

EXTERNAL (for general distribution)

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Appeals from Mexican citizens to relevant officials/embassies in Mexico urging them to appeal to the Texas authorities on Cesar Fierro's behalf would be particularly welcome.

EXTRA 03/94 Death Penalty

21 January 1994

USA: (Texas)

Cesar R FIERRO

Cesar Fierro is scheduled to be executed in Texas on 15 February 1994.

Cesar Fierro, a Mexican national, was sentenced to death on 15 February 1980 for the murder of a white taxi cab driver during a robbery, in February 1979.

Amnesty International is investigating serious allegations that Cesar Fierro confessed to the crime under duress.

Fierro's last execution date, scheduled for 14 June 1990 was stayed after the Governor of Chihuahua, Mexico (Fierro's birthplace) signed a petition asking the Governor of Texas to grant clemency to Fierro.

Cesar Fierro would be the second Mexican citizen to be executed in the USA in more than 50 years. (The first was Ramon Montoya, executed in Texas on 25 March 1993, despite appeals for clemency made on his behalf by President Salinas de Gortari of Mexico).

BACKGROUND INFORMATION

Amnesty International has mounting concerns regarding the use of the death penalty in Texas, which leads the nation in carrying out executions. Seventy one of the 227 prisoners executed in the USA since the mid 1970s have been executed in Texas. Many of these executed prisoners presented compelling grounds for consideration for clemency. A record number of prisoners (17) were executed in Texas in 1993, more than in any other US state in any one year since the death penalty was resumed in the USA in 1976. Texas continues to execute juvenile offenders, ignoring international standards which prohibit the execution of individuals under the age of 18 at the time of the crime; and many prisoners scheduled for execution do not have legal representation to present their appeals.

Most prisoners under sentence of death in Texas were convicted under a statute which severely restricted the consideration of mitigating circumstances at the sentencing hearing, at which the court chooses between a life or death sentence. That statute has now been changed to allow for any mitigating circumstance to be taken into account. However, prisoners sentenced under the old statute remain under sentence of death. Amnesty International believes that this fact alone should be grounds for commuting the death sentences of those now facing execution in Texas.

Amnesty International is extremely concerned that the process of executive clemency in Texas is inadequate. Under Texas clemency rules the governor may commute a sentence of death only if she receives a favourable recommendation from a majority of the 18-member Board of Pardons and Paroles. The Board consistently refuses to hold full clemency hearings in death penalty cases, and apart from a number of commutations granted in the 1980s as the result of two key court rulings, the Board has never recommended clemency in any death penalty case in recent years. It has refused for example, to even hold a hearing

into a late claim of innocence presented in another death penalty case. (Legal arguments are at present taking place in Texas to decide whether the Board should hold a hearing into this case).

A major study on racial discrimination conducted in the 1970s found that, in Texas, offenders who killed white victims were several times more likely to be sentenced to death than offenders who killed black victims.

As of 6 October 1993 there were 365 prisoners under sentence of death in Texas. The most recent person to be executed in the state was Clifford Phillips, on 15 December 1993.

Amnesty International opposes the death penalty in all cases as a violation of the right to life and the right not to be subjected to cruel, inhumane or degrading punishment, as proclaimed in the Universal Declaration of Human Rights.

RECOMMENDED ACTION: Please telephone, send telegrams/telexes/faxes/express and airmail letters in English if possible:

To the Texas Board of Pardons and Paroles:

- urging the Board to review the case of Cesar Fierro and to recommend that Governor Richards grant clemency to Cesar Fierro;

To Governor Richards:

- urging that she grant a 30-day reprieve to Cesar Fierro, and that she requests the Board to review his case thoroughly with a view to granting clemency and commuting his sentence of death;

To Both:

- expressing concern that Cesar Fierro is alleged to have been coerced into confessing to the crime for which he was sentenced to death;
 - acknowledging the very serious nature of the crime for which Cesar Fierro was sentenced to death, and expressing sympathy for the families and victims of violent crime;
 - expressing concern at the increasing numbers of executions being carried out in Texas.

APPEALS TO:

Texas Board of Pardons and Paroles
 Executive Clemency Unit
 Texas Department of Criminal Justice
 Pardons and Paroles Division
 PO Box 13401
 Austin, TX 78711
 USA

Faxes: + 1 512 467 0945

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Dear Board Members

The Honorable Ann Richards
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and to diplomatic representatives of the USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY - to arrive before 13 February 1994 .