

URGENT ACTION

TWO EXECUTIONS STAYED, ANOTHER IMMINENT

India's Supreme Court stayed the execution of Shivu and Jadeswamy on 21 August, the day before the men had been scheduled to be executed. Devender Pal Singh Bhullar remains at imminent risk of execution.

Shivu and **Jadeswamy**, who were sentenced to death in 2005, had petitioned the president for mercy. He rejected their petition, and the men were scheduled to be executed on 22 August. Their lawyers submitted a writ petition for commutation of their sentence, based on the executive's inordinate delay of six years in considering their mercy petitions which rendered the punishment cruel, inhuman and degrading.

While the Supreme Court was hearing their petition, Shivu attempted suicide in Hindalga prison by cutting his wrists and other parts of his body. Prison officials told journalists that the wounds were minor and Shivu was treated within the prison. He and Jadeswamy are now held in the same prison, the Central Jail in the Belgaum district of Karnataka. A large bench of the Supreme Court will begin hearing the men's case on 22 October, as well as those of at least 17 other condemned prisoners whose mercy petitions have been rejected by the president.

No execution date has been set for him, but **Devender Pal Singh Bhullar** remains at imminent risk of execution after the Supreme Court upheld its rejection of his commutation plea. He was sentenced to death under the Terrorist and Disruptive Activities (Prevention) Act (TADA), a law that contained provisions incompatible with international fair trial standards, and had no access to a lawyer after he was arrested or at his trial. He was found guilty on the basis of a "confession" to the police which he later retracted, claiming he had made it under police pressure. Devender Pal Singh Bhullar has been receiving treatment at a psychiatric facility, and a medical board has apparently said that he is suffering from severe depression and shows symptoms of psychosis and suicidal tendencies.

Please write immediately in English or your own language:

- Calling on the authorities not to execute Devender Pal Singh Bhuller, Shivu, Jadeswamy or any other prisoner;
- Urging them to retry Devender Pal Singh Bhuller in proceedings that meet international fair trial standards;
- Urging them to halt immediately any further executions, commute all outstanding death sentences to terms of imprisonment and establish a moratorium on executions with a view to abolishing the death penalty altogether.

PLEASE SEND APPEALS BEFORE 4 OCTOBER 2013 TO:

President of India

Mr. Pranab Mukherjee
Rashtrapati Bhawan
New Delhi 110001 India
Fax: +9111 2301 7290

Email: (via website)
<http://www.helpline.rb.nic.in/GrievanceNew.aspx>

Salutation: Dear President

Prime Minister

Dr Manmohan Singh
South Block, Raisina Hill
New Delhi 110001 India
Fax: +9111 2301 9545

Email: (via website)
<http://pmindia.nic.in/feedback.php?In=enGLISH>

Salutation: Dear Prime Minister

And copies to:

Minister of Home Affairs

Mr. Sushilkumar Shinde
104 North Block
Central Secretariat
New Delhi 110001 India
Fax: +9111 2309 4221

Email: hm@nic.in

Also send copies to diplomatic representatives accredited to your country.

Please check with your section office if sending appeals after the above date. This is the second update of UA 91/13. Further information: www.amnesty.org/library/info/ASA20/036/2013/en

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ADDITIONAL INFORMATION

In the Indian justice system, a mercy petition is often the final opportunity for condemned prisoners to have their death sentences commuted by the executive, after their judicial appeals have been exhausted. In the past, some mercy petition decisions have been successfully challenged before the higher judiciary on grounds of the executive's undue delay in considering such petitions. However, in April 2012, the Supreme Court upheld Devender Pal Singh Bhullar's death sentence on the basis that such delay "cannot be invoked in cases where a person is convicted for an offence under TADA or similar statutes" and the "enormity of the crime". This judgement disregarded the absolute prohibition of torture and other cruel inhuman or degrading treatment or punishment under international law.

Since assuming office in 2012, President Pranab Mukherjee has rejected mercy petitions of at least 19 people - Ajmal Kasab, Saibanna, Afzal Guru, Gnanprakasham, Simon, Meesekar Madaiah, Bilavendran, Suresh, Ramji, Gurmeet Singh, Sonia Choudhary, Sanjeev Choudhary, Jafar Ali, Dharam Pal, Praveen Kumar, B A Umesh, Maganlal Barela, Shivu and Jadeswamy.

The Indian authorities have executed two of these people: Ajmal Kasab on 21 November 2012 and Afzal Guru on 9 February 2013. These two executions were considered out of turn and were not announced to the public until they had been carried out. A government minister stated that no prior announcement was made in Ajmal Kasab's case to avoid intervention from human rights activists. In Afzal Guru's case, his family only received notification of the execution after it had been carried out, and his body was not returned to them for burial. The last execution in India before these had been that of Dhananjay Chatterjee in August 2004.

Seven of the prisoners now on death row, Santhan, Murugan, Perarivalan, Gnanaprakasam, Simon, Madaiah and Bilavendran were convicted by a TADA court.

The Indian authorities used to make information about the rejection of mercy petitions and dates of execution available to the public before any executions. However they have stopped this practice since 2012, making it difficult to know which mercy petitions are being considered, when decisions are to be made, and whether these decisions would be public. In resolution 2005/59 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".

India's resumption of executions has set the country against regional and global trends towards abolition of the death penalty: 140 countries are now abolitionist in law or in practice. Out of 41 countries in the Asia-Pacific region, 17 have abolished the death penalty for all crimes, 10 are abolitionist in practice and one – Fiji – uses the death penalty only for exceptional military crimes. Over the past 10 years, four Asia-Pacific countries abolished the death penalty for all crimes: Bhutan and Samoa in 2004, the Philippines in 2006 and the Cook Islands in 2007. UN bodies and mechanisms have repeatedly called upon member states to establish a moratorium on executions with a view to abolishing the death penalty, including through the adoption of four UN General Assembly resolutions in December 2007, 2008, 2010 and 2012. India voted against all four resolutions.

Amnesty International opposes the death penalty in all cases as a violation of the right to life and the ultimate cruel, inhuman and degrading punishment, regardless of the nature of the crime; guilt, innocence or other characteristics of the person facing execution; or the method used by the state to carry out the execution.

Name: Shivu, Jadeswamy, Devender Pal Singh Bhuller
Gender m/f: m

Further information on UA: 91/13 Index: ASA 20/037/2013 Issue Date: 23 August 2013