

PUBLIC

AI Index: ASA 35/39/99

28 September 1999

**Further information on UA 178/99 (ASA 35/30/99, 23 July 1999) and follow-ups (ASA 35/33/99, 11 August 1999, ASA 35/35/99, 13 August 1999 and ASA 35/37/99, 20 September 1999) - Imminent execution**

**PHILIPPINESJosefina Esparas**

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On 27 September President Estrada granted Josefina Esparas a 20-day reprieve to allow the newly created "conscience committee" to study her case. The committee will recommend to the President whether or not to grant her clemency.

Amnesty International has received reports that Josefina Esparas was sentenced to death *in absentia*, a factor which may have seriously jeopardised the fairness of her trial. According to press reports, she escaped from police custody on her way to a court hearing at the Pasay Regional Trial Court in October 1994. The following April she was sentenced to death for drug-trafficking, although she was not present in court. She was not rearrested until April 1998 (June 1998 according to some reports) and had her death sentence confirmed by the Supreme Court in September that year.

Article 14(3) (d) of the International Covenant on Civil and Political Rights, to which the Philippines is a party, states that everyone charged with a criminal offence is entitled to be tried in their presence. Amnesty International believes that the accused should be present in court during a trial to hear the full prosecution case, to put forward a defence or assist their counsel in doing so, to refute or provide information to enable their counsel to refute evidence and to examine witnesses or to advise their counsel in the examination of witnesses.

Josefina Esparas's husband and co-accused, Rodrigo Libed, was reportedly arrested with her at Ninoy Aquino International Airport in May 1994 when the authorities discovered 20 kg of methamphetamine hydrochloride, popularly known as "speed" or "ice", in her luggage. Rodrigo Libed escaped from custody at the airport and has never been brought to trial.

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

- calling on Executive Secretary Zamora and the members of the "conscience committee" to urge President Estrada to exercise his power to grant clemency and commute to a more humane alternative the death sentence passed on Josefina Esparas;
- expressing concern at reports that Josefina Esparas was tried and sentenced to death *in absentia*, a factor which may have seriously jeopardised the fairness of her trial;
- noting that Article 14(3) (d) of the International Covenant on Civil and Political Rights, to which the Philippines is a party, states that everyone charged with a criminal offence is entitled to be tried in their presence;
- acknowledging the seriousness of the crime of which Josefina Esparas was convicted, but pointing out that the death penalty has never been shown to have a unique deterrent effect and is brutalizing to all involved;
- expressing unconditional opposition to the death penalty as a violation of one of the most fundamental human rights - the right to life;
- urging the Philippines to establish a moratorium on executions, with a view to completely abolishing the death penalty, in line with resolution 1998/8, adopted on 3 April 1998 by the UN Commission on Human Rights.

**APPEALS TO (please note that fax tones are sometimes difficult to obtain):**

Executive Secretary Ronaldo Zamora  
Office of the Executive Secretary  
2<sup>nd</sup> Floor, New Executive Building, J.P. Laurel St,  
San Miguel 1005, Manila  
Philippines

**Telegrams:Executive Secretary Ronaldo Zamora, Manila, Philippines**

**Faxes:+ 63 2 736 1010**

**Salutation:Dear Executive Secretary Zamora**

President Joseph Estrada  
Malacañang Palace  
J.P. Laurel St  
San Miguel 1005  
Manila  
Philippines

**Telegrams:President Estrada, Manila, Philippines**

**Faxes: + 63 2 742 1641 / 832 3793 (via Dept of Foreign Affairs)**

**+ 63 2 731 1325 (via Press Secretary to the President)**

**E-mails:erap@ops.gov.ph**

**Salutation: Dear President Estrada**

**COPIES TO:**

Secretary of Justice  
Serafin Cuevas  
Department of Justice  
Padre Faura, Ermita, Manila  
Philippines

**Faxes:+ 63 2 521 1614**

and to diplomatic representatives of the Philippines accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat,  
or your section office, if sending appeals after 17 October 1999.