

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

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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. **Khizar Hayat**, a Pakistani national with a psychosocial disability, who is **reportedly at risk of imminent execution in Pakistan**.

According to the information received:

On 2 April 2003, Mr. Khizar Hayat, a Pakistani national and former police officer, was convicted and sentenced to death for the alleged murder of a fellow police officer, under section 302 of the Pakistan Penal Code. During the trial, Mr. Hayat's lawyer neither introduced evidence nor called witnesses in his client's defence, nor inquired about his client's psychosocial health. On 19 January 2009, his sentence was confirmed. To date, he has spent over 12 years on death row.

Mr. Hayat has a severe psychosocial disability. In 2008, he was diagnosed with paranoid schizophrenia by the medical personnel of the detention authorities. He has never received proper treatment, and over the years, his condition has deteriorated significantly, which has made him the target of abuse and attacks by fellow inmates. By 2012, his condition worsened to the extent that he could no

longer be kept together with other inmates and was transferred to the prison hospital.

On 9 June 2015, a warrant for execution was issued, by the Sessions Court in Lahore, scheduling Mr. Hayat's execution for 16 June 2015.

On 15 June 2015, the Lahore High Court ordered a stay of the execution, on the basis of a submission filed by Mr. Hayat's lawyer, which, on the basis of Mr. Hayat's psychosocial disability, challenged the validity of the execution warrant, and directed the detention authorities to respond to the issues raised by the Defense.

In the final hearing on the case, on 18 June 2015, the submissions by Mr. Hayat's lawyer were dismissed, following the statements submitted by the detention authorities, stating that Mr. Hayat was "partially stable on anti-psychotic medication with somewhat orientation in time, place and person".

Subsequently, a new warrant for execution was issued by the Sessions Court, scheduling Mr. Hayat's execution for 28 July 2015.

The submissions of the detention authorities are contradicted by extensive records – including by the detention authorities – testifying to Mr. Hayat's psychosocial disability, as well as observations of his family and lawyers, who visited him shortly after the stay of execution was granted, and who reportedly observed that he had no understanding of the events.

On 25 July 2015, the Sessions court temporarily stayed Mr. Hayat's execution, following an application by Mr. Hayat's lawyer, which again challenged the legality of the warrant on the basis of Mr. Hayat's psychosocial disability.

A hearing is scheduled for 30 July 2015, and the detention authorities have again been directed to respond to the application.

We express our grave concern at the potential imminent execution and torture and ill-treatment of Mr. Hayat, as well as at his deteriorating psychosocial condition, inter alia, due to lack of appropriate treatment and reasonable accommodation in detention. The above seems to be in contravention of international human rights law, especially the right to everybody facing the death penalty to clemency and commutation of sentences, the prohibition of torture and ill treatment, the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the right of persons with disabilities to reasonable accommodation and non-discrimination.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw your Excellency's Government's attention to the fact that any judgments

imposing the death sentence to persons with disabilities are incompatible with the international legal obligations undertaken by your Excellency's Government under various instruments.

Article 6 (4) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Pakistan on 12 November 1990, provides that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

Persons with intellectual or psychosocial disabilities face the risk of being sentenced to death and executed in breach of international standards, including the United Nations Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, adopted by Economic and Social Council resolution 1984/50 of 25 May 1984, and the Economic and Social Council resolution 1989/54 of 24 May 1989 for their implementation. States must do their utmost to address this risk, including by granting protection to persons with disabilities not covered by existing proscriptions.

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 Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Pakistan ratified on 23 June 2010.

We would also like to bring to the attention of 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 refer your Excellency's Government 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 (See CESCR General Comment 14, 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 full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter and 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. Khizar Hayat, 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.

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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