

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the rights of persons with disabilities; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on the rights of persons with disabilities; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 40/16, 35/6, 35/15, 42/16 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **arrest, detention, prosecution, sentencing to death, and imminent execution on terrorism-related charges of Mr. Ismail Parvez, a retired military officer in the Pakistani army with psychosocial disabilities.**

According to information received:

Mr. Ismail Parvez, a person with psychosocial disabilities, had been an officer in the Pakistani army until 1994, when he experienced a serious road accident and sustained a permanent injury to his right leg which led to him being discharged from the Armed Forces for early retirement. To cope with this situation, he had been prescribed various pain killers, sedatives, and analgesics. However he subsequently developed a drug dependency to said medication which severely impacted his mental condition.

Following his discharge from the army, Mr. Parvez had also lost his military housing, which had led him and his family to move into an unstable rental arrangement. Mr. Parvez reportedly had a difficult relationship with his new landlord, as the landlord's family had acted disrespectfully on several occasions towards Mr. Parvez's aging mother and wife. On 3 February 2007, after an abrupt eviction of Mr. Parvez and his family, a dispute erupted between Mr. Parvez and

his landlord, which resulted in the assaults and deaths of the landlord's son and son-in-law.

Although Mr. Parvez surrendered himself to the police in November 2007, the landlord, who is an influential military officer, registered a first information report and pressured the police to charge Mr. Parvez under section 7 of the Anti-Terrorism Act 1997 (ATA). Upon his arrest, he was immediately placed in an isolation ward of the hospital of the Central Jail, Rawalpindi. Mr. Parvez' lawyer challenged the legal grounds of the charges under section 23 of ATA 1997 and called for the cases to be transferred to a regular court, however the application was dismissed by the Court.

On 10 June 2014, Mr. Parvez was charged under the ATA 1997 and sentenced to death following a trial in the Anti-Terrorism Court. He was convicted on two counts of homicide under section 302 (b) of Pakistan Penal Code (PPC) and under section 7 (a) of the ATA 1997.

Mr. Parvez appealed against the decision. On 6 March 2017, the Lahore High Court dismissed the criminal appeal confirming Mr. Parvez death sentence under section 302 of the PPC but removed the sentence under section 7(a) of the ATA 1997. On 4 March 2019, Mr Parvez's criminal appeal was again rejected by the Supreme Court of Pakistan and his death sentence was upheld. On 24 September 2019, Mr. Parvez's criminal review petition was dismissed by the Supreme Court of Pakistan. In the last week of January 2020, Mr. Parvez filed a mercy petition. The summary of his case was prepared by the Ministry of Human Rights and sent to the Prime Minister's office for a final decision in April 2020. However, there is concern that his case may not receive favourable review due to the degree of pressure being exercised by the influential complainant. Consequently, there is serious concern that Mr. Parvez might be executed as soon as a decision on the mercy petition is finalised.

According to a recent medical report by a Senior Medical Officer, Mr. Parvez has been hospitalized at the prison's hospital multiple times and examined on various occasions by visiting psychiatrists. The subsequent reports and Mental State Examination files indicated that Mr. Parvez was experiencing and exhibiting symptoms of severe depression, delusions, hallucinations, paranoia, and drug dependence. They also described multiple suicide or self-harm attempts. The Senior Medical Officer, as well as the Medical Board at the Benazir Bhutto Hospital, had equally indicated that Mr. Parvez needed further assessment and treatment in regard to his mental health. It has been alleged that Mr. Parvez's mental health condition may have been exacerbated by psychiatric treatment administered during his 12 years in prison.

While we do not wish to prejudge the accuracy of the information received, we would like to express our grave concern over the imposition of the death penalty on a person with psychosocial disabilities. We further express our concern at the charges and prosecution of Mr. Parvez under Anti-Terrorism Act and his trial by Anti-Terrorism Court. Moreover, we are concerned at the upholding of this sentence, which appears to have violated fair trial and due process guarantees as well as seemingly being contrary to the medical evaluations of relevant officials.

Should the above allegation be confirmed, they would be in violation of articles 6, 7, 14 and 15 of the international Covenant on Civil and Political Rights (ICCPR) ratified by Pakistan on 23 June 2010. The allegations also appear to contravene articles 10, 13, 14, 15 and 25 of the Convention on the Rights of Persons with Disabilities (CRPD), 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, freedom from torture and cruel, inhuman or degrading treatment or punishment and to respect the right to health.

We would also like to recognize the harshness of the death penalty goes beyond the execution itself. The “death row phenomenon”, which is the emotional distress suffered by people who spend long periods of detention on death row, has long been considered as cruel, inhuman or degrading treatment or punishment inflicted on a convict and his or her relatives (A/67/279, para. 75).

We wish to further reiterate that imposing and executing the death penalty on a person with psychosocial disabilities, as is the case with Mr. Parvez, is per se a violation of the fundamental right under international law. Article 10 of the CRPD 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 defence, and on persons that have limited moral culpability”¹.

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”.

¹ United Nations Committee on Civil and Political Rights, General comment No. 36, paragraph 49.

In addition, we would like to recall 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. This is in line with several resolutions adopted by the Commission on Human Rights and Human Rights Council that urged 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), HRC resolution 36/17).

We also to respectfully remind your Excellency's Government to the "principle of legal certainty" under international law (ICCPR Article 15(1)) which requires that criminal laws are sufficiently precise so it is clear what types of behaviour and conduct constitute a criminal offence and what would be the consequence of committing such an offence. This principle recognizes that ill-defined and/or overly broad laws are open to arbitrary application and abuse. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has highlighted the dangers of overly broad definitions of terrorism in domestic law that fall short of international treaty obligations in numerous statements and reports (see for example A/73/361, para.34).

In this regard we express our deep concern about an ordinary criminal case initially being tried in a terrorism court, which may have restricted Mr. Parvez's enjoyment of several procedural rights guaranteed to him under the International Covenant on Civil and Political Rights, in particular article 14, to which your Excellency's government is a Party. We recall that the Anti-Terrorism Court has been the subject of prior communication to your Excellency's government from the Special Rapporteur on the Protection and Promotion of Human Rights and Fundamental Freedoms while Countering Terrorism.²

Furthermore, article 13 of the CRPD 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).

² AL PAK 6/2018

Under ICCPR Article 6, States have a duty to protect the life of all detained individuals including through the provision of the necessary medical care and appropriate regular monitoring of their health. Moreover, Article 25 of the CRPD 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.

Finally, the UN Standard Minimum Rules for the Treatment of Prisoners indicate that health care is a State responsibility whereby prisoners should enjoy the same standards of health care that are available in the community (Rule 24(1)). In particular, health care workers in prison should identify any signs of psychological or other stress brought on by the fact of imprisonment, including, but not limited to, the risk of suicide or self-harm and withdrawal symptoms resulting from the use of drugs, medication or alcohol; and undertake all appropriate individualized measures or treatment (Rule 30(c)).

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, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person in compliance with international instruments.

As 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, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information on the reason why Mr. Parvez was initially charged and tried under the ATA 1997. In this regard, please clarify how the acts that Mr. Parvez was charged of justified the use of counter-terrorism legislation. Please explain why the defence lawyer's request for the trial to take place in an ordinary court was not accepted. Please clarify how these measures are consistent with Pakistan's international human rights obligations under ICCPR?
3. Please describe the legal and procedural guarantees that were effectively afforded to Mr. Parvez during his trial to ensure that his rights to due process and fair trial, as provided for under the ICCPR, were upheld.
4. Please provide detailed information, where possible with medical documentation, on the physical and mental health of Mr. Parvez and

access to reasonable accommodation and psychosocial support in detention.

5. Please explain how the imposition of a death penalty on a person with psychosocial disabilities is consistent with Pakistan's international human rights obligations under the ICCPR, relevant United Nations Commission/Council of Human Rights resolutions, and the International Convention on the Rights of Persons with Disabilities.
6. Please explain whether, other than any prevention and control measure, the Government of Pakistan has adopted, or envisages to adopt to reduce the population of persons deprived of their liberty, such as, for instance, commutation of sentences, clemency, medical quarantine or home detention, and/or targeted release programs, particularly with regard to persons in situations of vulnerability. In this connection, please explain whether any measure was adopted, or it is envisaged to be adopted and implemented in relation to persons with mental intellectual and psychosocial disabilities
7. Please indicate what measures have been taken to ensure that persons with intellectual and psychosocial disabilities facing the death penalty have their sentences commuted.

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.

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.

Fionnuala Ní Aoláin
Special Rapporteur on the promotion and protection of human rights and fundamental
freedoms while countering terrorism

Catalina Devandas-Aguilar
Special Rapporteur on the rights of persons with disabilities

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Dainius Puras
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable
standard of physical and mental health

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment