



No.2 (119)/21-Chair/NCHR  
GOVERNMENT OF PAKISTAN  
NATIONAL COMMISSION FOR HUMAN RIGHTS  
5<sup>th</sup> Floor Evacuee Trust Complex, F-5/1,  
Agha Khan Road, Islamabad.



Islamabad, the 23<sup>rd</sup> August, 2023

Subject: URGENT REQUEST FOR IMMEDIATE ACTION

Dear *Mr. Johar Ejaz.* *Salaam.*

I am writing to you on an urgent basis regarding the imminent execution of Muhammad Iftikhar Ahmed s/o Sardar Khan in **Azad Jammu and Kashmir, scheduled for Thursday 24<sup>th</sup> August, 2023.** Background and details of the case is attached with this letter.

5. An execution in Kashmir would directly impact Pakistan's compliance with its international law commitments to reduce the scope of the death penalty that it has displayed so strongly in recent years. Moreover, it is in direct contravention of the policy articulated by the Government of Pakistan in October 2022 to hold off on executions in light of the GSP plus.

6. AJK has strong commercial ties with Pakistan. This is evident from the fact the Imports and Exports (control) Act, 1950 which is a federal act and is administered by the ministry of commerce extends to AJK. Under this act, the import and export of goods to and from AJK is regulated by the Ministry of Commerce Pakistan. Hence, commerce and trade related legislations, policies and international communications that are made and adopted by Pakistan are applicable to AJK as well.

7. I urge you to reach out to the Prime Minister and the President of AJK, and impress upon them that:

- d) The policy of no executions must extend to Pakistan Administered Kashmir;
- e) Request that they take every possible measure to ensure that Iftikhar's execution is halted, in adherence to Pakistan's international law obligations.
- f) Any further executions scheduled in AJK should also be halted forthwith in light of the safeguards contained in international human rights law and in light of the external affairs, foreign trade, GSP+ and treaty body implementation concerns of Pakistan and AJK.





I thank you for your urgent intervention in this matter.

Yours Sincerely,

*Rabiya Jayeri Agha*  
(Rabiya Jayeri Agha)  
Chairperson NCHR

**Dr. Gohar Ejaz,**  
Federal Minister for Commerce & Industries & Production,  
Government of Pakistan,  
**Islamabad.**

051 9216771

5th Floor Evacuee Trust Complex, Agha Khan Road, Islamabad

[www.nchr.gov.pk](http://www.nchr.gov.pk)

# Imminent Execution of Muhammad Iftikhar Ahmed

## 1. Case Background

In 2001, Iftikhar was arrested and sentenced to death for shooting the former father-in-law of his sister following a family dispute that arose over her divorce. His death sentence was upheld by the Supreme Court of Azad Jammu and Kashmir (AJK) on 22nd December 2021. His mercy petition was rejected by the AJK President on 22nd May 2022 and his execution was scheduled for Thursday 24th August, 2023

On 21 August 2023, Iftikhar's sister filed a fresh mercy petition before the AJK President which **Iftikhar has spent 22 years on death row and executing him now would constitute a violation of his fundamental rights.**

The Supreme Court of Pakistan has held in *Dilawar Hussain v. The State* that executing a prisoner after a prolonged period of time violates the expectancy of life principle, double punishment and can amount to cruel and inhuman punishment.

Moreover, the AJK Supreme Court in *Muhammad Nisar Khan And 2 Others---Appellants Versus Azad Government Of The State Of Jammu And Kashmir* held that the powers of the President of AJK to pardon cannot be curtailed as they are constitutionally conferred under Article 10 of the Interim Constitution of AJK. Special emphasis was placed on the fact that Constitutional Articles can override subordinate legislations and shall take precedence over such legislations in case of any conflict between the two.

**Iftikhar has experienced severe deterioration of his mental and physical health** during his long stint on death row, including extended bouts of insomnia and crippling depression that have led him to routinely take sleeping pills and anti-anxiety medication. Furthermore, his jail medical records confirm that the harsh conditions of a death cell have led to Iftikhar developing a herniated spinal disc, which has resulted in spinal canal stenosis, an excruciatingly painful condition that warps the spine, pressures the spinal cord and has rendered him unable to move his leg.

**Iftikhar did not commit premeditated murder.** The case record shows that Iftikhar was threatened and provoked by the persistent public taunts against his sister by the deceased and the incident arose from one such confrontation.

**Iftikhar did not fatally wound the deceased,** who spent two weeks in the hospital and was operated upon twice before dying 14 days later. Under these circumstances, Iftikhar and his family maintain that the victim died in hospital due to his advanced age and complications arising from the surgeries he underwent.

Iftikhar's jail record shows that he was a **model prisoner** and did not cause any trouble throughout the 22 years of his incarceration. In fact, the jail authorities are quite perturbed at the thought of his impending execution.



## **2. Iftikhar's Execution would Violate International Human Rights Law**

Iftikhar's execution would violate international human rights law on the grounds that:

- **His Mercy Petition was wrongfully rejected by the AJK President and violates the Article 6(4) ICCPR**

Iftikhar's mercy petition was summarily rejected by the AJK Presidency on May 22, 2022, on the grounds that the "the state cannot waive or forgive the rights of the victims .....", and that the right to forgive solely rests with the heirs of the deceased.

Article 6(4), ICCPR expressly provides for the right to seek pardon or commutation of sentence of those sentenced to death. When commenting on Article 6, the Human Rights Committee (HRC) stated that parties are required to allow individuals sentenced to death to seek pardon or commutation, to ensure that:

- amnesties, pardons and commutation can be granted to them in appropriate circumstances;
- that sentences are not carried out before requests for pardon or commutation have been meaningfully considered and conclusively decided upon according to applicable procedures.

The HRC noted that no category of sentenced persons can be a priori excluded from such measures of relief the conditions for attainment of relief should not be ineffective, unnecessarily burdensome, discriminatory in nature or applied in an arbitrary manner.

The HRC also noted that Article 6(4) does not prescribe a particular procedure for the exercise of the right to seek pardon or commutation and states parties consequently retain discretion in spelling out the relevant procedures. However such procedures should be specified in domestic legislation and they should not afford the families of victims of crime a preponderant role in determining whether the death sentence should be carried out.

**The rejection of Iftikhar's first mercy petition was wrong in law as the Constitutional powers of the President to pardon are unfettered in the cases of ta'zir. Moreover, the rejection of his first mercy petition violates Article 6(4) of the ICCPR. The letter of his death warrant wrongly says that he has been sentenced as quasar, whereas his SC judgement says he has been sentenced under Taazir.**

## **3. Relationship between AJK and Pakistan**

Pakistan's Constitution recognizes AJK as a self-governing state. They have their own President, Prime Minister, Executive and their own legislative assembly and their own superior courts.

However, the Pakistan Government has the power to make laws with respect to any matters listed in Part A of the Third Schedule of the AJK Interim Constitution, 1974.

These matters include:

- "Defence and security of Azad Jammu & Kashmir
- The External affairs of Azad Jammu and Kashmir including foreign trade and foreign aid.
- External affairs, implementation of treaties and agreements, including educational and cultural pacts and agreements with other countries; extradition including surrender of criminals and accused persons to the Government outside Pakistan."

#### **4. The Political Cost of Executing Iftikhar**

Pakistan has not executed anyone since 2019. Previously in October 2022, the Federal Ministry of Commerce intervened to halt the imminent executions of seven prisoners in Punjab, by issuing policy O.M No. 14(2)/2020-EU-II that affirms a moratorium on executions and Pakistan's commitment to abide by UN treaty body obligations in light of the GSP+. This policy was echoed by the Ministry of Foreign Affairs (U.O. No. EU-2(A)/2022 (E-I)) and subsequently adopted by the Ministry of Interior in letter No. 03/01/2021- PTNS.

Copies of these notifications are attached as **Annex A & B respectively**.

Given that the Chief Secretary of AJK is a member of the Treaty Implementation Cell formed by the Government of Pakistan to fulfil human rights obligations under the GSP+, it follows that this policy of no executions must be applied in Pakistan Administered Kashmir as well. As such, the upcoming execution in AJK is in contravention of the Government's current position on executions.

#### **5 Key Updates**

On the 21st of August 2023, the AJK Special Secretary Home/IG Prisons issued a communication titled '**Mercy Petition Condemned Prisoners**' to all jail superintendents in AJK, to **put executions on hold**. The aforementioned letter specifically states that all superintendents of jails in AJK should strictly comply with putting on hold execution of the death penalty in line with the policy issued by Pakistan's Ministries of Commerce and Foreign Affairs. A copy of this letter is attached as **Annex C**.

**However, the Superintendent Jail, Mirpur has informed Iftikhar's representatives and family members that the execution is set to proceed tomorrow morning as this letter is yet to be dispatched to the jail through official channels.**



**ANNEX  
A**

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**MOST IMMEDIATE/  
BY SPECIAL MESSENGER**

**GOVERNMENT OF PAKISTAN  
MINISTRY OF COMMERCE  
\*\*\*\*\***

No. 14(2)/2020-EU-II

Islamabad, 12<sup>th</sup> October 2022

**SUBJECT: MERCY PETITIONS OF CONDEMNED PRISONERS**

I am directed to refer to Ministry of Interior's OM No. 03/01/2021-Ptns, dated 11<sup>th</sup> October 2022, on the subject matter above.

2. Pakistan is a beneficiary of the EU GSP Plus which offers unilateral trade concessions on 66% of EU tariff lines and has substantially benefited Pakistan export sector. Pakistan has been complying with 27 international conventions. This Ministry is in final stages of submitting progress report on issues raised by the EU Monitoring Mission in recent visit to Pakistan. The EU will issue its report by end of this year. Due to a whole-of-government approach, various Ministries are working on priority actions including limiting the scope of death penalty.

3. Furthermore, Ministry of Foreign Affairs has also shared concerns of the European Union vide its UO No. EU-2(A)/2022(E-I) of 12 October 2022 (copy enclosed).

4. Moreover, EU guidelines on death penalty can be accessed on [https://www.ceas.europa.eu/sites/default/files/08\\_hr\\_guidelines\\_death\\_penalty\\_en.pdf](https://www.ceas.europa.eu/sites/default/files/08_hr_guidelines_death_penalty_en.pdf) for information.

5. In view of the critical position of GSP Plus monitoring cycle which is currently underway, this Ministry is of considered opinion to keep the execution of death penalty on hold.

Additional Secretary (IFS)  
Diary No: 850/22  
Dated: 14/10

Office of the Special Secretary  
Ministry of Commerce  
Dy. No: 2188/22  
Dated: 14/10

Office of the Secretary  
Ministry of Interior  
Dy. No: 2573/22  
Dated: 13/10

*Encl. As above*

Ministry of Interior  
Prisons & Petitions  
Section

Dy. No: 185  
Dated: 17/10/22

Office of J	
DES (Law)	
DES (Adm)	
SO	
Dated:	17-10-22

*Qaiz*  
(Faiza Shafqat)  
Section Officer (EU-II)

MINISTRY OF INTERIOR  
Office of the DS (Law-II)  
Dy. No: 1252/22  
Dated: 17/10

The Secretary  
Ministry of Interior  
Government of Pakistan  
Islamabad

**SECRETARY**  
13 OCT 2022

ADD. SECRETARY (IFS)  
14 OCT 2022

6340  
Ministry of Interior  
Office of AS (Law)  
Dy. No: 1254/22  
Dated: 17/10

*Sp. Secy. / AS (IFS)*

Special Secretary  
14 OCT 2022  
AS (IFS)

*33 (New)*

*so (Ptns) / Qj / 19/10*

*17/10/2022*

Office of the Secretary  
Ministry of Interior

*(Ptns)*

*20/10/22*

Superintendent  
Central Jail Sahiwal

## ANNEX B

*Most Immediate* 55/  
*By Special Messenger*

Government of Pakistan  
Ministry of Foreign Affairs  
Islamabad  
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Subject: European Union's concern over Death Penalty

This Ministry has received multiple emails, messages from the resident European Mission in Islamabad as well as Pakistan's Ambassador to Brussels, Belgium. The EU and its member states have expressed serious concerns over the recent rejection of the mercy petition of four death row prisoners. It has been further communicated that two executions have been scheduled for tomorrow i.e. Thursday 13 October, 2022 namely, Muhammad Afzal (Central Jail, Gujranwala) and Muhammad Imran (District Jail, Toba Tek Singh).

2. Some of the highlighted points are as follows:

- The European Union has a principled position against the application of the death penalty. It does not serve as a deterrent to crime. No legal system is safe from judicial errors, which may lead to the loss of innocent lives. The steady worldwide decline in the number of states still applying the death penalty confirms the global trend towards abandoning this cruel, inhuman and ineffective punishment. A minority of 18 states, 9% of the total number of UN Member States, still carried out executions in 2021.
- Furthermore, this announcement about the decision of the President of Pakistan comes at a moment when the EU and Pakistan are attempting to broaden and deepen their mutual engagement. We have just successfully accomplished several dialogues in the recent weeks and held a very constructive and forward looking Joint Commission last week, as discussed. The Political Dialogue is planned to follow on 20 October.
- Pakistan is currently at a very crucial moment in the GSP Plus monitoring process and remains under scrutiny in particular on death penalty related issues. A resumption of executions would certainly be seen as a negative signal to the EU, including the European Parliament, and its Member States.



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- It is also highly regrettable that the announcement to execute these prisoners came on the occasion of the Day against the Death Penalty.
  3. Considering the implications of execution of death penalty and ongoing engagement with European Union with regards to extension of GSP-Plus Scheme post 2023, it is requested that the matter may be examined urgently.
  4. Forwarded for information and further necessary action, please.

  
(Muhammad Hamza)  
Assistant Director (Europe-I)

Secretary, Ministry of Human Rights, Islamabad.  
Secretary, Ministry of Commerce, Islamabad  
Ministry of Foreign Affairs' u.o. No. EU-2(A)/2022 (E-I) dated 12 October,  
2022

Copy for information to:  
Secretary, Ministry of Interior, Islamabad.



## ANNEX C



**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR  
HOME DEPARTMENT**

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21<sup>st</sup> August, 2023

**SUB: MERCY PETITION CONDEMNED PRISONERS**

Reference to the above cited subject find enclosed herewith Ministry of Interior's letter No. 3/01/2021- PTNS dated 21.08.2023, Ministry of Commerce's O.M No. 14(2)/2020-EU-II dated 12.10.2022 and Ministry of Foreign Affairs' U.O No. EU-2(A)/2022 (E-I) dated 12.10.2022 envisaging opinions regarding putting on hold execution of death penalty for necessary action as per existing rules/policies, please. All superintendents of jails in Azad Kashmir for information and strict compliance.

(Sardar Khalid Mehmood) 21.8.2023  
**Special Secretary Home/  
Inspector General Prison**

Deputy Inspector General Prison,  
**Muzaffarabad.**  
No. Home/ 876 /2023  
Dated: 21.08.2023