



EUROPEAN PARLIAMENT

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Plenary sitting

21.5.2013

B7-0237/2013

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))

Karima Delli, Barbara Lochbihler, Jean Lambert, Franziska Keller, Raúl Romeva i Rueda
on behalf of the Verts/ALE Group

B7-0237/2013

**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^o 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 appeal of 14 retired Indian Supreme Court and High Court judges or July 2012 to the President to commute the death sentences of 13 inmates because they had been erroneously upheld by the Supreme Court over the past nine years,
- having regard to Rule 122 of its Rules of Procedure,
- whereas the death penalty is an irreversible and cruel punishment which violates the right to life, norm recognised by all UN members in the Universal Declaration of Human Rights, and there is no evidence to suggest that it serves as deterrent,
- whereas 154 States in the world have abolished the death penalty de jure or de facto, 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,
- Whereas on November 2012, India ended its eight-year unofficial moratorium on executions when hanging Ajmal Kasab, convicted for his role in the 2008 Mumbai attacks
- Whereas on 9 February 2013 the Indian authorities again executed a Kashmiri man, Afzal Guru, for his role in the attack on the Indian parliament in 2001

- whereas over 1455 prisoners in India are currently on the death row, including two separatist Sikh militants, Balwant Singh Rajoana and Devender Pal Singh Bhullar, linked to the murder of the Punjabi Prime Minister in 1995 as well as three Tamils - Santhan, Murugan and Perarivalan - linked to the assassination of former Prime Minister Rajiv Gandhi,
- Whereas in November 2012 the Supreme Court ruled that norms for capital punishment in India needed to be re-visited because some of these sentences were rendered per incuriam (i.e. out of error or ignorance),
- whereas Mohammad Afzal Guru was the only one of four accused to be sentenced to death in 2002 - two others being acquitted - after being convicted for providing logistical support to those involved in the attack on the Parliament building in New Delhi and being a member of Jaish-e-Mohammed militant group, both allegations the former fruit merchant denied,
- whereas 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,
- Whereas national and international human rights organisations have raised serious questions about the fairness of Afzal Guru's trial. He did not have legal representation in the decisive lower court and the confession he made in police custody he made allegedly under torture and retracted later,
- whereas President Pranab Mukharjee, rejected the review petition filed under Article 72 of the Constitution of India on behalf of Afzal Guru but this was only communicated after the execution denying the condemned a last legal chance to challenge the rejection of the mercy petition
- Whereas Mr. Guru's family was not informed prior to the execution, a final farewell was thus denied to them, and even his body was not released to them, but despite a curfew imposed in major parts of Kashmir and a one week blackout on media, mobile Internet and telephone in the region, protests erupted in Kashmir causing the death of at least three protesters and injuring dozens of others
- Whereas political tensions in India are mounting in face of the approaching election year 2014,
- 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;
- Strongly condemns the government of India's secret execution of Afzal Guru at New Delhi's Tihar Jail on 9th February 2013 in opposition to the worldwide trend towards the abolition of the capital punishment;

- Expresses its grave concern over ample evidence that Afzal Guru has not received a fair trial, that an innocent person might have been executed and that this uncertainty is nurturing suspicion he might be a victim of vested political interests
- Strongly condemns the renewed casualties, the curfew and news blockage which the authorities imposed on Indian Administered Kashmir and calls on the security forces to exercise restraint in the use of force against peaceful protesters;
- 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;
- Urgently calls on the Home Minister of India Sushilkumar Shinde, not to approve any execution order in the future;
- Strongly regrets that the ruling Congress Party who was at the initiative to introduce a moratorium 8 years ago is now altering its political approach and calls on the government and parliament of India to decide a review procedure for all pending cases of capital punishment and to adopt legislation introducing a permanent moratorium on executions with the goal of abolishing the death penalty in the near future;
- 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 UN, the President of the UN General Assembly, the UN High Commissioner for Human Rights, the President, Government and Parliament of India, India's Minister for Law and Justice, India's Home Minister and the Indian Parliament.