

## Death penalty in India is arbitrary, imprecise: rights bodies

The death penalty in India has been an 'arbitrary, imprecise and abusive means of dealing with crime and criminals', two leading civil rights bodies stated in a report Friday.

In a report titled 'The Lethal Lottery - Death Penalty in India', Amnesty International and the People's Union for Civil Liberties (Tamil Nadu and Puducherry) said the death penalty should be abolished and there should be an immediate freeze on executions pending the move.

Recommending that the number of executions in the country and people presently on death row be made public, the study calls for initiating 'an urgent independent study into the extent to which national law and international standards for free trial have been complied with in at least two decades.'

The report, which compiles and critically analyses Supreme Court judgments in death penalty cases between 1950-2006, concludes that 'death penalty in India has been an arbitrary, imprecise and abusive means of dealing with crime and criminals'.

It states that in a large number of cases whether an accused is sentenced to death or not is dependent on a range of variables - from the competence of the legal representation, especially at the trial court stage, to the interest of the state in that case and personal views of the judges sitting on the various benches hearing the case.

The report quotes former chief justice of India P.N.Bhagwati as saying: 'There can be no doubt that the death penalty in its actual operation is discriminatory, for it strikes mostly against the poor and the deprived section of the community.'

To substantiate this claim, the report refers to former president A.P.J. Abdul Kalam's correspondence to the home ministry in 2005 asking: 'Why those on death penalty were the poorest of the poor?'

The 224-page report suggests implementation of the Law Commission's recommendation that a bench of five judges decide any capital case in the Supreme Court. It also stresses on the requirement of unanimity of judges as a procedural safeguard in awarding death penalty.

Amnesty International has pointed out that almost 135 countries have abolished the death penalty in law or practice and India is among the 62 countries that still maintain the death penalty in both law and practice.

The last execution in India was held in August 2004 when Dhananjay Chatterjee, convicted of raping and murdering a schoolgirl in 1990, was hanged to death. It was the first since 1995.

According to home ministry officials, about 40 mercy petitions are pending before the president, some of them since 1992. Many more are on death row after having been sentenced to die by lower courts.

To end ill treatment and coerced confessions, the report suggests the ratification of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The

report recommends that confessions obtained under duress are never invoked by state prosecutors in legal proceedings against criminal suspects.

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