



Speech of Ms Asma Jahangir

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High Level Panel Discussion on the Question of the Death Penalty

“Discuss and exchange views on advances and challenges relating to the abolition of the death penalty and to the introduction of a moratorium on executions in Asia”.

Ladies and gentlemen,

I would like to thank the UN’s Office of the High Commissioner for Human Rights (OHCHR) for organizing this High Level Panel discussion on the Question of the Death Penalty during the 25th session of the Human Rights Council. I am grateful to the OHCHR, the Chair, MrBaudelaire Ndong Ella, and the moderator of this panel His Excellency Mr Nicolas Niemtchinow, for giving me, as a Commissioner of the International Commission against the Death Penalty (ICDP), the opportunity to introduce the issue of advances and challenges relating to the abolition of the death penalty and the introduction of a moratorium on executions in Asia which is of importance and relevance these days.

Asia presents a challenge to the death penalty abolitionist movement, which, in recent years has witnessed a majority of countries ceasing the practice of capital punishment. The vast majority of executions are carried out in Asia and thousands are under sentence of death. But, there are glimmers of hope.

Countries like Cambodia, the Philippines, Bhutan, Nepal and Timor-Leste have abolished the death penalty for all crimes in Asia.

Mongolia, South Korea, Thailand, Brunei Darussalam, Laos, Myanmar, Sri Lanka, and the Maldives have not carried out executions for several years.

Mongolia is a country to note. President Tsakhiagiin Elbegdorj systematically commuted death sentences and announced a moratorium on executions in January 2010; the last execution was carried out in 2008. In January 2012, the Mongolian Parliament approved a bill to ratify the Second Optional Protocol of the International Covenant on Civil and Political Rights (Second OP to the ICCPR), which aims at the abolition of the death

penalty, and is taking steps to abolish capital punishment in domestic law. This step by Mongolia is very timely when we note that this year, in December, the international community, including ICDP, will be commemorating the 25th anniversary of the adoption of the Second OP to the ICCPR.

South Korea has maintained a de facto moratorium on capital punishment since December 1997 despite concerns in the recent past that this could be breached.

In my country, Pakistan, Prime Minister Nawaz Sharif's administration, which was elected to office last year, appears to continue a de facto moratorium on the death penalty that has been in place since 2008 allaying fears that the moratorium on executions might not continue. Except for the execution of a soldier, Muhammed Hussein, in November 2012 there have been no executions in Pakistan for more than five years. This de facto moratorium on executions has been welcomed by human rights organisations in Pakistan and in the international community, including the ICDP where we are opposed to capital punishment in all situations.

Other Asian countries have taken steps including official announcements and court rulings that indicate gradual reduction in the scope of capital punishment

In early January this year, President Thein Sein of Myanmar announced that he would commute death sentences to life imprisonment and reduce some sentences on humanitarian grounds to mark the 66th anniversary of independence of the country; Myanmar has not carried out an execution since 1988.

In Thailand last year, Police Colonel Naras Savestanan, the Director General of the Department of Rights and Liberties Protection, stated that his country is "studying the possibility of abolishing the death penalty". The last executions were carried out in 2009.

In India, its Supreme Court made a historic judgment in January 2014, when it ruled that "undue, inordinate and unreasonable delay in execution of death sentence" was a ground for commutation; that it was unconstitutional to carry out executions of those suffering from mental illness and that solitary detention of a prisoner under sentence of death was also unconstitutional.

In October 2013, during its Second Universal Periodic Review, China stated that it is reducing the application of death penalty by taking a series of important measures including reduction in the number of capital crimes, strengthening the role of defence lawyers and ensuring that suspects in capital cases are represented by a lawyer. They further cited an announcement by its Supreme People's Court to exclude confessions extracted through torture.

In Singapore, courts are now provided with the discretion not to impose the death penalty in certain categories such as drug trafficking offences and some homicide offences. This followed legislative amendments adopted by the Parliament in November 2012 that abolished the mandatory imposition of the death penalty under certain circumstances.

The government of Singapore introduced these amendments in July 2012 and executions were suspended until the bills were considered by the parliament.

But the situation of the death penalty in the Asia region remains challenging and of concern: numerous countries retain the death penalty in their law and apply it. Thousands are still executed every year in this region and several thousands remain under the trauma of being executed following a death sentence.

In 2013, at least ten countries in Asia have reportedly carried out executions.

In Iran, sources suggest that around 500 individuals were executed in 2013.

Unprecedentedly, in December 2013, North Korea officially confirmed the execution of Jang Seong Thaek, one of its most powerful leaders. There are apprehensions that several other people were also executed, as they were perceived to have been close to Jang. Because of the secrecy of the death penalty in China, Iran and North Korea, exact numbers are difficult to obtain. However, available information indicates that China carries out a vast number of executions.

In November last year, 152 individuals were sentenced to death following a mass trial in Bangladesh; in December, the country also carried out the first execution of a person charged with crimes committed in the 1971 War of Independence.

Meanwhile, in Japan, Hakamada Iwao is the longest serving prisoner under death penalty; he was initially sentenced to death in 1966. Japan executed eight prisoners last year including a 73 year-old man in September.

Worryingly, Indonesia resumed executions in 2013 after a hiatus of more than four years. Vietnam and Malaysia carried out executions last year after a year which was free of executions. In 2012, India also resumed executions; the first since 2004 and Indian authorities carried out one more execution in February 2013.

Of further concern is the situation of foreign nationals who are disproportionately affected by the use of the death penalty and the Asia region is no exception. The vulnerable situation of foreign nationals facing the death penalty was discussed in a high-level panel organised by the ICDP and the Argentinian government in the Palais de Nations in Geneva on 3 March. There are hundreds of nationals from migrant workers' supplying nations in Asia facing the death penalty in other Asian countries and in countries like Saudi Arabia and the UAE. This has led to countries that still retain capital punishment like Indonesia, Sri Lanka, India, and Pakistan working through diplomatic and other channels to ensure the release of their nationals abroad who are under sentence of death.

While these steps are welcome, one has to note that some Asian countries continue to adopt contradictory approaches; for instance, two of the five executions carried out by Indonesian authorities last year were foreign nationals.

While Asian countries like Pakistan and South Korea have observed a de facto moratorium on the death penalty, there are thousands of people on death row in Pakistan and over 60 people facing the death penalty in South Korea and the courts continue to sentence people to death. More laws continue to provide for death penalty.

There is, like in the case of Indonesia and India among other countries, the danger of resumption of executions and the fear of innocent people being sent to death. In many countries in the region, the death penalty is often imposed after a grossly unfair trial. But even when trials respect international standards of fairness, the risk of executing the innocent can never be fully eliminated. This is especially worrying as many criminal legal systems in death penalty retentionist countries in Asia are not strong enough to ensure justice and yet they retain an irreversible punishment. Crime may be reduced by adopting measures that include better training, including human rights education, of police officers and lawyers, eradicating poverty and improving education.

Moreover, there is a disproportionate number of those under the sentence of death in the death penalty retentionist countries in Asia who are from marginalised sections of society.

Lack of transparency leaves the people in those countries without information and stifles debate around this important human rights issue. There is no convincing evidence that the death penalty deters crime in retentionist countries more effectively than other punishments.

So the situation in Asia is difficult, but there is progress. The way ahead for these countries is to join the global momentum against capital punishment. According to the UN, more than 150 countries have either abolished the death penalty or do not carry out executions.

The view that the death penalty is a violation of human rights has progressively gained ground within the international community. ICDP is opposed to the death penalty in all circumstances believing that death penalty violates the right to life and it is the ultimate form of cruel, inhuman and degrading punishment.

I do recognize that every country in Asia that still retains the death penalty will adopt its own particular pathway to end this practice. Their leaders have to be convinced of the need for abolition of capital punishment as does its parliament, the judiciary, its civil society organisations and the media as also its universities. The international community has also a crucial role to play. ICDP was established in 2010 as a Spanish initiative to be part of the international community; and utilize the experiences, profile and goodwill of its Commissioners to influence and assist countries to adopt a direction leading to abolition of capital punishment. ICDP is supported by 18 countries representing all the regions of the world. We have been working closely with the OHCHR, with the EU and its institutions, the International Parliamentary Union, civil society organizations like the World Coalition against the Death Penalty, the Anti-Death Penalty Asia network, death penalty activists and NGOs in this effort. We need to pool in all our efforts internationally and within Asia to make it a death penalty free continent. A step forward would be to

encourage more countries in Asia to adopt a moratorium on executions with a view to abolishing the death penalty and alongside with it to strengthen their criminal legal system which is capable of addressing impunity rather than through imposition of death.

Once again, I would like to thank the Human Rights Council and the OHCHR for organizing this important high-level panel on the Question of the Death Penalty and I consider it an honour to make this presentation. I would also take this opportunity to encourage the Human Rights Council to take this discussion forward.

Thank you.