

MUHAMMAD IQBAL

YEARS ON DEATH ROW: 19

AGE AT THE TIME OF ARREST: 17

IMPRISONED AT:
DISTRICT JAIL, GUJRAT

LATEST DEVELOPMENT

2nd Nov, 2018: Letter sent to Punjab Chief Minister by Justice Project Pakistan (JPP) requesting remission for Iqbal under the Presidential Notification No. F.8/41/2001-Ptns

CASE TIMELINE

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10th July: Incident occurs at 12:30am in Mandi Bahauddin, Punjab

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28th June: Iqbal's ossification test confirms that he was a juvenile at the time of the alleged offence

5th July: Trial Court **sentences Iqbal to death under the ATA**; and determines his age to be 17 years

16th September: Criminal Appeal filed in LHC

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

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

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20th March: LHC dismisses appeal

11th September: SC dismisses appeal

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Muhammad Iqbal was just 17 years old when he was convicted of a fatal shooting in Mandi Bahauddin in 1999. The Special Court, Gujranwala determined his age to be 17 following a court-mandated ossification test, confirming that he was a juvenile. Yet, he was sentenced to death under the problematic Anti-Terrorism Act (ATA).

He has spent well over half his life in prison and his death sentence is in gross violation of the Juvenile Justice System Ordinance and Presidential Notification. The complainants in the case, i.e. the victim's family, have forgiven him and do not want him hanged. But Iqbal's sentence remains non-compoundable because of the nature of the ATA.

BACKGROUND

Muhammad Iqbal, also known as Bali, comes from a poor family hailing from a village near Mandi Bahauddin. Friends and neighbours describe him as mild-mannered, with deep-rooted respect for authority.

Iqbal was only 17 years old when he was sentenced to death in 1999 for fatally shooting a man. He has spent more than half his life on death row. The FIR states that Iqbal and four others surrounded a wagon near Mandi Bahauddin. Upon being surrounded, the driver of the vehicle reversed the car in an attempt to escape. As a reaction, shots were fired that smashed the windscreen, and injured the driver and three passengers. They were moved to a hospital, where one of the four injured parties succumbed to their injuries.

Iqbal was arrested two months after the incident and a Special Court judge in Gujranwala sentenced him to death. Suspecting that he was a juvenile, the prosecution moved an application before the trial court to determine Iqbal's age through an ossification test. It was subsequently determined that his age was 17 years at the time of the alleged offence. The trial court also held in its judgment that Iqbal was a minor at the time of the occurrence.

In fact, ossification tests were conducted on all five of the accused which determined three to be juveniles. All but Iqbal were given life sentences, including the ones found not to be juveniles. Iqbal remains the only accused on death row – despite his juvenility being recognized. The basis for his sentence is dubious eyewitness testimonies, made even more problematic by the fact that the offence took place at 12:30am, in a street with no lights.

FORGIVEN BY COMPLAINANTS

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

In 2004, the complainants in Iqbal's case – i.e. the victim's family – withdrew their petition and forgave Iqbal. The son of the victim, Waheed Ahmad, said that they believe Iqbal has already spent several years in imprisonment and that alone is punishment enough. They have categorically stated that they do not want Iqbal hanged.

However, due to the non-compoundable nature of the problematic Anti-Terrorism Act (ATA), under which Iqbal was convicted, all his appeals have been rejected and he remains on death row.

THE LEGAL BASIS FOR COMMUTATION

JUVENILE JUSTICE SYSTEM ORDINANCE (JJSO)

Section 12 of the Juvenile Justice System Ordinance (JJSO) – now repealed and replaced by Juvenile Justice System Act (JJSO) – prohibits the sentencing to death of any person who was under 18 at the time of his/her alleged offence. The JJSO came into force in 2000 – almost two years after the issuance of Iqbal’s death sentence by the trial court.

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, **Iqbal was listed as one of the prisoners that would benefit from this notification** as he fulfilled the criteria for retrospective force.

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: *“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, Iqbal’s death sentence and execution are in violation of Pakistan’s international obligations under the CRC and the ICCPR.

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2004

9th June: **Petitioner withdraws Criminal Review Petition** in Supreme Court due to compromise between the parties

2005

16th July: Anti-Terrorism Court, Gujranwala, dismisses application for acquittal on grounds of compromise

22nd July: Writ petition filed in LHC against order of the trial court

2006

13th November: LHC dismisses petition stating that no illegality was committed by the trial court

2007

21st February: Supreme Court dismisses appeal on the ground that offences under the ATA are non-compoundable

2016

16th March: Mercy petition rejected

26th March: **Black warrant issued**, setting execution date for 30th March

28th March: Civil review petition filed in SC on basis of compromise, juvenility under JJSO and double punishment; **execution stayed**

2017

28th April: SC dismisses civil review petition

3rd July: National Commission for Human Rights (NCHR) orders interim relief for Iqbal, on a complaint filed by JPP on Iqbal’s behalf

2018

13th February: Writ petition filed in Lahore High Court under Article 199 for enforcement of fundamental Rights

18th May: Juvenile Justice System Act (JJSO) 2018 comes into force, overcoming the shortcomings of the JJSO

THE GOVERNMENT OF PAKISTAN MUST ACCORD IQBAL THE BENEFIT OF THE SPECIAL REMISSION ALLOWED TO JUVENILE PRISONERS IN ACCORDANCE WITH PAKISTAN'S INTERNATIONAL OBLIGATIONS AND UNDER THE JJSO READ ALONG WITH 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.

For more information, email: communications@jpp.org.pk