

Lic. Alvaro Colom
President of the Republic of Guatemala
via FAX: 011.502.2383.8390

February 24, 2008

Dear President Colom,

We are shocked that on February 12 the Congress of Guatemala approved Decree 06-2008, known as the "Law regulating the commuting of sentence for those condemned to death," and have sent it to you for approval. We strongly urge you to exercise your constitutional power to veto this Decree for two reasons:

- It fails to mention and define the criteria under which pardons are to be granted. In 2000, Congress had revoked the law which allowed those sentenced to death to apply for presidential clemency. In 2005, a ruling from the Inter-American Court of Human Rights (IACHR) ordered the Guatemalan state to specify clear criteria for evaluating individual petitions for pardon. This Decree leaves Guatemala in breach of the American Convention on Human Rights, which establishes that countries must comply with the IACHR's judgments. In addition, Guatemala's own Constitution establishes that international human rights treaties prevail over national law.
- It introduces the element of "negative administrative silence," which means that if there is no presidential decision within 30 days of the application for commutation of the death sentence, this is sufficient to consider the request "tacitly rejected." This would therefore lead to immediate execution. This Decree is using administrative silence to effectively speed up executions and eliminate the possibility of appeal to stop them. It is legally inconsistent with the obligation to establish specific criteria for evaluating each case and to take them into account. In rejecting an appeal by administrative silence, authorities fail in their duty to substantiate their decisions following the criteria established by law. Moreover, by leading to immediate executions by default, administrative silence could result in the execution of prisoners who have appealed their sentences to international bodies and whose cases are still pending.

This Decree's interference with the right to life is totally unacceptable. Our opposition to capital punishment is not to excuse or minimize the consequences of violent crime. We do recognize, that with over 5,000 murders a year and a conviction rate of less than one per cent, there is much public anxiety about Guatemala's grave situation of public security. However, changes in public security policies must be consistent with human rights and international law.

We **strongly urge** you to exercise your constitutional power to veto Decree 06-2008, because the death penalty is the ultimate form of cruel, inhuman or degrading treatment or punishment, and it has not been shown to have a special deterrent effect. We sincerely hope that you will not join the USA as the only other country in the American continent to execute people.

Sincerely,

Brian J. Stefan Szittai
Coordinator

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US Senators Brown & Voinovich and US Representatives Latta, Kaptur, Kucinich, LaTourette, Regula, Ryan, Tubbs Jones ~ via email

UA 51/08 Guatemala

The following people hereby urge you to take action on this matter as indicated in this letter: