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India: No to death sentences under POTA

The death sentence handed down to three individuals for their role in the 2003 twin car bomb attacks at Mumbai, under an anti-terror legislation no longer in force, amounts to continuing the cycle of violence, Amnesty International said today.

At least 54 people were killed and 244 injured in the 25 August 2003 attacks at Mumbai. Amnesty International expresses its sympathy for the victims of violence and their loved ones who suffered a great loss. The organization recognises the need for all who committed crimes to be brought to justice but points out that there is no clear evidence that the death penalty is an effective deterrent.

Mohammed Hanif Sayed, his wife Fahimda and Ashrat Ansari were sentenced to death by a special court constituted to try cases under the Prevention of Terrorism Act (POTA), 2001. POTA was repealed in 2004 after widespread abuse of the act and the vigorous campaigns of human rights organizations in response. The legislation contained several draconian provisions including Section 32 of the act which violate international fair trial standards, including making confessions made under police coercion admissible as evidence in courts and vesting courts powers to hold trials in private. Nevertheless, those charged under POTA when the legislation was in force continued to be tried under the legislation even after its repeal.

Amnesty International had strongly condemned the twin car bomb attacks at the time; however the organisation also highlighted the necessity for all proceedings to meet internationally recognized standards for fair trials to ensure that those responsible for the attacks were brought to justice and without recourse to death penalty.¹

This is the second time special courts had handed down sentences to those charged under POTA. Mohammad Afzal Guru was the first to be sentenced to death after he was charged with POTA in the case relating to the armed attack on the Indian parliament in December 2001. In 2006, the Supreme Court upheld the death sentence granted to Afzal and his appeal for clemency is pending with the President of India.

¹ Amnesty International, *India: Attacks on civilians unacceptable*, AI Index: ASA 20/022/2003, 26 August 2003.