INTERNATIONAL SECRETARIAT 1 Easton Street London WC1X 8DJ 1990 - 09- 1 8 United Kingdom

EXTERNAL (for general distribution)

URGENT

AI Index: AMR 22/07/90 Distr: UA/SC

BUIL ON/ DU

UA 351/90

Legal Concern

7 September 1990

CHILE: "Disappearance" Cases Closed

Amnesty International is seriously concerned at the Chilean Supreme Court's recent decision to uphold the 1978 Amnesty Law in the case of 35 "disappeared" people, before investigations to determine the full facts and responsibilities of those involved have been established.

The case stems from a criminal complaint presented in 1978 against General Manuel Contreras, former director of the <u>Direction de Inteligencia Nacional</u> (DINA, Directorate of National Intelligence) and other senior officials of the intelligence agency for their responsibility in the abduction and subsequent "disappearance" of 70 people between 1974 and 1976. The complaint is one of the most important legal actions to have been taken on behalf of the "disappeared", containing substantial material, including personal testimonies to back up the allegations of illegal arrests, torture and "disappearances" by the DINA.

The complaint was originally presented before the 10th Criminal Court (juzgado del crimen) who, without conducting any investigations, declared itself without jurisdiction and passed the case to the military courts. The case remained closed until 1983, when the Military Court of Appeal (Corte Marcial) ordered that 35 of the cases be reopened. On 30 November 1989 the then military judge (juez militar) of Santiago, General Carlos Parera, closed the case on the basis of the 1978 Amnesty Law, even though numerous investigative steps (diligencias) remained pending.

The 1978 Amnesty Law was originally intended to be used in the cases of individuals charged with certain crimes, including those committed by military personnel between September 1973 and March 1978, following judicial investigation. Instead, it has been used in recent years to close inquiries into allegations of serious human rights violations, including "disappearances", before the facts have been clarified.

## BACKGROUND INFORMATION

More than 830 "disappearances" took place in Chile, mostly between 1973 and 1977, at which point the policy of "disappearing" political opponents largely ceased. In April 1990, President Aylwin established the Comisión de Verdad y Reconciliación (Commission for Truth and Reconciliation) whose task includes the establishment of the identity of the "disappeared", what happened to them and their current whereabouts. Since the creation of the Commission, a number of relatives have come forward with their testimonies and the figure for the "disappeared" continues to rise. Although a large body of evidence has been presented to the courts about many cases of "disappeared" prisoners, none of those allegedly responsible for involvement in "disappearances" have been brought to justice.

The Supreme Court's decision comes at a time of increasing evidence of the involvement of members of the security forces in serious human rights violations and as bodies of some "disappeared" prisoners are being exhumed in various sites throughout the country. As a result, discussions about the applicability of the Amnesty Law are intensifying in Congress where several deputies have presented proposals that seek to ensure that cases of serious human rights violations, including "disappearances", will not be closed before thorough investigations have been conducted.

Amnesty International takes no position on the granting of post-conviction amnesties or pardons as such. However, it believes that any measure of clemency must take into account the rights of victims and their relatives to a full clarification of the facts and to compensation and must give a clear message to society that there will not be blanket impunity for those involved in carrying out serious human rights violations, with a view to preventing any recurrence of such practices in the future.

2 (44)(71) 413 5500 Telegrams: Amnesty London WC1 Telex: 28502 FAX: 956 1157

Amnesty International is an independent worldwide movement working for the international protection of human rights. It seeks the *release* of men and wornen detained anywhere because of their beliefs, colour, sex, ethnic origin, language or religious creed, provided they have not used or advocated violence. These are termed *prisoners* of conscience. It works for fair and prompt trials for all political prisoners and works on behalf of such people detained without charge or trial. It opposes the death penalty and torture or other cruel, inhuman or degrading treatment or punishment of all prisoners.

RECOMMENDED ACTION: Telexes/faxes/express and airmail letters:
- expressing grave concern at the Supreme Court's decision to close 35 "disappearance" cases before the facts have been fully clarified;

- respectfully drawing attention to the resolution carried on 20 December 1978 at the 90th Plenary Meeting of the United Nations General Assembly calling upon governments to:

- (a) in the event of reports of enforced or involuntary disappearances, to devote appropriate resources to searching for such persons and to undertake speedy and impartial investigations;
- (b) to ensure that law enforcement and security authorities or organizations are fully accountable, especially in law, in the discharge of their duties, such accountability to include legal responsibility for unjustifiable excesses which might lead to enforced or involuntary disappearances and to other violations of human rights;
- welcoming proposals presented to Congress that seek to modify the 1978 Amnesty Law in order to ensure that thorough investigations into reported abuses are conducted and that those responsible are brought to justice;

APPEALS TO:

Señor Gabriel Valdés Subercaseaux President of the Senate Presidente de la Mesa Directiva del Senado Cámara de Senadores Edificio del Congreso Valparaíso, Chile

Señor José Viera Gallo Presidente de la Mesa Directiva de la Cámara Baja Cámara de Diputados Edificio del Congreso Valparaíso, Chile President of the Chamber of Deputies

Association of Relatives of

Disappeared Prisoners

Sr. Francisco Cumplido Ministro de Justicia Ministerio de Justicia Compañía 1111 Santiago, Chile

Telexes: 242316 Faxes: + 696 6952

COPIES TO:

Sr. Luis Maldonado Boggiano Presidente de la Corte Suprema Plaza Montt Varas Santiago, Chile Supreme Court

Minister of Justice

Sres.
Agrupación de Familiares
de Detenidos Desaparecidos
Casilla 30-D
Santiago, Chile

To one of the following newspapers:

- Sr. Director, <u>La Epoca</u>, Olivares 1229, piso 6, Santiago, Chile - Sr. Director, <u>El Mercurio</u>, Av. Santa María 5542, Santiago, Chile

and to diplomatic representatives of Chile in your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 17 October 1990.

- Please take action as soon as you receive this Urgent Action appeal. Carefully read the recommended action. If possible, send a telegram or express letter immediately to one or more of the addresses given. Other letters can be sent afterwards.
- Telegrams and letters should be brief and courteous. Stress that your concern for human rights is not In any way politically partisan. Refer to relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:
  - Article 3 "Everyone has the right to life, liberty and security of person."
  - Article 5 "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

Article 9 — "No one shall be subjected to arbitrary arrest, detention or exile."

- The name of Amnesty International may be used, although letters written in a private or personal capacity may be more effective.
- Copies of appeals should be sent to relevant diplomatic representatives in your country.
- In Urgent Action cases, Amnesty International has to act rapidly to prevent the III-treatment of prisoners. An appeal is issued when Amnesty International believes it has received rellable and accurate information in such cases. It is not always possible to verify all details independently and in some instances the situation outlined in the appeal may change. Urgent Action participants are always notified of any significant new facts.
- Copies of any replies received from government authorities should be sent immediately to your section's Urgent Action coordinator or direct to the Campaign and Membership Department of the International Secretariat. If appropriate, thank the official who has replied and ask to be kept informed about the case.