



FIDH – International Federation for Human Rights

and its member organizations in India

Commonwealth Human Rights Initiative

and

People's Watch

Joint press release

[India: Reject death penalty for child rape cases, focus on ending impunity for sexual violence](#)

New Delhi, Paris, 4 May 2018: The Indian Parliament should reject a Cabinet ordinance that would introduce the death penalty for cases of rape of girls under the age of 12, FIDH and its member organizations People's Watch and Commonwealth Human Rights Initiative (CHRI) said today. Parliament is likely to convene later in the summer for its monsoon session.

The ordinance, which was signed by President Ram Nath Kohir on 22 April 2018, would amend the Indian Penal Code, the Evidence Act, the Code of Criminal Procedure, and the Protection of Children from Sexual Offences (POCSO) Act, and would also extend minimum prison sentences for cases of rape of women. It comes on the heels of two horrific rapes, including the brutal rape and murder of a girl child in Jammu and Kashmir State, which stirred a nationwide outcry.

“With no proof that capital punishment is a successful deterrent, there’s no reason to believe that threatening would-be perpetrators of rape with the death penalty will bring these awful acts to an end. Instead the government should seek to strengthen the criminal justice system, thereby increasing accountability for perpetrators of rape and sexual violence and enhance preventive measures nation-wide,” said FIDH Vice-President Guissou Jahangiri.

Rape is an intolerable, abhorrent crime. FIDH, CHRI and People's Watch condemn attempts by certain segments of society to use the murder and rape of a child to inflame enmity between and within communities and to call for retributive justice. This distracts from the real needs, which are to ensure that perpetrators are brought to justice quickly and that the Indian criminal judicial system, from the police to prosecutors to prisons and courts, are well-equipped to investigate and prosecute offenders.

“The Ordinance is a step in the wrong direction. India should phase out capital punishment for existing crimes instead of adding to the list. The government needs to ensure that the root causes for judicial delay and the failure to properly adjudicate cases of rape and sexual violence are urgently addressed,” said CHRI International Director Sanjoy Hazarika.

FIDH, CHRI, and People's Watch are concerned that the introduction of the death penalty could result in fewer cases being reported to authorities and victims refusing to testify under pressure, as perpetrators often come from the same communities as the victims. Official Indian government data notes that the attacker is known to the victim in 95% of cases prosecuted under the POSCO

Act. There are also concerns about attempts by perpetrators to murder their victims to avoid identification, if capital punishment is introduced.

“Parliament should refrain from introducing more capital offenses as an emotional response to recent horrific events. Instead, it should focus on strengthening the legislative framework to ensure there is no impunity for perpetrators of sexual violence,” said People’s Watch Executive Director Henri Tiphagne.

In 2015, the Law Commission of India in its 262nd report recommended the abolition of the death penalty for all crimes, except terrorism-related offenses and waging war. In addition, during its consultations, a general consensus emerged among members of the Law Commission that courts were unable to adopt a fair and non-discriminatory approach to the death penalty.

India is party to the International Covenant on Civil and Political Rights (ICCPR), which guarantees right to life and requires a progression towards abolition of the death penalty. However, during its third Universal Periodic Review (UPR) in May 2017, India refused to accept all the recommendations it received with regard to the abolition of the death penalty.

In 2017, courts in India handed down 109 death sentences, bringing the total number of prisoners on death row to 371 by the end of December 2017. No executions took place in 2016 or 2017 and the last execution in the country was in 2015.

FIDH, a member of the World Coalition Against the Death Penalty (WCADP), CHRI, and People’s Watch reiterate their strong opposition to the death penalty for all crimes and in all circumstances.

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