

PUBLIC

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Death Penalty

29 October 1999

INDIA

Molai
Santosh

Amnesty International is concerned that two men -- Molai and Santosh -- could be in imminent danger of execution in India.

On 27 October 1999 the Supreme Court of India rejected an appeal against the death sentences awarded to the men by a trial court in Madhya Pradesh in 1998, and subsequently upheld by the Madhya Pradesh High Court, for the rape and murder of a 16-year-old girl. The men now only have the possibility of a clemency appeal heard by the President.

The Supreme Court in its order of 27 October reportedly held that the crime fell into the category of "rarest of rare" (see background below). Molai (a jail guard) and Santosh (a convict) were found guilty of raping and murdering the 16-year daughter of a jail official.

BACKGROUND INFORMATION

Amnesty International opposes the death penalty unconditionally as an extreme form of cruel, inhuman and degrading punishment and a violation of the right to life, as proclaimed in the Universal Declaration of Human Rights and other international human rights instruments.

India's Supreme Court has ruled that the death penalty can only be applied in the "rarest of rare" cases, although these are not further defined. The use of the death penalty in India thus depends to a large degree on how individual judges interpret this phrase. The lack of clear guidelines about the circumstances in which the death penalty should be imposed means that judges must exercise great discretion in capital cases. On average a dozen executions are carried out in India every year for criminal offences -- mainly murder. Most of those executed are poor and illiterate.

Amnesty International is also concerned at calls for the scope of the death penalty in India to be widened to include other offences, including rape. Statements made by the previous government indicating that it would propose reforms to include the death sentence for rape have recently been repeated by the Minister of Home Affairs following elections last month.

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

- acknowledging the grave nature of the crimes for which Molai and Santosh have been convicted, and expressing sympathy for the relatives of his victim;
- 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 emphasising that the death penalty has never been shown to have a special deterrent effect.
- calling on the President to make use of his right to exercise clemency to commute the death sentence against Molai and Santosh;
- expressing concern at statements made by the Government of India to extend the scope of the death penalty to crimes of rape;

APPEALS TO:

Shri R.K. Narayanan
President of India
Office of the President
Rashtrapati Bhavan
New Delhi 110 004, India
Telegrams: President, New Delhi, India
Faxes: + 91 11 301 7290
Salutation: Dear President

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Mr L.K. Advani
Minister of Home Affairs
Ministry of Home Affairs
North Block
New Delhi 110 001
Faxes: + 91 11 301 5750
Salutation: Dear Minister

COPIES TO:
Justice A.S. Anand
Chief Justice of the Supreme Court
Supreme Court of India
Tilak Marg
New Delhi 110 001, India
Salutation: Dear Chief Justice

Mr Bhai Mahavir
Governor of Madhya Pradesh
Raj Bhavan
Bhopal
Madhya Pradesh
India
Salutation: Dear Governor

and to diplomatic representatives of INDIA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.