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**EXTERNAL (for general distribution)**

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**Further information on UA 505/90 9ASA 20/26/90, 14 December 1990) and follow-up ASA 20/03/91 (8 February 1991) - Death Penalty**

**INDIA: K. GURUSAMY**

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K. Gurusamy of Kila Ramandhi, Kamuthi, was executed by hanging at the Central Prison in Madurai, Tamil Nadu, on 27 March 1991 after spending ten years in prison, seven of them in solitary confinement. Gurusamy's body was later handed over to relatives.

A petition for mercy forwarded to the President reportedly stressed a number of possible grounds for clemency including the length of time Gurusamy had spent in detention, the repeated postponement of his execution and the effect that these experiences had had on his mental health. The President, however, rejected this appeal for clemency.

Gurusamy had worked in the Kaliyamman temple at Verkatachalapuram, Tamil Nadu. He was sentenced to death on 5 February 1981 for murdering two relatives. Gurusamy appealed for mercy to the Governor of Tamil Nadu in 1981. His petition was forwarded to the President on 19 March 1982 and rejected a year later, on 24 March 1983. The Supreme Court dismissed his appeal on 26 August 1983 and since then his execution has been scheduled to take place on three occasions: 22 September 1983, 21 October 1983 and 23 November 1990. His execution was postponed each time. When he was about to be executed on 23 November 1990 the Supreme Court stayed his execution to allow his lawyer to bring one more petition to appeal against his death sentence. The Supreme Court rejected his appeal in March 1991.

Gurusamy had complained about the delay in execution, saying it was a reason to commute the death sentence. His relatives claimed that the delay, and repeated postponement of execution, while he was held in solitary confinement, had caused him great mental anguish leaving him on one occasion in what they described as a "mentally disturbed state". Although the Madras High Court found that "quicker action could have been taken much earlier" by the executive, it ruled the delay in execution to be justifiable.

#### **BACKGROUND INFORMATION**

The Indian Constitution protects the right to life. Yet, on average, over a dozen Indians are executed every year for criminal offences. Most of them are poor and illiterate. The death penalty is usually carried out by hanging. An attempt to challenge this method of execution failed before the Supreme Court, which stated in a 1983 judgement that hanging did not involve torture, barbarity, humiliation or degradation. Amnesty International believes it involves all these.

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Although India's higher courts have ruled that the death penalty can only be applied in the "rarest of rare" cases, the number of offences carrying the death penalty has been extended in recent years. In 1984, several judges of the Supreme Court repeatedly ruled that a death sentence, if not carried out for more than two years, should be automatically commuted to life imprisonment. Other Supreme Court judges, however, have ruled that no such rule could be adopted.

**RECOMMENDED ACTION: Telegrams/telexes/express and airmail letters:**

- regretting the execution of Mr Gurusamy, especially as the length of time that he had spent awaiting execution and the effect that the repeated postponement of his execution and solitary confinement had reportedly had on his mental health, provided strong humanitarian reasons for commuting his death sentence;

- urging the government to stop all executions and to commute outstanding death sentences;

- 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 and degrading treatment or punishment as proclaimed in the Universal Declaration of Human Rights.

**APPEALS TO:**

His Excellency  
President Ramaswamy Venkataraman  
Office of the President  
Rashtrapati Bhavan  
New Delhi 110 004, India

**Telegrams: President Venkataraman, New Delhi, India**  
**Telexes: 31 66427 RBND IN**

Mr R. Bhargava  
Secretary  
Ministry of Home Affairs  
North Block  
New Delhi 110 001, India

**Telegrams: R Bhargava, Home Affairs Ministry, New Delhi, India**  
**Telexes: 3161879 FRGN IN or 3161880 FRGN IN**  
**(via Ministry of Foreign Affairs)**

Mr Subodh Kant Sahay  
Minister of State for Home Affairs  
Ministry of Home Affairs  
North Block  
New Delhi 110 001, India  
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**Telegrams: Home Affairs Minister Sahay, New Delhi, India**  
**Telexes: 3161879 FRGN IN or 3161880 FRGN IN**  
**(via Ministry of Foreign Affairs)**

Mr Bhismanarayan Singh

Governor of Tamil Nadu  
Office of the Governor  
Madras, India

**Telegrams: Tamil Nadu Governor Singh, Madras, India**

**COPIES TO:** diplomatic representatives of India in your country.  
Some appeals should be sent in a personal or professional capacity.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat,  
or your section office, if sending appeals after 24 May 1991.