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Death Penalty

12 March 1991

BRAZIL: Possible reintroduction of the Death Penalty

A proposal for a constitutional reform to allow Brazilians to vote in a plebiscite to reinstate the death penalty for kidnappings, burglaries and rapes resulting in the victim's death, has been presented by Congressman Amaral Netto.

On 12 December 1990 a Congressional Commission from the House of Deputies (Comissão Especial da Câmara dos Deputados) approved the proposal which is to be debated and voted on in Congress in the 1991 parliamentary sessions, starting on 15 March. It is feared that this reform may be considered under an emergency procedure (*regime de urgência*). The proposal needs to be voted on twice in each house in Congress, and to gain a majority of three-fifths of votes. Once the constitutional amendment is passed by parliament, public opinion will be polled within 18 months.

Brazilian human rights groups fear that the rising level of crime throughout the country, coupled with the kidnappings of business people in recent years, will be used as effective arguments to replace existing legislation with the death penalty. Were the proposal to be passed by parliament, a majority of voters might approve the reintroduction of the death penalty as an appropriate means to fight violent crimes.

Amnesty International opposes in all cases the imposition and infliction of the death penalty, on the grounds that it violates the right to life and that it is the ultimate cruel, inhuman and degrading form of punishment. The organization believes that it is a punishment which violates fundamental human rights, which may discriminate against the underprivileged and disadvantaged sectors of society, and which serves no useful penal purpose which would not equally be served by lesser penalties.

BACKGROUND INFORMATION

The last judicial execution in Brazil was carried out in 1855 on a man convicted of murder, later discovered to have been innocent of the crime. After this case, death sentences were systematically commuted to life imprisonment. In 1890 the death penalty was excluded from the Penal Code. In the first republican Constitution of 1891 the death penalty was abolished for common crimes but retained under military legislation for application in wartime.

Since the abolition of the death penalty for common crimes was enshrined in the 1988 Constitution, there has been one attempt to reintroduce it and a proposal to hold a plebiscite on the issue. Both motions were defeated by the Constituent Assembly in 1988.

RECOMMENDED ACTION: Telegrams/telexes/faxes/express and airmail letters: Please write courteously worded appeals, in Portuguese IF FLUENT, otherwise in English, French or Spanish:

- expressing concern at the proposal to reintroduce the death penalty, which Amnesty International believes is the ultimate cruel, inhuman and degrading punishment, and which brutalizes all those involved in the process of applying it;

- recognizing Brazil's opposition to the death penalty in the past and their vote at the UN General Assembly in December 1989 in favour of adoption of the

Second Optional Protocol to the International Covenant on Civil and Political Rights, the first international treaty aimed at the abolition of the death penalty;

- urging the Brazilian Parliament to maintain Brazil's principled opposition to the death penalty and to oppose firmly its reintroduction;

- stressing that reintroducing the death penalty would be contrary to both world and regional trends towards the abolition of the death penalty, both in practice and in law.

APPEALS TO:

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COPIES TO:

- Instituto de Estudos Socio Economicos (INESC), SCS Qd.08 Bl.B-50 Salas 435/7/9/441, Supercenter Venancio 2.000, 70333 Brasilia DF, Brazil
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- Jornal do Brasil, Avenida Brasil 500, 20940 Rio de Janeiro RJ, Brazil
- Folha de São Paulo, Al. Barão de Limeira, 425, 01202 São Paulo, SP, Brazil

and to diplomatic representatives of Brazil in your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 23 April 1991.

TO: Recipients of UAs by e-mail/telex
FROM: UA team, IS

The Brazil research team have asked us to send a supplementary address list for appeals on the above Urgent Action. The addresses are as follows:

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