

Ref: ASA 20/010/2010

Mr. P. Chidambaram
Minister of Home Affairs
Ministry of Home Affairs
Government of India
104 North Block
New Delhi 110 001
India

26 April 2010

Dear Minister,

Open Letter on the Death Penalty in India

Every year Amnesty International publishes figures detailing the use of the death penalty worldwide. These figures are used as reference by the media, governments, the United Nations and other intergovernmental bodies when analyzing the issue of capital punishment.

Amnesty International has previously written to your Ministry and to the Ministry of Law and Justice seeking information on the use of the death penalty in India (TG/ASA/20/2008/11 dated 18 December 2008). However, no response to these requests has been received.

With assistance from partner organisations and individuals across India, Amnesty International has also sought to collect figures on the imposition of the death penalty via the Right to Information (RTI) Act. Although many States have positively responded to our request and provided us with useful information, some have regrettably refused to share such data on various grounds. Appeals under the RTI Act are being pursued by our partner organisations and individuals. Please see annexure for details.

The United Nations has repeatedly called upon member states that retain the death penalty to be transparent about the application of this punishment in their country.

In resolution 1989/64, adopted on 24 May 1989, the UN Economic and Social Council urged UN member states "to publish, for each category of offence for which the death penalty is authorized, and if possible on an annual basis, information about the use of the death penalty, including the number of persons sentenced to death, the number of executions actually carried out, the number of persons under sentence of death, the number of death sentences reversed or commuted on appeal and the number of instances in which clemency has been granted, and to include information

on the extent to which the safeguards referred to above are incorporated in national law”.

Resolution 2005/59, adopted on 20 April 2005 by the UN Commission on Human Rights called upon all states that still maintain the death penalty “to make available to the public information with regard to the imposition of the death penalty and to any scheduled execution”. Similarly, in resolution 62/149, adopted on 18 December 2007, the UN General Assembly called upon countries that still maintain the death penalty to “provide the Secretary-General with information relating to the use of capital punishment and the observance of the safeguards guaranteeing the protection of the rights of those facing the death penalty”.

The reluctance by the central and many state governments in making information on capital punishment freely available is in marked contrast with the actual practice of the death penalty of India, especially the dramatic decrease in executions in the past decade. This reluctance to release information has also been noted by Philip Alston, the UN Special Rapporteur on Extrajudicial, summary or arbitrary executions. In his 2006 report to the 62nd session of the Commission on Human Rights, ‘Transparency and the imposition of the death penalty’, the UN Special Rapporteur quotes the response received by the Deputy Inspector General (Prisons), stating that “the information sought would not serve any public interest” and that “some of the persons who have been executed had been convicted for various offences having prejudicial effect on the sovereignty and integrity of India and security of NCT (National Capital Territory) of Delhi and international relations and could lead to incitement of an offence”.

The availability of information on the award and implementation of the death penalty will allow for an informed debate on the subject. The promotion of such a debate constitutes the first and important step towards the establishment of a moratorium on execution and eventual abolition of the death penalty in India.

Amnesty International therefore calls upon you to ensure that all information relating to the use of the death penalty in India are made freely and openly available.

Thank you for considering this matter and I look forward to hearing from you.

Yours sincerely,

Madhu Malhotra,
Deputy Director, Asia-Pacific Programme.

Encl: Annexure

ANNEXURE

Responses to RTI applications on statistics of the death penalty in India

STATES THAT PROVIDED STATISTICS

- Andhra Pradesh
- Bihar
- Chhattisgarh
- Delhi
- Goa
- Gujarat
- Haryana
- Karnataka
- Kerala
- Mizoram
- Nagaland
- Punjab
- Tamil Nadu
- Tripura
- Uttar Pradesh
- West Bengal

STATES THAT REFUSED TO PROVIDE INFORMATION

- Assam
- Jharkhand
- Maharashtra
- Madhya Pradesh
- Uttaranchal

NO INFORMATION RECEIVED

- Himachal Pradesh
- Jammu and Kashmir
- Manipur
- Meghalaya
- Orissa
- Rajasthan
- Sikkim