



21.5.2013

B7-0238/2013

## MOTION FOR A RESOLUTION

with request for inclusion in the agenda for a debate on cases of breaches of human rights, democracy and the rule of law

pursuant to Rule 122 of the Rules of Procedure

on India: execution of Mohammad Afzal Guru and its implications  
(2013/2640(RSP))

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on behalf of the PPE Group

**European Parliament resolution on India: execution of Mohammad Afzal Guru and its implications  
(2013/2640(RSP))**

*The European Parliament,*

- having regard to the Protocol n<sup>o</sup> 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty of 28 April 1983,
  - having regard to United Nations General Assembly Resolution 62/149 of 18 December 2007 calling for a moratorium on the use of the death penalty, and the United Nations General Assembly Resolution 63/168 calling on the implementation of the 2007 General Assembly resolution 62/149 adopted by the UNGA on 18 December 2008,
  - having regard to UN Secretary General report on moratoriums on the use of the death penalty of 11 August 2010,
  - having regard to its previous resolutions, on the abolition of the death penalty in particular these adopted by the EP on 26 April 2007 on the need for an immediate moratorium on executions in those countries where the death penalty is still applied,
  - having regard to the speech of the High Representative/VP of the Commission delivered in the plenary of 16 June 2010 on the Human Rights policy recalling that the abolition on death penalty worldwide was a priority for the EU,
  - having regard to the final declaration adopted by the 4<sup>th</sup> World Congress against the Death Penalty, held in Geneva from 24 to 26 February 2010, which calls for universal abolition of the death penalty,
  - having regard to the World Day against Death Penalty and the establishment of a European Day against the Death Penalty on 10 October each year,
  - having regard to Rule 122 of its Rules of Procedure,
- A. whereas the EU is the leading institutional actor in the fight against the death penalty worldwide and its action in this area represents a key priority of its external human rights policy; whereas the EU is at the same time the leading donor to the efforts by civil society organizations around the world in the abolition of the death penalty,
- B. whereas the death penalty is the ultimate cruel and inhuman and degrading punishment which violates the right to life as declared in the Universal Declaration of Human Rights, and an act of torture unacceptable to States respecting human rights,

- C. whereas various studies have shown that death penalty has no effect on trends in violent crime,
- D. whereas the EU works towards moratoria of the application of the death penalty by third country and, in due course, abolition and ratification of the relevant international UN and other instruments and in particular, the second Optional Protocol to the International Covenant on Civil and Political Rights, which provides for the abolition of the death penalty,
- E. whereas in 2007 and 2008 the UN General Assembly has adopted the historic resolutions 62/149 and 63/168 which call for a worldwide moratorium on executions and ultimately seek the abolishment of the death penalty, and in this regard highlights the fact that the number of countries in support of this resolution has increased and thus, that resolution 63/169 was adopted with an overwhelming majority of 106 in favour, 46 against and 34 abstentions,
- F. whereas 154 States in the world have abolished the death penalty de jure or de facto, of which 96 States abolished it for any offence, 8 keep it only for exceptional crimes such as those committed in wartime, 6 have a moratorium on executions in place and 44 are de facto abolitionist (i.e. countries that have not carried out any executions for at least 10 years or countries which have binding obligations not to use the death penalty),
- G. whereas 43 countries worldwide retain the death penalty including the Republic of India that had pledged to maintain moratorium on death penalty since 2004,
- H. whereas India, when presenting its candidacy for the UN Human Rights ahead of the elections of 20 May 2011, pledged to uphold the highest standards in terms of promoting and protecting human rights,
- I. whereas Mohammad Afzal Guru was sentenced to death in 2005 after being convicted of conspiracy in December 2001 attack on the parliament of India,
- J. noting that Afzal Guru was tried by a special court designated under The Prevention of Terrorism Act (POTA), a law which falls considerably short of international fair trial standards and has been repealed since 2004 after serious allegations of its widespread abuse,
- K. noting that Amnesty International in a statement issued on 9<sup>th</sup> February 2013 clearly expressed – “Serious questions have been raised about the fairness of Afzal Guru’s trial. He did not receive legal representation of his choice or a lawyer with adequate experience at the trial stage. These concerns were not addressed”,
- L. whereas on the recommendation of the Union Home Ministry of India, the President Pranab Mukharjee, rejected the review petition filed under Article 72 of the Constitution of India on behalf of Afzal Guru,

- M. noting that over 1455 prisoners are sentenced to death are currently on the death row including Devender Pal Singh Bhullar, whose mercy petition has been rejected by the President of India and whose execution is imminent,
1. Reiterates its long standing opposition to the death penalty under all circumstances and emphasises once again that the abolition of death penalty contributes to the enhancement of human dignity and the progressive development of human rights;
  2. Strongly condemns the government of India's secret execution of Afzal Guru at New Delhi's Tihar Jail on 9<sup>th</sup> February 2013 thereby ending a seven-year de facto moratorium with other executions, in opposition to the worldwide trend towards the abolition of the capital punishment;
  3. Is deeply concerned that Afzal Guru's wife and other family members were not intimated about his imminent execution and following the execution his dead body was buried within the walls of the prison;
  4. Urges the EU to use all its available tools of diplomacy and cooperation with the government of India for the return of Afzal Guru's body to his wife and family for the decent burial pursuant to his religious rites;
  5. Calls on the state authorities to exercise restraint in use of lethal weapons by its police force against the peaceful protests in Indian Administered Kashmir following the hanging of Afzal Guru which has resulted in the deaths of three young Kashmiris so far;
  6. Expresses its concern for the safety and ongoing detentions of the leaders of All Parties Hurriyat Conference (APHC) including Dr. Mirwaiz Mohammad Umar Farooq, Shabir Ahmed Shah and Syed Ali Shah Geelani and calls on the Indian authorities to ensure their protection and release and to allow them to operate without fear of harassment and/ or violence;
  7. Urgently calls on the Home Minister of India Sushilkumar Shinde, not to approve any execution order in the future including that of Devender Pal Singh Bhullar;
  8. Calls on the government and parliament of India to adopt a legislation introducing a permanent moratorium on executions with the goal of abolishing the death penalty in the near future;
  9. Instructs its President to forward this resolution to the VP/HR, the Council, the Commission, the governments and parliaments of the EU Member States, the Secretary-General of the Commonwealth, the Secretary-General of the UN, the President of the UN General Assembly, the UN High Commissioner for Human Rights, the President, Government and Parliament of India.