

EXTERNAL

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WHIPPING IN PAKISTAN

On 17 December 1989 Mohammad Taj was escorted from prison to a public square in Rawalpindi, Punjab Province, where he was whipped before a crowd of onlookers. He had been sentenced by a sessions court under Hudood laws (see below) to 10 years' imprisonment and to 30 lashes for the rape of his stepdaughter in 1983. His appeal to the Federal Shari'a Court had been rejected.

The Hudood laws were promulgated in 1979 by the Chief Martial Law Administrator, General (later President) Zia-ul Haq, as part of his policy of "Islamization". The Offence of Zina (Enforcement of Hudood) Ordinance, 1979, deals with sexual offences such as rape and adultery (zina) which carry a maximum punishment of death by stoning where there are four adult male Muslim witnesses to the offence or the accused confesses. Where four such witnesses are not available, lesser sentences dictated by the ordinance provide for terms of imprisonment together with 30 lashes. The Offence Against Property (Enforcement of Hudood) Ordinance, 1979, deals with theft and other offences involving property which may carry a punishment of amputation or imprisonment with whipping.

The Execution of Punishment of Whipping Ordinance, 1979, (EPWO), also issued by General Zia during the period of martial law, details how whippings are to be carried out. Under the terms of the ordinance, the whip may be up to 1.22 metres in length and up to 1.25 centimetres wide. It will have a handle and one single whip "preferably .. of leather, or a cane, or a branch of a tree".

Under the EPWO, whipping is carried out only in the presence of an authorized medical officer and in a public place specified by the court or the provincial government. A thorough examination of the prisoner is first carried out by an "authorized medical officer so as to ensure that the execution of the punishment [of whipping] will not cause the death of the convict". The regulations state that the whip must be used in such a manner that it does not cause the death of a prisoner who is "too old or too weak". If the prisoner is ill, the whipping is postponed until "the convict is certified by the authorized medical officer to be physically fit to undergo the punishment". In the case of a pregnant woman, whipping is postponed until "two months after the birth of the child or miscarriage."

The law provides that a man is whipped while standing and a woman while sitting. Whipping may be stopped at any stage if "the authorized medical officer is of the opinion that there is apprehension of the death of the convict"; it will be resumed when the medical officer confirms that the prisoner is physically fit to be whipped. If the medical officer is of the opinion that the prisoner cannot undergo the whipping in whole or in part, the matter must be referred to the courts.

The ordinance states that the whip must be applied with moderate force "without [whoever carries out the punishment] raising his hand above his

head so as not to lacerate the skin of the convict". The lashes should be spread all over the body avoiding "the head, face, stomach or chest or the delicate parts of the body of the convict".

Sentences of whipping were carried out frequently during the period of martial law (1977-1985) against both political and common prisoners. After the end of martial law only those prisoners convicted of common criminal offences were whipped. This is the second incidence of public whipping recorded by Amnesty International since Prime Minister Benazir Bhutto took office. The first took place in January 1989 when Fateh Mohammad was given 30 lashes in Haroonabad, Punjab, before a crowd reported to number thousands. He had been sentenced by a sessions court to 15 years' imprisonment and 30 lashes for rape. The whipping was carried out by another prisoner on this occasion. According to a newspaper report (The Muslim, Islamabad, 1 February 1989), the prisoner fainted after receiving 15 lashes; he was then examined by the medical officer and declared fit to receive the remaining 15 lashes. He collapsed after the whipping and was carried away unconscious by police officers.

Amnesty International opposes whipping, considering it to constitute cruel, inhuman and degrading punishment prohibited by a number of international human rights standards. These include the United Nations Universal Declaration of Human Rights (article 5), the UN Torture Convention (articles 2 and 3), and the International Covenant on Civil and Political Rights (article 7).

In Amnesty International's view, the role of the doctor in this punishment conflicts with international medical ethical standards such as the World Medical Association's Declaration of Tokyo adopted in 1975 which states that "the doctor shall not countenance, condone or participate in the practice of torture or other cruel, inhuman or degrading procedures..." and "shall not be present during any procedure" falling within the categories of torture or cruel, inhuman or degrading treatment.

Similarly the United Nations' Principles of Medical Ethics adopted in 1982 state:

"it is a gross contravention of medical ethics as well as an offense under applicable international instruments, for health personnel, particularly physicians, to engage, actively or passively, in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment or punishment". (Article 2)

Article 4(b) states that it contravenes medical ethics for doctors and other health professionals to:

"certify, or participate in the certification of prisoners or detainees for any form of treatment or punishment that may adversely affect their physical or mental health .. or to participate in any way in the infliction of such treatment or punishment..."

The whipping in February of this year was condemned by "Voice Against Torture", an organization established by a group of doctors in Islamabad in 1988 to monitor and campaign against instances of torture in the country. They have on several occasions called for an end to the punishment and continue to do so. Other human rights groups in Pakistan have also voiced concern over whippings. The whipping of Mohammad Taj took place despite a statement made by Prime Minister Benazir Bhutto during a state visit to the United States in June 1989 that no one was being whipped under her

government.

Members of the medical profession also protested against whipping during the period of martial law. On 9 September 1983, the Executive Committee of the Karachi Branch of the Pakistan Medical Association resolved to urge the government not to involve the medical profession in whipping, stating that whipping "is not only inhuman and against the dignity of man, but ... can cause serious physical damage and irreversible psychological trauma specially on young people". The Pakistan Junior Doctors' Association also appealed for an end to whipping of political prisoners.

Amnesty International is urging the authorities in Pakistan to ensure that no further sentences of whipping are carried out, and to move for its abolition in law.

INTERNAL

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To : Medical professionals

From: Medical Office / Research Department - Asia

Date: 23 February 1990

MEDICAL LETTER-WRITING ACTION
WHIPPING IN PAKISTAN

Appeals are requested from medical professionals protesting against a recent public whipping. Whippings in Pakistan take place under medical supervision (please see the details attached.)

RECOMMENDED ACTIONS

Please write on letter-headed paper, with or without mention of Amnesty International:

To government authorities:

- ! expressing concern at the whipping of Mohammad Taj carried out in Islamabad on 17 December 1989 under medical supervision
- ! explaining that whipping is a cruel, inhuman and degrading punishment prohibited by international human rights instruments
- ! stating your deep worry at the role of the doctor who attended the punishment; you could note the ethical codes which rule that such a role is unethical for a doctor
- ! urging the government to introduce legislation that would give effect to Prime Minister Benazir Bhutto's stated policy that whippings are not to be carried out in Pakistan.

To the Pakistan Medical Association:

- ! referring to reports that a doctor examined Mohammad Taj, and certified him as fit for punishment, before he was whipped on 17 December 1989
- ! stating your belief that such a role is contrary to international medical ethical standards
- ! noting that the Executive Committee of the Karachi Branch of the PMA passed a resolution in 1983 protesting against the fact that then current legislation involved the medical profession in whipping
- ! urging that the PMA states its opposition to such punishments and the role of doctors in their carrying out and urging them to adopt a policy against medical participation in corporal punishment, in line with well-known international ethical standards of the United Nations and the World Medical Association

National Medical Association

You could approach your own national medical association urging them to write to the Pakistan authorities and to the Pakistan Medical Association expressing concern about medically-supervised whippings in Pakistan.

ADDRESSES

President

President Ghulam Ishaq Khan
The Presidency
Murree Brewery Road
RAWALPINDI, Pakistan

Prime Minister

Ms Benazir Bhutto
Office of the Prime Minister
ISLAMABAD
Pakistan

Chief Minister

Mian Nawaz Sharif
Office of the Chief Minister
LAHORE
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Medical Association

Pakistan Medical Association
PMA House
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Copies of letters should be sent to the Pakistan diplomatic representative in your country with a brief covering note.