

# Amnesty International UK

# MEDIA BRIEFING

## COMMONWEALTH GAMES GLASGOW 2014

### INDIA: THE WORLD'S LARGEST DEMOCRACY MUST ENSURE HUMAN RIGHTS PROTECTIONS FOR ALL

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"The world's largest democracy is failing to protect and uphold the human rights of its people with laws which provide impunity to its security personnel to carry out grave violations including extrajudicial executions, enforced disappearances, rape and torture. Violence against women is still widespread and pervasive, with new laws following the 2012 Delhi gang rape, not implemented.

"Women from marginalised communities, especially Dalit and Adivasi women, face multiple levels of discrimination and violence. Members of dominant castes are known to use sexual violence against Dalit women and girls as a political tool for punishment, humiliation and assertion of power.

"Whilst progress has been made with the recognition of rights for prisoners on death row, the country took a step backwards when a ruling de-criminalising homosexuality was overturned by the country's Supreme Court."

*Siobhan Reardon – Programme Director, Amnesty International Scotland*

- **Amnesty spokesperson available throughout the Games**
- **Daily media briefings available throughout the Games**

## India

**Population:** 1,236,686,732

**President:** Pranab Mukherjee

**Games debut:** England, 1934

**National game:** Field Hockey

**Most popular sport:** Cricket

**Delhi 2010 medal tally:** 101 medals

### Human rights concerns:

Ahead of India's general elections, which took place in May this year, Amnesty India developed a human rights charter and called on all candidates to commit to its 14 key goals. The campaign was called ['14 for 2014'](#). Amongst the goals were:

- Protecting the rights of communities affected by corporate-led projects
- Ending torture, extrajudicial executions and enforced disappearances
- Ending arbitrary detention and reducing excessive trial detention
- Ending the use of the Death Penalty
- Ensuring justice for marginalised communities who have suffered abuses
- Holding armed forces accountable for human rights abuses
- Strengthening human rights institutions and protecting human rights defenders
- Tackling all forms of violence against women

### **Violence against women**

The tragic and gruesome gang rape and murder of Jyoti Singh Pandey in Delhi in December 2012 triggered global outrage over the scale of attacks on women. The Indian government set up a high-level advisory committee (Justice Verma Committee) to review laws on sexual assault.

While some progressive suggestions were accepted, the government rejected many important recommendations. Rape within marriage is still not considered a crime under law if the wife is over 15. In cases involving alleged sexual assault by members of the armed forces, prior permission from the government is required before any prosecution can begin.

### **Homosexuality criminalised**

Consensual same-sex relations in India are criminalised by Section 377 of the Indian Penal Code, which makes “carnal intercourse against the order of nature” punishable with up to life imprisonment. In 2009, the Delhi High Court, in a historic ruling, said the outlawing of consensual adult same-sex relations was discriminatory and violated the rights to equality, privacy and dignity set out in the Indian Constitution. However in December last year, the Supreme Court in December overturned the High Court verdict.

### **Ending Torture**

In India, torture and other cruel, inhuman and degrading treatment in state detention continues to be a matter of major concern. Disadvantaged and marginalised groups including women, dalits, adivasis and suspected members of armed opposition groups are those most commonly abused. Torture is not recognised as a distinct crime under any Indian legislation. However, courts have ruled that torture violates constitutionally guaranteed rights to life and personal liberty, and that the state has an obligation to prevent it. India signed the UN Convention against Torture in 1997, but has not yet passed domestic legislation that will enable it to ratify the Convention.

### **Holding armed forces accountable for human rights abuses**

For decades, The Armed Forces (Special Powers) Act (AFSPA) has enabled serious human rights violations to be committed by soldiers in Jammu & Kashmir and parts of northeast India, and shielded those responsible.

The AFSPA provides sweeping powers to soldiers, including the power to shoot to kill in certain situations and to arrest people without warrants. It also provides virtual immunity from prosecution by requiring prior permission from the Central Government before security personnel can be prosecuted. This permission is almost never given. The law has facilitated grave human rights violations, including extrajudicial executions, enforced disappearances, rape and torture and other ill treatment.

### **Death Penalty**

India carried out one execution in February 2013 when Mohammad Afzal Guru was hanged in secret at Tihar Jail in New Delhi.

Serious concerns were raised about the fairness of Afzal Guru’s trial, including that he did not receive legal representation of his choice or a lawyer with adequate experience at the trial stage. Afzal Guru’s family were not informed in time of his imminent execution and his body was not returned to the family for last rites and burial, in violation of international standards.

Additionally, 72 new death sentences were imposed throughout the year and at least 400 people were believed to be on death row at the end of 2013.

However, there has been some progress in India on the issue of the death penalty. In January 2014, a historic decision by India's Supreme Court commuted the death sentences of 15 prisoners and set out guidelines to safeguard the rights of prisoners on death row and their families

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.

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.

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.

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