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## **India and particularly the death penalty against Devender Pal Singh**

### **Greens/EFA motion for a resolution**

The European Parliament,

- having regard to the EU Guidelines on the death penalty
- having regard to its resolution on the world day against the death penalty of 7.10.2010
- having regard to its resolution on a universal moratorium on the death penalty of 27.9.2007
- having regard to the General Assembly Resolution 63/168 calling for implementation of the 2007 General Assembly Resolution 62/149 of 18.12.2008 were 106 countries voted in favour of a resolution calling for a world-wide moratorium on death sentences and executions, 34 abstained and only 46 countries voted against
- having regard to the General Assembly Resolution 65/206 on a Moratorium on the use of the death penalty of 21.12.2010
- having regard to Rule 122 of its Rules of Procedure

A. Whereas in the year 2011 executions have - as of May - only taken place in 9 countries, clearly indicating that there is an increasing global recognition for the cruel and inhumane nature of capital punishment

B. Whereas India has not implemented the death penalty since 2004 and there has only been one execution in India since mid -1997

C. Whereas the clearance has been given for execution of two convicts and whereas there are fears that this could be the beginning of clearing the long list of death row convicts

D. Whereas the President of India, Pratibha Patil, has rejected the review petitions filed under Article 72 (Indian Constitution) on behalf of Devinder Pal Singh Bhullar of Punjab and Mahendra Nath Das of Assam following the recommendations from the Union Home Ministry

- E. whereas Mahendra Nath Das was sentenced to death in 1997 convicted of murder charges, all legal recourse has been exhausted and Mahendra Nath Das' execution has been suspended until 21 July by the Gauhati High Court in Assam, north-east India, as the Government has sought time to respond to the Court
- F. Whereas Professor Davinder Pal Singh Bhullar was sentenced to death on 29 August 2001 after being found guilty of involvement in the 1993 bombing of the Youth Congress Office in the capital, New Delhi which killed twelve people were killed and injured 29;
- G. Whereas Davinder Pal Singh Bhuller sought political asylum in Germany, but was forcibly returned to India, where he was arrested on arrival at New Delhi airport in January 1995, while the German decision to deport him was declared illegal in absentia by a Frankfurt court two years later
- H. Whereas Davinder Pal Singh Bhullar was arrested under the now-lapsed Terrorist and Disruptive Activities (Prevention) Act, which has no provision for appeals to the High Court, and he was found guilty solely on the strength of an unsubstantiated confession he made in police custody, allegedly under intense police pressure, which he later retracted; whereas a second defendant in the case was acquitted because the only evidence against him was Davinder Pal Singh Bhullar's confession
- H. Whereas Davinder Pal Singh Bhullar appealed against the death sentence in December 2001, but the appeal was rejected by a three-member bench of the Supreme Court, with the dissenting vote of the presiding judge who found the accused not guilty and directed that he should be released.
1. Expresses its grave concern over the imminent danger that the government of India could revive the application of the death penalty after seven years of de facto moratorium advertently to the worldwide trend towards the abolition of capital punishment
  2. Reiterates its firm support for the call of the UN General Assembly to establish a moratorium on executions with a view to abolishing the death penalty,
  3. Urgently appeals to the Government of India not to execute Davinder Pal Singh Bhullar and Mahendra Nath Das and to commute their death sentences
  4. Underlines that there are serious indications that Davinder Pal Singh Bhullar was not given a fair trial and believes that he should be retried in proceedings that are in compliance with international standards of fair trial and without recourse to the death penalty
  5. Acknowledges the seriousness of the crime for which Mahendra Nath Das has been convicted, but raises concerns that his prolonged stay on death row, due to the mercy petition kept pending for eleven years, may have amounted to cruel, inhuman and degrading punishment;
  6. Calls on the Government and Parliament of India to adopt legislation introducing a definite moratorium on executions with the goal to abolish the death penalty in the near future
  7. Instructs its President to forward this resolution to the Government and Parliament of India, the UN High Commissioner for Human Rights, the EU High Representative, the Commission, and the governments and parliaments of the member states.

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