

# AMNESTY INTERNATIONAL

## Public Statement

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### **India: Call to urgently consider the abolition of the death penalty**

Amnesty International welcomes that state officials at the highest level in India have publicly expressed support for the abolition of the death penalty. The President of India, A P J Abdul Kalam is widely reported as saying that he was in favour of granting clemency to some prisoners on death row whose petitions have been pending with the President.

Similarly, newly-appointed Chief Justice of India, Justice Y K Sabarwal, was reported as saying that he "personally" did not favour death penalty but would still apply it in accordance with law, while making it clear that only a central legislation could abolish it.

President, Mr. Kalam also called for a "comprehensive policy" on the death penalty.

Amnesty International believes that instead of a comprehensive policy the Government of India should use this opportunity to urgently and earnestly consider abolishing the death penalty altogether. Amnesty International urges the Government of India:

to declare an immediate moratorium on executions with the view to abolishing the death penalty;  
to take urgent steps towards the abolition of the death penalty by initiating discussions at all levels of government and civil society about the desirability of abolition of the death penalty and initiate relevant legislative steps.

Such a move would be in line with international trends towards the abolition of the death penalty. As of now, a total of 121 countries in the world have abolished the death penalty in:

86 countries - for all crimes;  
11 countries - for ordinary crimes (countries whose laws provide for the death penalty only for exceptional crimes such as crimes under military law or crimes committed in exceptional circumstances);  
24 countries - in practice (countries which retain the death penalty for ordinary crimes such as murder but can be considered abolitionist in practice in that they have not executed anyone during the past 10 years and are believed to have a policy of established practice of not carrying out executions).

In the past decade itself, an average of three countries a year have abolished the death penalty in law or, having done so for ordinary offences, have gone on to abolish it for all offences. In South Asia, Nepal and Bhutan have abolished death penalty in the last decade.

Amnesty International believes that as an emerging global and regional power, India should send a strong

signal of its determination fully to uphold human rights by now deciding to abolish the death penalty.

Amnesty International opposes the death penalty in all cases as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading punishment. These rights are provided for in international human rights standards including the International Covenant on Civil and Political Rights which India ratified in 1979. The death penalty is an inherently unjust and arbitrary punishment. Judicial error can never be excluded but once carried out, the punishment is irrevocable. No scientific study has shown the death penalty to have a greater deterrent effect than other punishments. Many of those under sentence of death in India, including those whose clemency petitions are now pending before the President, were sentenced to death over a decade ago.

Amnesty International also urges the Government of India and all state governments to make information relating death sentences and executions publicly available. At the 2005 Commission of Human Rights, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions stated that secrecy regarding the number of executions, or the numbers or identities of those detained on death row is incompatible with international human rights standards. He added that transparency is required to ensure safeguards which might operate to prevent errors or abuses and to ensure fair and just procedures at all stages.

The number of death sentences and of executions in India and the identity of those executed remain unknown. Media reports speak of a total of 55 executions since Independence (1947). However, an Indian human rights group, the People's Union for Democratic Rights (PUDR), has stated that according to a 1967 Law Commission report, at least 1,422 people were executed between 1953 and 1963 alone.

Amnesty International welcomes that the state of Maharashtra has released statistics about the application of the death penalty under its Right to Information Act of 2002. Other states, however, have refused to divulge such information. For instance, prison officials in New Delhi earlier this year cited as grounds for refusal that "*some of the persons who have been executed had been convicted for various offences having prejudicial effect on the sovereignty and integrity of India and security of NCT (the National Capital Territory) of Delhi and international relations and could lead to incitement of an offence*".

### **Background**

Mercy petitions from over 50 prisoners on death row in India have been pending with the President, Mr. Kalam, with some pending from the time of his predecessor. Currently, the President gets recommendations from the Union Home Ministry and the Cabinet before exercising his authority. The process involved remains unclear. The President has asked for these bodies to take "humanitarian aspects" into account while making recommendations for pardon. There are reports that the Union Home Ministry is uncomfortable with undertaking this role.