Pakistan: President's Power of Clemency

December 2003

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It has not been updated.
The Constitution of Pakistan confers unfettered discretionary powers on the President of the country to grant pardon, reprieve, or commute sentences on convicts in the following terms:

45. The President shall have power to grant pardon, reprieve, and respite, and to remit, suspend, or commute any sentence passed by any court, tribunal, or other authority.

This power of the President is not dependant on any rule of Shariah, unless it is made the law of the land. The exercise of the discretion by the President under this provision is to meet the requirements of justice and clemency and to afford relief against undue harshness. Apparently, the President is empowered to enhance or reduce a sentence since that function is exercisable by a judicial authority. However, no court is competent to issue directions to the President for exercising these powers of pardon or commutation of a sentence. Powers under article 45 of the Constitution, being discretionary, are in the nature of sovereign prerogative exercise of such power. Thus, they are not controlled by courts and the exercise of them is not subject to judicial review. Nor is the power of commutation subject to any limitations or conditions that may be found in the Pakistan Penal Code, 1860 or the Code of Criminal Procedure 1898.

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1. 1973 Constitution of Pakistan, Article 45.
2. Shariah or Islamic Law has been partially adopted in Pakistan.