

# Gnani Sankaran: Should the state kill in the name of law?

WRITTEN BY

**Gnani Sankaran**

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The debate has started in Tamil Nadu again. Should the state kill in the name of law? The President has rejected the mercy petitions of Murugan, Santhan and Perarivalan, all convicted and sentenced to death for former Prime Minister Rajiv Gandhi's assassination. Perarivalan has spent more than half his life in prison already. He was just 20 when he was jailed 21 years ago.

He, along with the other two, has been awaiting the gallows since 1999 when the Supreme Court confirmed their death sentences. It is cruel that mercy petitions to the President take more than a decade to be disposed of.

While the Supreme Court has consistently said that death penalty should be awarded only in 'rarest of rare' cases, there is no definite legal guideline to define what is 'rarest of rare'.

Perarivalan's role in the assassination, according to the charge sheet, is helping another accused Sivarjan by purchasing two battery cells, a car battery and a motor cycle.

Tamil nationalists of varying hues — Nedumaran, Thirumavalavan, Vaiko, Dr Ramadoss and director Seeman — have restarted the campaign seeking the annulment of the death sentences awarded to the three. Despite sharp differences in their politics and ideology, they have in common a deep empathy for the Liberation Tigers of Tamil Eelam and its cause.

Their concern for abolition of the death penalty is always limited to demanding mercy for the Rajiv assassination convicts. They are just seasonal friends for the movements striving for abolition of the death penalty for any and all. They have never condemned the LTTE awarding death punishments to its prisoners when it was virtually running its own administration in Eelam for nearly a decade. When there was an international outcry about the LTTE awarding death punishment to Poet Selvi for dissent, the Tamil nationalists were deafeningly silent.

While the President has finally disposed of the mercy petitions in this case, some more mercy petitions from Tamil Nadu are still pending before her. Muniyappan, Rajendran and Nedunchezhiyan – all die hard supporters of Chief Minister J Jayalalithaa – are on death row. What was their crime? They were angry with the courts finding Jayalalithaa guilty in a malpractice case in 2000. They went on a rampage setting a college bus on fire, killing three innocent and hapless girls.

When the Supreme Court confirmed the death sentence for these AIADMK goons, DMK cadres celebrated it on the streets. The AIADMK has officially petitioned the President for mercy to its party men convicted of arson and murder.

But Jayalalithaa is so far silent about the rejection of mercy petitions for the Rajiv assassination convicts. The Tamil nationalists found a new ally in her following her demand for bringing Sri Lankan President Mahinda Rajapakshe and his team before the international court for war crimes against Eelam Tamils.

Some Tamil nationalists hope that Jayalalithaa can prevail upon the Indian government to save the Rajiv assassination convicts from the gallows. But Jayalalithaa, who has in the past been a vociferous critic of the LTTE, is now silent on this issue.

M Karunanidhi also maintains a stony silence. His government has consistently refused to release Nalini, another convict in the Rajiv assassination case, even after she has spent 21 years in prison now. Nalini, originally sentenced to death, had her sentence commuted to life imprisonment after Sonia Gandhi expressed sympathy for Nalini's girl child born in prison.

It is customary in Tamil Nadu to pardon convicts on the occasion of Dravidian leader Anna's birth anniversary and commute their prison term. Karunanidhi broke the convention and rule that only prisoners who have spent more than a decade behind bars should be reprieved. He pardoned hundreds of convicts who had spent less than seven years in prison during his last term. Many of them were his party cadres, particularly his son Alagiri's loyalists convicted for murdering political opponents. But he steadfastly refused to release Nalini for more than two decades.

While the DMK, AIADMK and Tamil nationalists react to death penalty selectively, the issue needs and deserves to be considered beyond temporary political agenda. I have consistently been advocating the abolition of death penalty for any and all since I believe in Mahatma Gandhi's great maxim that 'an eye for an eye will only make the whole world blind.'

And death penalty is nothing but retaliatory murder by the state. By now, 135 countries, including all belonging to the EU, have realized the futility of death penalty and abolished it. Statistics on crime rate has indisputably shown that neither does death penalty deter potential criminals nor does its abolition encourage them to indulge in crime.

India, like a shy teenager, is saying NO when one should be saying YES and vice versa. Since 1995 no one has been hanged in Tamil Nadu. Between 1995 and now, India had only one hanging –in 2004. India in its heart does not want death penalty but hesitates to say it loud and clear in the din of melodrama and jingoism.

*The author is a Tamil writer, theatre person and film maker.*

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