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Pakistan: President Zardari should commute death sentences on Benazir Bhutto's birthday

On 21 June 2008, marking the birthday of slain former Prime Minister Benazir Bhutto, Prime Minister Yousaf Raza Gillani proposed to the National Assembly that all death sentences in Pakistan should be commuted to life imprisonment.

Amnesty International calls on the President of Pakistan Asif Ali Zardari —Benazir Bhutto's widower—to mark his wife's birthday and the one-year anniversary of Prime Minister Gilani's proposal by immediately commuting all death sentences to terms of imprisonment. The President holds the Constitutional authority to commute death sentences without further delay.

Amnesty international is encouraged by the decreasing number of death sentences and executions in Pakistan in 2008. But Pakistan continues to apply the death penalty and some 7,500 prisoners remain on death row. In 2008, an estimated 236 people were sentenced to death, 36 of them were executed, including 16 after the Prime Minister's June statement.

These executions, along with the November 2008 Prevention of Electronic Crimes Ordinance--which provides for the death sentence when "the offence of cyber terrorism" causes death--defy the spirit of Prime Minister Gillani's commutation proposal.

Amnesty International opposes the death penalty in all cases and without exception, believing it to be the ultimate cruel, inhuman and degrading punishment and a violation of the right to life, as proclaimed in the Universal Declaration of Human Rights and other international human rights instruments. The death penalty legitimises an irreversible act of violence by the state and will inevitably claim innocent victims, as has been persistently demonstrated.

Amnesty International's research shows that lower courts in Pakistan frequently impose the death sentence for murder in the expectation that the sentence will not be carried out as families are likely to reach a compromise, and forgive the alleged perpetrator, leading to his or her release in accordance with the provisions for *qisas* in Pakistani law. Sometimes negotiations over compensation continue while the convict stands ready to be hanged.

The law on murder and physical injury based upon the principles of *qisas* and *diyat* (retribution and "blood money" in the form of financial compensation) are in practice discriminatory: the rich and powerful usually have the means to secure the pardon of the victim's family and thereby obtain their release, whereas the poor and powerless are often executed.

The Special Rapporteur on extrajudicial, summary or arbitrary executions has further developed this point by stating: "where the private *diyah* pardon stands alone and when it relates to the death penalty, it is almost certain to lead to significant violations of the right to due process in situations where a pardon is not granted. To the extent that the procedure does not provide for a final judgement by a court of law, or for the right to seek pardon or commutation of the sentence from the State authorities, the requirements of international law will be violated. Where the *diyah* pardon is available it must be supplemented by a separate, public system for seeking an official pardon or commutation." (See report of the Special Rapporteur to the UN General Assembly, A/61/311, paragraph 61.)

Amnesty International's concern about the large number of death sentences in Pakistan is heightened by the fact that many appear to be imposed in unfair trials characterised by lack of access to legal counsel and acceptance of evidence inadmissible under international law, including by special courts. Members of religious minorities seem disproportionately vulnerable to discrimination and unfair and erroneous convictions in capital cases.

On 18 December 2007, the United Nations General Assembly adopted Resolution 62/149 on "Moratorium on the use of the Death Penalty". The resolution was adopted by 104 votes in favour, 54 against and 29 abstentions. Pakistan's previous government under President Pervez Musharraf voted against the resolution. A second resolution 63/168 on the moratorium was adopted a year later in December with an even greater margin of support. Amnesty International was disappointed that Pakistan voted against the resolution despite Prime Minister Gilani's promise regarding commutation of death penalties on 21 June 2008.

We urge the President of Pakistan to follow through on Prime Minister Gillani's commutation proposal and the example set by former Prime Minister, the late Benazir Bhutto, who shortly after being elected Prime Minister in 1988 commuted all death sentences to life imprisonment.

Momentum is gathering across the world to end capital punishment. As of today, 139 countries have abolished the death penalty in law or in practice, including Sri Lanka, the Philippines and Nepal. Pakistan sent a positive signal by acceding to three human rights treaties in April last year.

Amnesty International now call upon Pakistan President to seize the occasion of Benazir Bhutto's birthday, and one year on from the commutation proposal and to commute all death sentences to terms of imprisonment as a first step to abolition of the death penalty.