



BAR HUMAN RIGHTS
COMMITTEE OF
ENGLAND AND WALES

London, 9 December 2013

STATEMENT

BHRC calls urgently for immediate stay in execution of Abdul Qader Mollah

The BHRC urgently requests the government of Bangladesh to stay the execution of Abdul Qader Mollah, a senior leader in the opposition Jamaat-e-Islami Party who was convicted of war crimes by the International Crimes Tribunal (ICT) for atrocities committed during Bangladesh's 1971 war of liberation.

There is reason to believe that Mollah has not been afforded a fair trial. The BHRC had previously called for the entire process to be halted pending a full and impartial investigation into those concerns and allegations. Those calls have not been heeded in any way whatsoever.

Furthermore, in its previous Statement of 26th September 2013, the BHRC expressed profound concern about the application of legislation which permitted the imposition of the death penalty on Mollah retrospectively and without any right of appeal. This was a flagrant violation of the fundamental principles of fair trial and the rule against double jeopardy, as enshrined in the International Covenant on Civil and Political Rights (ICCPR), to which Bangladesh is a state party. In particular: (1) Article 15, provides that no heavier penalty shall be imposed than the one that was applicable at the time when the criminal offence was committed; and (2) Article 14(5) ICCPR provides that everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law, (whereas Mollah's only recourse now is by way of a clemency petition before the President of Bangladesh).

International law is clear that 'super due-process' must be applied in capital cases. States must ensure that all of the minimum guarantees and safeguards for a fair trial imposed by the ICCPR are provided for defendants facing the death penalty. The UN Special Rapporteur on extrajudicial, summary, or arbitrary executions has stated that fair trial guarantees in death penalty cases "must be implemented in all cases without exception or discrimination", and that "proceedings leading to the imposition of capital punishment must conform to the highest standards of independence, competence, objectivity and impartiality of judges and juries, in accordance with the pertinent international legal instruments."

We further note that the BHRC is opposed to the death penalty per se, in all cases.

The BHRC now: (1) calls for an immediate stay to the execution of Mollah; (2) urges the Bangladeshi Government immediately to ensure that Mollah is granted the right to appeal against his sentence and to commute the death sentence; (3), to repeal the amendment to the Constitution which allows the removal of constitutional safeguards against retrospective application of the law in cases involving war crimes; and (4) to suspend the ICT pending an independent investigation into the concerns which have been raised over the preceding months.

The BHRC emphasizes that justice cannot be served by the application of a flawed judicial process which flouts the basic protections guaranteed by international law.

END.

NOTES FOR EDITORS

1. The Bar Human Rights Committee of England and Wales (“BHRC”) is the international human rights arm of the Bar of England and Wales. It is an independent body concerned with protecting the rights of advocates, judges and human rights defenders around the world. The Committee is concerned with defending the rule of law and internationally recognised legal standards relating to human rights and the right to a fair trial. The remit of BHRC extends to all countries of the world, apart from its own jurisdiction of England & Wales. This reflects the Committee's need to maintain its role as an independent but legally qualified observer, critic and advisor, with internationally accepted rule of law principles at the heart of its agenda.
2. See previous BHRC statements related to the International Crimes Tribunal (ICT) of Bangladesh [here](#).

BHRC website

<http://www.barhumanrights.org.uk/>