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**HND42785.E**

Honduras: Legal penalties for murder, and the judicial system (procedures, etc.) in regards to individuals accused and/or charged with murder

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Amnesty International indicated in its 2004 report that the death penalty was abolished in Honduras for all crimes. The following information detailing the penalties for various categories of murder was obtained from the Honduran Penal Code of 1983:

According to Article 116, a person found guilty of "simple homicide" is liable to a prison sentence ranging between 15 and 20 years. If the murder victim happens to be a judicial authority, a police authority, a member of the procurator's office (*miembro del Ministerio Público*) or an officer or employee of a penal centre, who was in uniform at the time of the offence, the sentence ranges from 20 to 30 years of prison.

Article 117 of the Penal Code states that if a murder takes place in the context of breach of trust (*alevosía*), known premeditation (*premeditación conocida*), under any of a number of circumstances (e.g., through flooding, fire, explosion, and so on) which were caused intentionally, or with deliberate cruelty (*ensañamiento*), it is considered an assassination. Included under Article 117, the sentence for assassination ranges from 20 to 30 years of imprisonment, but if accompanied by [translation] "payment, recompense or promise of payment, or accompanied by robbery or rape, the penalty will be between 30 years to life" in prison.

Under Article 118, a person who is found guilty of killing his or her ancestor (*ascendiente*), descendent (*descendiente*) or spouse will face a prison sentence of 30 to 40 years.

On 1 July 2004, a Honduran court sentenced an American to 38 years in prison after he was found guilty of murdering his Honduran wife (*Houston Chronicle* 1 July 2004).

Honduran law stipulates that police are permitted to arrest a person under the condition that they have an order by a court or a prosecutor, that there is a deep suspicion that a person who is accused of committing a crime might try to escape, or that a suspect is caught in possession of evidence (*Country Reports for 2003* 25 Feb. 2004, sec. 1.d).

Several sources indicated that judicial delays were a problem in Honduras (*ibid.*; HRW n.d.; ICJ 3 Oct. 2003). An undated article published by Human Rights Watch (HRW) listed Honduras as one of several countries in which pre-trial detention was a serious problem (n.d.). The article mentioned the fact that detainees could be imprisoned for years before finally appearing before a court and being found not guilty (n.d.). However, *Country Reports for 2003* indicated that although lengthy pre-trial detentions were a continuing phenomenon, illustrated by the fact that in 2002 approximately 88 per cent of those in Honduran prisons had not yet been tried or sentenced, under the country's new Criminal Procedures Code this problem should eventually be eliminated (25 Feb. 2004, sec. 1.d). According to the new Code, pre-trial detention cannot surpass two years if the maximum jail time for the corresponding crime is more than six years (*Country Reports for 2003* 25 Feb. 2004, sec. 1.d). *Country Reports for 2003* stated that

[t]he new [Criminal Procedures] [C]ode works on the basis of the presumption of innocence, the right to a public trial, and respect for the dignity and liberty of the accused. It also expressly prohibits pretrial detention after the initial 24-hour detention without a court order. Since the implementation of the new code, there has been some improvement in the legal system's fairness toward those charged with crimes, and cases have been processed with greater efficiency than under the old system.

An accused person has the right to an initial hearing by a judge, to bail, to an attorney provided by the State if necessary, and to appeal (*ibid.*).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

#### References

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#### Additional Sources Consulted

**Internet Sites, including:** Centro de Investigación y Promoción de los Derechos Humanos (CIPRODEH), Comité de Familiares de Detenidos-Desaparecidos en Honduras (COFADEH), Comisionado Nacional de los Derechos Humanos (CONADEH), Equipo Nizkor, *El Heraldo* , *La Prensa* , *La Tribuna* , United States Agency for International Development (USAID).

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