

18 June 2001

Further information on EXTRA 32/01 (AMR 51/076/2001, 29 May 2001) and follow-up (AMR 51/080/2001, 8 June) - Death penalty / Legal concern

USA (Oklahoma)Gerardo Valdez Maltos, Mexican national, aged 41

On 16 June, Governor Frank Keating of Oklahoma issued a 30-day stay of execution for Gerardo Valdez Maltos, a Mexican national who was scheduled to be put to death in Oklahoma State Penitentiary on 19 June for the 1989 murder of Juan Barron.

The Governor issued the reprieve following a telephone call from President Vicente Fox of Mexico, who made a personal plea for commutation of the death sentence. A spokesman for the Governor said that President Fox "outlined how importantly the Mexican government takes the whole issue of the violation" of the Vienna Convention on Consular Relations, under which Valdez should have been, but was not, informed upon arrest of his right to contact his consulate. President Fox reportedly also stressed religious and humanitarian concerns.

In his statement announcing the reprieve, Governor Keating said: "In light of the sensitivity and significance of this matter, I think it is appropriate for my office to continue its review of the Valdez case." He also said that the US State Department had "asked that I take [the treaty violation] into consideration when determining whether to grant clemency. I am considering the possible impact of that violation and weighing it against the brutality of Mr Valdez's admitted crime."

On 6 June, the Oklahoma Pardon and Parole Board voted 3 to 1 to recommend that Governor Keating commute the death sentence. A number of factors appear to have contributed to the Board's vote in favour of clemency. It heard newly-discovered facts concerning Valdez's background and medical history, including evidence that he sustained brain damage as the result of a serious head injury during his youth. Attorneys for Gerardo Valdez also noted his exemplary conduct while on death row and his lack of a prior record of violent behavior. Gerardo Valdez himself testified at the hearing, expressing his remorse for the crime and telling the panel that he had prayed for forgiveness.

The Mexican government submitted a letter to the Board expressing its grave concerns over the failure of local authorities to inform Gerardo Valdez of his consular rights upon arrest. The letter noted that the resulting absence of consular assistance contributed to his deficient trial representation and the failure to present mitigating evidence during the sentencing phase of his trial. The US Department of State also sent a letter to the Board, asking it to give careful consideration during its clemency deliberations to Mexico's concerns over the violation of the Vienna Convention on Consular Relations (VCCR) in this case.

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

- expressing sympathy for the family and friends of Juan Barron;
- welcoming the Governor's decision to grant a reprieve to Gerardo Valdez Maltos in order to give further consideration to the grounds for clemency;
- noting that the Pardon and Parole Board has recommended that he commute the death sentence, after hearing evidence never heard by any court, including on the violation of Gerardo Valdez's consular rights;

- asking the Governor to give careful consideration to the concerns raised by the Mexican government and by the US Department of State;
- noting Gerardo Valdez's expression of remorse for the crime, his good conduct while in prison and the newly discovered evidence of brain damage that was not available for the jury to weigh in its sentencing decision;
- urging the Governor to act on the Board's recommendation by commuting the death sentence of Gerardo Valdez.

APPEALS TO:

Governor Frank Keating
Capitol Building, Oklahoma City, OK 73105, USA
Fax: + 1 405 521 3353
Telegrams:Governor Keating, Oklahoma City, OK, USA
E-mail: governor@gov.state.ok.us
Salutation:Dear Governor

COPIES TO:

The Honourable Colin Powell
Office of the Secretary of State
2201 C Street, N.W.
Washington, DC 20520, USA
Fax: + 1 202 261 8577

diplomatic representatives of the USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.