

URGENT ACTION

DEVENDER PAL BHULLAR AT RISK OF IMMINENT EXECUTION

The Supreme Court of India rejected the commutation plea of Devender Pal Singh Bhullar on 12 April. This verdict could affect the cases of at least 17 more prisoners.

Devender Pal Singh Bhullar was sentenced to death in August 2001 for his involvement in a bomb attack in New Delhi in 1993 that killed nine people. He was arrested at the New Delhi Airport in January 1995 under the Terrorist and Disruptive Activities (Prevention) Act (TADA), a law that subsequently lapsed, and contained provisions incompatible with international fair trial standards.

Devender Pal Singh Bhullar had no access to a lawyer during his initial detention and trial. He was found guilty on the basis of an unsubstantiated “confession” that he made to the police. He later retracted his statement claiming it was made under police pressure. In March 2002, the Supreme Court upheld Bhullar’s death sentence, though one of the three judges on the bench had found him not guilty, saying there was no evidence to convict him. A review petition was dismissed by the same Supreme Court judges, again by a 2 to 1 majority, in December 2002. Bhullar has been receiving treatment at a psychiatric facility in New Delhi and in 2011 his lawyer requested that the Supreme Court consider his mental condition as grounds for commuting his death sentence.

The President of India rejected Devender Pal Singh Bhullar’s mercy petition in May 2011, eight years after the request was filed. Devender Pal Singh Bhullar challenged the President’s decision before the Supreme Court, seeking commutation of his death sentence on the grounds of inordinate delay in its consideration and challenging the constitutionality of his prolonged stay on death row. The Supreme Court rejected his plea on 12 April. This decision is likely to affect at least 17 more prisoners whose mercy petitions have been rejected by the President.

Please write immediately in Hindi, English or your own language:

- Calling upon the Indian government to not execute Devender Pal Singh Bhullar, to remove him from death row immediately, and retry his case in proceedings that comply with international fair trial standards.
- Urging them to immediately halt any further executions, commute all death sentences to terms of imprisonment, and establish an official moratorium on executions with a view to abolishing the death penalty;
- Reminding the Indian authorities that the UN General Assembly has repeatedly called for a moratorium on executions with a view to abolishing the death penalty, and pointing out

that India's decision to resume executions has set the country against regional and global trends towards abolition of the death penalty.

PLEASE SEND APPEALS BEFORE 24 MAY 2013 TO:

Prime Minister of India

Dr. Manmohan Singh
South Block, Raisina Hill
New Delhi 110001 India
Fax: +9111 2301 9545
Email: (via form)
<http://pmindia.gov.in/feedback.php>

Salutation: Dear Prime Minister

President of India

Pranab Mukherjee
Rashtrapati Bhawan
New Delhi 110004 India
Fax: +9111 2301 7290; 2301 7824
Email: (via form)
<http://www.helpline.rb.nic.in>

Salutation: Dear President Mukherjee

And copies to:

Minister of Home Affairs
Sushil Kumar Shinde
104 North Block
Central Secretariat
New Delhi 110001 India
Fax: +9111 2309 4221
Email: hm@nic.in

Salutation: Dear Minister

URGENT ACTION

DEVENDER PAL SINGH BHULLAR AT RISK OF IMMINENT EXECUTION

Additional Information

In the Indian justice system, a mercy petition is often the final opportunity for individuals to have their death sentences commuted by the executive, after the judicial appeals have been exhausted. In Devender Pal Singh Bhullar's case, the two judges in favour of the death sentence observed that the non-unanimous sentence could be a factor considered in the mercy petition process.

In resolution 2005/59, the UN Commission on Human Rights called upon all states that retain the death penalty "Not to impose the death penalty on a person suffering from any mental or intellectual disabilities or to execute any such person".

In the past, some mercy petition decisions have been challenged before the Supreme Court – the country's highest court - on grounds of undue executive delay. However, the decision to hear such a challenge is left to the discretion of the Supreme Court. Mahendra Nath Das, Saibanna, Gnanprakasham, Simon, Meesekar Madaiah, Bilavendran, Murugan, Santhan and Perarivalan have also appealed to the Supreme Court for commutation on grounds that include delay on death row.

In November 2012, the Indian state resumed executions after a hiatus of over eight years. Since assuming office in 2012, President Pranab Mukherjee has rejected four mercy petitions involving seven people (Ajmal Kasab, Saibanna, Afzal Guru, Gnanprakasham, Simon, Meesekar Madaiah, and Bilavendran), and has commuted one death sentence (Atbir). In the past five months, India has executed two of these individuals: Ajmal Kasab on 21 November 2012 and Afzal Guru on 9 February 2013. Prior to these, the last execution in India had been that of Dhananjay Chatterjee in August 2004.

The two executions in the past five months – that of Ajmal Kasab and Afzal Guru - were carried out in a clandestine manner. In both cases, the public was not informed of the date of execution. In Afzal Guru's case, his family received notification of the execution after it had been carried out and his body was not returned for burial.

As of today, 140 countries are 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. In a general comment on Article 6 of the International Covenant on Civil and Political Rights, to which India is a State Party, the UN Human Rights Committee stated that Article 6 “refers generally to abolition [of the death penalty] in terms which strongly suggest ... that abolition is desirable. The Committee concludes that all measures of abolition should be considered as progress in the enjoyment of the right to life... “