

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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India: Amnesty International welcomes commutation of death sentence of a child

Amnesty International welcomes the judgment of the Indian Supreme Court upholding the commutation of the death sentence of Ramdeo Chauhan – a child aged approximately 15 at the time of commission of the offence.

Ramdeo Chauhan's death sentence had been commuted to a term of life imprisonment by the Governor of Assam in clemency proceedings in January 2002. The Governor's order was however struck down by a Supreme Court judgment in May 2009. In that judgment, the Court had ruled that the Governor's decision was not reasoned and that the commutation was granted after the intervention of the National Human Rights Commission (NHRC) – an act that went beyond the mandate of the NHRC as the Supreme Court of India had previously ruled in this case.

In its judgment dated 19 November 2010 (*Ramdeo Chauhan @ Rajnath Chauhan vs Bani Kant Das & Ors*) the Supreme Court of India reversed its ruling and found that the NHRC was well within its mandate to intervene in the case, even after the Supreme Court had confirmed the death penalty. As a result the Supreme Court upheld the Governor's decision to commute the death sentence previously awarded to Ramdeo Chauhan.

This judgment is the latest in a case that has been in the courts for 19 years, and involved the Supreme Court in at least five instances. Ramdeo Chauhan was initially sentenced to death in 1998 after a trial lasting 6 years despite there being medical evidence that he was a child aged about 15 years at the time of commission of the offence. The death sentences were confirmed by the High Court of Assam and Supreme Court of India in 1999 and 2000 respectively.

A review petition was filed in the Supreme Court in 2001 on the ground that Ramdeo Chauhan was a child and that various courts had ignored the evidence relating to his age. Of the three judges who heard the case, two disagreed on the question of age. The third judge ruled against Ramdeo Chauhan but observed that the issue of being a child could be taken up before the executive authorities in the clemency process. The National Human Rights Commission also referred to the dispute over age while recommending commutation of the death penalty.

Amnesty International had previously urged the Indian authorities to commute the death sentence and treat Ramdeo Chauhan in accordance with its obligations under the UN Convention on the Rights of the Child. Although the recent judgment of the Supreme Court refused to adjudicate on the issue of age due to technical limitations of the present proceedings before it, it has nonetheless specifically noted that the Court would deal with the question afresh if brought before it in appropriate proceedings.

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