



BAR HUMAN RIGHTS
COMMITTEE OF
ENGLAND AND WALES

London, 21st August 2013

**Open Letter to the President of India, Mr Pranab Mukherjee,
the Prime Minister of India, Dr Manmohan Singh and the Indian
Home Minister, Mr Sushilkumar Shinde.**

**In the matter of the immediate risk of execution of
Professor Devinderpal Singh Bhullar**

The Bar Human Rights Committee of England and Wales (“BHRC”) writes concerning the recent rejection on 14th August 2013 by the Supreme Court of India of the review petition by Professor Bhullar against his sentence of capital punishment. Reports suggest that his execution now is imminent and may be carried out this week. Following our open letter to the Indian Government of 5th June 2013, we continue to strongly urge the Indian Government to stay the execution and commute the sentence of capital punishment forthwith.

BHRC expresses urgent concern that the Indian government intends to execute an inmate who is mentally incapacitated, contrary to the norms and provisions of customary international law. Professor Bhullar has been receiving treatment at a psychiatric facility, and a medical board has reportedly stated that he is suffering from severe depression and shows symptoms of psychosis and suicidal tendencies. There is no dispute that he is mentally ill.

Customary international law prohibits the execution of prisoners deemed to be of unsound mind. In particular, U.N. ECOSOC, Implementation of the Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty (ECOSOC Res. 1996/15, U.N. Doc. E/CN.15/1996/15, Jul. 23, 1996) requires the elimination of the death penalty for "persons suffering from mental retardation or extremely limited mental competence, whether at the stage of sentence or execution."

The UN Human Rights Committee has stated in a number of cases that the execution of severely mentally ill prisoners amounts to cruel, inhuman and degrading treatment in violation of Article 7 of the ICCPR (for example, in *Francis v Jamaica* Communication No. 606/1994, U.N. Doc. CCPR/C/54/D/606/1994, Aug. 3, 1995, and *Sahadath v. Trinidad and Tobago*, Communication No. 684/1996, CCPR/C/74/D/684/1996, Apr. 15, 2002).

The UN Commission on Human Rights has repeatedly urged retentionist states not to impose the death penalty on a person suffering from any form of mental disability. The UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions has stated that, “Governments that continue to use the death penalty with respect to ... the mentally ill are particularly called upon to bring their domestic legislation into conformity with international legal standards.”

Most countries in the world prohibit the use of the death penalty against mentally ill prisoners. The EU has consistently stated that the execution of persons suffering from any form of mental disorder is contrary to internationally recognized human rights norms and neglects the dignity and worth of the human person. The norm protecting insane and mentally disabled persons from execution applies even when there is no question of competency at the time the crime was committed or at trial.

Importantly, India’s Tihar Jail manual states that a mentally ill person should not be executed.

BHRC has already expressed grave concerns that Professor Bhullar was convicted on the basis of unsound evidence and without the safeguards of a fair trial in place. The charges against Professor Bhullar now are widely considered to be unsubstantiated; the uncorroborated “confession” evidence relied upon has been fundamentally discredited, was later withdrawn and is likely to have been procured through ill treatment amounting to torture.

Moreover, it is a matter of serious procedural concern that the Supreme Court was split. The Presiding Judge took the decision that Professor Bhullar’s conviction should be quashed on the ground of the unreliability of the “confession”. Of further significance is the fact that the Public Prosecutor, who prosecuted this case during the Supreme Court appeal in 2002, has described the sentence and subsequent imposition of the death penalty as a ‘judicial error’.

It is contrary to India’s reputation as leading in just human rights jurisprudence to proceed with the execution of a mentally ill prisoner. Such action is contrary to the norms of international law and contrary to India’s own prison regulations.

BHRC urgently requests the President of India, Mr. Pranab, the Prime Minister of India, Dr Manmohan Singh and the Indian Home Minister Sushilkumar Shinde to make the necessary representations and subsequent order to stay this execution.



Kirsty Brimelow QC

Chairwoman, Bar Human Rights Committee of England and Wales (BHRC)

The Bar Human Rights Committee of England and Wales (“BHRC”) is the international human rights arm of the Bar of England and Wales. It is an independent body concerned with protecting the rights of advocates, judges and human rights defenders around the world. The Committee is concerned with defending the rule of law and internationally recognised legal standards relating to human rights and the right to a fair trial. The remit of BHRC extends to all countries of the world, apart from its own jurisdiction of England & Wales. This reflects the

Chair: Kirsty Brimelow QC | Vice-Chair: Sudanshu Swaroop

Committee's need to maintain its role as an independent but legally qualified observer, critic and advisor, with internationally accepted rule of law principles at the heart of its agenda.

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