

**73rd UNGA
THIRD COMMITTEE**

**EXPLANATION OF VOTE OF INDIA
AFTER THE VOTE
MORATORIUM ON THE USE OF THE DEATH PENALTY**

DRAFT RESOLUTION A/C.3/73/L.44

November 13, 2018

Thank you Mr. Chair,

My delegation would like to make an explanation of vote on the resolution A/C.3/73/L.44 titled "Moratorium on the use of the death penalty".

We thank the facilitator for conducting the negotiations in open and transparent manner.

Mr. Chair,

Every State has the sovereign right to determine its own legal system and appropriate legal penalties. It was in this context that my delegation voted in favour of the amendment contained in document L.57.

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

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

Mr Chair,

In India, the death penalty is exercised in 'rarest of rare' cases, where the crime committed is so heinous that it shocks the conscience of the society.

Indian law provides for all requisite procedural safeguards, including the right to a fair trial by an independent Court, presumption of innocence, the minimum guarantees for defence, and the right to review by a higher court.

Indian laws have specific provisions for commutation of 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 death penalty.

Thank you, Mr. Chair.