

PUBLIC

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Death Sentences

13 February 2004

INDIA

**Ghana Prakash (m)
Simon (m)
Madhiah (m)
Bilavendra (m)**

The four men named above are at risk of being executed following a decision by the Supreme Court of India to dismiss their appeal on 29 January. Their only hope of clemency now lies in a mercy petition to be filed with the President of India who has the power to commute the sentences.

Ghana Prakash, and three other men known only as Simon, Madhiah and Bilavendra are reportedly accomplices of an individual known as Veerappan, who is reportedly a notorious sandalwood smuggler operating on the border districts of the states of Tamil Nadu and Karnataka. The four men are accused of being responsible for a landmine blast in the state of Karnataka, which blew up vehicles carrying police personnel and informers in April 1993. The blast killed 21 and injured several others.

The men were originally given life sentences by a special court in the state of Karnataka, which is one of the courts set up to hear cases filed under the Terrorist and Disruptive Activities Prevention Act (TADA) This was the main security legislation used in India between 1987 and 1995. However, cases from this period continue to be heard.

The state of Karnataka pleaded to the Supreme Court for the men's life sentences to be converted to the death penalty. The accused responded by submitting an appeal to the Supreme Court against their conviction and the conversion of their life sentences to the death penalty. Unfortunately, they lost this appeal on 29 January.

BACKGROUND INFORMATION

The Indian Constitution protects the right to life. India's highest courts have ruled that the death penalty can only be applied in the "rarest of rare" cases. Since this is not further defined and no clear guidelines exist, the use of the death penalty is largely dependent on the interpretation of this phrase by individual judges. The majority of those executed in India are poor and illiterate.

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 treatment, as proclaimed in the Universal Declaration of Human Rights. The death penalty is an inherently unjust and arbitrary punishment, however heinous the crime for which it is inflicted. Studies have shown that it is more likely to be imposed on those who are poorer, less educated and more vulnerable than average. The death penalty is irrevocable, yet the risk of error in its application is inescapable. Whilst Amnesty International recognizes the need to combat violent crime, there is no convincing evidence that the death penalty deters crime more effectively than other punishments

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:

- urging the President of India to re-examine the cases of Ghana Prakash, and three other men known only as Simon, Madhiah and Bilavendra and to order an immediate commutation of their death sentences;
- expressing concern that the accused have been convicted under the Terrorist and Disruptive Activities Prevention Act (TADA) which is inconsistent with International Human Rights Standards and does not provide for fair trial procedures;
- 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, and emphasizing that the death penalty has never been shown to have a special deterrent effect;

- reminding the authorities of the United Nations (UN) Commission on Human Rights resolution of April 1999 that governments should establish a moratorium executions;

APPEALS TO:

President

His Excellency A J P Abdul Kalam
Office of the President
Rashtrapati Bhavan
New Delhi 110 004
India

Telegram: President Kalam, Office of the President, New Delhi, India

Fax: + 91 11 2301 7290

Salutation: Your Excellency

COPIES TO:

Governor of Karnataka

Shri T N Chaturvedi
Office of the Governor
Raj Bhavan
Bangalore 560 001
Karnataka
India

Telegram: Governor Chaturvedi, Office of the Governor, Karnataka, India

Fax: + 91 80 2225 8150

Salutation: Dear Governor

and 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 26 March 2004.