



Liaquat and another v. Pakistan

1999 P Cr. L J 1004

Country: Pakistan

Region: Asia

Year: 1998

Court: Federal Shariat Court

Health Topics: Child and adolescent health, Health care and health services, Prisons

Human Rights: Right to liberty and security of person

Facts

The appellant was an incarcerated woman who was pregnant and gave birth to a baby girl while in jail. She had earlier appealed her incarceration, but the appeal was dismissed with a provision to bring the application before the court again if there were any new developments regarding the viability of the foetus.

The appellant argued that the prison was unequipped to properly care for the baby and that the conditions of the prison were detrimental to the baby's health. No argument regarding the imprisonment of the child, or the infringement of her rights were made.

Decision and Reasoning

The Court held that the appellant's sentence was suspended. Citing the Quran, which states that "no one shall suffer for the misdeeds of others," the Court held that the baby should not remain in prison. As the child's health depended on remaining with her mother, the Court suspended the mother's sentence and allowed for her release on bail.

Decision Excerpts

"These jails do not contain necessary facilities for upbringing of the newly-born children in conformity with the established standards of health and child psychology in the civilised world." (p. 1)

"[N]o one shall suffer for the misdeeds of others. The newly born baby child is not a convicted person. Her remaining in the jail shall be negation of the fundamental rights of liberty conferred upon her from the very date of birth by the Constitution of Islamic Republic of Pakistan." (p. 1)