matter of days or weeks, putting judges under extreme pressure to convict.

The high courts do not have jurisdiction over the Federally Administered Tribal Areas, leaving the people sentenced to death by courts in this region without a right to appeal against a death sentence to Pakistan's superior judiciary.

Pakistan's judicial system suffers from corruption, lack of independence and discrimination on the basis of gender, religion, ethnicity and social, economic and other status.

As long as the death penalty is in place, the risk of executing innocent people can never be eliminated. Unfair trials exacerbate this risk and place Pakistan in breach of its international obligations.

The death penalty breaches Pakistan's international obligations

The death penalty may be imposed in Pakistan for at least 28 crimes, including for non-lethal offences which do not meet the threshold of the "most serious crimes" as set out in Article 6.2 of the International Covenant on Civil and Political Rights (ICCPR) to which Pakistan is a State party. Many of the over 8,000 people sentenced to death in Pakistan have been convicted for non-lethal offences. Thousands of these people are still appealing against their death sentences, and any executions of such sentences would violate Pakistan's international obligations under Article 6 and 14 of the ICCPR.

As of today, 97 countries have abolished the death penalty for all crimes, and 140 countries are abolitionist in law or practice. Since 2007 the UN General Assembly has adopted, with increased cross-regional support, four resolutions calling on States that retain the death penalty to establish a moratorium on executions with a view to abolishing the death penalty.

Amnesty International urges the new government of Pakistan to uphold its commitment to human rights, not resume executions and to commute all death sentences to terms of imprisonment.

Yours sincerely

Salil Shetty
Secretary General