

## **India: Execution of perpetrators of Delhi gang rape is an affront to rule of law and does not improve access to justice for women**

The ICJ condemned the execution today of four men who were convicted of raping and murdering a 23-year-old student in December 2012.

The ICJ denounced the executions and urged the Indian Government to abolish the death penalty. It called on the Government to introduce systemic changes to the legal system that would deter violence and improve access to justice for women.

"State-sanctioned executions are little more than public theatre that risk celebrating and perpetuating violence at the expense of the rule of law," said Frederick Rawski, ICJ Asia-Pacific Director. "As heinous as these crimes were, the imposition of the death penalty – the deterrent effect of which has been widely debunked – does nothing to improve the lives of women."

According to senior lawyer Vrinda Grover, a renowned Indian human rights defender, "In 2013, the criminal laws were amended; however, seven years later the graph of rapes has not diminished."

Instead of compelling the state to invest in plugging the gaps in the investigation, prosecution and adjudication of sexual crimes and formulating victim-oriented processes, the clamour for execution of the convicts has hijacked the discourse. Seven years later, the power of the state to extinguish life stands entrenched, while women and girls in India continue to struggle to live a life of freedom, safety and dignity, as equal persons, " said Vrinda Grover.

The UN Human Rights Committee has stated that "[t]he death penalty cannot be reconciled with full respect for the right to life, and abolition of the death penalty is both desirable and necessary for the enhancement of human dignity and progressive development of human rights."

The ICJ opposes capital punishment in all cases without exception as a violation of right to life and to freedom from cruel, inhuman or degrading punishment.

The ICJ called upon the Indian Government to join the large majority of States and take immediate steps to end the practice of capital punishment, as prescribed by repeated United Nations General Assembly Resolutions.

### **Background**

A fast-track court passed the [death sentence](#) on September 13, 2013, which was subsequently upheld by the Supreme Court on 5 May 2017. The Court upheld the sentence despite having previously expressed concerns about the

death penalty. It had called upon the Law Commission of India to examine whether the death penalty is a “deterrent punishment or is retributive justice or serves an incapacitative goal.” The 2015 Law Commission of India’s report recommended that “the death penalty be abolished for all crimes other than terrorism related offences and waging war”.

India is a Party to the International Covenant on Civil and Political Rights (ICCPR), which protects the right to life. In its General Comment on State obligations concerning the right to life under the ICCPR, the UN Human Rights Committee made clear that, “[c]rimes not resulting directly and intentionally in death, such as attempted murder...and sexual offences,” can never serve as the basis... for the imposition of the death penalty.” It also stated that, “it is contrary to the object and purpose of Article 6 [which concerns the right to life] for States parties to take steps to increase de facto the rate and extent in which they resort to the death penalty.” India nonetheless continues to retain the death penalty for several non-lethal offences. Moreover, the number of offences that can result in the imposition of the death penalty upon conviction has increased.

The Indian legal system and State officials have not responded effectively and consistently against the accused in rape cases. In some cases, they have compounded the problem.

On 6 December 2019, four men accused of rape and murder of a Dr. Priyanka Reddy were apparently [unlawfully killed](#) by the Indian police. Further, on the same day, a rape victim from Unnao, Uttar Pradesh was burnt and subsequently died while on her way to court to attest against her rapists, by five men, two of whom were alleged rapists who had been given bail, and one of whom was the village headman’s son. The accused are currently under arrest.

Notably, in June 2017, a 17-year-old-girl was allegedly gangraped in Unnao, including allegedly by a former BJP Minister of Legislative Assembly. In this case, the rape victim threatened to immolate herself alleging police inaction and the father of the rape victim was taken into judicial custody on countercharges from the alleged rapists, allegedly subjected to torture, and finally died in judicial custody. In July 2019, the family of the rape victim sent a letter to the Chief Justice of India asking for help due to threats from the accused, and shortly after, the rape victim and her advocate were injured and two of her relatives killed in a truck collision. The accused has currently been sentenced to life imprisonment and the Court has taken action on the basis of the letter.

In yet another case in September 2019, a law student accused a former minister of parliament of rape, Swami Chinmayanand. She was in custody on countercharges of blackmail and the accused was taken into custody on a charge of “taking advantage of his official position” to “have sexual

intercourse with him, such sexual intercourse not amounting to the offence of rape”, however is currently out on bail.

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