

# **Asia Pacific Forum of National Human Rights Institutions**

## **Advisory Council of Jurists**

### **Terms of Reference on the Death Penalty**

The Asia Pacific Forum of National Human Rights Institutions refers to the Advisory Council of Jurists for advice and recommendation the question of whether the application of the death penalty is consistent with norms of international human rights law.

In particular the Council is to consider:

- (i) the range of offences for which international human rights law permits the imposition of the death penalty;
- (ii) whether the resumption of executions by governments after long periods during which death sentences have been commuted or not executed for other reasons is consistent with international human rights law;
- (iii) whether the enactment of laws that introduce or reintroduce the death penalty or that apply the death penalty to additional offences is consistent with international human rights law;
- (iv) whether international human rights law allows for the imposition of the death penalty for crimes for which the sentence of death did not exist at the time the crime was committed;
- (v) the nature and scope of procedural guarantees and other safeguards stipulated by international human rights law in the imposition and execution of the death penalty;
- (vi) the restrictions that may be required by international human rights law on the manner and method of carrying out the death penalty;
- (vii) whether there are further groups of persons, aside from those specified by international human rights law, upon whom it should not be permissible to impose the death penalty; and
- (viii) whether international human rights law imposes any limitations on the duration and conditions of incarceration of persons sentenced to death.

The Council may comment on:

- (i) the socio-economic, political and legal environments in Forum Member States;
- (ii) the religious and cultural traditions in Forum Member States;
- (iii) the roles to be served by a criminal justice system; and
- (iv) the international legal obligations of each Member State.

International human rights law includes but is not limited to the:

- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights (ICCPR)
- Second Optional Protocol to the ICCPR
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- United Nations Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty.