

EXTRA 31/01

Death pen**INDIARam Deo Chauhan (alias Raj Nath Chauhan)**

Ram Deo Chauhan is facing execution, after the Supreme Court on 10 May dismissed a petition seeking review of its July 2000 judgement upholding his death sentence. There is strong evidence that he was 15 at the time of the murder of which he was convicted. His only hope of escaping the gallows is a mercy petition that has been lodged with the Governor of Assam and a recent call by the National Human Rights Commission that his sentence be commuted.

Ram Deo Chauhan (son of Shri Fartu Chauhan, resident of village Mailoo, District Karbi Anglong, Assam) was convicted and sentenced to death by a trial court in Assam in March 1998, for the March 1992 murder of four members of a family he worked for as a domestic servant. The trial court rejected evidence from a team of medical experts, who examined Ram Deo Chauhan at the request of the court, that he was a minor at the time of the murder, arguing that on the basis of oral evidence it was likely that he was at least 16. In Indian law, persons under 16 may not be sentenced to death.

Ram Deo Chauhan's death sentence was upheld by the High Court in February 1999. The Supreme Court dismissed a further appeal in July 2000, and commented: "The awarding of lesser sentence only on the ground of the appellant being a youth at the time of occurrence cannot be considered as a mitigating circumstance in view of our findings that the murders committed by him were most cruel, heinous and dastardly".

The review petition that has now been rejected by the Supreme Court argued that there was strong evidence that Ram Deo Chauhan was 15 at the time of the crime, and that his trial and conviction were unsound, because under the Juvenile Justice Act he should have been tried by a Juvenile Court. It also presented evidence that he had not had access to competent legal counsel and that in violation of established law in India, the conviction and the sentence were pronounced on the same day.

BACKGROUND INFORMATION

Indian law defines "juveniles" as boys who have not attained the age of 16. The death penalty may only be applied to males aged 16 or over, in contravention of article 6(5) of the International Covenant on Civil and Political Rights (ICCPR), which India ratified in 1979, and also Article 37 of the Convention on the Rights of the Child (CRC), ratified by India in 1992. The UN Human Rights Committee and the Committee on the Rights of the Child have recommended (in 1997 and 2000 respectively) that the government of India abolish the death penalty for those under 18. The government has not done so, but has stated to the UN Human Rights Committee that the death penalty is *de facto* not applied to persons under 18.

The Indian Constitution protects the right to life. India's highest courts have ruled that the death penalty can only be applied in the "rarest of rare" cases. Because this is not further defined and no clear guidelines exist, this means that the use of the death penalty in India depends to a large extent on how individual judges interpret this phrase. Most of those executed in India are poor and illiterate.

Amnesty International opposes the death penalty unconditionally as the ultimate form of cruel, inhuman and degrading treatment and a violation of the right to life, as proclaimed in the Universal Declaration of Human Rights.

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

- expressing concern that Ram Deo Chauhan has been sentenced to death, although he was apparently aged 15 or 16 at the time of the crime of which he was convicted, and pointing out that the sentence therefore violates Article 6(5) of the ICCPR and Article 37 of the CRC, to which India is a party;
- expressing grave concern that the courts have apparently failed to take account of his status as a minor, or of compelling evidence that he did not have access to competent legal counsel;
- urging that his case be reconsidered immediately, since it appears that his trial and conviction did not conform either with Indian law on the trial of minors, or with international standards;
- expressing unconditional opposition to 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, and emphasizing that the death penalty has never been shown to have a special deterrent effect;
- reminding the authorities of the United Nations (UN) Commission on Human Rights resolution of April 2000 that governments should establish a moratorium on executions;
- urging them to implement the recommendation of the UN Human Rights Committee and the UN Committee on the Rights of the Child, and abolish by law the imposition of the death penalty on minors.

APPEALS TO:

Lt. Gen. (Retd) S.K. Sinha
Governor of Assam
Office of the Governor
Guwahati
Assam, India

Fax: + 91 361 560900

Telegrams: Governor, Guwahati, India

Salutation: Dear Governor

Mr Arun Jaitley
Minister of Law and Justice and Company Affairs
Law Ministry
Shastri Bhavan
Dr Rajendra Prasad Road
New Delhi 110 001, India

Fax: + 91 11 338 4241

Telegrams: Law Minister, New Delhi, India

Salutation: Dear Minister

COPIES TO:

Justice A.S. Anand
Chief Justice of India
Supreme Court of India
Tilak Marg, New Delhi 110 001, India

and to diplomatic representatives of India accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 20 June 2001.