

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Ref.: AL PAK 2/2025
(Please use this reference in your reply)

17 January 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on freedom of religion or belief and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 53/4, 52/9, 53/12, 49/5 and 52/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **forthcoming Lahore High Court decision in relation to the death penalty against Mr. Junaid Hafeez for charges of blasphemy, despite a reported failure by the Prosecution to present proof beyond reasonable doubt and that the crime does not meet the threshold of "most serious crimes" as required under international law when the death penalty is imposed.**

The case has previously been raised with your Excellency's Government (UA [PAK 7/2019](#) sent on 24 October 2019, [a press release issued on 27 December 2019](#) and [PAK 3/2022](#) sent on 27 June 2022). The killing of Mr. Hafeez' counsel, who had reportedly received death threats for defending him, was raised in AL [PAK 7/2014](#). We regret that no substantive replies have been received to these communications to date.

According to the information received:

On 13 March 2013, Mr. Hafeez was arrested and charged under sections 295-A, -B and -C of the Pakistan Penal Code for allegedly making blasphemous remarks during a book launch and on his Facebook account. Section 295 C of the penal code carries a mandatory death sentence.

After his arrest, Mr. Hafeez was not given access to legal counsel throughout his interrogation, during which he was allegedly subjected to ill-treatment. Nor was he assigned a government-appointed lawyer in the period before a legal counsel took over his case in November 2013.

In the course of his legal proceedings, his case was referred to at least seven judges in the Multan sessions courts. While the legal proceedings were delayed several times, the prosecution failed to present proof of Mr. Hafeez's guilt beyond reasonable doubt.

The evidence submitted to the court included, among other things, prints of alleged Facebook posts and statements of students who were private witnesses.

The Prosecution claimed that the prints of the Facebook posts were taken by investigators on 14 March 2013 following Mr. Hafeez' arrest on the 13 March 2013, using Mr. Hafeez's laptop after having obtained the password from him and printed on a printer owned by police. However, the time and date in the prints showed they were printed prior to the 13 March 2013. The prints were not examined in a forensic laboratory to determine whether they were printed by the printer operated by the investigators. The students who were private witnesses also indicated in their statements recorded by the investigating officer that they had submitted prints of alleged Facebook posts to the Police, raising questions as to whether the prints submitted to court were in fact those provided by the students rather than being obtained by the investigators after Mr. Hafeez' arrest. Additionally, the alleged use of Mr. Hafeez's laptop by the police to obtain the prints would be in violation of the principle of safe custody of evidence as the laptop should not have been interfered with during the investigation in a manner which may result in changes without obtaining permission from the competent court.

Mr. Hafeez' phone and laptop were also included as evidence along with CD's containing alleged screenshots that the prosecution claimed to have prepared. These were not sent for forensic examination by an independent agency to rule out manipulation or planting of evidence as required in order for these to be relied upon as evidence (see for example, *Ishtiaq Ahmed Mirza and others v. Federation of Pakistan*, PLD 2019 SC 675 and *The State vs Ahmed Omer Saeed Sheikh* 2021 SCMR 873). The Prosecution only requested such a forensic examination in 2019, a request which was denied by the judge due to the lengthy delay of almost six years since the police investigators allegedly took possession of the electronic articles.

These practices, along with several others, such as contradictions in the statements of prosecution witnesses, raised serious doubts about the merits of the case and the independence of the judiciary in Mr. Hafeez's case.

In 2018, the Pakistan Supreme Court acquitted the defendant in another blasphemy case and confirmed that blasphemy cases, as with all crimes, must also be proved beyond reasonable doubt (*Asia Bibi vs. State* PLD 2019 Supreme Court 64, para. 48). In a concurring opinion Justice Asif Saeed Khan Khosa expressed concern at "glaring and stark contradictions in the evidence produced by the prosecution" and "that courts below had also, conveniently or otherwise, failed to advert to such contradictions and some downright falsehood" (*ibid*, para. 20).

Despite this precedent, on 21 December 2019, the death penalty was imposed on Mr. Hafeez. This decision was appealed.

In March 2022, his case file was forwarded from Multan to the principal seat of the High Court in Lahore, reportedly several months after the transfer order. The appeal has not been heard or decided since that date. The delay is reportedly due

to the judges' reluctance to deal with a high-profile blasphemy case.

The Lahore High Court is expected to hear the appeal to give its decision in the case on 20 January 2025. Should it uphold the conviction, the case would move to the Supreme Court and could likely face delays of years before it would be heard and decided.

Since the killing of his counsel in May 2014, Mr. Hafeez has continued to be held in solitary confinement for long periods under allegedly harsh conditions. The long period of solitary confinement has reportedly severely affected Mr. Hafeez's mental and physical health condition, resulting in its continued deterioration.

Mr. Hafeez continues to be prohibited from making phone calls. Meetings with his family and legal counsel, which reportedly can take place every two weeks, are hampered by the fact that during the visit he can only speak on a telephone line that, according to sources, could be tapped.

Without making any judgment as to the accuracy of the information made available to us, we would like to express our grave concern about the imposition of the mandatory death penalty for blasphemy related charges against Mr. Junaid Hafeez, despite an apparent lack of conclusive evidence against him for acts and for offenses which do not qualify as "most serious crimes." We are further concerned by his alleged arbitrary detention and prolonged solitary confinement, which reportedly contributed to the deterioration of his mental and physical health condition.

We also reiterate our concern about the application of the blasphemy law against persons lawfully exercising their right to freedom of thought, conscience, religion or belief, and to freedom of expression as well as concern that the independence of the judges and lawyers handling the case and the fair trial proceedings in this case may be compromised by undue pressure and threats of violence.

If the above allegations prove to be accurate, they would be in contravention of Mr. Hafeez's rights to life, not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment, not to be deprived arbitrarily of his liberty and to be afforded fair proceedings before an independent and impartial tribunal, to freedom of thought, conscience and religion or belief, the right to express his opinion in a peaceful manner and the right to be equal before the law and are entitled without any discrimination to the equal protection of the law as set out in article 3, 5, 9, 10, and 18 of the Universal Declaration of Human Rights (UDHR) and articles 6, 7, 9, 10, 14, 18, 19 and 26 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Pakistan on 23 June 2010. We also refer to the obligations enshrined in the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, ratified by Pakistan on 23 June 2010. We recall that the right to life constitutes a customary international and *jus cogens* norm from which no derogation is permitted under any circumstances pursuant to article 4(2) of the ICCPR.

We reiterate that under international law, a death sentence may only be imposed in respect of "the most serious crimes," meaning in cases which involve intentional killing. Charges of blasphemy do not meet this threshold (CCPR/C/PAK/CO/1

para. 17). Executions for blasphemy related charges amount to a violation of international law and constitute unlawful killings. We further re-iterate that mandatory death sentences are inherently over-inclusive and unavoidably violate human rights law. The categorical distinctions that may be drawn between offences in the criminal law are not sufficient to reflect the full range of factors relevant to determining whether a death sentence would be permissible in a capital case.

In addition, we would like to refer to the United Nations Safeguards guaranteeing protection of the rights of those facing the death penalty, which provide that capital punishment may be imposed only for the most serious crimes, after a legal process which gives all possible safeguards to ensure a fair trial, 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. The Human Rights Committee has noted that “in cases of trials leading to the imposition of the death penalty scrupulous respect of the guarantees of fair trial is particularly important. The imposition of a sentence of death upon conclusion of a trial, in which the provisions of article 14 of the Covenant have not been respected, constitutes a violation of the right to life (article 6 of the Covenant)” (CCPR/C/GC/32, para. 59). We note with concern that in this instance, the information indicates that Mr. Hafeez initially lacked adequate and meaningful access to counsel of his choice, which may have hindered his defense.

We also remain troubled by the removal of the de facto moratorium on death penalty in 2014. In this regard, we 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 162/149 in 2007 and most recently, in its resolution 79/179 in 2024.

Under these circumstances, we respectfully call on your Excellency’s Government **to halt all steps currently being considered or taken with respect to the further confirmation of the death penalty in the case of Mr. Junaid Hafeez and to fully investigate the allegations raised in this communication. We would also like to respectfully request your Excellency’s Government share this communication with the appropriate provincial authorities.**

In view of the irreversibility of the punishment of the death penalty we respectfully reiterate our call on your Excellency’s Government to consider reinstating an official moratorium on all executions.

We would like to reiterate that we stand ready to assist your Excellency’s Government in relation to any efforts towards bringing the legislative framework and legal process of Pakistan into line with international standards and its obligations under the ICCPR. We express hope that, should your Excellency’s Government decide to make changes to existing legislation in relation to the death penalty, the changes would ensure that the death penalty can only be imposed for “the most serious crimes”.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 details on how the imposition of the death penalty in the case of Mr. Hafeez, after delayed judicial proceedings and based on allegedly inconclusive evidence, complies with international human rights law.
3. Please provide detailed information on Mr. Hafeez's current conditions of detention, including information on his mental and physical health condition and how his detention conditions comply with international human rights law.
4. Please provide details and, to the extent available, the results of any judicial or other investigation conducted in connection with the killing of Mr. Hafeez's counsel in 2014. Please indicate whether any autopsy was conducted, and if so, whether conducted in accordance with international standards embodied in the United Nations Revised Manual for the Effective Investigation of Extra-Legal, Arbitrary and Summary Executions (The Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016)).
5. Please provide information on any efforts envisaged to remove the mandatory death penalty in Pakistan for blasphemy related charges and to bring the current legislation in line with international human rights norms.

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.

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(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release would be based would be sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

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

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion
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Margaret Satterthwaite
Special Rapporteur on the independence of judges and lawyers

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Special Rapporteur on freedom of religion or belief

Alice Jill Edwards
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the right to life, not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment, not to be deprived arbitrarily of his liberty and to be afforded fair proceedings before an independent and impartial tribunal, to freedom of thought, conscience and religion, the right to express his opinion in a peaceful manner and the right to be equal before the law and are entitled without any discrimination to the equal protection of the law as set out in article 3, 5, 9, 10, and 18 of the Universal Declaration of Human Rights (UDHR) and articles 6, 7, 9, 10, 14, 18, 19 and 26 of the International Covenant on Civil and Political Rights (ICCPR) ratified by Pakistan on 23 June 2010. We also refer to articles 2, 11, 12, 13 and 14 of the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, ratified by Pakistan on 23 June 2010. We stress that the right to life constitutes a supreme right from which no derogation is permitted under any circumstances pursuant to article 4(2) of the ICCPR.

The Human Rights Committee has found that "violation of the fair trial guarantees provided for in article 14 of the Covenant in proceedings resulting in the imposition of the death penalty would render the sentence arbitrary in nature, and in violation of article 6 of the Covenant." Such violations would include the imposition of the death penalty based on ambiguous and inconclusive evidence and after excessive and unjustified delays in the trial or the appeal process and the general lack of fairness of the criminal process, or lack of independence or impartiality of the trial or appeal court (CCPR/C/GC/36, para. 41). In this regard, the Human Rights Committee, in its general comment No. 36, has held that "the execution of sentenced persons whose **guilt has not been established beyond reasonable doubt** also constitutes an arbitrary deprivation of life", therefore, States parties are required to "take all feasible measures in order to avoid wrongful convictions in death penalty cases, to review procedural barriers to reconsideration of convictions and to re-examine past convictions on the basis of new evidence. We also refer to the above mentioned Safeguards, in particular paragraphs 4 to 8, which provide that capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts, that it may only be carried out pursuant to a final judgment rendered by a competent court after a legal process which provides all possible safeguards to ensure a fair trial, including the right to adequate legal assistance at all stages. Only full respect for stringent due process guarantees distinguishes capital punishment from arbitrary execution.

The death penalty has long been regarded as an extreme exception to the fundamental right to life. We would like to draw your Excellency's Government's attention to article 6(2) of the ICCPR stating that "in countries which have not abolished the death penalty, sentence of death may be imposed only for the **most serious crimes.**" Article 1 of the United Nations Safeguards guaranteeing protection of the rights of those facing the death penalty, approved by the Economic and Social Council on 25 May 1984 (resolution 1984/50), also state that, in countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes which are considered to be intentional crimes with lethal or other extremely grave

consequences. Similarly, it was submitted in a report by the mandate on extrajudicial, summary or arbitrary executions to the Human Rights Council that a death sentence can only be imposed in cases where it can be shown that there was an intention to kill which resulted in the loss of life (A/HRC/4/20, para. 53). The imposition of the death penalty for crimes that do not result in the loss of life is incompatible with the Covenant (CCPR/C/79/Add.25). Blasphemy related charges do not meet the “most serious crimes” threshold (CCPR/C/PAK/CO/1, para. 17). Furthermore, the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment requires States to ensure legal and procedural safeguards, including access to a lawyer, contact with the family, independent medical examination, and the right to contest the legality of one’s detention, are granted to all persons from the outset of arrest. These safeguards prevent the risk of torture and ill-treatment and are prerequisites for a fair trial.

We further refer to the Human Rights Committee stating that “In all cases involving the application of the death penalty, the personal circumstances of the offender and the particular circumstances of the offence, including its specific attenuating elements must be considered by the sentencing court. Hence, **mandatory death sentences** that leave domestic courts with no discretion on whether or not to designate the offence as a crime entailing the death penalty, and on whether or not to issue the death sentence in the particular circumstances of the offender, are arbitrary in nature. The availability of a right to seek pardon or commutation on the basis of the special circumstances of the case or the accused is not an adequate substitute for the need for judicial discretion in the application of the death penalty” (CCPR/C/GC/36, para. 37).

In relation to the allegations of **solitary confinement**, we remind your Excellency’s Government of paragraph 6 of general comment No. 20 of the Human Rights Committee which states that prolonged solitary confinement of the detained or imprisoned person, may amount to acts prohibited by article 7 of the ICCPR. Solitary confinement may only be used under exceptional circumstances, as a measure of last resort, and for the shortest time possible. In this regard we refer your Excellency’s Government to the United Nations Standard Minimum Rules for the Treatment of Prisoners (also known as the Mandela Rules, 2015), in particular Rule 44, which provides that “For the purpose of these rules, solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days.” We recall that when solitary confinement is used in exceptional circumstances, minimum procedural safeguards must be followed. We would also like to refer to the report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/66/268), in which it is stated that the use of prolonged solitary confinement in itself runs afoul of the absolute prohibition of torture and other ill-treatment. Moreover, due to the prisoner’s lack of communication, and the lack of witnesses, solitary confinement enhances the risk of other acts of torture or ill-treatment.

We further recall that the mandatory imposition of the death penalty based on blasphemy laws remains an undue restriction of the right to **freedom of thought, conscience, religion or belief**. In this regard, we would like to recall article 18 of the ICCPR, which stresses that “Everyone shall have the right to freedom of thought,

conscience and religion. This right shall include freedom [...] either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.” General comment No. 22 of the Human Rights Committee has clearly stressed that article 18 “does not permit any limitations whatsoever on the freedom of thought and conscience [...].” Peaceful expression of one’s thought and conscience cannot be restricted unless it has fulfilled stringent tests of legality, proportionality and necessity.

The 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (A/RES/36/55) states in its article 2(1) that: “[n]o one shall be subject to discrimination by any State, institution, group of persons, or person on grounds of religion or other belief.” In article 4(1), the General Assembly further states that: “All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms [...]” Furthermore, we would like to refer your Excellency’s Government to article 4(2) according to which: “All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.”

Article 19 of the ICCPR guarantees the right to freedom of opinion and the right to freedom of expression, which includes the right “to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media”. This right applies online as well as offline and includes not only the exchange of information that is favourable, but also that which may criticize, shock, or offend.

In its general comment No. 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including “political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” (CCPR/C/GC/34, para. 11). The Committee further asserts that there is a duty of States to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (para. 23).

Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) ICCPR. Under these requirements, restrictions must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order (*ordre public*), or of public health or morals; and (iii) be necessary and proportionate for those objectives. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, proving “in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat” (CCPR/C/GC/34, para. 35). The Human Rights Committee recalled that the relation between right and restriction and between norm and exception must not be reversed. In this regard, the Human Rights Committee stated that the restrictions must be “the least intrusive

instrument among those which might achieve their protective function”. (CCPR/C/GC/34, para. 34).

The repeal of blasphemy laws has been called for by the Special Rapporteurs on freedom of religion or belief and freedom of opinion and expression and is a recommendation of the Rabat Plan of Action (see A/HRC/22/17/Add.4) and Human Rights Committee General Comment No. 34 regarding article 19 of the ICCPR (see CCPR/C/GC/34, para. 48). Such repeal is particularly urgent in situations where the laws carry death sentences, such as in Pakistan.

In relation of allegations that the blasphemy laws in place are used to target **ethnic and religious minorities**, we would like to draw the attention of your Excellency’s Government to the prohibition on the discriminatory application of the death penalty, as discussed by the Human Rights Committee, in its General Comment No. 36: “Data suggesting that members of religious, racial or ethnic minorities, indigent persons or foreign nationals are disproportionately likely to face the death penalty may indicate an unequal application of the death penalty, which raises concerns under article 2(1) read in conjunction with article 6, as well as under article 26” (CCPR/C/GC/36, para. 44).

Ultimately, when executions have been suspended for an extended period of time, it is unlikely that their resumption may be justified by objective reasons. If executions are resumed owing to developments unrelated to the crime or criminal in question, such as a deterioration in the law and order situation in the country, they are similarly arbitrary (A/69/265). In this regard, we stress that there exists no evidence that the death penalty has a deterrent effect against crime.