

PART 1: MORATORIUM LIFTED

NAP POINT 1: Implementation of death sentence of those convicted in cases of terrorism.

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PART 1: MORATORIUM LIFTED

1.1 INTRODUCTION

The very first point in the NAP, and the first theme, is the lifting of the moratorium that had been in effect since 2008. Pakistan People's Party came into power in 2008 elections, installing former Prime Minister Benazir Bhutto's husband Asif Ali Zardari as the President. Bhutto was a lifelong opponent of the death penalty, and in her honor, the party instated an indefinite moratorium on the death penalty in Pakistan.

Most believe the moratorium was lifted after the Army Public School (APS) attack on December 16, 2014. In actuality, the moratorium had come to an end two years prior when a former soldier, Muhammad Hussain, was hanged at Central Jail Mianwali on November 14, 2012 after being convicted of murder by a military court. The enactment of NAP drastically accelerated this process, but the moratorium had already been violated. Even after the APS attack, the first executions occurred on December 19, 2014, six days before the NAP was formally announced and adopted.

1.2 METHODS OF EXECUTION

Pakistan exclusively uses hanging as its chosen method of execution. Stoning was also introduced into the law in 1979 as part of the Hudood Ordinances and was prescribed as the punishment for adultery and rape but stoning has never officially been used and all executions occur by hanging.

Various other methods are used around the world, including lethal injection, shooting, electrocution, stoning and several others.

1.3 WORLDWIDE COMPARISON

In the two years since the National Action Plan (December 2014-January 2017), a total of 428 individuals have been executed in Pakistan.¹ According to a report by Amnesty International, some of the individuals that were executed were juveniles at the time of the commission of the crime or suffered from a mental disability.²

Of the 428, various sources confirm that over 300 individuals were executed in the year 2015 alone which is the highest number ever recorded for Pakistan by Amnesty International.

The Human Rights Commission of Pakistan (HRCP) places this figure at 333,³ while Amnesty

¹ Who has been executed? (n.d.). Retrieved February 16, 2017, from <http://hrcp-web.org/hrcpweb/who-has-been-executed/>.

² "The State of the World's Human Rights," Amnesty International Report 2016/17, accessed February 28, 2017, <<https://www.amnesty.org/download/Documents/POL1048002017ENGLISH.PDF>>.

³ Who has been executed? (n.d) Retrieved February 18, 2017, from <<http://hrcp-web.org/hrcpweb/executions-in-2015/>>.

⁴ "Death Sentences and Executions in 2015." Retrieved January 17, 2017, from <<https://www.amnesty.org/en/latest/research/2016/04/death-sentences-executions-2015/>>.

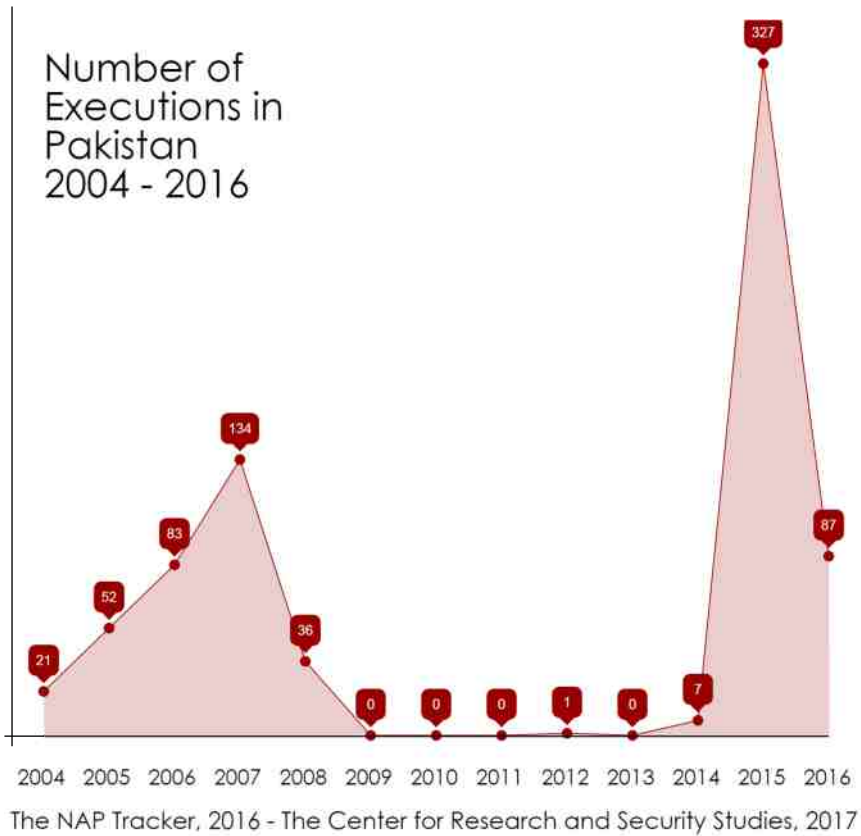
⁵ Justice Project Pakistan. (2017). Number of people Executed in Pakistan since 2014. Retrieved March 21, 2017, from <<http://www.jpp.org.pk/>>.

International puts this figure at 326.⁴ A non-governmental organization, Justice Project Pakistan (JPP), which works on death penalty issues in Pakistan, places this figure at 327.⁵

The year 2016 saw a decline in the rate of executions in Pakistan with a total of 87 individuals executed.⁶ A comparative analysis according to the figures collated by Reprive reveals that with regard to global executions in the year 2016, Pakistan ranked fifth with China still widely recognized as the country with the most executions even though as has been mentioned before, the figures are a state secret.

Before the NAP, 2007 was the year with the most number of executions in the last decade in Pakistan with 134 people executed.⁷

Graph 1.1: Executions since 2004⁴



⁶ Final Execution, 2016. Retrieved January 17, 2017, from <<http://hrcp-web.org/hrcpweb/wpcontent/uploads/2016/12/Final-Executions-2016.xlsx-9.pdf>>.

⁷ HRCP alarmed over record executions. Retrieved February 1, 2017, from <<http://hrcp-web.org/hrcpweb/hrcp-alarmed-over-record-executions/>>.

The executions in 2015 placed Pakistan third in the world in terms of the number of individuals executed by the state. China is widely recognized as the country with the most number of executions, but because this data is considered as a state-secret, there are no official figures available. There were an estimated 2,400 executions each in China in 2013 and 2014.⁸ This is down significantly from 2002, when an estimated 12,000 people were executed in China.

#	Country	Executions
1	China	2.000+*
2	Iran	969-1084
3	Pakistan	327
4	Saudi Arabia	158
5	US	28
6	Indonesia	14

***Note:** Executions in China are a state secret; this is an estimate.

Iran ranked second in 2015 with an estimated 969¹⁰ – 1,084¹¹ people executed in 2015, although the government officially maintained that 364 were executed. Even with the government count, Pakistan ranked third in the world in terms of executions assuming China's unknown executions rank highest. This was followed by Saudi Arabia, which reportedly executed 158 people in 2015.¹²

#	Country	Executions
1	China	1.000+*
2	Iran	534+
3	Saudi Arabia	154
4	Iraq	101+
4	Pakistan	87
4	US	20

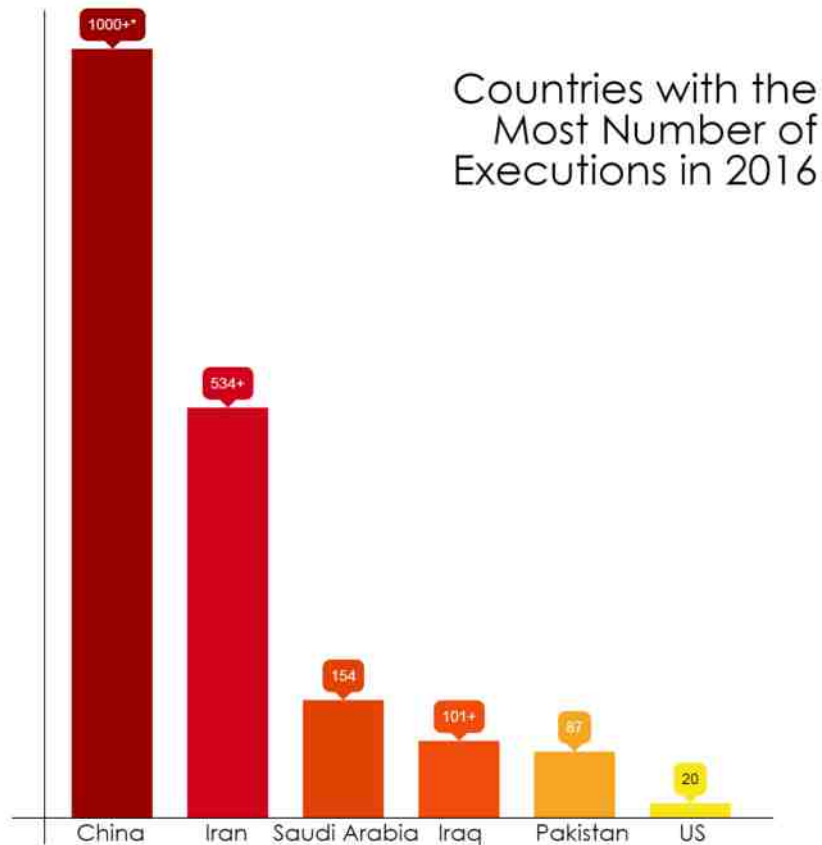
***Note:** Executions in China are a state secret; this is an estimate.

In 2016, Iran ranked at number 2 with over 534 executions. According to Reprive the actual number of executions that have taken place might be higher because the government underreports these figures. Saudi Arabia overtook Pakistan and ranked at three with 154 executions that according to Reprive also included juveniles.¹³

⁸ China Executed 2,400 People in 2013, Dui Hua. Retrieved May 2, 2016, from <http://duihua.org/wp/?page_id=9270#.VEYCPVN1sYg.twitter>.

⁹ Death Penalty Worldwide – Executions in 2015. (n.d.). Retrieved February 16, 2016, from <<http://www.deathpenalty.org/country-search-post.cfm>>.

¹⁰ IHRDC Chart of Executions by the Islamic Republic of Iran - 2015. (n.d.). Retrieved February 16, 2016, from <<http://www.iranhrdc.org/english/publications/human-rights-data/chart-of-executions/1000000564-ihrc-chart-of-executions-by-the-islamic-republic-of-iran-2015.html>>.

Graph 1.2: Executions in 2016 by country⁶

The NAP Tracker, 2016 - The Center for Research and Security Studies, 2017

1.4 Executions by Month Since December, 2014

For 2015, October ranked the highest with 45 total executions in a single month, and February saw the fewest executions at 4. Aside from a slow start, Pakistan has been fairly consistently executing just under one convict a day.

As regards the year 2016, April ranks the highest with 19 executions in a single month. There were no executions that took place in the months of September and October and the months of August, November and December saw the state executing a total number of 3 individuals (one person per every month).

¹¹ Reported Executions 2015. (2016). Retrieved February 17, 2016, from <<https://iranrights.org/>>.

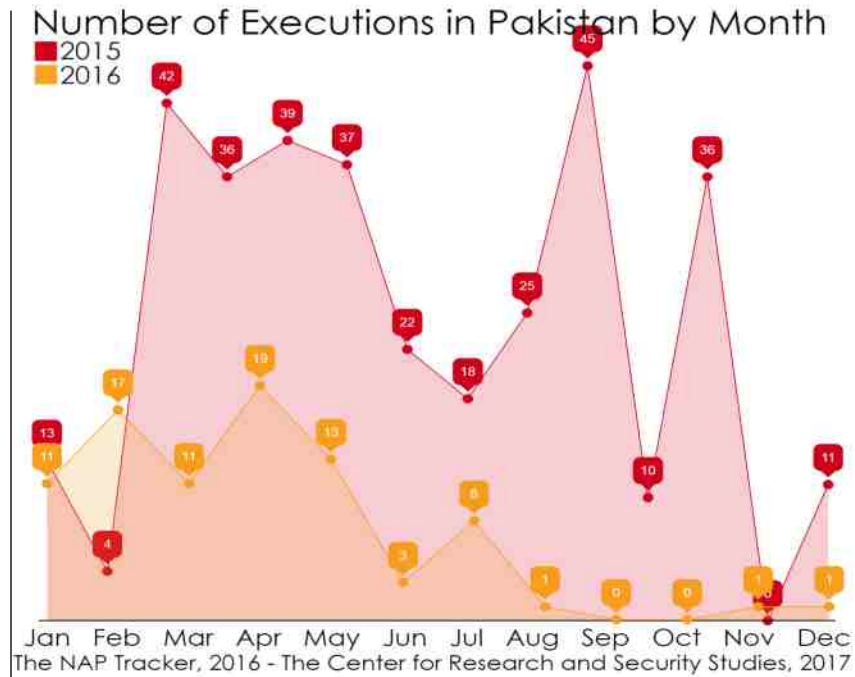
¹² Cornell Law University (2016). Death Penalty Database - Saudi Arabia. Retrieved February 17, 2016, from <<http://www.lawschool.cornell.edu/research/death-penalty-project/resources.cfm>>.

¹³ Global executions in 2016. (2016, December 29). Retrieved February 1, 2017, from <<http://www.reprieve.org.uk/press/global-executions-2016/>>.

Month	Executions	Month	Executions
January, 2015	13	January, 2016	11
February, 2015	4	February, 2016	17
March, 2015	42	March, 2016	11
April, 2015	36	April, 2016	19
May, 2015	39	May, 2016	13
June, 2015	37	June, 2016	3
July, 2015	22	July, 2016	8
August, 2015	18	August, 2016	1
September, 2015	25	September, 2016	0
October, 2015	45	October, 2016	0
November, 2015	10	November, 2016	1
December, 2015	36	December, 2016	1

Note: December, 2014, the first month, had 7 executions.

Graph 1.3: Executions in Pakistan by month since December, 2014.



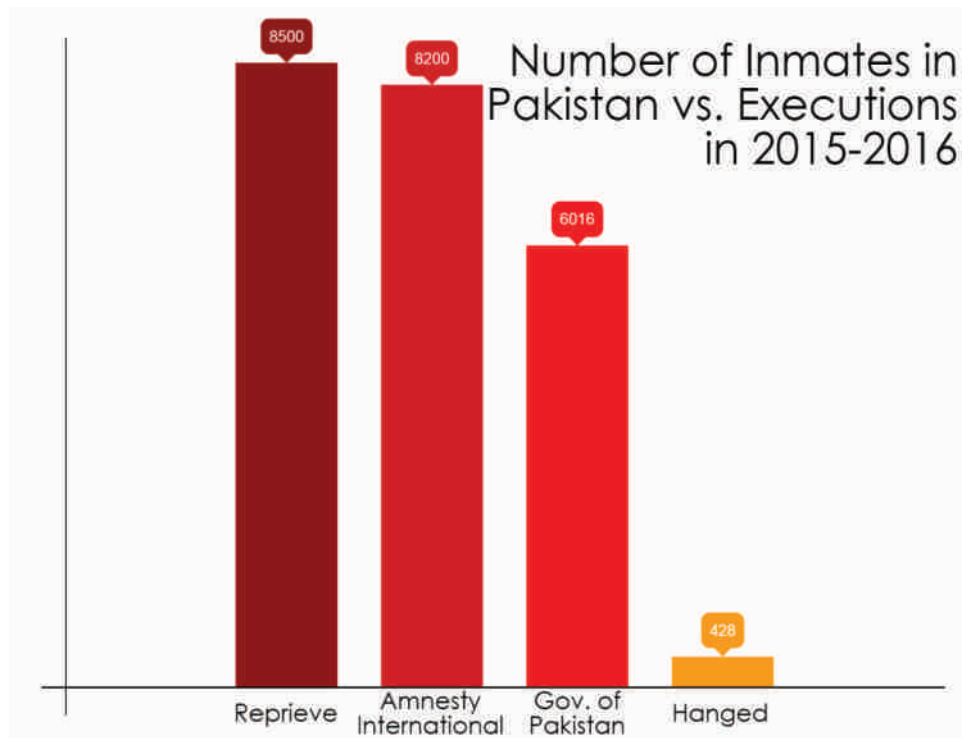
1.5 Controversies and Criticism

The decision to lift the moratorium has come under significant criticism from both foreign governments and human rights activists and organizations.

1.5.1 Number of Inmates on Death Row

Amnesty International reports that over 8,200 are currently on death row in Pakistan.¹⁴ Reprive puts this number at 8,500.¹⁵ This figure is contradicted by Minister of State for Interior Baleegh ur Rahman, who told the Senate of Pakistan in October 2015 that 6,016 prisoners were on death row in the country's jails. Either way, given the current rate, Pakistan will take four decades to execute all death row convicts, not accounting for any additional convictions in the said time period.¹⁶

Graph 1.4: Number of reported inmates on death row in Pakistan



The NAP Tracker, 2016 - The Center for Research and Security Studies, 2017

¹⁴ Amnesty International. (2015, March 31). Death Sentences and Executions in 2014, ACT 50/001/2015.

¹⁵ Reprive - Pakistan reaches 150 hangings, amid plans for juvenile execution. (2015, June 04). Retrieved February 28, 2016, from <<http://www.reprive.org.uk/press/pakistan-reaches-150-hang-ings-amid-plans-for-juvenile-execution>>.

¹⁶ Niaz, T. (2015, October 07). Over 6000 condemned prisoners in Pakistan. Retrieved February 28, 2016, from <<http://nation.com.pk/national/07-Oct-2015/over-6000-condemned-prisoners-in-paki-stan>>.

1.5.2 Human Rights Watch

Human Rights Watch (HRW) termed Pakistan's decision to lift a ban on capital punishment as a “flawed and reckless response” to the horrific Peshawar School

Attack and urged Pakistan to reinstate the moratorium on death penalty as a step towards its abolition. A day later, on December 19, 2014, the first hangings took place.

Deputy Asia Director, Phelim Kine, said instead of this emotional response in a state of national grief, the Government of Pakistan must address the security threats that create these situations for criminals and militants to thrive. He termed the death penalty as an inherently cruel and irrevocable punishment and stated that “The Pakistan government can take a powerful symbolic stand against the mass murder in Peshawar by reaffirming its opposition to killing and immediately reinstating the death penalty moratorium”.¹⁷

More criticism followed in March, 2015. Kine said, “The Pakistani government's ill-conceived decision to completely abandon its death penalty moratorium puts thousands of lives at risk. Government approval of a potential nationwide execution spree is a knee-jerk reaction to a terrible crime rather than a considered response to legitimate security concerns.”

Pakistani law dictates capital punishment for 27 offenses, including murder, rape, treason, and blasphemy.^{18,19} A joint report issued earlier in December by the non-governmental human rights organization Justice Project Pakistan (JPP) and Reprieve concluded that an overuse of anti-terrorism laws by Pakistan's security forces and judiciary has been observed which is reflected by a high number of people on death row for terrorism related convictions. The report states that “instead of being reserved for the most serious cases of recognizable acts of terror, the anti-terror legislation is in fact being used to try ordinary criminal cases, either in a deliberate attempt to evade the procedural safeguards guaranteed by ordinary courts or due to the vague and overly broad definitions of 'terrorism' in the legislation.”²⁰

1.5.3 International Community and the EU

The EU and most western countries have also expressed grave concerns over the death penalty and its impact in Pakistan. EU spokesperson, Catherine Ray, said the EU has constantly called for the universal abolition of capital punishment.²¹

EU's envoy to Pakistan Lars-Gunnar Wigemark and other delegates reacted to the lifting of moratorium in a joint statement which said: “We believe that the death penalty is not an effective tool in the fight against terrorism.” EU demanded the immediate restoration of the moratorium on the

¹⁸ Death penalty offences. (2015, November 26). Retrieved February 16, 2016, from <<http://hrcp-web.org/hrcpweb/death-penalty-offences/>>.

¹⁹ See Annex III: Death Penalty Offenses.

²⁰ Pakistan: Take Death Penalty Off the Table Resuming Executions for All Capital Crimes a Huge Step Backward. (2015, March 12). Retrieved February 28, 2016, from <<https://www.hrw.org/news/2015/03/12/pakistan-take-death-penalty-table>>.

²¹ Haider, M. (2015, January 11). EU demands reinstatement of death penalty moratorium in Pakistan. Retrieved February 27, 2016, from <<http://www.dawn.com/news/1187562>>.

death penalty. The head of the European Parliament Sub-Committee on Human Rights, Ana Gomes, voiced the EU's stance against the death penalty and said that "The EU is opposed to the capital punishment in all cases without exception. The EU delegation hopes that the moratorium on the death penalty will be extended, which will be a key step in the right direction," Gomes said, adding that it will be viewed as major setback if Pakistan lifted the moratorium.^{22,23}

In an Op-Ed published in The Nation, Mr. Jean-Francois Cautain, the current Ambassador of the European Union in Pakistan, once again reiterated Europe's stance against the death penalty in Pakistan and worldwide. He added that he very much hopes to see Pakistan "re-join the ever growing family of abolitionist nations" in the near future.²⁴

1.5.4 Human Rights Commission of Pakistan

Pakistan has had to face opposition both on the international as well as the national level on the lifting of the moratorium. The Human Rights Commission of Pakistan (HRCP) had concerns regarding the high number of executions and the hangings of inmates allegedly convicted as juveniles. In a statement, the HRCP said: "The resumption of executions as well as the pace with which they are being carried out is matter of concern. The state of Pakistan executed 134 persons in the 12 months of 2007. In a little over five months in 2015, that number has already been exceeded. What is even more troubling is that this figure has been reached when nearly seven months of the year are still left."¹⁹

The HRCP stated that wrongful and unjust convictions were possible because of the well documented deficiencies and flaws in the law and the criminal justice system. In fact, the prevailing circumstances have made it considerably more difficult for the accused to assert their due process rights, particularly the presumption of innocence until guilt is proved. Even if the government thinks that a complete abolition of executions is not possible immediately for any reason, the HRCP has urged the government to stop executing all but those found guilty of committing the most serious crime.

1.5.5 Amnesty International

Amnesty International's response is as expected. "Pakistan's ongoing zeal for executions is an affront to human rights and the global trend against the death penalty," David Griffiths, the group's South Asia Research Director, said in a statement.

The government of Pakistan has had to face severe criticism from rights based organizations and the international community for scheduling the execution of a paraplegic inmate on death row.²⁵

²²Haider, M. (2014, December 24). EU opposes removal of moratorium on death penalty in Pakistan. Retrieved May 2, 2016, from <<http://www.dawn.com/news/1152894>>.

²³Gishkori, Z. (2013, August 28). Capital punishment: EU cautions against lifting moratorium. Retrieved May 2, 2016, from <<http://tribune.com.pk/story/596285/capital-punishment-eu-cautions-against-lifting-moratorium/>>.

²⁴Staff Reporter. (2016, October 12). Retrieved February 1, 2017, from <<http://nation.com.pk/columns/12-Oct-2016/day-against-the-death-penalty>>.

²⁵Hall, J. (2015, August 22). Pakistan plans to execute a severely disabled man by hanging him to death while he remains seated in his wheelchair. Retrieved February 17, 2016, from <<http://www.dailymail.co.uk/news/article-3204936/Pakistan-plans-execute-severely-disabled-man-hang-ing-death-remains-seated-wheelchair.html>>.

“Even if the authorities stay the execution of Abdul Basit, a man with paraplegia, Pakistan is still executing people at a rate of almost one a day,” Griffiths said.²⁶

The rights group also alleged that many of the executions do not meet international fair trial standards.²¹

1.6 Does the Death Penalty Serve as a Deterrent?

The Pakistani government believes that the death penalty serves as a significant deterrent to the criminal mindset. “You’ve seen the number of terrorist attacks going down drastically,” the Prime Minister’s Special Assistant for Law, Ashtar Ausaf Ali, told Reuters. “One of the reasons is fear. Fear of being executed.”

Data suggests that terrorism and overall casualties have seen a significant decline in 2015 and 2016. However, there is no data to suggest a correlation between executions and reduction in crime. Further, it appears that militants are in the extreme minority in the number of people executed in Pakistan.²⁷

1.7 Conclusion

According to the government, executing inmates on death row has been a necessary and successful step towards the implementation of the NAP but the complexity of the situation in Pakistan has serious implications as regards to this position. The criticism from rights-based organizations as well as foreign governments in addition to the lack of evidence that the death penalty serves as a deterrent continues to put pressure on the government to reconsider its stance. However, there is no evidence to suggest that this process will reverse, although it has slowed down significantly. In all likelihood, executions will continue unabated in the year to come.

²⁶AFP. (2015, November 25). Execution of disabled man delayed for fourth time. Retrieved February 11, 2016, from <<http://nation.com.pk/islamabad/25-Nov-2015/execution-of-disabled-man-de-layed-for-fourth-time>>.

²⁷Hourelid, K. (2015, July 27). Insight - Militants in minority in Pakistan execution drive, deterrent effect debated. Retrieved January 11, 2016, from <<http://uk.reuters.com/article/uk-pakistan-executions-insight-idUKKCN0Q00W120150727>>.