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The Permanent Mission of India to the Office of the United Nations and Other International Organizations in Geneva presents its compliments to the Special Procedures Branch of the Human Rights Council and has the honour to refer to the Communication No. UA IND 2/2020 dated 26 February 2020 from the Special Rapporteur on extrajudicial, summary or arbitrary executions regarding possible imminent execution of Mr. Mukesh Kumar, Mr. Vinay Sharma, Mr. Akshay Thakur and Mr. Pawan Gupta. In this regard, please find enclosed detailed information in the attached Annexure to be shared with the Special Rapporteur. The following information may also be brought to the attention of the concerned Special Rapporteur.

- The allegation that the convicts Mr. Mukesh Kumar, Mr. Vinay Sharma, Mr. Akshay Thakur and Mr. Pawan Gupta have been subjected to torture and other inhuman or degrading treatment at the hands of the prison inmates and guards is incorrect. The counsels of the convicts had raised such issues before the Hon'ble Courts at various stages, where these allegations were heard at length and no merit was found in the allegations.
- The allegation that the convicts were kept in solitary confinement is also not true. The convicts were always kept with other prisoners in wards having multiple single cells and barracks. For the sake of security of the four convicted prisoners, they were kept in one of the single cells for some limited duration and they, like all other prisoners could come out. The single cells where the convicts were kept had proper circulation of air and cannot be equated to solitary confinement. The convicts were permitted to come out and mingle with other inmates at regular intervals on daily basis like other prisoners. They had access to other facilities like medical care, canteen facilities, telephone services, meeting time with friends and relatives.
- As per Rule 795 of Delhi Prison Rules, 2018 the inmates were kept in cells in special ward after issuance of Final Death Warrant. As per Rule

858 of Delhi Prison Rules 2018 states that "A minimum period of 14 days was stipulated by the Supreme Court between the receipt of the communication of the rejection of the mercy petition and the scheduled date of execution. This is to enable the prisoner; sentenced to death; to prepare himself and settle his affairs and meet his family members for one last time or to avail any judicial remedy."

- Accordingly, the above-mentioned convicts were given 14 days stipulated time after the rejection of the Mercy petition to enable them to prepare themselves and meet their family members for one last time.
- The above-mentioned convicts were regularly produced physically or through Video Conferencing before the Trial Courts on each date of court hearing as fixed by the Trial Courts.
- Complete opportunities were given to them to challenge the sentence awarded to them before the Courts including the Apex Court as per Law and the provisions of the Constitution of India.
- After order of trial Court, they challenged the order of sentence in the Hon'ble High Court of Delhi and when the High Court upheld the decision of Trial Court, they filed Special Leave Petition before the Supreme Court of India. The Supreme Court of India has also upheld the decisions of the Trial Court and the High Court of Delhi.
- The convicts also filed Review Petitions and Curative Petitions challenging the decision of death sentence. After the dismissal of all their petitions by the Hon'ble Supreme Court of India, the convict prisoners filed Mercy Petition before the Hon'ble President of India and same was rejected. They further challenged the rejection of Mercy Petition before the Hon'ble Supreme Court of India. The matter was duly considered and dismissed by the Hon'ble Supreme Court.
- The counsel of the convicts raised false and fabricated allegations only to avoid the execution of death sentence awarded to the convicts. These allegations were also heard at length before the Hon'ble Supreme Court of India and the Hon'ble Court did not find any merit in them. The convicts were always produced before the Trial Courts as and when required by the Courts for hearing of the case.
- All actions related to execution of death sentence were taken as per the provision given in the Chapter XII of the Delhi Prison Rules 2018 and as per directions of Hon'ble Courts. It may be noted here that as per

Rule 857 of Delhi Prison Rules 2018 "...The execution of the sentence of death shall not be carried out until after the receipt of the certified copy of the judgment of the Supreme Court dismissing the appeal or the application for special leave and until an intimation has been received from the Ministry of Home Affairs about the rejection by the President of India, of the petition for mercy submitted, if any, by or on behalf of the prisoner sentenced to death."

- As per Rule 836 of Delhi Prison Rules 2018, "if the sentence of death has been made by or on behalf of only one or more but not all of them the execution of the sentence shall be postponed in the case of all such persons (prisoner sentenced to deaths) and not only in the case of the person or persons by whom, or on whose behalf, the appeal or the application is made."
- The execution of death sentence of the convicts is in compliance with the object and the purpose of Article 6 of the ICCPR. Death Penalty is awarded only in those cases which are considered by the Trial Courts as "Rarest of rare case." The convicts have right to challenge the decision/judgment of the Trial court before the Higher Courts (High Court and Supreme Court of India).
- The Constitution of India gives power to the President of India to grant pardons to the convict prisoners. The article 72 of Indian Constitution of India says that "the President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence".
- All the legal and constitutional remedies were given to the above mentioned convicts and they have exhausted all the constitutional remedies available to them under Article 72 of the Constitution of India.
- The convict Vinay Sharma had also filed a petition under section 432/433 of Cr.P.C before the Hon'ble Lt. Governor of Delhi and same was rejected by the Hon'ble Lt. Governor of Delhi.
- The death warrant in respect of the condemned prisoners in Nirbhaya Case was issued after giving complete legal opportunities to the prisoners. The Hon'ble High Court of Delhi heard the petition on 19 March 2020 filed by the convicts; Pawan Gupta S/o Heera Lal & Ors. praying for quashing of the death sentence and staying of the death

warrants executable at 0530 hrs. on 20th March 2020. The petition was dismissed by the Hon'ble High Court of Delhi finding the petition bereft of merit. The Hon'ble Supreme Court of India also heard the petition from the convicts seeking judicial review of the order of rejection of the mercy petition by the Hon'ble President of India in the night of 19/20 March 2020 and the petition was finally dismissed.

- The execution of death sentence of the convicts of Nirbhaya case i.e. (i) Mukesh s/o Mange Lal (ii) Vinay Sharma S/o Hari Ram Sharma, (iii) Akshay Kumar Singh S/o Saryu Singh and (iv) Pawan Gupta S/o Heera Lal took place at Central Jail No.3, Tihar on 20th March 2020 at 0530 hrs.
- It is informed that the convicts had exhausted all grievance redressal mechanisms and due process of law was followed at every stage of trial.

The Permanent Mission of India to the Office of the United Nations and Other International Organizations in Geneva avails itself of this opportunity to renew to the Special Procedures Branch of the Human Rights Council, the assurances of its highest consideration.

**The Secretariat of the Human Rights Council,
(Kind attn: Chief of the Special Procedures Branch)
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