

**Mandates of the Special Rapporteur on the rights of persons with disabilities; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE: UA  
PAK 3/2016:

1 February 2016

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the rights of persons with disabilities; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 26/20, 24/6, 26/12, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the situation of **Mr. Abdul Basit**, a Pakistani national who is affected by a disability, and who is at risk of imminent execution in Pakistan.

The case was subject to an earlier communication sent to your Excellency's Government on 24 July 2015 by the above-mentioned Mandate-Holders (Ref. PAK 5/2015). So far there has been no reply from your Excellency's Government to that communication.

According to the information received:

On 28 July 2015, the Lahore High Court stayed the execution of Mr. Abdul Basit, who was convicted and sentenced to death in 2009 for murder. The Judge ordered a new assessment of Mr. Basit's medical situation and scheduled the hearing on 17 August 2015. During this new hearing, the Lahore High Court dismissed Mr. Basit's writ petition challenging his execution warrant. The Court issued a new warrant and re-scheduled his execution for 22 September 2015.

Mr. Basit's lawyer filed a new writ petition challenging this second warrant, claiming that Pakistan's Prison Rules do not provide any procedures to hang a prisoner who is affected with a severe disability. As Mr. Basit is unable to use his lower limbs to support his own body weight, and can only move in a wheelchair, his execution could result in a botched hanging, either by decapitation or by suffocation. This would place him at risk of an appalling death, in contravention of Rule 362 (iv) of Pakistan's Prison Rules. In court, the prison authorities were unable to show that they had a clear plan to conduct his execution from his wheelchair.

On 24 November 2015, the Presidency stayed Mr. Basit's execution for two months and requested an assessment of Mr. Basit's health conditions. In this regard, in late December Mr. Basit was taken to several different hospitals for medical assessments. Despite repeated requests to the provincial authorities, details of these tests and assessments have not yet been provided to Mr. Basit's family or his lawyers. Mr. Basit's two-month stay of execution expired on 23 January 2016. Unless the Pakistani authorities take further action, the execution warrant for Mr. Basit- currently detained at the Central Jail Faisalabad - could be issued at any time, and the execution carried out.

We reiterate our grave concern at the imminent execution faced by Mr. Basit, who has a disability as a result of the severe conditions of detention he experienced, which may be in contravention of international human rights law, especially the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the rights of persons with disabilities to reasonable accommodation and non-discrimination, and the absolute prohibition of torture and ill treatment.

We also express concern about the lack of information on the inquiry into Mr. Basit's health conditions, particularly given that the stay of execution expired on 23 January. We express further concern that the execution of Mr. Basit can result in a botched hanging, which would amount to further cruel, inhuman, and degrading treatment, in addition to his paralysis as a result of harsh prison conditions.

Without expressing at this stage an opinion on the facts of the case, the above allegations appear to be in contravention of the rights of every individual to life, in accordance with articles 3 of the Universal Declaration of Human Rights (UDHR), and 6 (1) of the International Covenant on Civil and Political Rights (ICCPR) acceded to by Pakistan on 23 June 2010. These allegations may also amount to cruel, inhuman and degrading punishment, which is prohibited inter alia in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Pakistan ratified on 23 June 2010.

Moreover, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the CAT.

We would also like to remind your Excellency's Government that articles 10 and 15 of the Convention on the Rights of Persons with Disabilities ratified by Pakistan on 5 July 2011 expressly calls upon the States parties to take all necessary measures to ensure the effective enjoyment of the right to life by persons with disabilities on an equal basis with others, and not to be subjected to torture and cruel, inhuman or degrading treatment or punishment. Furthermore, the Committee on the rights of persons with disabilities has stated that the denial of reasonable accommodation in detention can be considered a form of discrimination, and in some instances also as a form of torture and ill treatment.

In addition, we would like to remind your Excellency's Government of General Comment 14 on article 12 of the International Covenant on Economic, Social and Cultural Rights, ratified by Pakistan on 17 April 2008, which underlines the obligation of States to *respect* the right to health by, *inter alia*, refraining from denying or limiting equal access for all persons, including prisoners or detainees, to preventive, curative and palliative health services (para.34). Moreover, the Basic Principles for the Treatment of Prisoners, adopted by General Assembly resolution 45/111, underline that prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation (Principle 9).

The relevant human rights instruments and standards applicable to the case above were underlined in our previous letter Ref. (PAK 5/2015), and the full texts of such human rights instruments and standards are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

**In view of the irreversibility of the punishment of the death penalty, we urge your Excellency's Government to take all steps necessary to halt the execution of Mr. Abdul Basit, which if carried out, would be inconsistent with acceptable standards of international human rights law. We call upon your Excellency's Government not to execute him and to commute without delay the death sentence.** We also reiterate our appeal to Pakistan to extend the moratorium on death penalty, and to consider its complete abolition.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your observations on any additional information and any comment you may have on the above mentioned allegations.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We are intending to publicly express our concerns in the near future as we are of the view that the information upon which the press release is going to be based is sufficiently reliable to indicate a matter warranting immediate attention. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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highest attainable standard of physical and mental health

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