

EXTERNAL

AI Index: ASA 20/54/96

13 December 1996

Further information on UA 39/96 (ASA 20/06/96, 16 February 1996) and follow-up (ASA 20/14/96, 25 March; ASA 20/20/96, 16 May; ASA 20/40/96, 30 August; ASA 20/43/96, 13 September; ASA 20/45/96, 27 September; ASA 20/48/96, 5 November) - Death Penalty

INDIA Gantela Vijayavardhana Rao, aged 25
Satuluri Chalapathi Rao, aged 24

Gantela Vijayavardhana Rao and Satuluri Chalapathi Rao are to be judicially executed on 18 December 1996, despite the fact that no decision has yet been taken on the mercy petition pending before the President of India.

Following the order of the High Court of Andhra Pradesh at Hyderabad on 5 November, which dismissed the writ petition calling for a stay on the execution of the death sentences, on 23 November, the third additional sessions court at Guntur set a new execution date for 18 December. However, this date was fixed despite the pendency of a mercy petition filed before the President of India on 8 November. Under Article 72(1)(c) of the Constitution of India, the President of India has the power to commute a death sentence.

In the interim, another appeal has been filed in the Supreme Court of India seeking commutation of the sentence of death on the basis that at no point when arrested, or committed for trial by the magistrate in Guntur, were the two accused offered legal aid or told of their rights.

Both the men facing judicial execution are *dalits* (members of a socially and economically disadvantaged group determined by caste hierarchies).

Access to justice has long been recognised as important within India -- in 1980, Justice P N Bhagwati of the Supreme Court had directed:

"the magistrates and Sessions Judges in the country to inform every accused who appears before them and who is not represented by (a) lawyer on account of his poverty or indigence that he is entitled to free legal services at the cost of the State."

This echoes India's commitments under Article 14 of the International Covenant on Civil and Political Rights (ICCPR), which states that all persons shall be equal before courts and tribunals and provides guarantees to ensure that all those facing any criminal charge are given a fair trial. These rights are further delineated in Article 5 of the United Nations Safeguards guaranteeing protection of the rights of those facing the death penalty, which states:

"Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings."

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

- urging that the death sentences on Gantela Vijayavardhana Rao and Satuluri Chalapathi Rao not be carried out and that their sentences be commuted;
- expressing concern that a new execution date for 18 December was set despite the pendency of the mercy petition before the President of India
- expressing concern that the trial of the two youths was not in conformity with the standards set by the Indian courts, or by international human rights law;
- 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 as proclaimed in the Universal Declaration of Human Rights;
- pointing out that the death penalty has never been shown to have a unique deterrent effect.

APPEALS TO:

President Shankar Dayal Sharma
Office of the President
Rashtrapati Bhavan
New Delhi 110 004
India

Telegrams: President of India, New Delhi, India

Faxes: +91 11 301 7290

Salutation: Dear President

COPIES TO:

Mr Indrajit Gupta
Minister of Home Affairs
Ministry of Home Affairs
North Block
New Delhi 110 001
India

Faxes: + 91 11 301 5750

Mr Krishna Kanth
Governor of Andhra Pradesh
Office of the Governor
Hyderabad
Andhra Pradesh
India

COPIES TO: 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 18 December 1996.