

EXTRA 100/96

Death Penalty

2 July 1996

**GUATEMALA** Pedro Castillo Mendoza  
Roberto Girón

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Amnesty International is deeply concerned that the first executions in Guatemala for more than 12 years may be imminent. Pedro Castillo Mendoza and Roberto Girón, who were convicted of raping and killing four-year-old Sonia Álvarez García in Guanagazapa, Escuintla department, in April 1993, have had their appeal against their death sentence turned down by the Constitutional Court.

All legal remedies have now been exhausted and their only hope for clemency is a presidential pardon.

President Alvaro Arzú Irigoyen has the power to commute death sentences to terms of imprisonment under Decree 159 of the Legislative Assembly which dates back to 1892. However, Amnesty International is concerned by a recent statement on these cases made by President Arzú to the national press, in which he is reported to have said that he will respect the decision of the Supreme Court of Justice and that the death penalty will be applied, *"Acataré las decisiones de la Corte Suprema de Justicia, y si dictan la pena de muerte, el Ejecutivo la hará efectiva"*.

While Amnesty International recognizes the duty of governments to bring perpetrators of violent crime to justice, the organization is unconditionally opposed to the death penalty, which it considers the ultimate form of cruel, inhuman and degrading treatment or punishment and a violation of the right to life, as embodied in the Universal Declaration on Human Rights. Moreover it is a punishment that has never been shown to have a unique deterrent effect and is one that is brutalizing to all involved in its application. Amnesty International would regard a resumption of the use of the death penalty in Guatemala as a seriously retrograde step in the protection of human rights in that country.

#### **BACKGROUND INFORMATION**

The Guatemalan Penal Code provides for the death penalty for, among other crimes, aggravated homicide of the President and Vice-President of the Republic, killing a kidnap victim and rape of a child under 10. It is optional for parricide, homicide and homicide of the President and Vice-president, but mandatory for rape and kidnapping when death results and the victim was under 10 years old.

In March 1995, the Congress passed a law extending the death penalty to material and intellectual authors of kidnapping or abduction, their accomplices and those attempting to cover-up such crimes. However, the then President Ramiro de León Carpio neither ratified nor vetoed the law leaving its status unclear.

In July 1995, new legislation was introduced making extrajudicial execution punishable by the death penalty when the victim is less than 12 years old or over 70 years old, among other circumstances. Forced disappearance was also made punishable by the death penalty when the victim, as a consequence of forced disappearance, suffers serious injuries, or permanent psychological trauma or death.

According to the information received by Amnesty International there are currently at least six people, among them Pedro Castillo Mendoza and Roberto

Girón, under sentence of death in Guatemala. The other four have not yet exhausted all legal appeals.

**RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters in spanish or your own language:**

- recognizing the seriousness of the crime in this case and acknowledging the duty of governments to bring perpetrators of violent crimes to justice, but stating opposition to the death penalty in all cases, as the ultimate form of cruel, inhuman and degrading treatment or punishment and a violation of the right to life as embodied in the Universal Declaration on Human Rights;
- expressing concern that Pedro Castillo Mendoza and Roberto Girón may be executed, and urging that their death sentences be commuted;
- urging the Guatemalan government not to take a retrograde step in the protection of human rights by resuming the use of death penalty;
- expressing concern that extensions by Guatemala of the scope of the death penalty places the country in violation of its international commitment as a state which has ratified the American Convention of Human Rights which states in Article 4(2); "The application [of the death penalty] shall not be extended to crimes which it does not presently apply".

**APPEALS TO:**

1) President of the Republic:

S.E. Álvaro Arzú Irigoyen  
 Presidente de la República de Guatemala,  
 Palacio Nacional, Guatemala, GUATEMALA

**Faxes: +502 287 4537**

**Telexes: 5331 CAPRES GU**

**Telegrams: Presidente, Guatemala, Guatemala**

**Salutation: Sr. Presidente / Dear President**

2) Attorney General:

Lic. Hector Hugo Perez Aguilera  
 Fiscal General de la Nación,  
 Ministerio Público,  
 6ª Avenida 3-11 Zona 4 , Guatemala, GUATEMALA

**Faxes: +502 2 317066 (if voice ask "me puede dar tono de fax, por favor")**

**Telegrams; Fiscal General, Guatemala, Guatemala**

**Salutation: Sr Fiscal General / Dear Attorney General**

**COPIES TO:**

Minister of Foreign Affairs

Sr. Eduardo Stein  
 Ministro de Relaciones Exteriores,  
 Ministerio de Relaciones Exteriores,  
 Palacio Nacional, Guatemala, GUATEMALA

**Fax: (502) 2 301673**

Human Rights Procurator

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 Procurador de los Derechos Humanos,  
 12 Avenida 12-72, Zona 1,  
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and to diplomatic representatives of Guatemala accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat,  
or your section office, if sending appeals after 10 August 1996.