

MUHAMMAD IQBAL

YEARS ON DEATH ROW: 21

AGE AT THE TIME OF ARREST: 17

IMPRISONED AT:
MANDI BAHAUDDIN JAIL

LATEST UPDATE:

Iqbal released after his death sentence was commuted by the Lahore High Court

CASE TIMELINE

1998

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

1999

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

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

16th Sept: Criminal Appeal filed in LHC

2000

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

2001

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

2002

20th Mar: LHC dismisses appeal

11th Sept: SC dismisses appeal

2004

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

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Muhammad Iqbal was just 17 years old when he was convicted of a 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). Iqbal's death sentence was in gross violation of the Juvenile Justice System Ordinance and Presidential Notification.

After having spent more than half his life in prison, Iqbal's death sentence was commuted to life imprisonment in June 2020. He was released after it was established that he had already served a sentence equal to life imprisonment.

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 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 under the Anti-Terrorism Act (ATA). 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 was the only one handed the death sentence – despite his juvenility being recognized. The basis for his sentence was 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 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 were rejected and he remained on death row for 21 years.

LHC JUDGEMENT

In a landmark judgement, a two-member divisional bench of the Lahore High Court allowed the petition filed by Justice Project Pakistan and commuted Iqbal's death sentence to life imprisonment. Authored by Hon'ble Chief Justice of LHC Muhammad Qasim Khan and Justice Asjad Javaid Ghural, the judgement relied on the Presidential Notification No. F.8/41/2001-Ptns, Article 37 (a) of UNCRC and Article 6 Paragraph 5 of ICCPR protecting juvenile offenders from the death penalty. The judgement reads:

"...firstly the international legislation and secondly our domestic legislation impose a clear ban on the infliction of death penalty on an accused under the age of eighteen years, thus, the claim of the petitioner to seek benefit which otherwise, was fully available to him under the policy, having the force of law, could not have been denied...."

The court also established that in cases like Iqbal where the juvenility of the offender is not in question, matters of commutation are not required to be referred to the Presidency.

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 (JISA) – 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."*

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2005

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

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

2006

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

2007

21st Feb: SC dismisses appeal on the ground that offences under the ATA are non-compoundable

2016

16th Mar: **Mercy petition rejected**

26th Mar: **Black warrant issued**, scheduling execution for 30th March

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

2017

28th Apr: SC dismisses civil review petition

3rd Jul: National Commission for Human Rights orders interim relief for Iqbal, on a complaint filed by JPP on Iqbal's behalf

2018

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

4th May: Home dept issues order after holding inquiry into Iqbal's claim, forwards mercy reference for commutation to Punjab Chief Minister

8th Jun: **Chief Minister approves commutation of death sentence** and requests President to act on it

2020

6th Feb: Lahore High Court **commutes Iqbal's death sentence** to life imprisonment on the basis of juvenility

30th Jun: Iqbal **released** from jail after it is established that he has already served his life sentence



Justice Project Pakistan is a legal action 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 its 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