

KHIZAR HAYAT (late)

YEARS ON DEATH ROW: 16

MENTAL ILLNESS: PARANOID
SCHIZOPHRENIA

IMPRISONED AT: JAIL HOSPITAL,
KOT LAKHPAT, LAHORE



Khizar Hayat in his police uniform,
shortly before his arrest in 2001

CASE TIMELINE

2001

23rd Oct: Khizar Hayat **arrested** for fatally shooting his fellow police officer and best friend Ghulam Ghous

2003

2nd Apr: **Khizar sentenced to death** by the District and Sessions Court, Lahore under S.302 of the Pakistan Penal Code

2008

29th Oct: Khizar **diagnosed with schizophrenia** by Medical Officer of Central Jail, Lahore and physicians at Services Hospital, Lahore

2009

19th Jan: **Lahore High Court dismisses his appeal**

2011

5th Jan: Supreme Court **dismisses his subsequent appeal** upholding his death sentence

2015

10th Jun: Khizar's **first black warrant issued** by Sessions Court in Lahore, setting 16th June as his execution date

13th Jun: Khizar's mother **submits a mercy petition** to the president for his sentence to be commuted in light of his mental condition

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Khizar Hayat, a mentally ill death row prisoner, passed away on March 22, 2019, at Jinnah Hospital Lahore after being critically ill. He had spent 16 years on death row.

Khizar was sentenced to death in 2003 for fatally shooting a fellow police officer and was first diagnosed with “treatment-resistant” paranoid schizophrenia by jail authorities in 2008. His mental health record consistently referred to his delusions, psychosis, and his mental illness, and showed that he had been prescribed powerful anti-psychotic medication.

In January 2019, after Khizar's fourth death warrant was suspended by the Supreme Court, his case was referred to a larger bench of the Supreme Court. But he passed away before his case could be heard in the SC.

BACKGROUND

Khizar worked as a police officer in a village where he lived with his wife and children. Those who knew him described him as a kind man, but “very slow” and easily manipulated.

In the months leading up to the incident, Khizar had fallen under the influence of a local ‘pir’ — a spiritual healer who fraudulently convinced Khizar to sign over his lands and property to him. Under his influence, Khizar was eventually implicated for fatally shooting his friend and fellow police officer, Ghulam Ghous.

Khizar pleaded not guilty during his trial, but his lawyer failed to introduce any evidence or call a single witness in his client's defence. Khizar was eventually sentenced to death in 2003. Despite documentary evidence of Khizar's mental illness, the courts repeatedly dismissed his appeals.

RECENT CASE UPDATES

In December 2018, the Lahore High Court dismissed a petition seeking Khizar's transfer to a mental health facility, stating that “emotional disorders of like nature were not viewed as factors sufficient enough to impede execution”, making way for another execution warrant. The National Commission for Human Rights (NCHR) then ordered the relevant authorities to refrain from issuing Khizar's black warrant until the matter was decided by the Supreme Court. However, jail authorities issued his execution warrant on January 10, 2019, in clear violation of NCHR's orders.

Public outrage and timely intervention by the Supreme Court saved Khizar's life. His execution was stayed and his case was referred to a larger bench of the SC, currently hearing the precedent-setting case of two other mentally ill death row prisoners Imdad Ali and Kanizan Bibi.

Unfortunately, Khizar fell critically ill before his case could proceed in the Supreme Court. He was shifted to Jinnah Hospital, Lahore, on March 15, 2019, in critical condition, and passed away in the early hours of March 22.

KHIZAR'S MENTAL ILLNESS

Jail medical records show that Khizar first started exhibiting 'psychiatric symptoms' in February 2008, although the seeds of paranoid schizophrenia were sown long before that. By September, his illness had become severe enough to warrant a month-long hospital stay in the jail. Since then, he had constantly been prescribed powerful anti-psychotic medications such as Risperidone.

Khizar's mental health deteriorated to the point where he believed that the world was coming to an end because the Americans had landed on the moon, and the moon was now having a dire effect on the world. He believed that the solutions to the world's problems were to be found in the toilet in his cell, through its special connection to the Earth. In his last years, Khizar was unable to take care of his body, often dressing in filthy clothes, disrobing completely, or throwing food and faeces out of his cell.

Khizar's mental illness had caused him considerable physical suffering too. Jail records show that in 2009, he was admitted to a public hospital with severe head injuries requiring urgent surgery. Khizar's cellmates – cooped up 24 hours a day in a cell with a delusional and confused individual – had violently attacked him. Khizar's lawyers frequently recorded seeing him injured during their visits. Eventually in 2012, the attacks became so frequent and severe that Khizar was moved to an isolated cell in the jail hospital.

In early 2009, Khizar's mother requested that her son be transferred to a proper medical facility to receive treatment. Her requests fell on deaf ears.

Khizar spent the last six years of his life alone in his cell in the hospital, effectively living in solitary confinement, despite the fact that punishment for the mentally ill is not permitted under Pakistani law; not even for the most heinous offences.

**“IF A PERSON IS MENTALLY ILL,
HOW CAN YOU HANG THEM?”**

– FORMER CHIEF JUSTICE SAQIB NISAR,
during the hearing of mentally ill death row prisoners
Kanizan Bibi and Imdad Ali

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15th Jun: LHC grants him a **last-minute reprieve**

23rd Jul: **Second black warrant** issued, setting 28th July as the execution date

25th Jul: Execution stayed

28th Jul: Four Special Rapporteurs of the UN urge Pakistan to halt Khizar's execution as it would be inconsistent with international human rights law

2016

18th May: A court-sanctioned examination by the medical board concludes unanimously that **Khizar suffers from “psychosis” and “schizophrenia”**

2nd Nov: **NCHR initiates an inquiry** into Khizar's case on a complaint filed by JPP on the grounds of his severe mental illness

2017

10th Jan: Khizar's **third black warrant issued**, scheduling his execution for 17th January

12th Jan: LHC grants him a **stay**

2018

6th Dec: LHC Divisional Bench **dismisses petition** seeking Khizar's transfer to a mental health facility

18th Dec: NCHR orders the authorities to **abstain from issuing his execution warrants** until the matter is decided by the Supreme Court

2019

10th Jan: Khizar's **4th execution warrant issued**, scheduling execution for 15th Jan

12th Jan: CJ takes suo motu notice following public outcry and **halts Khizar's execution**

13th Jan: UN experts urge Pakistan to halt execution of person with disability

14th Jan: Two-member bench of SC hears JPP's petition, refers Khizar's case to a larger bench currently hearing the Kanizan-Imdad case; also orders his fresh medical examination by a Special Medical Board

15th Mar: Khizar shifted to Jinnah Hospital, Lahore, in critical condition. He had stopped eating and taking his medication

22nd Mar: Khizar passes away in the hospital

BASIS OF COMMUTATION

Mentally ill defendants repeatedly slip through the cracks in Pakistan's criminal justice system. The lack of mental health treatment and training in the criminal justice system, as well as in Pakistan generally, means that many individuals never even get diagnosed. In fact, for many indigent mentally ill defendants, their first contact with a mental health professional is in jail. As a member state of the United Nations, the Government of Pakistan has ratified a number of international human rights treaties that grant rights and special protections to persons suffering from mental illnesses. These include:

ICCPR

The United Nations Human Rights Committee has recognized in various decisions, including in *R.S v Trinidad and Tabago* (684/96), that the execution of mentally-ill prisoners is prohibited as cruel, inhuman and degrading treatment under Article 6 and 7 of the International Covenant on Civil and Political Rights (ICCPR), to which Pakistan became a party in 2010.

In July 2015, four Special Rapporteurs of the UN urged the Government of Pakistan to halt Khizar's execution as it would be inconsistent with international human rights law. Remarking on Khizar's plight, the UN Special Rapporteur on the right to health, Dainius Pûras, said: "We call on the authorities of Pakistan to protect the right to health of ... Khizar Hayat, and other inmates in death row with severe psychosocial disabilities, irrespective of their legal situation, guaranteeing their access to the health services required by their situation."

SAFEGUARDS GUARANTEEING PROTECTION OF THE RIGHTS OF THOSE FACING THE DEATH PENALTY

The UN Economic and Social Council (ECOSOC) in 1984 adopted "Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty." In the same year, the Safeguards were endorsed by consensus by the UN General Assembly. The safeguards guaranteeing protection of the rights of those facing the death penalty constitute an enumeration of minimum standards to be applied in countries that still impose capital punishment.

The Third Safeguard states:

"Persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death, nor shall the death sentence be carried out on pregnant women, or on new mothers, or on persons who have become insane."

The third safeguard was amplified by the Economic and Social Council in 1988 with the words "persons suffering from mental retardation or extremely limited mental competence."



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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