

EXTERNAL (for general distribution)

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UA 362/91

Death Penalty

30 October 1991

INDIA:

Raj Gopal NAYYAR

Amnesty International is concerned that Raj Gopal Nayyar faces imminent execution following the Supreme Court's rejection on 29 October 1991 of his wife's petition for commutation. In the petition his wife claimed that the death sentence was "a barbaric and inhuman punishment". Raj Gopal Nayyar was sentenced to death for killing his father and two step-brothers. The murders took place in the state of Jammu and Kashmir, although the exact date and place are unknown.

Raj Gopal Nayyar previously escaped death on 23 October 1991 when the hangman fainted as he was about to carry out his first execution. Nayyar's execution was rescheduled for 26 October but it was delayed pending the outcome of the Supreme Court petition.

The High Court had earlier dismissed a petition filed by his wife asking for the death sentence to be commuted to life imprisonment because his hanging had been delayed too long. The Supreme Court rejected his appeal and his wife's petition on 29 October. The President Ramaswamy Venkataraman also turned down a mercy petition seeking Presidential clemency.

BACKGROUND INFORMATION

The Indian Constitution protects the right to life. Yet on average over a dozen executions are carried out in India every year for criminal offenses. Most of those executed are poor and illiterate.

The death penalty is usually carried out by hanging from the neck until dead. 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.

Although India's higher courts have ruled that the death penalty can only be applied in the "rarest of rare" cases, the number of offenses carrying the death penalty has been extended in recent years. In 1984, several judges of the Supreme Court 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 specific time limit could

be set for converting a sentence of death into life imprisonment on grounds of delay in execution.

There have been reports in the press that the government is considering extending the death penalty to persons convicted of kidnapping.

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RECOMMENDED ACTION: Telegrams/telexes/airmail letters:

- explaining that Amnesty International opposes the death penalty on the grounds that it violates the right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment;

- urging that the death sentence of Raj Gopal Nayyar be commuted to life imprisonment;

- pointing out that the last minute postponement of the earlier scheduled execution adds a further element of cruelty to the punishment;

- 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

1) His Excellency **Dear President**
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

2) His Excellency **Dear Governor**
Mr Girish Saxena
Governor of Jammu and Kashmir
Srinagar
Jammu and Kashmir
INDIA
Telegrams: Governor Jammu and Kashmir, Srinagar, India

3) Mr M. M. Jacob **Dear Minister**
Minister of State for Home Affairs
Ministry of Home Affairs
North block
New Delhi 110 001
INDIA
Telegrams: Home Affairs Minister Jacob, New Delhi, India
Telexes: 3161879 FRGN IN) via Ministry of

3161880 FRGN IN) Foreign Affairs

COPIES TO: diplomatic representatives of India in your country

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat or your section office, if sending appeals after 11 December 1991.