

SENATE OF PAKISTAN HOUSE OF THE FEDERATION

Report No. 18 of the Committee



**SPECIAL REPORT OF THE FUNCTIONAL COMMITTEE ON HUMAN RIGHTS ON
PROCEDURE OF FILING MERCY PETITION**

**PRESENTED BY
SENATOR NASREEN JALIL
CHAIRPERSON**

Q

SENATE SECRETARIAT

Subject:- SPECIAL REPORT ON HUMAN RIGHTS ON PROCEDURE OF FILING MERCY PETITION

I, Senator Nasreen Jalil, Chairperson Senate Functional Committee on Human Rights have honour to present, on behalf of the Committee, the Special Report on Procedure of Filing Mercy Petition. The agenda before the Committee was as under:-

- i. To examine the existing procedure in filling of mercy petition by the convicts and recommend measures to improve the same.
2. The composition of the Committee is as under:-

i. Senator Nasreen Jalil	Chairperson
ii. Senator Ms. Sitara Ayaz	Member
iii. Senator Dr. Jehanzeb Jamaldini	Member
iv. Senator Muhammad Mohsin Khan Leghari	Member
v. Senator Mufti Abdul Sattar	Member
vi. Senator Mir Kabir Ahmed Muhammad Shahi	Member
vii. Senator Nisar Muhammad	Member
viii. Senator Mrs. Sehar Kamran	Member
ix. Senator Aitzaz Ahsan	Member
x. Senator Farhatullah Babar	Member
xi. Senator Dr. Syed Asif Saeed Kirmani	Member
xii. Senator Ms. Samina Abid	Member
3. Accordingly, the issue was discussed in meeting held on 6th March, 2018. The meeting on the subject matter was attended by the following Members.

i. Senator Nasreen Jalil	Chairperson
ii. Senator Mir Kabir Ahmed Muhammad Shahi	Member
iii. Senator Muhammad Mohsin Khan Leghari	Member
iv. Senator Farhatullah Babar	Member
v. Senator Mufti Abdul Sattar	Member
4. The Committee thoroughly discussed the subject matter and extensively examined at length various procedural/managerial lacunas in filing/grant of mercy petition. The Committee was briefed that Pakistan had lifted a six-year de-facto moratorium on the death penalty in December, 2014. The Committee was further briefed that Pakistan has executed more than 489 individuals, while on the other hand the President of Pakistan has pursued a blanket policy of

refusing to grant clemency to prisoners and has made it effectively impossible for prisoners on death row to obtain pardons on commutation of death sentence.

5. The Committee was further briefed that the proper procedure for filing a mercy petition is not followed by the Superintendent of Jail and in case of rejection of mercy petition the rules allow the convicts to submit the mercy petition on fresh grounds but, it is not practiced either. The Committee was also intimated that in case of mercy petition on medical ground the concern authorities, usually not share the medical report of the convicts, resulting in non-conveyance of the actual condition of the competent authority of the actual condition of the convict. The Committee strongly recommended for the review of the whole procedure of filing mercy petition and after detailed discussion recommended as follows:-

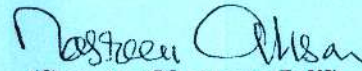
- a. The Government of Pakistan should immediately and publicly disavow the policy decision not to grant mercy petitions, in addition to publishing data relating to the exercise of the President's power under Article 45 since December, 2014.
- b. The Government of Pakistan should reform the processes of submission of mercy petition by the prison authority on behalf of death row prisoners who lack legal representation, ensuring all the very least that the petition are detailed and that the families of prisoners on death row are consulted by the prison authorities during the process of submission of mercy petitions.
- c. The Government of Pakistan should constitute an executive Committee designated with the consideration of mercy petitions. The Committee can comprise of members from Ministries of Interior and Human Rights, the Presidency, the Federal Treaty Implementation Cell, NCHR and Office of the Attorney General of Pakistan. The Committee should be forwarded all request for mercy from prisoners by the Superintendent Jails along with the complete jail and judicial record. It should also have the authority to ask for additional information from the respective authorities to inquire into facts alleged in the mercy petition. The Committee should make a determination regarding whether or not the current case merits the exercise of mercy by the President of Pakistan on the basis of available record. All Members should record their recommendations for each

particular case for consideration by the president. Thereafter, the Committee should forward all cases to the President of Pakistan for exercise of his constitutional power of pardon.

- d. The Government of Pakistan should carefully consider the mercy petitions submitted on behalf of prisoners with serious mental and/or physical ill-health with a view to commuting their sentences.
- e. If the mercy petition is rejected, the families of the convicts should be immediately informed by the Ministry of Interior so that if they want to resubmit the petition on fresh ground, it could be done.



(Malik Arshad Iqbal)
Secretary Committee



(Senator Nasreen Jalil)
Chairperson Committee