

PUBLIC

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EXTRA 58/98

Fear of imminent execution / Death penalty 19 August 1998

INDIA Mohan alias Mohanarangam, aged 27

Gopi, aged 25, brother or Mohan

Amnesty International has just received information that two brothers, Mohan and Gopi, may be at risk of imminent execution following the rejection of their review petitions by the Supreme Court of India on 22 July 1998.

On 27 November 1996, four men -- Mohan, Gopi, Muthu and Pushparaj -- were sentenced to death by a trial court in Tamil Nadu for the kidnapping and murder of a 10-year-old boy three years earlier. In March 1997 this sentence was upheld by the Tamil Nadu High Court. In May this year the Supreme Court commuted the death sentences against Muthu and Pushparaj but upheld the sentences of death against brothers Mohan and Gopi.

Mercy petitions have now been sent to the Governor of Tamil Nadu who has powers (as does the President of India) to commute the sentence.

Lawyers acting for the two men have argued that the courts do not have sufficient grounds for granting the death penalty which the Supreme Court itself has ruled should be applied only in the "*rarest of the rare*" cases. When deciding the case and whether it falls into this category the judges are asked to consider any "mitigating circumstances" including whether the accused would be considered a future threat to society and whether they may be reformed and rehabilitated. In particular, lawyers have argued that the trial court did not take into account any such "mitigating circumstances" in the case of Mohan and Gopi when deciding the sentence.

BACKGROUND INFORMATION

Amnesty International unconditionally opposes the use of 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. In a resolution adopted in April 1997, the UN Commission on Human Rights called on all states that have not yet abolished the death penalty "*to consider suspending executions, with a view to completely abolishing the death penalty*".

Even though the Indian Constitution protects the right to life, on average a dozen executions are nevertheless carried out in the country every year for criminal offenses. Most of those executed are the economically and socially disadvantaged. Mohan and Gopi are *dalits* (people disadvantaged by caste hierarchy).

RECOMMENDED ACTION: Please send telegrams/faxes/express/airmail letters in English or your own language:

- urging that the death sentences against Mohan and Gopi are not carried out and that their sentences are commuted;
- expressing unconditional opposition to the death penalty as a violation of the right to life (ref: article 3 of the Universal Declaration of Human Rights: "Everyone has the right to life, liberty and security of person") and the right not to be subjected to cruel, inhuman or degrading treatment or punishment and emphasising that the death penalty has never been shown to have a special deterrent effect.

APPEALS TO:

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Justice Fathima Beevi
Governor of Tamil Nadu
Office of the Governor
Chennai
Tamil Nadu
India

Telegrams: Governor, Chennai, India

Faxes: + 91 44 567 128

Salutation: Dear Governor

COPIES TO:

Mr K.R. Narayanan
President of India
Office of the President
Rashtrapati Bhavan
New Delhi 110 004, India

Faxes: + 91 11 301 7290

Mr Lal Krishna Advani
Minister of Home Affairs
Ministry of Home Affairs
North Block, New Delhi 110 001, India

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and to diplomatic representatives of India accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY

Everyone has the right to life, liberty and security of person.

Article 3, Universal Declaration of Human Rights

Visit the Amnesty International UDHR campaign website on <http://www.amnesty.excite.com>