

Letter to UK MEPs regarding Professor Davinderpal Singh Bhullar

[Date]

Dear [UK MEPs Name]

Death Penalty hanging over Professor Davinderpal Singh Bhullar

You may recall the case of Professor Davinderpal Singh Bhullar, a Sikh political activist, who went to Germany almost 15 years ago in December 1994 to seek political asylum after his father was disappeared by the Punjab police in 1991 and his family was repeatedly harassed and tortured.

Bhullar was a known political dissident and had claimed that his life was at risk in India because of his political activism. His family was persecuted as evidenced by the 'disappearance' of his father, uncle and best friend. Following an unsuccessful asylum application in Germany in January 1995, he was deported back to India on the basis of he had nothing to fear. Professor Bhullar was handed over to Indian police officials on German soil even before deportation. He was arrested upon arrival and he has now been in prison for almost 15 years.

The German immigration authorities returned him to India but in his absence a Higher German court (Verwaltungsgericht Frankfurt, Case 8E50399\94.A(1)) ruled that he should not have been sent back because his life would be in danger in India, effectively overruling the prior decision. Germany by deporting someone to a death-penalty prone country violated the European Convention on Human Rights and is morally obliged to do all it can to seek Professor Bhullar's release because weaknesses in the German asylum system have led to him facing the death penalty.

While in India Professor Bhullar was put on trial in a conspiracy case and on 17 December 2002 his sentence to death was confirmed by the Supreme Court although based on erroneous facts.

Professor Davinderpal Singh Bhullar's case is one of the most controversial and highest profile death penalty cases in recent Indian history. For the first time in India's Supreme Court's history, someone was sentenced to death on the basis of a split judgment. The presiding judge, Justice Shah totally acquitted the accused whereas the other two judges, Justice Aggarwal and Justice Passayat upheld the death sentence.

Two of the three-judge panel in the Indian Supreme Court upheld the death sentence arguing that proof "beyond reasonable doubt" should be a "guideline, not a fetish," and that procedure is only "a handmaiden and not the mistress of law." The presiding Judge, Justice Shah acquitted Professor Bhullar and substantiated his decision by stating that the conspiracy theory falls flat as the "rest of the accused who are named in the confessional statement are not convicted or tried." A plot or conspiracy by definition involves two or more persons and "it is trite to say that one person alone can never be held guilty of criminal conspiracy for the simple reason that one cannot conspire with oneself," he said.

The confession statement, allegedly extracted under torture, was signed by a thumbprint. For a man who is highly educated, the sign of a thumbprint implies duress. A confession made before a police officer under normal criminal law is not admissible as evidence. Furthermore, none of the 133 witnesses produced by the prosecution, while the case was in lower court, identified Professor Bhullar.

While Justice Shah concentrated on the facts of the case, Justice Pasayat chose to decide the case with political rhetoric and find Professor Bhullar guilty based on contradicting arguments and judgments. The police, in contravention of the law, failed to send the confessional statement at the earliest opportunity to the magistrate concerned. The other two judges upheld the confession admissible saying that neither proof beyond reasonable doubt nor procedure was important.

The presiding judge in the Supreme Court of India, Justice Shah, who found Bhullar not guilty, asked in December 2002, that the death sentence be commuted "...considering the majority view also, in my opinion, if death sentence is altered to imprisonment for life, it would be sufficient to meet the ends of justice..."

Professor Bhullar has now been on death row in Tihar Central Prison, New Delhi for almost 7 years. During this period he has lived knowing that he can be taken any day to the gallows. In 2002 and 2003 considerable international pressure was applied by MPs and MEPs from the UK, politicians in Canada and elsewhere on the German and Indian authorities to prevent his execution. Assurances were given by leading Indian politicians that the death sentence would not be carried out. However, each day for the last 7 years the Professor has been held in solitary confinement and waking up thinking this will be his last day. In many cases this is a torture worse than death. At times when in suits politicians it has also been suggested he may be released having been in prison for almost 15 years in a controversial conspiracy case.

As we approach the 15th anniversary of Professor Bhullar's incarceration I am writing to request you write to: i) the German Government; ii) the European Parliament President; iii) the EC Commissioner for External Relations; and iv) the Indian Government.

In the letters it would be helpful if you could urge those concerned across Europe to press the Indian President to immediately withdraw the death sentence imposed against Professor Davinderpal Singh and secondly demand a full review of the Professor's case in accordance with international law, under monitoring by UN observers. Our view is this could result in his release given he has already spent almost 15 years locked away. As India prepares to host the next Commonwealth Games UK politicians have a unique opportunity to push the Indian authorities to signal an end to the death penalty and the release of political prisoners, such as Professor Bhullar.

We also now have Sikhs contacts in 22 of the 26 other EU countries therefore we are encouraging Sikhs in mainland Europe to put pressure on their MEPs and their own governments so we have the support of as many EU member states as is possible to exert pressure on India on the death penalty. As the EU is India's largest trading partner with about 25 percent of Indian exports coming to EU countries. The EU also provides the most foreign investment to India. Last year two-way trade between India and the EU totalled about euro38 billion. If the EU is serious about bringing an end to the death penalty it should link this directly to trade with India.

In March 2010 Sikhs across Europe wish to arrange a Sikh lobby of the European Parliament, but need confirmation that practicing Sikhs will be allowed to enter the main Parliament building without compromising their articles of faith to meet with their elected representatives. This has not been possible for the last three years and it is unacceptable that Sikhs are prevented from meeting their

MEPs in Parliament. We would welcome confirmation of what you are doing working with other MEPs to resolve this difficulty and preventing such discrimination.

Yours faithfully

[Your Name]

[Your full postal address]