

PUBLIC

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31 May 2000

**Further information on UA 40/00 (AMR 51/27/00, 17 February 2000) - Death penalty / Legal concern**

**USA (Federal) Juan Raul GARZA, aged 43**

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Juan Raul Garza is scheduled to be executed by lethal injection on Saturday 5 August, at 6am Indiana time. The date was set by a federal judge on 26 May. If it goes ahead, this execution would make Juan Raul Garza the first prisoner put to death under US federal law since 1963.

Juan Raul Garza was convicted in 1993 of three murders committed in Texas in the course of a marijuana trafficking operation based in Brownsville, Texas, on the border with Mexico. At the sentencing stage of his trial, the prosecution, arguing for a sentence of death rather than life imprisonment without the possibility of parole, introduced evidence that Juan Raul Garza had committed four other murders in Mexico. The Mexican authorities had never solved these crimes, and the US government sent agents to Mexico to investigate them. The prosecution - with no physical evidence linking Garza to the crimes, for which he had never been prosecuted or convicted - relied instead on the testimony of three accomplices in the Brownsville drug ring, who were offered reduced sentences in return for their testimony.

Lawyers for Juan Raul Garza have taken his case to the Inter-American Commission on Human Rights (IACHR), claiming that the US government violated his right to a fair trial by introducing this evidence, which the defence team could not effectively challenge. On 27 January 2000, the IACHR asked the US government not to allow the execution to proceed until it had examined the case and issued its judgement as to whether his rights under the inter-American system of human rights protection had been violated.

On 13 April 2000 the European Parliament adopted a resolution urging the US government to comply with the IACHR's request and urging President Clinton to "grant clemency to Juan Raul Garza and to impose an immediate moratorium on federal executions, as a first step toward the universal abolition of the death penalty in the United States".

#### **BACKGROUND INFORMATION**

On 31 January Governor Ryan of Illinois imposed a moratorium on executions in his state because of the number of wrongful convictions there. The fallout from his decision is still being felt, with calls for moratoria in other states and at federal level as concern about the fairness and reliability of US capital justice continues to grow. President Clinton, who has the power of executive clemency in federal cases, has stated that he does not favour a moratorium on federal executions. No prisoner has been executed under federal capital laws since Victor Feguer was hanged in Iowa in 1963. Over 630 prisoners have been executed since 1977 under state laws.

Between 1988, when the US Government reintroduced the federal death penalty, and early 2000, the US Attorney General authorized federal prosecutors to seek the death penalty against 188 defendants, 76 per cent of whom were non-white (98 blacks, 45 Hispanic and 10 Asian/Indian). In April 2000 there were 20 prisoners on federal death row in Terre Haute, Indiana. Of these inmates, 14 were black, four white, one Asian and one, Juan Raul Garza, Hispanic. The US

military has seven prisoners under sentence of death, of whom five are black, one white, and two Asian.

In *Newsweek* (29 May 2000 US edition), Felix Rohatyn, the US Ambassador to France, wrote an article entitled *The Shadow Over America: How our use of the death penalty hurts our image abroad*. The Ambassador wrote: "I travel a lot. You hear opposition to the death penalty in Bordeaux, you hear it in Toulouse, everywhere. When I speak to audiences, the question always comes up. And I don't believe this is just a French phenomenon...our ambassador to Germany...told me the death penalty is the single most recurring question there... The death penalty is viewed as a violation of human rights...it is seen as both racist and discriminatory, affecting a disproportionate number of minorities... I think we should recognize [the criticism] and explore changes in our approach to criminal punishment...".

**RECOMMENDED ACTION: Please send telegrams/faxes/express/airmail letters, in your own words using the following guide, in English or your own language:**

- expressing concern that Juan Raul Garza is scheduled for execution, saying that you do not condone the crime of which he was convicted or seek to belittle its consequences for the victims and their families;
- urging that the US government live up to its claims to be supportive of the system of international human rights protection, by complying with the Inter-American Commission on Human Rights request of 27 January 2000, noting also that the European Parliament has urged compliance with the IACHR request and clemency for Juan Raul Garza;
- expressing concern at the racial disparities evident on federal death row, and asking what review has been undertaken to ensure that racial discrimination did not play a part in this sentencing pattern;
- noting US claims to be a progressive force for human rights, and confirming, for example from your experience of media coverage in your country, that the use of the death penalty damages the image of the USA abroad, as acknowledged recently by the US ambassador to France;
- expressing concern that the federal government, which should be offering human rights leadership to the country as a whole, is contemplating an execution at a time when the fairness and reliability of the US death penalty is the cause of widespread and growing concern;
- urging President Clinton not to become the first President since 1963 to allow a federal execution, but to grant clemency to Juan Raul Garza and to impose an immediate moratorium on federal executions as a first step in leading the USA away from its use of this cruel and fallible punishment.

**APPEALS TO:**

President Bill Clinton  
The White House  
Office of the President  
1600 Pennsylvania Avenue  
Washington DC 20500, USA

**Fax: + 1 202 456 2461**

**Telegrams: President Clinton, Washington, USA**

**Salutation: Dear Mr President**

**COPIES TO:** diplomatic representatives of the USA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.**