

Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions

Ref.: UA PAK 6/2023

(Please use this reference in your reply)

25 October 2023

Excellency,

I have the honour to address you in my capacity as the Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolution 44/5.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the risk of imminent execution of Mr. Muhammad Iftikhar Ahmed who has been sentenced to death for the crime of murder.

This also has reference to previous communications, including PAK 3/2022, PAK 5/2021, PAK 9/2020, PAK 7/2020, PAK 4/2020, PAK 7/2019, PAK 9/2017 and PAK 13/2014 which raised similar concerns. I regret that to date we have not received substantive responses from Your Excellency's Government to the above communications.

According to the information received:

Mr. Muhammad Iftikhar Ahmed was arrested on 27 May 2001, by the Police in Sehnsa, in Azad Jammu and Kashmir and charged for offences committed under sections 109, 324, 337H(2), and 341 of the Penal Code of Azad Jammu and Kashmir in Pakistan Administered Kashmir.

Mr. Ahmed was accused of killing his sister's estranged father-in law over a family dispute. *Prima facie*, the offense seems to be an act due to the heat of passion and sudden anger caused by the supposed slander of Mr. Ahmed's sister. The victim died two weeks after the incident.

Several individuals in Mr. Ahmed's family were implicated in the crime and a sibling was held in custody before being acquitted in 2004 due to insufficient evidence.

On 29 December 2006, the trial court, the Court of Criminal Jurisdiction of Sehnsa, convicted Mr. Ahmed of murder and sentenced him to death. On 10 January 2007, an appeal was filed before the High Court by the convict. The trial court also sent a reference to the High Court for confirmation of the death sentence. On 01 June 2018, the Appellate Bench of the High Court dismissed the appeal. On 28 June 2018 an appeal for acquittal was filed at the Supreme Court of Azad Jammu and Kashmir and on 26 February 2020, this petition was

dismissed. On 18 March 2020, a review petition was filed in the Supreme Court of Azad Jammu and Kashmir which was dismissed on 22 December 2021. Mr. Ahmed's family submitted a mercy petition in 2021 which was rejected on 22 May 2022 by the President of Azad Jammu and Kashmir, who has the power to “grant pardon, reprieve and respite, and to remit, suspend or commute any sentence passed by any court, tribunal or other authority,” a power similarly granted to the President of Pakistan.

Mr. Ahmed was only 21 years old at the time of the crime and his arrest. He has spent 22 years in prison, nearly a life sentence, which in Pakistan is considered as a maximum of 25 years. He had been denied the opportunity to attend his mother’s funeral during this period. It is understood that at the time of his arrest, Mr. Ahmed did not have a prior history of violence nor a criminal record.

Mr. Ahmed’s extended incarceration has resulted in the severe deterioration of his health, including him experiencing extended bouts of insomnia and crippling depression that have led him to routinely take sleeping pills and anti-anxiety medication. Furthermore, his prison medical records suggest that the harsh conditions of incarceration have led to him developing a herniated spinal disc, which has resulted in spinal canal stenosis, an excruciatingly painful condition that warps the spine, exerts pressure on the spinal cord, and has rendered him unable to move his legs.

The warrant for Mr. Ahmed’s execution was issued on 17 August 2023 and the date of execution has been set for 24 August 2023, a mere week from the notice. It is not clear if family members have been given access to visit him.

While I do not wish to prejudge the accuracy of these allegations, I am gravely concerned at the risk of impending execution of Mr. Muhammad Iftikhar Ahmed. In view of the irreversibility of the punishment of the death penalty, I respectfully urge your Excellency’s Government to prevent the execution of Mr. Ahmed, which, if carried out, may violate norms of international human rights law. I call upon your Excellency’s Government to commute his death sentence.

The facts alleged, if accurate, would violate the right of every individual to life, liberty and security as set out in article 3 and 9 of the Universal Declaration of Human Rights (UDHR) and the guarantee that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment in article 5 of the same. The death penalty has long been regarded as an extreme exception to the fundamental right to life, and in countries that have not abolished the death penalty, capital punishment may be imposed only following a trial that complied with fair trial and due process safeguards, as provided in articles 6(2) and 14 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Pakistan on 23 June 2010.

Furthermore, article 5 of the United Nations Safeguards for the Protection of the Rights of Persons Facing the Death Penalty, adopted by the UN Economic and Social Council in 1984, provides that “Capital punishment may only be carried out pursuant to a final judgment rendered by a competent court after a legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the ICCPR, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings.” Only full respect for stringent fair trial and due process guarantees distinguishes capital punishment as possibly permitted under international law from a summary execution.

Article 6(4) of the ICCPR and the UN Safeguards for the Protection of the Rights of Persons Facing the Death Penalty establishes that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence and that pardon or commutation may be granted in all cases of capital punishment.

I understand that the President of Pakistan is entrusted by the Constitution, under article 45, the authority to pardon death row inmates, even though in practise such petitions are often denied. Further, article 10 of the Constitution of Azad Jammu and Kashmir in Pakistan Administred Kashmir grants a similar status to the President of the region. I note that Mr. Ahmed’s’s mercy petition was rejected by the President of Azad Jammu and Kashmir on 22 May 2022, on the grounds that the “the state cannot waive or forgive the rights of the victims (...) and that the right to forgive solely rests with the heirs of the deceased.” I respectfully disagree with this assertion and point to the above international law that stipulates otherwise.

I was encouraged by the announcement in 2019 that the Federal Ministry of Human Rights had obtained the approval of the Cabinet of Ministers to reform and streamline the mercy petitions procedure in Pakistan. However, I note that the Standard Operating Procedure (SOP) issued in 2019 fails to meet the international standards or fulfil Pakistan’s obligations under international law. Moreover, while official data on the number of mercy petitions received and those granted or denied are not in the public domain, it appears that there have not been instances of successful commutation of death sentences under this programme.

I wish to further underline, based on the long experience of my own mandate and of others, and a careful review of studies and evidence, that the death penalty has never been proved to be an effective deterrent for crimes ([A/HRC/42/28](#)).

I recall that the General Assembly has consistently called upon all States to establish a moratorium on executions with a view to abolishing the death penalty since its resolution 62/149 of 18 December 2007 (para. 7) and most recently, in its resolution [A/RES/77/222](#) of 15 December 2022, called upon all States to respect the safeguards guaranteeing protection of the rights of those facing the death penalty. In this context I regret that Pakistan ended its moratorium on executions in December 2014.

I reiterate that any measures to abolish the death penalty should be seen as progress towards the realization of the right to life and that, by extension, the resumption of executions results in less protection of the right to life.

I note that the circumstances surrounding the imposition or execution of the death penalty can also constitute cruel, inhuman or degrading treatment or punishment or even torture. Physical or mental torture or other cruel, inhuman or degrading treatment or punishment, particularly the so-called death row syndrome, may inflict pain and suffering on convicts and their relatives which may well amount to torture or other cruel, inhuman or degrading treatment or punishment (see Report of the Special Rapporteur on Torture, A/67/279, para. 75).

The Human Rights Committee has held that “failure to provide individuals on death row with timely notification about the date of their execution constitutes, as a rule, a form of ill-treatment, which renders the subsequent execution contrary to article 7 of the Covenant” (CCPR/C/GC/36, para. 40). In this case under reference, I regret to note that the warrant for the execution was brought to the notice of the family merely a week before the scheduled date of execution.

Moreover, “extreme delays in the implementation of a death penalty sentence, which exceed any reasonable period of time necessary to exhaust all legal remedies, may also entail the violation of article 7 of the ICCPR, especially when the long time on death row exposes sentenced persons to harsh or stressful conditions, including solitary confinement, and when they are particularly vulnerable due to factors such as age, health or mental state” (CCPR/C/GC/36, para. 40).

In view of the urgency of the matter and the irreversibility of the punishment of the death penalty, I call upon the authorities, including the President of Pakistan and the president of Azad Jammu and Kashmir to ensure Mr. Muhammad Iftikhar Ahmed is not executed. His execution, on the facts available to me, would constitute a violation of applicable international human rights standards and would thus be an arbitrary execution. I respectfully urge the President of Pakistan, the President of Azad Jammu and Kashmir, the executive and judicial branches of the central State, and the authorities of Azad Jammu and Kashmir to intervene in granting clemency and commuting the sentence of Mr. Muhammad Iftikhar Ahmed.

I once again call on Pakistan to reconsider its position on the death penalty, which constitutes a per se violation of international law, in light of mounting evidence of its ineffectiveness as a deterrent. I respectfully urge your Excellency's Government to impose a moratorium on all death sentences pending necessary review.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide detailed information on the extent to which the execution of the death penalty in the case of Mr. Muhammad Iftikhar Ahmed is consistent with international human rights law, including the United Nations Safeguards for the Protection of the Rights of Persons Facing the Death Penalty.
3. Please clarify the mitigating circumstances under which the severity of a death sentence can be commuted under Pakistani law and whether such mitigating circumstances were considered in the case of Mr. Muhammad Iftikhar Ahmed.
4. Please provide information on any efforts envisaged to reduce the scope of application of the death penalty. Please also provide detailed information on how many individuals are currently held on death row.
5. Please inform of action, if any, taken to revise the Standard Operating Procedure concerning mercy petitions that would conform to international standards and please provide statistics since 2019 on the number of instances of successful commutation of death sentences.
6. Please provide detailed information on measures taken to protect those defending persons held on death row against any acts of intimidation, harassment, or reprisals.

While awaiting a reply, I ask that prompt steps be taken to stop the execution of the death penalty against Mr. Muhammad Iftikhar Ahmed. In the light of this case, I also recommend that capital punishment cases be thoroughly reviewed to prevent any future risk of arbitrary death sentences and executions.

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.

I may continue to publicly express my concerns in the near future on this case, which in my view merits prompt and undivided attention, as Mr. Muhammad Iftikhar Ahmed's life is at stake, and the execution of a death penalty is irreversible. I also believe that this matter is one of public concern and that the public should be informed about it, and about its human rights implications. Any public expression of concern from my part would indicate that I have been in contact with your Excellency's Government's to clarify the issues in question.

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

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions