

EXPLANATION OF VOTE OF INDIA AFTER THE VOTE
DRAFT RESOLUTION A/C.3/71/L.27
(MORATORIUM ON THE USE OF THE DEATH PENALTY)
[November 17, 2016]

Madam Chair,

My delegation would like to make explanation of vote on the resolution **A/C.3/71/L.27** titled "Moratorium on the use of the death penalty".

We appreciate the open and transparent manner in which the facilitators conducted the negotiations.

Every State has the sovereign right to determine its own legal system and appropriate legal penalties. It was in this context that my delegation had voted in favour of the amendment L.54.

However, the resolution before us sought to promote a moratorium on executions with a view to abolishing the death penalty.

My delegation therefore, has voted against the resolution as a whole as it goes against Indian statutory law.

Madam Chair,

In India, the death penalty is exercised in the 'rarest of rare' cases, where the crime committed is so heinous as to shock the conscience of society. Furthermore, Indian law provides for all requisite procedural safeguards, including the right to a fair hearing by an independent Court, the presumption of innocence, the minimum guarantees for the defence, and the right to review by a higher court.

Indian laws have specific provisions for suspension of the death penalty in the case of pregnant women and has rulings that prohibited executions of persons with mental or intellectual disabilities, while juvenile offenders cannot be sentenced to death under any circumstances. Death sentences in India must also be confirmed by a superior court and an accused has the right to appeal to a High Court or the Supreme Court. The Supreme Court of India has adopted guidelines on clemency and the treatment of death row prisoners and that "poverty, socio-economic, psychic compulsions, undeserved adversities in life" constituted new mitigating factors to be considered by courts in commuting a death sentence to life imprisonment.

The President of India in all cases, and the Governors of States under their respective jurisdictions, have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence.

Thank you, Madam Chair.
