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India: Landmark Supreme Court decision upholds rights of death row prisoners

A historic decision by India's Supreme Court commuting the death sentences of 15 prisoners and setting out guidelines to safeguard the rights of prisoners on death row and their families is a positive step for human rights in the country, Amnesty International India said today.

The Supreme Court commuted the death sentences of Suresh, Ramji, Bilavendran, Simon, Gnanprakasham, Meesekar Madaiah, Praveen Kumar, Gurmeet Singh, Sonia Chaudhury, Sanjeev Chaudhury, Jafar Ali, Shivu and Jadeswamy, on the ground of delay in the disposal of their mercy petitions by the President ranging between 5 and 12 years.

The Court commuted the death sentences of Sundar Singh and Magan Lal Barela on the ground that they suffer from mental illness.

"While acknowledging the need to strike a balance between the rights of the accused as well as the victims, this momentous decision reaffirms the rights guaranteed to death row prisoners under the Constitution of India and international law and standards" said G Ananthapadmanabhan, Chief Executive, Amnesty International India.

"The verdict places a strong emphasis on the human rights of all persons, and should steer the country towards completely doing away with the death penalty."

Yug Mohit Chaudhry, one of the lawyers representing prisoners affected by the decision, told Amnesty International India, "This judgment is a tribute to Indian constitutional values and the independence of the judiciary. It recognizes that death row prisoners have rights that the court will protect."

In its judgment, the Supreme Court ruled that "undue, inordinate and unreasonable delay in execution of death sentence [amounts to] torture" and was a ground for commutation of sentence. Importantly, the Court ruled to be bad law a previous decision in the case of *Devender Pal Singh Bhullar*, which stated that prisoners convicted of terrorism-related offences could not appeal for commutation on grounds of inordinate delay.

Quoting extensively from international treaties and standards, the court stated that the execution of people suffering from mental illness would be unconstitutional. It ruled that “insanity” or mental illness would be a factor that warranted commutation of a death sentence. The Court also reiterated that solitary confinement of a prisoner on death row was unconstitutional.

The Supreme Court also laid down guidelines on the treatment of people under sentence of death, in a move that could end the trend towards secrecy in executions in 2012 and 2013. According to the guidelines, prisoners on death row should receive legal aid, be informed about the rejection of their mercy petitions and in writing, have their mental and physical conditions regularly checked and be allowed to meet their family members before execution, which should not happen before two weeks from the communication of the rejection of the mercy petition.

The Court’s ruling is likely to affect the cases of at least six other prisoners on death row – Murugan, Santhan, Arivu (aka Perarivalan), Devender Pal Singh Bhullar, Saibanna Natikar and B A Umesh, who are also seeking commutation on the grounds of delay in the disposal of their mercy petitions.

“This verdict provides an opportunity for India to rethink its use of the death penalty,” said G Ananthpadmanabhan.

“The death penalty has not been shown to have any particular deterrent effect. UN experts and bodies, including the UN High Commissioner for Human Rights, have said that suggestions that the death penalty has a meaningful deterrent effect have been overstated.

“Research by Amnesty International and the People’s Union for Civil Liberties into India Supreme Court judgements on the death penalty has also revealed that the imposition of death sentences in India is highly arbitrary, and disproportionately affects those with little wealth or influence.

“The death penalty is the ultimate, irreversible denial of human rights. While today’s verdict is welcome, it does not do away with this cruel, inhuman and degrading punishment. The government must carry forward the impetus the ruling has provided to place a moratorium on all executions and abolish the death penalty altogether.”
