

PUBLIC

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To: Health professionals  
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**Death penalty: Imminent use of lethal injection  
PHILIPPINES**

**[see also *Lethal Injection: The Medical Technology of Execution*,  
AI Index: ACT 50/01/98, January 1998]**

Theme: imminent threat of resumption of executions/ lethal injection / professional ethics / Philippines

**Introduction**

There are fears that the first execution in the Philippines in over twenty years may be imminent. Leo Echegaray, a former house painter, is the first of more than 760 prisoners currently on death row to face execution by lethal injection.

In September 1994 the Quezon City Regional Trial Court sentenced Leo Echegaray to death for the rape of his then 10-year old step-daughter. The Philippine Supreme Court, as required by the death penalty law, automatically reviewed the case and confirmed his death sentence in June 1996. It was the first such confirmation of a pending death sentence<sup>1</sup>.

Leo Echegaray's lawyers from the Free Legal Assistance Group [FLAG] continued to appeal this decision and, after the Supreme Court confirmed the sentence 'with finality' in February 1997, launched further appeals on the grounds that the method of execution - lethal injection - was unconstitutional and constituted cruel, inhuman and degrading treatment.

However in rulings on 13 October 1998 and 21 October 1998 the Supreme Court affirmed the constitutionality of execution by lethal injection. The Court stated that international conventions recognised that '*capital punishment is an allowable limitation to life*', and that '*any infliction of pain in lethal injection is merely incidental...and does not fall within the constitutional proscription against cruel, degrading or inhuman punishment*'.

In its 13 October ruling the Supreme Court also stated that no executions could take place until the implementing rules of the death penalty law had been amended to allow the execution manual to be made open to the public, and so that the three-year suspension of the death sentence for pregnant women be reduced to just one year in line with the Penal Code. On 21 October press reports stated that the Department of Justice had already complied with the order and had submitted the amended implementing rules to the Supreme Court for its approval.

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<sup>1</sup>See AI Index: ASA 35/09/97 [*The Death Penalty: Criminality, Justice, and Human Rights*, 21 October 1997]; ASA 35/10/97 [*Human Rights and the Death Penalty: Some Questions and Answers and Appeal Cases*, 21 October 1997]; ASA 35/05/96 [*Urgent Action*, 1 July 1996]; ASA 35/06/96 [*Urgent Action Update*, 6 September 1996]; ASA 35/02/97 [*News Service*; 14 February 1997]; ASA 35/11/97 [*News Service*, 21 October 1997]; ASA 35/02/98 [*Urgent Action Update*, 24 February 1998]

If the Supreme Court declares that it is satisfied with the amendments AI fears that the execution of Leo Echegaray could go ahead any time. FLAG lawyers are planning to file a further petition with the Supreme Court asking for the death sentence to be commuted to life imprisonment on the basis that his execution did not take place within 12 to 18 months after final confirmation of the sentence, as prescribed in the death penalty law<sup>2</sup>. However observers believe that the appeal may well be rejected.

According to the rules governing the implementation of the death penalty, Leo Echegaray, his lawyers and his relatives will only be informed of his impending execution after sunrise on the day itself and he may be executed eight hours later. President Joseph Estrada has earlier appeared to rule out a presidential pardon saying that the crime stemmed from a “bestial mind”.

### **Return of the death penalty**

The death penalty was restored in the Philippines in December 1993, six years after the country became the first state in Asia to abolish the death penalty for all crimes in 1987. A joint measure by both House and Senate [Republic Act 7659] restoring the death penalty for 13 ‘heinous crimes’<sup>3</sup> took effect on 1 January 1994 after having been agreed by Congress and signed by President Ramos in December 1993. The Act was amended in March 1996 by Republic Act No. 8177, stipulating that the method of execution should be by lethal injection<sup>4</sup>.

In October 1998, at least 764 prisoners were on death row in the Philippines, including more than 140 men who have been convicted of raping family members. The rate of new death sentences imposed has steadily increased since the death penalty was reinstated in 1993. Most recently, on 16 October, a Philippine judge sentenced 11 kidnappers to death by lethal injection for abducting an ethnic Chinese fish trader in August 1998. Lucia Chan was rescued by members of a presidential task force against organized crime two days after she was taken hostage. In her verdict, the judge said she hoped her decision would discourage kidnappings in the future.

### **EU response**

The restoration of the death penalty in the Philippines has also provoked discussions within the European Union. In a short resolution on capital punishment in the Philippines, the European Parliament on 17 September ‘confirm[ed] its opposition to capital punishment as such [and] call[ed] on the President of the Philippines to use his powers under the constitution with a view to upholding the *de facto moratorium on the death penalty*’.

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<sup>2</sup>Republic Act No. 8177, Art.81, para 5: ‘*The death sentence shall be carried out not earlier than one (1) year nor later than eighteen (18) months after the judgment has become final [...]*’; the Philippine Supreme Court had confirmed Leo Echegaray’s sentence with finality in February 1997, ie 20 months ago.

<sup>3</sup>Treason, piracy, bribery, parricide, murder, infanticide, kidnapping and serious illegal detention, robbery with violence, arson, rape, plunder (of at least Peso 50m [\$2m]), certain drugs offences, theft of a vehicle with rape or murder

<sup>4</sup>Executions will be carried out at the National Penitentiary at Muntinlupa where a new lethal injection chamber has been built.

## **RECOMMENDED ACTIONS**

### **Contacting the Philippine authorities**

- introducing yourself as a member of Amnesty International's health professional network
- urging President Joseph Estrada to exercise clemency in the case of Leo Echegaray
- acknowledging the fact that the Philippines has been in many ways a positive role model for human rights protection in the region but that a resumption of executions would damage this role
- acknowledging the need to combat serious crime in the Philippines but emphasizing that studies around the world have failed to find convincing evidence that the death penalty has a unique deterrent effect on crime
- explaining that Amnesty International is opposed to the death penalty in all cases as a violation of the right to life which is enshrined in Article 3 of the Universal Declaration of Human Rights and other international human rights standards
- stating that the death penalty carries the inherent risk of execution of the innocent and of being applied in an arbitrary and biased way
- expressing particular concern at reports of illegalities at the pre-trial stage, including the alleged ill-treatment and torture of suspects by police in order to coerce confessions.
- calling on the Government of the Philippines to suspend executions with a view to completely abolishing the death penalty
- urging the Philippine authorities to commute all other death sentences

### **Contacting diplomatic representatives of the Philippines in your country**

- When writing to diplomatic representatives of the Philippines in your home country, please raise the same concerns as outlined above and ask the representatives to urgently convey your concerns to the Philippine government and President Estrada.

### **Contacting medical bodies**

- introducing yourself as a member of Amnesty International's health professional network
- explaining that Amnesty International is opposed to the death penalty in all cases as a violation of the right to life which is enshrined in Article 3 of the Universal Declaration of Human Rights and other international human rights standards
- noting that medical ethics forbid participation in executions [referring to World Medical Association [WMA] resolution on physician participation in capital punishment (1981), and the International Council of Nurses [ICN] statement on the death penalty and participation by nurses in executions (1989, reviewed 1991)]
- emphasise that executions themselves are inhumane and that the use of lethal injection as execution method does not render them humane

### **Media contacts**

- contact medical and general journalists and draw their attention to the case of Leo Echegaray; offer to provide them with more background material such as reports from the newswires or AI material [available from medical team on request]
- write articles of your own and submit them to newspapers/magazines
- offer to be interviewed on the subject [please read the Questions and Answers on lethal injection sent out earlier this year (AI Index: ACT 50/06/98); if you have any questions or need clarifications, please contact the medical team]

Please ensure that all media activities are coordinated with your section media office.

## ADDRESSES

### 1. Government authorities

President Joseph Estrada  
Malacanang Palace  
Manila, Philippines  
Fax: +63.2.731.1325  
[via Press Secretary to the President]  
or: +63.2.833.7793  
or: +63.2.832.3793  
[via Department of Foreign Affairs}  
Email: president@philippines.gov.ph

Felipe Estrella  
Secretary of Health  
Department of Health  
San Lazaro Compound  
Rizal Ave, Santa Cruz  
Metro Manila  
Philippines

Serafin Cuevas  
Secretary of Justice  
Department of Justice  
Padre Faura, Ermita, Manila  
Philippines  
Fax: +63.2.521.1614

Pedro G. Sistoza  
Director  
Bureau of Corrections  
Muntinlupa City 1770, Philippines

The director of the Philippine Bureau of Corrections in August stated in a letter to a Dutch AI group that 'the legality or morality of the death verdict is not for [his] office to resolve'. However, according to the lethal injection law, the director of the Bureau of Corrections will oversee the administration of lethal injections. Pedro Sistoza also stated that 'no medical doctor will be involved in the executions', but that it will be carried out with the help of 'phlebotomists'. Amnesty International is concerned about the participation of *any* health professional in executions and is opposed to the use of medical technology for executions.

#### Copies to:

Committee on Constitutional Amendments, Revision of Codes and Laws  
House of Representatives  
Batasan Complex  
Quezon City, Philippines

Committee on Constitutional Amendments, Revision of Codes and Laws  
Senate of the Philippines  
GSIS Building  
Roxas Boulevard  
Pasay City, Philippines

### 2. Medical Bodies

Send copies of your letters (as above) to the associations below with a covering letter expressing deep concern at the introduction of executions by the use of medical technology, and of the participation of health professionals in capital punishment. Urge the association to make public their position on such executions.

Philippine Medical Association  
P.O. Box 4039  
Manila Philippines  
Tel: +63.2.973514  
Fax: +63.2.929.4974

Philippine Nurses' Association  
1663 FT Benitez Street  
Malate, Manila 1004  
Philippines

**Copies:**

Medical Association of Southeast Asian  
Nations  
Secretariat c/o SMA  
2 College Road #02-00  
Alumni Medical Centre  
Singapore 169850  
Tel: +65.223.1264  
Fax: +65.224.7827  
Email: masean@masean.org

World Medical Association  
B.P. 63  
01212 Ferney-Voltaire Cedex  
France  
Tel: +33.4.50.40.75.75  
Fax: +33.4.50.40.59.37

**3. Other addresses**

Integrated Bar of the Philippines  
National President: Jose Aguila Grapilon  
Doña Julia Vargas Avenue  
Pasig City  
Metro Manila  
Philippines  
Tel: +632 631 3014 / 634 4696

Please send either copies of your letters to government authorities with an explanatory cover note, or address the Integrated Bar of the Philippines directly outlining Amnesty International's concerns and urging it to review its position on the use of the death penalty in the Philippines.