

URGENT ACTION



UANetwork Office AIUSA 600 Pennsylvania Ave SE, Washington DC 20003 T. 202.544.0200 F. 202.675.8566 E. uan@aiusa.org amnestyusa.org/urgent/

19 October 2009

UA 284/09

Imminent execution

CHINA

Akmal Shaikh (m)

British national Akmal Shaikh, who is believed to be mentally ill, has been sentenced to death in China for drug-smuggling. He has now lost his appeal, and could be executed within days.

Akmal Shaikh was sentenced to death on 29 October 2008, by the Xinjiang Uighur Autonomous Region (XUAR) Intermediate People's Court. His appeal was rejected by the Uighur Autonomous Regional Higher People's Court in October 2009, despite his lawyer's argument that he is mentally ill.

Akmal Shaikh was detained at airport in the XUAR capital, Urumqi, on 12 September 2007, when he arrived on a flight from Tajikistan. He was accused of carrying four kg of heroin in his luggage. According to Hong Kong and international media, Shaikh had been tricked by a criminal gang in Poland, where he had been living. Gang members had promised to introduce him to people in the music business, who would assist him with his music career, and arranged for him to travel to Kyrgyzstan and then to China; they asked him carry the luggage that contained the heroin. Believing that he was going to be able to launch a career as a pop star, he boarded a plane for China, carrying the piece of luggage.



BACKGROUND INFORMATION

Akmal Shaikh's family and lawyer have argued that he is mentally ill. They say he has suffered for many years with mental instability, and is likely to have a bipolar disorder. Despite these claims, the Chinese authorities have refused to allow Akmal Shaikh to be examined by a doctor. Forensic psychologist Dr Peter Shaapveld, who traveled to China specifically to meet with Shaikh, was not allowed to meet with him. After investigating through family members and other channels, however, he concluded that "the evidence clearly points to the fact that Mr. Shaikh was and/or is suffering from a severe mental disorder."

According to Article 18 of China's Criminal Law, a mental patient who commits a crime, and has not completely lost the ability to recognize or control his own conduct at the time, has criminal responsibility, but may be given a lighter punishment.

In the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, adopted in 1984, the UN Economic and Social Council (ECOSOC) states that executions shall not be carried out of persons who suffer from mental illness. In resolution 1989/64, adopted on 24 May 1989, ECOSOC recommended that UN member states eliminate the death penalty for persons suffering from mental retardation or extremely limited mental competence, whether at the stage of sentencing or execution.

Amnesty International's mission is to undertake research and action focused on preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and expression, and freedom from discrimination, within the context of its work to promote all human rights.

The death penalty is applicable to approximately 68 offenses in China, including non-violent ones. China executes more people every year than any other country in the world. Amnesty International estimated that China carried out at least 1,718 executions and sentenced 7,003 people to death in 2008. These figures represent a minimum – the real figures are undoubtedly much higher. The Dui Hua Foundation, a US-based NGO, estimates that between 5,000 and 6,000 people were executed in 2008, based on figures obtained from local Chinese officials. Statistics on death sentences and executions in China are classified as a state secret.

In January 2007, the Supreme People's Court (SPC) review for all death sentences, which was suspended in 1982, was restored. All death sentences must now be reviewed by the SPC, which has the power to approve, revise or remand death sentences. Chinese authorities have reported a drop in executions since the SPC resumed this review. Nevertheless, the application of the death penalty remains shrouded in secrecy in China. Without access to such information it is impossible to make a full and informed analysis of death penalty developments in China, or to say if there has been a reduction in its use.

No one who is sentenced to death in China receives a fair trial in accordance with international human rights standards. Many have had confessions accepted despite saying in court that these were extracted under torture; have had to prove themselves innocent, rather than be proven guilty; and have had limited access to legal counsel.

China provides no clemency procedures for condemned prisoners after they have exhausted their appeals through the courts.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible:

- urging the Supreme People's Court not to execute Akmal Shaikh;
- calling on the authorities to ensure that Akmal Shaikh has access to his family and any medical attention he may require, including psychiatric evaluation;
- urging the National People's Congress to introduce a legal procedure for clemency and to eliminate the death penalty for all non-violent crimes;
- urging the authorities to establish an immediate moratorium on executions with a view to abolishing the death penalty, as provided by UN General Assembly resolution 62/149, of 18 December 2007.

APPEALS TO:

Supreme People's Court President

WANG Shengjun Yuanzhang
Zuigao Renmin Fayuan
27 Dongjiaomin Xiang
Beijingshi 100745
PEOPLE'S REPUBLIC OF CHINA
Fax: 011 86 10 65292345
Salutation: Dear President

**National People's Congress Standing Committee
Chairman**

WU Bangguo Weiyuanzhang
Quanguo Renda Changwu Weiyuanhui Bangongting
23 Xijiaominxiang
Xichengqu
Beijingshi 100805
PEOPLE'S REPUBLIC OF CHINA
Fax: 011 86 10 63097934
Email: icc@npc.gov.cn
Salutation: Dear Chairman

COPIES TO:

President

HU Jintao Guojia Zhuxi
The State Council General Office
2 Fuyoujie
Xichengqu
Beijingshi 100017
PEOPLE'S REPUBLIC OF CHINA
Fax: 011 86 10 63070900
Salutation: Your Excellency

Ambassador Wen Zhong Zhou
Embassy of the People's Republic of China
2300 Connecticut Ave. NW
Washington DC 20008
Fax: 1 202 328-2582
Email: chinaembassy_us@fmprc.gov.cn

PLEASE SEND APPEALS IMMEDIATELY.

Check with the AIUSA Urgent Action office if sending appeals after 30 November 2009.