

## The Death Penalty in Pakistan: A Private Enterprise

Reporting of the incidence of executions in Pakistan is generally convoluted and inconsistent. Nonetheless, there appears to have been a demonstrable increase in the rate of executions in Pakistan since 2002. It is understood that at least 100 people were executed by hanging in 2007. Regional tribes also conduct trials and executions without authorisation.

A swelling in the number of people condemned to death is also evident. In 2006 there were said to be in excess of 7,400 people on death row. These increases can be attributed to legislative and judicial support for the application of the death penalty.

The protection of juvenile offenders from execution was rejected by the High Court of Lahore in 2004. There is to be no execution of juveniles until an appeal of that decision is heard by the Supreme Court. A number of people under the age of 18 are currently on death row.

The Pakistani legal system is of British origin however a series of amendments to the Pakistan Penal Code reflect the significance of Islamic criteria in relation to the administration of justice. The Federal Shari'at Court (FSC) was established in order to revise law determined to be repugnant to Islam.

A decision of the FSC resulted in the enactment of the Qisas and Diyat Ordinance. The ordinance provides for a system of punishment for those convicted of intentionally or recklessly causing death. The release of a person from death row is considered appropriate where a negotiable amount of money has been accepted by the relatives of the deceased. This process of negotiation has diminished the complexity of judicial inquiry. In 2002 the Supreme Court ruled that technicalities should be overlooked in the trial of grave offences. The same court, in 2003, stated that the normal penalty for murder should be death unless extraordinary mitigating circumstances could be demonstrated. Courts are more likely to impose the death penalty in deference to the system of negotiation.

In Pakistan 27 offences are punishable by death. The death penalty is a mandatory sentence for Blasphemy. The Qisas and Diyat Ordinance relates only to intentionally or recklessly causing death or serious injury.

It is unclear whether the rise in the number of those condemned to death is offset by the number of people freed by the process of negotiation and compensation. There is no available record of the number of condemned people who avoid execution after an agreement is reached. It is of great concern that the poor will be unable to compensate the family of the deceased and so be more likely to die. The emergence of private negotiation has fatally diluted criminal procedure in Pakistan. It has dramatically handicapped the judiciary and caused arbitrary and discriminatory executions.

In April 2008 Pakistan signed the International Covenant on Civil and Political Rights and also the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. It is hoped that this reflects a new attitude in relation to the administration of justice in Pakistan.