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India: The cause of justice is not served by judicial murder

Amnesty International is dismayed at the death sentences handed down to three people accused of the 13 December 2001 attack on the Indian Parliament.

"The death penalty is a violation of the right to life and the ultimate cruel, inhuman and degrading punishment," Amnesty International said today.

"We oppose the death penalty unconditionally, whether it is imposed on alleged criminals or on so-called terrorists," the international human rights organization added.

The death penalty is a harsh punishment, but is not harsh on crime. A survey conducted for the United Nations, concluded: "...research has failed to provide scientific proof that executions have a greater deterrent effect than life imprisonment. Such proof is unlikely to be forthcoming. The evidence as a whole still gives no positive support to the deterrent hypothesis".

A former Chief Justice of India, P.N. Bhagwati observed: "There are no objective standards regulating the imposition of the death penalty. Life is too precious a thing to be submitted to the subjective decision of a judge."

"The risk of executing innocent people is increased when international fair trial standards have not been implemented. In the present case, we are concerned that the trial of Abdul Rehman Geelani and two other men may have failed to meet international standards for fair trial," Amnesty International said.

The Prevention of Terrorism Act (POTA) -- the legislation under which the three men were charged and tried for conspiracy and waging war against India -- falls considerably short of international fair trial standards.

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. Security concerns must not override respect for human rights.

Media coverage of the trial has abused the defendants' right to a fair trial, as it has been extremely prejudicial. On the anniversary of the attack, and only three days before the designated POTA trial court announced its verdict, a private television channel screened a film which was exclusively based on the premise that the defendants were guilty of the charges made against them. Amnesty International believes that the government of India took insufficient care in ensuring that the defendants' right to be presumed innocent, the most basic aspect of the right to a fair trial, was respected.

Background

In a suicide attack on the Indian Parliament on 13 December 2001, nine people were killed and 16 injured. Four people, Mohammad Afzal, Shaukat Hussain, his wife Najot Sandhu, and Abdul Rehman Geelani were arrested and tried for various offences under the Indian Penal Code, POTA, the Arms Act and the Explosive Substances Act. On 16 November the three men were convicted of waging war against India and attempting to kill politicians in the parliament building. On 18 December they were sentenced to death. Najot Sandhu was sentenced to five years' imprisonment for concealing the plot.

Before the trial started, Amnesty International expressed concern regarding the right to fair trial of the four accused in an Open Letter to the Union Law Minister.

More than half the countries of the world have 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.

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