

IMDAD ALI

YEARS ON DEATH ROW: 17

MENTAL ILLNESS: **PARANOID SCHIZOPHRENIA**

IMPRISONED AT:
DISTRICT JAIL, VEHARI

LATEST DEVELOPMENT

23rd Oct, 2018: Supreme Court orders fresh medical examination of Imdad Ali and Kanizan Bibi

CASE TIMELINE

2001

21st Jan: The alleged offence takes place

2002

29th Jul: Trial Court **sentences Imdad to death** under Section 302(b) of the Pakistan Penal Code

2008

7th Nov: LHC dismisses appeal

2015

19th Oct: SC dismisses appeal

17th Nov: Mercy petition rejected

2016

23rd Jul: **Black warrant issued**; execution set for 26th July

25th Jul: Writ petition filed in Sessions Court by Imdad's wife; **stay granted**

23rd Aug: Petition dismissed by Sessions Court

16th Sept: **Second black warrant issued**; execution scheduled for 20th Sept

19th Sept: Mercy petition submitted along with medical report stating that Imdad shows "active psychotic symptoms, auditory hallucinations, bizarre ideations, paranoid delusions". **Death warrant suspended**

27th Sept: SC dismisses petition stating that schizophrenia is not a mental illness

27th Oct: **Third black warrant issued**; execution scheduled for Nov 2

31st Oct: **SC stays execution**

12th Nov: Civil review petition filed in SC for constitution of a medical board

14th Nov: SC orders formation of a medical board

2018

21st Apr: SC takes suo motu notice of mentally ill prisoner Kanizan Bibi and clubs Imdad's case with hers

Imdad Ali, a 52-year-old mentally ill prisoner, has spent 17 years on death row without proper treatment. He was sentenced to death in 2002 for fatally shooting a religious teacher.

During the course of his incarceration, he has been repeatedly diagnosed with paranoid schizophrenia, with several medical reports confirming over the years that he is actively suffering from psychotic symptoms and is "a treatment-resistant case".

Imdad has spent the last four years in solitary confinement in the hospital cell of district jail, Vehari, owing to the nature of his mental illness.

BACKGROUND

Imdad comes from an extremely poor family. His relatives first noticed his mental illness in 1998 after he returned from a work trip from Saudi Arabia. According to them, he would be found talking to himself or to objects. After he was convicted of shooting a religious teacher in 2001, Imdad could not afford private medical consultants who could detail his mental illness in court and was eventually sentenced to death.

Imdad's wife raised his mental condition in the trial court but the prosecution claimed he was able to respond rationally to questions put forward to him. The judge, too, failed to mention Imdad's mental illness in his conclusion when sentencing him to death.

Despite clear evidence of mental illness, Imdad's appeals have been repeatedly dismissed by the courts. His mercy petitions have been rejected and his death warrants were issued twice in 2016.

RECENT CASE PROCEEDINGS

Imdad's case came into the limelight in 2016 when the Supreme Court dismissed his appeal stating that "schizophrenia is a curable disease" and not a mental illness. His third execution warrant, however, was not issued following public outcry, a fresh petition from his lawyers and a review filed by the government of Punjab.

In April 2018, the Supreme Court took suo motu notice of another mentally ill prisoner, Kanizan Bibi, and clubbed Imdad's case with hers. Ordering fresh medical examinations of both the prisoners, the apex court stated that this case will set a precedent for all mentally ill prisoners on death row.

"Neither reason nor sensibility allow me to believe that we can execute a mentally ill or disabled person," then Chief Justice Mian Saqib Nisar remarked during the proceedings, recalling that international legal systems have unequivocally forbidden the execution of mentally ill prisoners.

“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

IMDAD’S MENTAL ILLNESS

Imdad Ali was first diagnosed with paranoid schizophrenia by jail authorities in 2012, even though his medical records from as early as 2009 have consistently shown him to be exhibiting psychiatric problems. Those who know him, including his family and neighbours, state that the symptoms of his mental illness had been present for many years before the incident even took place. Imdad’s jail medical records show that he has continuously been treated for serious mental illness following his diagnosis; he has been regularly visited by a consultant psychiatrist and prescribed strong anti-psychotic medicines.

It is clear from the records that his mental illness has led to not just extreme mental anguish and suffering, but also physical pain, caused in part by his own delusional behaviour and also by the physical abuse and torment he has suffered at the hands of other inmates.

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 are never even 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 Human Rights Committee has recognized in various judgments that the execution of mentally ill prisoners is prohibited as cruel, inhuman and degrading treatment under Article 6 and 7 of the ICCPR.

The HRC held that the incarceration on “death row” and execution of a prisoner whose mental health had “seriously deteriorated” amounted to a cruel, inhuman, and degrading treatment.

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 through a consensus by the UN General Assembly. The Safeguards 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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