

Mandates of 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; the Special Rapporteur on the independence of judges and lawyers; 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 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; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 26/20, 26/12, 24/6, 26/7 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. **Imdad Ali**, a Pakistani national with a psychosocial disability, who is reportedly at risk of imminent execution in Pakistan.

According to the information received:

In 2002, Mr. Imdad Ali, a 50 year old Pakistani national with a psychosocial disability, was sentenced to death under section 302 of the Pakistan Penal Code for the murder of a religious scholar. Mr. Ali was first believed to have a psychosocial disability in 1998, after returning from Saudi Arabia where he had gone as a teenager to work. Upon his arrival, Mr. Ali could be found talking to himself or to objects. A year before the religious scholar's killing took place, Mr. Ali was examined by a doctor and referred to a mental health facility for treatment; however he refused to attend. His psychosocial disability was raised in the trial court by his wife who appeared as a defence witness, but his condition was not mentioned in the judge's ruling that sentenced him to death.

In 2004, a medical officer examined Mr. Ali, while he was detained in District Jail, Vehari, and diagnosed him with psychosis. He was prescribed anti-psychosis medication but was not provided adequate medical care or treatment.

On 7 November 2008, Mr. Ali's death sentence was confirmed by the Lahore High Court. On 27 January 2009, a black warrant was issued for Mr. Ali by the Sessions Court in Vehari and on 10 February 2009 he was scheduled to be hung.

Overcrowded conditions of death row cells in jail exacerbated Mr. Ali's psychosocial disability. In 2009, his paranoid delusions and hallucinations increased in intensity, and he suffered manic episodes in which he would speak loudly and uncontrollably. He was shifted to solitary confinement in the same year due to the risk of violence from fellow inmates who complained they could not sleep.

A medical report conducted in November 2012, upon the request of the Superintendent of District Jail Vehari, diagnosed him with paranoid schizophrenia.

The abovementioned medical reports were not taken into account by the Supreme Court, which on 19 October 2015 dismissed the defendant's appeal claiming lack of medical evidence proving Mr. Ali's psychosocial disability. It is presumed that Mr. Ali's counsel may have failed to introduce the medical reports as evidence, indicating lack of appropriate legal assistance.

On 17 November 2015, a mercy petition on his behalf that had been pending before the President of Pakistan was also summarily dismissed. On 26 August 2016, the Lahore High Court dismissed a petition not to execute Mr. Ali on the basis of his psychosocial disability without looking into his medical condition or the extenuating circumstances that had aggravated his condition during his lengthy time on death row. An appeal has been filed against this decision and is scheduled to be heard by the Supreme Court on Tuesday 27 September 2016. If the appeal is dismissed Mr. Ali could be executed as early as three days after the date of the hearing.

Mr. Ali has spent 16 years on death row and has not received adequate medical care during this period. He has been in solitary confinement for the last three years.

We express grave concern at the imminent execution faced by Mr. Imdad Ali, as well as at his deteriorating psychosocial condition, inter alia, due to lack of appropriate treatment and reasonable accommodation in detention, which may be in contravention of international human rights standards for the imposition of the death penalty, the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the rights of persons with disabilities to reasonable accommodation and non-discrimination.

We also express concern that the execution of Mr. Ali, if carried out, would represent a further departure by Pakistan from the world trend toward the abolition of the death penalty. In this connection we express further grave concern about the number of executions reported to have taken place in Pakistan since Pakistan elected to end a moratorium on the death penalty at the end of 2014.

In view of the irreversibility of the punishment of the death penalty, we urge your Excellency's Government to halt the execution of Mr. Imdad Ali, which on the facts available to us may constitute a violation of applicable international human rights standards, and thus an arbitrary execution. We further urge your Excellency's Government to ensure that the death sentence against the aforementioned individual is annulled and that he is re-tried in compliance with international standards relating to due process and fair trial. We also reiterate our appeal to Pakistan to extend the moratorium on the death penalty, and to consider its complete abolition.

Without making any judgment as to the accuracy of the information made available to us, the above allegations appear to be in contravention of the right of every individual to life, liberty and not to be arbitrarily deprived of life as set out in article 3 of the Universal Declaration of Human Rights (UDHR) and article 6.1 of the International Covenant on Civil and Political Rights (ICCPR), which Pakistan has ratified on 23 June 2010. These allegations also seem to be in contravention of the right to fair proceedings before an independent and impartial tribunal, as set forth in article 14 of the ICCPR and article 10 of the UDHR.

Moreover, article 5 of the United Nations Safeguards Protecting the Rights of those facing the Death Penalty provides that capital punishment may only be carried out pursuant to legal procedures which give all possible safeguards to ensure a fair trial. Only full respect for stringent due process guarantees distinguishes capital punishment as possibly permitted under international law from an arbitrary execution. Article 3 of the Safeguards also stipulate that the death sentence may not be carried out on persons with psychosocial disability.

Persons with psychosocial and intellectual disabilities face the risk of being sentenced to death and executed in breach of international standards, including the right to the highest attainable standard of physical and mental health. States must do their utmost to address this risk, including by providing accommodation during all phases of legal proceedings, and by granting adequate protection from any form of discrimination against them because of their mental health condition.

We would 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. 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.

In addition, we would like to refer your Excellency's Government to General Comment 14 on 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 (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).

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 recall that resummptions of executions run counter to the international trend towards the reduction and eventual abolition of the death penalty. The Human Rights Committee has expressed its deep concern at the de facto reinstatement of death sentences and executions in a State party to the International Covenant on Civil and Political Rights (CCPR/CO/84/SYR, para. 7).

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(s) 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your observations on any additional information and any comment you may have on the above mentioned allegations.

We intend 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. 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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