

# The Justice Bulletin: Punishing the Mentally III



## In This Issue

Imdad Ali Case

International Law Perspective

About Schizophrenia

## Did you know?

**While the Pakistani law prohibits prosecuting a person with mental illness, there is no explicit bar on executing the mentally ill**

## FACT FILE

**Muneer Hussain: Executed On 28th April, 2015**

The **100th person** to be executed in Pakistan since the country lifted the moratorium on the death penalty suffered from a severe mental illness that resulted in hallucinations and paranoia.

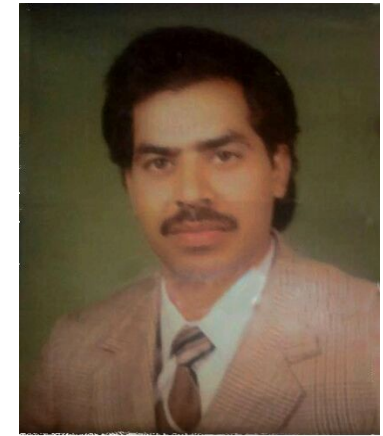
His condition worsened in jail so much that, according to his brother, Muneer had no idea why he was executed.

## A Schizophrenic's Plight

Imdad Ali is a 50 year old diagnosed paranoid schizophrenic who has been languishing on death row in Vehari for the past 14 years. Imdad, who has been issued multiple black warrants, received an unprecedented new lease of life on 31st October when the Supreme Court of Pakistan decided to review its own prior ruling against Imdad.

Previously, on 27th September, Imdad's case generated outrage among the international psychiatric and legal community when the august Court ruled that Imdad's schizophrenia was not a "mental illness" but a "recoverable disease", hence making him eligible to be executed. That ruling demonstrated a widespread lack of awareness regarding mental illnesses in the Pakistani criminal justice system and effectively condemned hundreds of other mentally ill individuals on death row.

The Supreme Court's review now represents a critical juncture in Pakistan's human rights record and an opportunity to demonstrate Pakistan's commitments to its international legal obligations.



## Imdad—An Unexceptional Case

The media coverage of Imdad's case prompts a valid question among many: How can a mentally ill person come so close to the gallows?

Sadly, Imdad's case is far from an aberration.

Mentally ill people 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 mentally ill people, their **first contact with a mental health professional is in jail**.

The dearth in procedural safeguards upon arrest and in the course of trial results in the sentencing to death of many mentally ill persons.

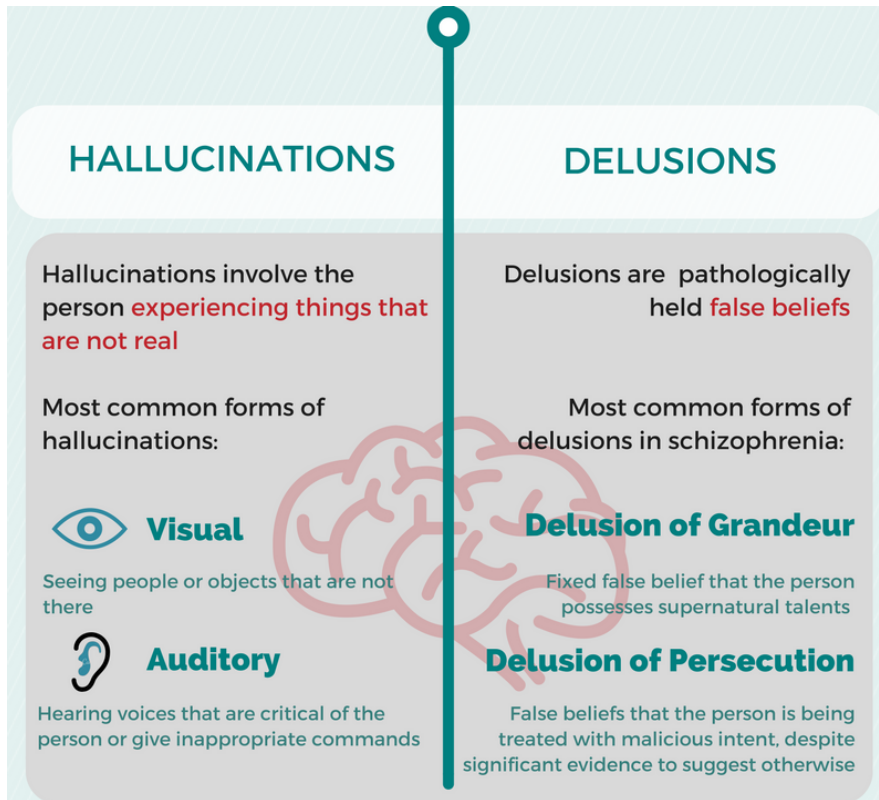
## Imdad Ali: Case Details

Offence: Killing his religious teacher for **"obstructing his spiritual enlightenment"**

Original Death Sentence: **July 2002**

Medical History:

- Insanity plea raised by wife was rejected by the judge during the 2002 Trial **due to the indigent family not having sufficient documents** proving his mental condition
- **2009**: First encounter with Jail Medical Officer who diagnosed him with **"psychosis"**
- **2012**: Dr. Tahir Firoze of Nishtar Hospital examined Imdad and diagnosed him with **severe paranoid schizophrenia**



Schizophrenia is a Psychotic Disorder that represents a **break from reality**

## SCHIZOPHRENIA

### POSITIVE SYMPTOMS

*Schizophrenia is described as a severe mental disorder that disrupts thoughts, perceptions, mood, judgment and a sense of self. It leaves its sufferers unable to determine what is real and make rational decisions. It is a chronic disease without a cure.*

## International Law and Mental Illness

Under customary international law and international human rights norms, the imposition of death penalty on people suffering from any form of severe mental illness is considered cruel and inhuman punishment and, as such, it is **prohibited**.

The principle to prohibit the execution of the mentally ill applies irrespective of whether the accused was mentally ill at the time of the crime or if he or she developed the condition afterwards.

**International Covenant on Civil and Political Rights (ICCPR) prohibits the execution of the mentally ill under:**

**Article 6 (I):** Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life

**Article 7:** No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment

## Landmark Cases In Comparative Jurisdictions

**Atkins Vs Virginia, 2002, United States of America**

The Supreme Court of the USA found that executing mentally ill prisoners amounted to cruel and inhuman punishment as it **failed to fulfill principles of deterrence or retribution**.

In other words, a mentally ill person can neither be held responsible for his or her crimes, nor can a mentally ill person understand why he or she is being punished (connecting the punishment to the crime), thereby making the death penalty in such cases a **“needless imposition of pain and suffering”**.

**Shatrughan Chauhan & Anr vs Union Of India, 2014, India**

In January 2014, the Supreme Court of India gave a significant judgment wherein death sentences of two petitioners with schizophrenia were commuted to life imprisonment.

The Court relied on arguments of **human rights** and India’s **commitment to international law** and ratified conventions of the UN to come to this conclusion. Significantly, the Court did not discriminate between mental illness suffered before or after the committed crime.

For further information and submissions please contact:

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