

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

REFERENCE:  
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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 extrajudicial, summary or arbitrary executions and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, pursuant to Human Rights Council resolutions 35/6, 35/15 and 33/9.

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. **Ghulam Abbas s/o Muhammad Bashir**, a Pakistani national with intellectual and psychosocial disabilities, who is **reportedly at risk of imminent execution by hanging on 18 June 2019 in Pakistan. It is reported that during his time in detention, Mr. Abbas has not been provided with appropriate health care and psychosocial support to effectively secure his physical and mental integrity. In addition, Mr. Abbas has not received procedural accommodations that persons with intellectual and psychosocial disabilities may need to effectively access justice on an equal basis with others.**

According to the information received:

Mr. Ghulam Abbas, a man with intellectual and psychosocial disabilities, was arrested and tried for the offence of murder. He was sentenced to death by the Sessions Court in Rawalpindi on 31 May 2006 and has been incarcerated for almost 13 years. He is currently serving his sentence in Central Jail Rawalpindi (Adiala jail). A death warrant has been issued scheduling his execution by hanging for 18 June 2019.

The source reported that Mr. Abbas does not have any recollection of the crime he allegedly committed. Being very poor, he could not afford effective assistance of counsel and his mental health condition was reportedly overlooked at the trial. During the trial, he was not provided with the procedural accommodation that should normally be afforded to persons with disabilities.

As a child, Mr. Abbas had learning disabilities, which resulted in his exclusion from compulsory primary education. He also experienced repeated seizures and fits. Moreover, there is a dominant strain of mental health conditions in his family, which was reportedly never taken into consideration by any of the medical personnel in the detention facility.

Harsh conditions of prison life significantly deteriorated Mr. Abbas' mental health. Reportedly, he has also had tuberculosis and hepatitis and is in need of adequate and prompt medical attention and treatment.

According to an assessment by a psychiatrist who has reviewed his detention medical records, Mr. Abbas has a serious mental health condition that requires intervention and urgent treatment. On 15 June 2019, a request was made to the Home Department to provide a group of independent psychiatrists with the requisite permission to meet Mr. Abbas in prison and prepare a detailed report about his current state. This permission was granted. However, on 16 June 2019, the independent team was refused permission to enter Adiyala jail and meet with Mr. Abbas. They were verbally informed that the Home Department had withdrawn the permission. No notification or official communication was provided.

On 16 June 2019, the State authorities established their own team of consultant psychiatrists to evaluate Mr. Abbas's health and were able to meet him in person. According to their findings issued on 17 June 2019, Mr. Abbas has strong evidence of epilepsy with reported episodes of fits during his detention. There is also evidence of a psychotic condition with hallucinations and behavior disturbances, as well as of a depressive condition for which he is on treatment since 25 April 2019, with poor response. He also appears to have a psychosocial disability and from the physical examination there are signs of ptosis on his right eye. The team strongly suggested to do a MRI brain scan with contrast, an electroencephalogram and a psychological assessment for IQ. They also confirmed that Mr. Abbas' mental health is poor and needs further assessment and treatment.

An urgent application has been filed before the Sessions Court to stay his execution. A new mercy petition on behalf of Mr. Abbas has also been submitted to the office of the President, seeking a stay of execution and inquiry into his mental health.

On 17 June 2019, an application to the Supreme Court requesting for a stay of execution for Mr. Abbas has been accepted. The Supreme Court has ordered that a letter is to be issued to the Secretary, the Home Department, the Government of the Punjab as well as to the Superintendent Central Jail, Rawalpindi, in terms of Rule 5 of the Order XXIII of the Supreme Court Rules of 1980, for staying the execution of the death sentence of Mr. Abbas.

We would like to express our most urgent concern at allegations of Mr. Abbas's potential imminent execution, and his continued exposure to treatment that may amount to torture and ill-treatment in detention, including, inter alia, by denying him access to appropriate health care and psychosocial support in detention.

**In view of the irreversibility of the punishment of the death penalty, we urge your Excellency's Government to take all steps necessary to ensure Mr. Abbas is not executed**, which, based on the facts available to us, if carried out would be in a violation of applicable international human rights standards, and thus constitute an arbitrary execution. We further urge that his **death sentence be annulled and that he is provided with appropriate health care and psychosocial support in detention**.

If confirmed, these allegations would be in contravention of the right of every individual to life, liberty and not to be arbitrarily deprived of life and the right not to be subjected to torture and ill-treatment as set out in articles 6 and 7 of the International Covenant on Civil and Political Rights (ICCPR), as well as the articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), both of which Pakistan ratified on 23 June 2010. The allegations appear to also contravene articles 10, 13, and 14 of the Convention on the Rights of Persons with Disabilities, ratified by Pakistan on 5 July 2011, which call upon 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, to provide reasonable accommodation in detention, secure effective access to justice and prevent torture and cruel, inhuman or degrading treatment or punishment as well as article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Pakistan on 17 April 2008, which underlines the obligation of States to respect the right to health.

With regard to the death sentence, we underline that Article 10 of the Convention on the Rights of Persons with Disabilities explicitly recognizes and protects the right to life, including protection against State conduct that threatens this right. In line with this provision, the Human Rights Committee has emphasized that States parties should “refrain from imposing the death penalty on individuals who face special barriers in defending themselves on an equal basis with others, such as persons whose serious psychosocial and intellectual disabilities impeded their effective defense, and on persons that have limited moral culpability” (CCPR/C/GC/36, para. 49).

We further note that the Human Rights Committee, in its concluding observations called on Pakistan as a matter of priority, to take all measures necessary to ensure that “no one with serious psychosocial or intellectual disabilities is executed or sentenced to death, including by establishing an independent mechanism to review all cases where there is credible evidence that prisoners who are facing the death penalty have such disabilities and reviewing the mental health of death row inmates”.

With regard to the mercy petition filed, we note that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence according to Article 6 (4) of the ICCPR and that the sentences should not be carried out before requests for pardon or commutation have been meaningfully considered and conclusively decided upon according to applicable procedures (CCPR/C/GC/36, para. 47).

Furthermore, Article 13 of the Convention on the Rights of Persons with Disabilities enshrines an explicit right to effective access to justice for persons with disabilities on an equal basis with others. In particular, all persons with disabilities, including persons with intellectual and psychosocial disabilities shall be informed about, and provided access to, promptly and as required, procedural accommodation to facilitate their effective participation, as well as to ensure fair trial and due process. The Committee on the Rights of Persons with Disabilities has expressed concern at the fact that persons with psychosocial and/or intellectual disabilities may face a greater risk of death penalty due to the lack of procedural accommodations in criminal proceedings (A/HRC/37/25, para. 31).

In addition, and especially relevant to the case are the Economic and Social Council resolution 1989/64, which recommends that States strengthen further the protection of the rights of those facing the death penalty by eliminating it for persons with intellectual or psychosocial disabilities, whether at the stage of sentence or execution. In conjunction with the several resolutions adopted by the Commission on Human Rights urging all States not to impose the death penalty on, or to execute, any person with intellectual or psychosocial disabilities (e.g., Commission resolution 2005/59 para. 7 (c)).

With regard to Mr. Abbas's lack of access to reasonable accommodation in detention, we would like to draw your Excellency's Government attention to Article 14 of the Convention on the Rights of Persons with Disabilities. In view of their obligations under paragraph 2, States shall ensure that when persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law, including by provision of reasonable accommodation. In their Guidelines on article 14 of the Convention on the Rights of Persons with Disabilities, the Committee has explicitly stated that this is a non-discrimination provision aimed at ensuring that persons with disabilities have, among other things, access to the various services.

In relation to access to health care, article 25 of the Convention on the Rights of Persons with Disabilities requires States to provide those health services needed by persons with disabilities specifically because of their disabilities, on the basis of free and informed consent. 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).

As outlined by the UN Standard Minimum Rules for the Treatment of Prisoners (see the revised version adopted on 5 November 2015 and renamed "Mandela Rules), the provision of health care is the responsibility of the state authorities and prisoners should enjoy the same standards of health care that are available in the community (Rule 24(1)). Rule 27(1) furthermore provides that all prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be

transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care. Furthermore, rule 109 states that persons who are later diagnosed with severe mental disabilities/or health conditions, for whom staying in prison would mean an exacerbation of their condition, shall not be detained in prisons, and arrangements shall be made to transfer them to mental health facilities as soon as possible. In this context, the Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, we recommend a thorough review of this case, so that his rights are duly taken into account and safeguarded in compliance with international conventions that are binding on Pakistan.

As it is our responsibility, under the mandate provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention 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 considering to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential human rights implications of the above-mentioned allegations. Any public expression of concern on our part will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

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