

MUHAMMAD AZAM

YEARS ON DEATH ROW: 19

AGE AT THE TIME OF ARREST: 17

IMPRISONED AT:
CENTRAL JAIL, KARACHI

LATEST DEVELOPMENT

22nd April, 2018: Petition filed in Sindh High Court under Article 199 for the enforcement of fundamental rights

CASE TIMELINE

1998

11th Oct: Incident occurs at 7:45am. FIR registered against Moin-ud-din and Muhammad Azam

1999

8th July: Muhammad Azam **sentenced to death** under 302 PPC read with section 7 of the Anti-Terrorism Act (ATA)

26th Oct: Sindh High Court dismisses appeal

2000

1st July: **Juvenile Justice System Ordinance (JJSO) passed**, prohibiting execution of juveniles.

2001

12th Sept: Supreme Court dismisses appeal

13th December: **Presidential Notification** issued granting remission to juvenile offenders whose death sentences had been confirmed prior to the enactment of the JJSO

2002

18th December: Criminal Suo Motu Review Petition dismissed by SC

2015

14th April: **Mercy Petition rejected**

16th April: **Black warrant issued**; execution scheduled for 23rd April

27th April: Last-minute **stay of execution** granted

2017

25th Sept: Petition filed before National Commission for Human Rights (NCHR)

22nd Nov: **NCHR orders stay** on issuance of Azam's black warrant

Abd-ur-Rehman (known as Muhammad Azam in police records) was arrested at the age of 17 and has spent over half his life on death row.

Arrested as a juvenile, his conviction for a fatal shooting and dacoity (armed robbery) was questionable as confessions and witness statements were extracted using torture and fabricated evidence. Azam was tried in an Anti-Terrorism Court and sentenced to the harshest possible punishment: death.

Frequent appeals have failed to get him justice for over 19 years.

BACKGROUND

When Abd-ur-Rehman was arrested by the police in 1998, he told them his name was "Muhammad Azam" to hide his detention from his family. Twenty-one years later, he is still known to prison authorities as Muhammad Azam.

Merely a boy at the time of his conviction, Azam was booked for an accidental death that happened during a row with his friend's debtor. He was charged under the Anti-Terrorism Act along with Section 302 of the Pakistan Penal Code. This guaranteed him a harsher sentence, with very little safeguard.

During investigation, Azam was severely tortured by the police. As a result, he repeatedly claimed to be "Muhammad Azam" and confessed to this and other crimes to avoid the physical abuse. His father later submitted an affidavit stating that this was not his son's name.

There are also allegations that fabricated evidence was submitted by a head constable in order to get the case tried in an Anti-Terrorism Court where the likelihood of harsher sentences is higher. Azam's co-accused Moin-ud-din claimed that he was asked to pay a bribe to the judge. Further 'evidence' extracted through torture was presented in court and ultimately led to Azam's conviction in July 1999.

Azam was 17 years old at the time. He spent the first eight months in a juvenile facility, but was then moved to an adult facility and handed the death penalty.

The Juvenile Justice System Ordinance (JJSO) was passed in 2000, prohibiting the use of the death penalty for juveniles. Jail authorities and a government doctor then lodged an appeal in 2004 to have Azam's sentence reduced on the basis of his age. The appeal, however, was rejected by an Anti-Terrorism Court as his age had not been raised in the original trial and was thus deemed irrelevant.

THE LEGAL BASIS FOR COMMUTATION

JUVENILE JUSTICE SYSTEM ORDINANCE (JJSO)

Section 12 of the Juvenile Justice System Ordinance (JJSO) 2000 prohibits the sentencing to death of any person who was under 18 at the time of his/her alleged offence. The JJSO was later repealed by the Juvenile Justice System Act, 2018 which also prohibits the execution of minors.

PRESIDENTIAL NOTIFICATION

In 2001, the President of Pakistan issued Notification No. F.8/41/2001-Ptns, in exercise of his powers under Article 45 of the Constitution of Pakistan, 1973, granting remission to those juvenile offenders whose death sentences had been confirmed prior to the enactment of the JJSO on the basis of an inquiry into their juvenility. In fact, **Azam was listed as one of the prisoners who would benefit from this notification** as he fulfilled the criteria for retrospective implementation.

UN CONVENTION ON THE RIGHTS OF THE CHILD

The United Nations Convention on the Rights of the Child (CRC), ratified by Pakistan in November 1990, dictates under Article 37 (a) that *“neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below 18 years of age.”*

ICCPR

Pakistan is also a party to the International Convention on Civil and Political Rights (ICCPR), wherein Article 6, Paragraph 5 of the ICCPR provides explicitly that *“Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age.”*

Both the JJSO and the Presidential Notification were enacted in light of these international obligations. Therefore, Azam’s death sentence and execution are in violation of Pakistan’s international obligations under the CRC and the ICCPR.

FORGIVEN BY COMPLAINANT

In Pakistan, the accuser can reach a compromise of forgiveness or financial settlement and a pardon may be issued to the accused.

A compromise was reached between Azam and Moin-ud-din and their complainant in 2008 and a pardon was resultantly granted. This should have resulted in the dismissal of the case but because their sentences were given under the non-compoundable Anti-Terrorism Act, no pardons can be granted.

ANTI-TERRORISM ACT (ATA)

There is no evidence that Azam was ever involved in a terrorist group or that he has ever committed a terrorist act of any kind but yet he was tried in an Anti-Terrorism Court.

He was a juvenile when he committed a crime, confessed it under torture, and has made peace with those accusing him. Yet, because he was tried under Pakistan’s broad anti-terrorism laws, his settlement with the complainant is meaningless and he remains under the threat of imminent execution.

THE GOVERNMENT OF PAKISTAN MUST ACCORD AZAM THE BENEFIT OF THE SPECIAL REMISSION ALLOWED TO JUVENILE PRISONERS IN ACCORDANCE WITH PAKISTAN'S INTERNATIONAL OBLIGATIONS AND UNDER THE JJSO READ ALONG WITH THE NOTIFICATION NO. F.8/41/2001



Justice Project Pakistan is a non-profit organization based in Lahore that represents the most vulnerable Pakistani prisoners facing the harshest punishments, at home and abroad. JPP investigates, litigates, educates, and advocates on their behalf.

In recognition of our work, in December 2016, JPP was awarded with the National Human Rights Award, presented by the President of Pakistan.

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