



Pakistan

***Submission of Harm Reduction International, to the UN Universal Periodic Review Fourteenth session of the UPR Working Group of the Human Rights Council
Human rights violations associated with Pakistan's anti-drug laws***

The Death Penalty and the Right to Life

International Law: Capital punishment is significantly restricted under international law to those offences termed 'most serious crimes'. For more than two decades UN human rights bodies have interpreted this article in a manner that limits the number and type of offences for which execution is allowable under international human rights law explicitly excluding drug offences.ⁱ This principle has been articulated in the International Covenant on Civil and Political Rights, which Pakistan signed on 17 April 2008 and ratified on 23 June 2010ⁱⁱ and has been supported by the highest political bodies of the United Nations. The Economic and Social Council of the United Nations (ECOSOC) endorsed a resolution in 1984 upholding nine safeguards on the application of the death penalty, which affirmed that capital punishment should be used 'only for the most serious crimes'.ⁱⁱⁱ The 'most serious crimes' provision was specified to mean crimes that were limited to those 'with lethal or other extremely grave consequences'^{iv} and was also endorsed by the UN General Assembly.^v

Unfortunately, several sections of the Pakistan's Dangerous Drugs Act, 1930 as well as section 9 of the Control of Narcotic Substances Act (XXV of 1997) are in breach of these obligations.

National Law: Section 13 and 14 of the Dangerous Drugs Act, 1930 as well as section 9 of the Control of Narcotic Substances Act (XXV of 1997) carry the death penalty.

Section 13 of the Dangerous Drugs Act, 1930:

"Punishment for contravention of Section 7, - Whoever, in contravention of Section 7, or any rule made under that section or any condition of a licence granted thereunder—

(a) imports into Pakistan ,

(b) exports from Pakistan , or

(c) transships,

any dangerous drug, shall be punished with death or with imprisonment for life, and shall also be liable of fine."

Section 14 of the Dangerous Drugs Act, 1930:

"Punishment for contravention of Section 8. – Whoever, in contravention of Section 8, or any rule made under that section, or any condition of a licence issued thereunder:

(a) imports or exports inter-provincially, transports, possesses or sells any manufactured drugs or coca leaf; or

(b) manufactures medical opium or any preparations containing morphine, diacetylmorphine or cocaine shall be punished with death or imprisonment for life, and shall also be liable to fine.

Section 9 of the Control of Narcotics Substances Act 1997:

“Punishment for contraventions of sections 6, 7, and 8. Whoever contravenes the provisions of Section 6, 7, or 8 shall be punishable with:

(c) death or imprisonment for life or imprisonment for a term which may extend to fourteen years and shall also be liable to fine which may be up to one million rupees, if the quantity of narcotics drug, psychotic substance or controlled substance exceeds the limits specified in clause (b);

Provided that if the quantity exceeds 10 kilograms the punishment shall not be less than imprisonment for life.”

Domestic application and debate: Compared to other crimes, the death penalty for drugs is applied relatively infrequently. In 2008, 4 out of the 237 people sentenced to death were sentenced for drug-related offences. Similarly, 4 out of the 276 people sentenced to death in 2009 were sentenced for drug-related offences. In 2010, only one out of 332 was sentenced to death for a drug-related offence.^{vi}

There were no executions in Pakistan in 2011 but it is reported that thousands of people were facing the death penalty by the end of the year and that death sentences for drug-related offences continued to be imposed^{vii}. Although, the overall number of people on death row for drug offences is unknown, Harm Reduction International has been able to collect information on individual provinces. Punjab; the largest province of the country, can be used for illustrative purposes. Punjab makes up 57% of the population of Pakistan and has 75% (6121 out of 8000<) of the country’s death row population. By November 2011, there were 57 people (all adult men) on death row for drug offences, all of whom were convicted under Section 9 of the Control of Narcotic Substances Act 1997. Drug offenders are the second largest group after people convicted for murder.^{viii}

In March 2010, “the federal law minister asked his ministry to amend the Control of Narcotics Substances Act, 1997 and remove the death penalty provision. The minister held that ‘awarding death sentence under Section 9 (C) of the Control of Narcotics Substances Act is uncalled for, harsh and un-Islamic’. He gave the ministry two weeks to formulate and submit a draft law for approval by the cabinet after taking all stakeholders on board. No concrete measures to amend the provision were visible.”^{ix}

Recommendation: The government must abolish its capital drug laws and commute the sentences of those on death row to bring its national policies in line with Article 6(2) of the International Covenant on Civil and Political Rights.

ⁱ See for example, UN Human Rights Committee (8 July 2005), Concluding observations: Thailand. CCPR/CO/84/THA, para. 14; UN Human Rights Committee (29 August 2007) Concluding observations: Sudan. CCPR/C/SDN/CO/3, para. 19; UN Commission on Human Rights, Extrajudicial, summary or arbitrary executions: Report by the Special Rapporteur, submitted pursuant to Commission on Human Rights resolution 1996/74, 24 December 1996, E/CN.4/1997/60; UN Human Rights Council (29 January 2007) Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions. A/HRC/4/20, para. 51-52; UN Human Rights Council (14 January 2009) Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. A/HRC/10/44, para. 66.

ⁱⁱ UN Treaty Series, http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en

ⁱⁱⁱ ECOSOC (25 May 1984) Implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty. Resolution 1984/50.

^{iv} *ibid*

^v UN General Assembly (14 December 1984) Human rights in the administration of justice. Resolution A/RES/39/118.

^{vi} Information collected by the Human Rights Commission of Pakistan. Harm Reduction International (2011) *The Death Penalty for Drug Offences Global Overview 2011, Shared Responsibility and Shared Consequences*, Page 32 http://www.ihra.net/files/2011/09/14/IHRA_DeathPenaltyReport_Sept2011_Web.pdf

^{vii} See for example reports collected by the NGO Hands Off Cain: <http://www.handsoffcain.info/news/index.php?iddocumento=15303151>

<http://www.handsoffcain.info/news/index.php?iddocumento=15309474>

<http://www.handsoffcain.info/news/index.php?iddocumento=15314085>

^{viii} Please note: “There is such a large difference between the two groups (5,945 and 57) because execution of those convicted for murder were often put up for years as efforts for compromise allowed by the law continued between the family of the convict and of the deceased so even before this informal moratorium, it was years after the final court verdict that those convicted for murder were executed. There was no such delaying factor for those given the capital punishment on drug offences.”

Death Row population statistics received by Najam U Din on 28 March 2012, information from the Punjab Prisons Department, obtained in November 2011 and current until September 2011.

^{ix} Human Rights Commission of Pakistan (April 2011) Editor: Najam U Din <http://www.hrcp-web.org/Publications/AR2010.pdf>