

PUBLIC

AI Index: AMR 51/155/2002

UA 297/02

Death penalty/Legal concern 1 October 2002

USA (Virginia)Mir Aimal Kasi (m), Pakistan national, aged 38

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Mir Aimal Kasi is scheduled to be executed in Virginia on 7 November. He was tried in 1997 for the murder of Frank Darling in 1993.

Frank Darling and his colleague Lansing Bennett were shot and killed outside the headquarters of the Central Intelligence Agency (CIA) in Fairfax County, Virginia, on 25 January 1993. They were both CIA employees, as were three other men wounded in the shootings. Mir Aimal Kasi, a Pakistan national who was living and working in Virginia at the time, was identified as the suspect, but returned to his native country the day after the shootings.

Mir Aimal Kasi was indicted for the crime in February 1993. In April 1993, the USA reportedly made a formal extradition request to Pakistan, citing the 1931 Extradition Treaty between the US and the United Kingdom, Pakistan's former colonial sovereign, as the authority for this request. Agents of the CIA and Federal Bureau of Investigation (FBI) continued to investigate the case, acting for the Fairfax County prosecutor.

At 4am on 15 June 1997, FBI agents forcibly abducted Mir Aimal Kasi from a hotel room in Pakistan. He had allegedly been lured there by unidentified individuals who were paid over two million dollars for their assistance. The FBI agents took Kasi - handcuffed, shackled, gagged, and hooded - by car to an airfield and flew him to a secret location, where he was held for about 48 hours before being flown out of Pakistan in an US Air Force plane. During the 12-hour flight to the USA, Mir Aimal Kasi confessed to the 1993 shootings. He allegedly said that he had shot the CIA agents because, among other things, he was "upset" that the USA had bombed Iraq, and "upset with the CIA because of their involvement in Muslim countries".

Mir Aimal Kasi was handed over to the Virginia authorities, and brought to trial in November 1997. He was sentenced to death for the capital murder of Frank Darling, and to life imprisonment for the first-degree murder of Lansing Bennett. The appeal courts have upheld Kasi's conviction and death sentence, rejecting the argument that the trial court did not have jurisdiction over him because he had been illegally abducted from Pakistan. The courts have applied US Supreme Court precedent, including the 1992 decision *US v Álvarez-Machain*, allowing the trial in the USA of foreign nationals forcibly abducted abroad by US agents (see below).

Amnesty International opposes the execution of Mir Aimal Kasi, as it does all executions. Every death sentence is an affront to human dignity, every execution a symptom of, not a solution to, a culture of violence. The organization is also concerned that the abduction of Mir Aimal Kasi violated the international legal prohibition on arbitrary detention.

#### **BACKGROUND INFORMATION**

In 1990, Mexican national Humberto Álvarez-Machain, wanted in the USA for his alleged involvement in the murder of a federal agent, was abducted from Mexico by agents working for the US. Two federal courts ruled that he could not be tried in the USA because his abduction had violated the US/Mexico extradition treaty. However, in 1992, the US Supreme Court ruled that the extradition treaty "says nothing about either country refraining from

forcibly abducting people from the other's territory...". The Court acknowledged that the abduction may have violated "general international law principles", but was nevertheless not a violation of the extradition treaty because the latter had not been invoked. It concluded that Álvarez-Machain's trial in the USA was therefore not prohibited. Three Justices dissented. One wrote: "I suspect most courts throughout the civilized world will be deeply disturbed by the monstrous decision the Court announces today. For every nation that has an interest in preserving the Rule of Law is affected, directly or indirectly, by a decision of this character."

In 1993, the UN Working Group on Arbitrary Detention concluded that the abduction had been an arbitrary detention - a violation of international law. Meanwhile, Álvarez-Machain, who had been acquitted at his 1992 US trial and returned to Mexico, pursued a civil lawsuit against the US. On 11 September 2001, the Ninth Circuit Court of Appeals ruled that he could claim damages from the US Government. In its decision, the Court stated that his abduction had been a violation of customary international law because it violated his rights to freedom of movement, to remain in his country, to security of his person, as well as the right to freedom from arbitrary detention. The government's position had been that various of the country's laws envision US agents engaged in foreign law enforcement activity and that for this to be effective, their arrest authority must be able to override international law. The Ninth Circuit stated: "If this assertion is an accurate statement of United States law, then it reinforces the critics of American imperialism in the international community".

Amnesty International has expressed its concern that the USA may seek to undermine human rights protections, including extradition protections, in its "war on terrorism" announced following the attacks of 11 September 2001 in the USA. See *No return to execution: The US death penalty as a barrier to extradition*, (AMR 51/171/2001, November 2001); *Memorandum to the US Government on the rights of people in US custody in Afghanistan and Guantánamo Bay*, (AMR 51/053/2002, April 2002); and *Pakistan: Transfers to US custody without human rights guarantees*, (ASA 33/014/2002, June 2002).

Since the USA resumed executions in 1977, 802 prisoners have been put to death. Virginia accounts for 86 of these executions, second only to Texas.

**RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:**

- expressing sympathy for the family and friends of Frank Darling and Lansing Bennett, and explaining that you are not seeking to condone the manner of their deaths;
- opposing the execution of Mir Aimal Kasi;
- expressing deep concern at the circumstances of Mir Aimal Kasi's abduction in Pakistan, apparently in violation of the international prohibition on arbitrary detention;
- arguing that his forcible abduction has called into question the integrity of the entire proceedings against Mir Aimal Kasi;
- calling on the governor to commute this death sentence in the interest of the rule of law and the reputation of the USA.

**APPEALS TO:**

Governor Mark R. Warner  
State Capitol, 3rd Floor

Richmond, Virginia 23219, USA

**Fax: + 1 804 371 6351**

**Salutation: Dear Governor**

**COPIES TO:**

Lorne Craner, Assistant Secretary of State, Bureau of Democracy, Human Rights and Labor, 2201 C Street, NW, Room 7802, Washington, DC 20520, USA

**Fax: +1 202 647 5283**

and to diplomatic representatives of USA accredited to your country.

You may also copy your appeals or write brief letters (not more than 250 words) to: Letters to the Editor, *Richmond Times-Dispatch*, Box 85333, Richmond, Virginia 23293, USA. **Fax: + 1 804 819 1216. E-mail: [letters@timesdispatch.com](mailto:letters@timesdispatch.com)**

**PLEASE SEND APPEALS IMMEDIATELY.**