

PUBLIC

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29 September 2006

UA 260/06 Imminent Execution

INDIA Mohammad Afzal (m)

Mohammad Afzal is due to be hanged on 20 October 2006 in Tihar jail, Delhi. He was sentenced to death in December 2002 after being convicted of conspiracy to attack the Parliament of India, waging war against India and murder. A charge of being a member of a terrorist organization was dropped by the Supreme Court for lack of evidence.

The date for his execution was confirmed by a sessions court, a city court that handles criminal cases inside city limits, on 26 September 2006. The order issued by the court, known as a black warrant, stated that Mohammad Afzal "*hang by neck till death on 0600 hours on October 20, 2006.*" A mercy petition is due to be filed on Tuesday, 3 October. The sentence, initially awarded on 18 December 2002, was confirmed by the Supreme Court on 4 August 2005. The Supreme Court judge when confirming the death sentence asserted that, "*The collective conscience of the society will be satisfied only if death penalty is awarded to Mohammad Afzal.*"

On 13 December 2001 five men carried out an armed attack on the Parliament complex building as the Parliament was in session. In the ensuing gun battle between the attackers and police, which lasted for approximately an hour, all of the armed attackers, eight police personnel and a gardener working in the complex were killed and 16 others, including a press photographer, were injured.

In the following days four Kashmiris, Mohammad Afzal, Syed Abdur Rahman Geelani, an Arabic lecturer in a New Delhi college, Shaukat Hussain Guru and his wife, Afsan Guru, were arrested. They were charged with conspiring, planning and abetting the attack under the Prevention of Terrorism Ordinance (POTO), which was later replaced by the Prevention of Terrorism Act (POTA).

On 18 December 2002 Syed Abdur Rahman Geelani, Mohammad Afzal and Shaukat Hussain Guru received death sentences. Afsan Guru was sentenced to five years' rigorous imprisonment. All were sentenced by a special court designated under the POTA. The POTA, which was repealed by the Government of India in September 2004 on the grounds that it had been misused, falls considerably short of international fair trial standards. On 19 December 2002, Amnesty International condemned the death sentences and said that justice is never served by judicial murder (see AI Index: ASA 20/024/2002).

In October 2003 the Delhi High Court heard the appeal against the convictions and acquitted Syed Geelani and Afsan Guru of all charges for lack of evidence, while confirming the other death sentences. On 4 August 2005 the Supreme Court upheld the verdict of the Delhi High Court, acquitting both Afsan Guru and Syed Geelani and modifying the death sentence imposed on Shaukat Hussain Guru to ten years of rigorous imprisonment. They confirmed the death sentence on Mohammad Afzal under the Indian Penal Code.

BACKGROUND INFORMATION

More than half the countries of the world have now abolished the death penalty in law and many others have abolished it in practice. This worldwide trend is reflected in the statutes of the International Criminal Court, the Yugoslavia and the Rwanda Criminal Tribunals, which completely reject the death penalty including for crimes against humanity and genocide. The right to life is an inalienable human right - accorded equally to every individual regardless of their identity or actions.

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

- Expressing sympathy for the relatives of those killed in the attack on the Indian Parliament complex in December 2001 and explaining that you are not looking to downplay the seriousness of the crimes or the suffering caused to the victims;
- Urging the President to commute the death sentence to a more humane alternative;
- Expressing unconditional opposition to the death penalty as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment, and emphasizing that the death penalty has never been shown to be a more effective deterrent than other (more humane) forms of punishment;
- Highlighting to the Government of India that Amnesty International acknowledges that the Indian government has the right and the obligation to ensure law and order and to protect citizens from violent crime. However, in the attempt to curb "terrorism", governments must not relegate human rights protection to second place;
- Urging the President of India to ensure that security concerns do not override respect for human rights.

APPEALS TO:

President

His Excellency A P J Abdul Kalam
Office of the President
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New Delhi 110 004
India

Fax: + 91 11 2301 7290

Email: presidentofindia@rb.nic.in

Salutation: Your Excellency

COPIES TO:

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and to diplomatic representatives of India accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after date 20 October 2006.