

**PUBLIC**

**AI Index: ASA 20/089/2004**

**5 August 2004**

**Further Information on UA 206/04 (ASA 20/008/04, 22 June 2004) and follow-up (ASA 20/017/2004, 9 July 2004) - Death Penalty/Imminent Execution**

**INDIA** **Dhananjoy Chatterjee (m)**

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The President of India has rejected the mercy petition which Dhananjoy Chatterjee's family submitted on 24 June. The state authorities are preparing for his execution, which will not take place before 26 August. Some Indian human rights groups are campaigning against the execution but there has been widespread popular support for the death penalty in this case.

Chatterjee's execution was scheduled for 25 June, but was stayed the day before so that the President could consider the mercy petition. This was the second mercy petition presented to him in this case; he had rejected an earlier one in June 1994.

In 1989 an Indian court commuted the death sentence imposed on one Gyasi Ram to life imprisonment, on the grounds that he "had suffered the mental agony of living under the shadow of death for far too long." Gyasi had been awaiting a decision on a mercy petition for eight years.

According to Indian press reports, in view of the "inordinate delay" in the case (Chatterjee has been on death row for 13 years), his lawyer plans to move a petition in the Supreme Court under Article 32 of the Constitution, under which it is possible to petition the Supreme Court for the enforcement of fundamental rights, such as the right to life. It is very unusual for such petitions to succeed.

Dhananjoy, a private security guard, was sentenced to death in August 1991 for the rape and murder of an 18-year-old schoolgirl in her apartment in Calcutta on 5 March 1990. The evidence against him was reported to be purely circumstantial, but the Supreme Court ruled that his guilt was "amply evident", and imposed the death penalty. He had been due to hang in February 1994, but the execution was postponed twice, and then simply did not take place, apparently because of a bureaucratic oversight.

## **BACKGROUND INFORMATION**

Amnesty International opposes the death penalty in all cases as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment, as proclaimed in the Universal Declaration of Human Rights, and is concerned that prolonged detention of people under sentence of death may amount to cruel, inhuman and degrading treatment or punishment. A number of judgements in India and other countries have ruled that long waiting periods for prisoners facing execution amount to inhuman or degrading punishment, or are brutalizing to the human spirit.

The death penalty is an inherently unjust and arbitrary punishment, however heinous the crime for which it is inflicted. Studies globally have shown that it is more likely to be imposed on those who are poorer, less educated and from marginalized segments of society. The death penalty is irrevocable, yet the risk of error in its application is inescapable. Amnesty International recognizes the need to combat violent crime, but there is no convincing evidence that the death penalty deters crime more effectively than other punishments.

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

- expressing regret that the President has rejected the mercy petition filed on behalf of Dhananjoy Chatterjee;
- 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 punishments;
- expressing concern that keeping Chatterjee on death row for 13 years may amount to cruel, inhuman and degrading treatment, and pointing out that at least one other prisoner in this position has had his death sentence commuted.

**APPEALS TO:**

President

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

**Fax: +91 11 2301 7290**

**Salutation: Your Excellency**

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 15 September 2004.