

Amnesty International
International Secretariat
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ORIGINAL

To: All sections
Chile/CHAN coordinators/coordination groups
Lawyers Groups

From: Americas Research Department

Date: October 1987

CHAN 04/87

CHILE ACTION NETWORK

THE BURNING OF RODRIGO ROJAS AND CARMEN QUINTANA - ONE YEAR ON

Summary

On 8 June 1987, Carmen Quintana, who is living in Canada, returned to Chile to give evidence in the investigations into the burning of herself and Rodrigo Rojas on 2 July 1986 by a military patrol. She is still undergoing intensive treatment in Canada for the burns that cover 60% of her body, and had planned to remain in Chile for two weeks. Nearly two months later, she left the country, after several delays in the proceedings.

Carmen took part in a reconstruction of the burning and was a key witness in several identification parades. She was also interrogated at length by the specially-appointed military investigating judge (fiscal militar ad hoc), Erwin Blanco. In all the proceedings, she and her lawyers reported having been treated abruptly, and without any consideration being shown for Carmen's physical condition. Carmen complained repeatedly that the fiscal and the court clerk appeared to be attempting to confuse her and to distort her testimony. The lawyers also said that important information was either ignored or not requested from eye-witnesses.

This circular updates the information that was issued earlier this year about the case (See AMR 22/08/87 - The Burning of Rodrigo Rojas and Carmen Quintana - Ten Months On).

Distribution

As above.

Recommended actions

1. Sections and Chile/CHAN coordination groups should distribute the information in the attached circular to contacts and others who have been following the case and who may have participated in the previous CHAN AMR 22/09/87.

2. Letter-writing

CHAN coordinators should allocate each member of the Supreme Court to a CHAN group. Groups should send courteous letters:-

(a) expressing concern that the military courts have so far failed to take into account the ample evidence provided by Carmen Quintana and other eye-witnesses, as well as the report that was earlier submitted by a unit of the carabineros.

(b) expressing the hope that the evidence brought to the proceedings by Carmen Quintana as well as that of the other witnesses involved, will be thoroughly investigated and that those responsible will be brought to justice.

Ministro	Rafael Retamal López	Corte Suprema
"	Luis Maldonado Boggiano	Plaza Montt Varas
"	Victor Manuel Rivas del Canto	Santiago, Chile
"	Abraham Meersohn Schijani	
"	Carlos Letelier Bobadilla	
"	Enrique Zurita Camps	
"	José María Eyzaguirre Echevarria	
"	Enrique Correa Labra	
"	Marcos Aburto Ochoa	
"	Estanislao Zúñiga Collao	
"	Hernán Cereceda Bravo	
"	Israel Bórquez Montero	
"	Octavio Ramírez Miranda	
"	Osvaldo Erbeta Vacarro	
"	Emilio Ulloa Muñoz	
"	Servando Jordán López	

Approaches to Embassies: This case has been widely reported in the international press. If the section agrees, groups should therefore send letters to the Chilean diplomatic representative in your country, expressing hopes that with the new evidence, those responsible will be brought to justice. Ask the ambassador/consul to relay your concern to the authorities in Chile.

3. Copies of Appeals

Sr. Erwin Blanco	military prosecutor in charge of the case
Fiscal Militar Ad Hoc	
Zenteno 102	
Santiago, Chile	

Sr. Luis Correa Buló	president of the military appeals court
Presidente de la Corte Marcial	
Palacio de los Tribunales	
Santiago, Chile	

Sres.	human rights organization providing legal
Vicaría de la Solidaridad	counsel
Casilla 26D	
Santiago, Chile	

4. Publicity and Dissemination

CHAN groups can use the external information in this circular to update journalists who may have already taken an interest in the case. Try to publicise the information as widely as possible. Sections may also distribute the update (together with AMR 22/08/87) to those organizations or government officials who met Rodrigo Rojas' mother or who took up the case during the 1986 Chile Campaign. Student groups may also be invited to participate.

5. Lawyers groups

Lawyers groups should follow up previous letters, stating concerns and updating them with the information given in this circular, pointing out, in particular, aspects of the proceedings that do not seem to meet accepted standards of impartiality. Please send copies of your appeals to some members of the Supreme Court, to the fiscal, or to the military appeals court.

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October 1987

CHILE

THE BURNING OF RODRIGO ROJAS AND CARMEN QUINTANA -ONE YEAR ON

Carmen Quintana, who is living in Canada, returned to Chile on 8 June 1987, to be a witness in the court investigations into the burning of herself and Rodrigo Rojas on 2 July 1986 by a military patrol. She is still undergoing intensive treatment in Canada for the third degree burns that cover 60% of her body, and had planned to remain in Chile for two weeks. She left Chile 45 days later after several delays in the proceedings, when her health was already beginning to deteriorate.

Carmen took part in a reconstruction of the burning and was a key witness in several identification parades. She was also interrogated at length by the specially-appointed military investigating judge (fiscal militar ad hoc), Erwin Blanco. In all the proceedings, she and her lawyers reported having been treated abruptly, and without any consideration being shown for Carmen's physical condition. Carmen complained repeatedly that the fiscal and the court clerk appeared to be attempting to confuse her and to distort her testimony. The lawyers said that important information was either ignored or not requested from eye-witnesses.

On balance however, Carmen's lawyers believe that her evidence has led to an important breakthrough in the investigations with the positive identification of three members of the patrol, the head, *Captain Fernández Dittus, Sergeant Nelson Medina who had caught and beaten Rodrigo Rojas and Julio Castañer González, a member of military intelligence who had been dressed in civilian clothes. A fourth member of the patrol, Luis Zúñiga González another member of military intelligence is also reported to have been identified. Carmen's statement that she and Rodrigo were left in a deserted alleyway, as opposed to a main road as maintained by the patrol is now recorded in the court proceedings, reinforcing allegations that the patrol had deliberately tried to cover up the incident. Despite the apparent attempts by court officials to undermine Carmen's testimony and the refusal by the fiscal to hold proceedings requested by the lawyers (eg. a confrontation between Carmen and the three civilian members of the patrol), the lawyers believe that it will no longer be possible for the defence and the fiscal to sustain the notion of the "accident" They are calling for the upgrading of the charges against the head of the patrol Captain Fernández Dittus, and for the prosecution of the other members of the patrol.

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* While in preventive detention, Fernández Dittus was promoted from lieutenant to captain.

Captain Fernández was released on bail earlier this year, after the fiscal revoked the charges of unnecessary violence resulting in death and serious injuries ("violencia innecesaria con resultado de muerte y lesiones graves") back to the former relatively minor offence - a "quasi-delict" (meaning negligence in this instance) in not securing prompt medical attention for the injured youths. Carmen's lawyers filed a legal complaint (recurso de queja) against this ruling. In May, however, the military appeals court (Corte Marcial) upheld the fiscal's decision. An appeal against the prosecution's refusal to bring charges against nine other members of the patrol was also rejected. On 7 September, the Supreme Court (Corte Suprema) upheld the decision of the military appeals court, with the proviso that their decision may change in the future if new evidence comes to light.

The lawyers for the prosecution, have so far been denied access to the fiscal's preliminary investigations (sumario), ten times, on the grounds that it could hinder the investigations (poner en riesgo las investigaciones).

The proceedings

Shortly after her arrival in Chile, Carmen Quintana was called to the fiscal's office for questioning by Fiscal Blanco. The questioning was held over two successive days and lasted for 14 hours. Carmen subsequently said that she had had to insist her statement be taken down verbatim and that the fiscal had shown little interest in many of the details she related, including her account of the beatings she and Rodrigo had received that day. She said, "they told me that they didn't want details, that I wasn't speaking to the press ... when I related the part where Rodrigo and I were beaten on the morning of the 2 July 1986, again they said that that wasn't what they were interested in" ("ellos me dijeron que no querian detalles, que yo no estaba hablando ante la prensa ... cuando les relaté la parte en que nos golpeaban a Rodrigo y a mí esa mañana del 2 de julio, también dijeron que eso no era lo que les interesaba.") She also claimed they had called her a liar ("me trató de mentirosa"). On the first day, the clerk had apparently failed to take down any of her statement for the first two hours.

During the next stage of the proceedings, the identification parades, Carmen positively identified one of the civilian members of the patrol, but thought she recognized another civilian member and Captain Fernández. The intention of the identification parades had been for Carmen to identify Captain Fernández, but the court then decided that maybe she would recognize other members of the patrol, so nearly 200 soldiers took part. Their faces were blackened as they had been the year before, but this time far more so. As a result, Carmen maintained it was impossible to positively identify the individual members of the patrol and refused to sign the record of the proceedings of all but one of the parades.

A reconstruction, in two parts, was held more than two weeks later, the first part at the site of the burning and the second where the two, according to Carmen, had been left. An earlier reconstruction had been carried out secretly in January, but without the participation of Carmen Quintana, her lawyers, nor many of the witnesses, some of whom had already left the country following threats and intimidation. Lawyers for the victims had said they considered this earlier reconstruction to have been invalid, and demanded a re-enactment with all the relevant witnesses present.

Carmen said that in both parts of the reconstruction attempts were made to confuse her. According to Carmen and seven other witnesses for the prosecution, the three men dressed in civilian clothes in the patrol had played an important role in the events of the year before. One of them had forced Carmen to light a tyre while another, Julio Castañer González, took photographs using Rodrigo Roja's camera - both photos and camera have since disappeared. In the reconstruction that took place on 12 July 1987 however, Carmen claimed that the civilians taking part were not the ones who had been present on the day of the incident, two of whom she had recognized during the identification parades. During the reconstruction, Carmen was obliged to spend six hours in the pouring rain without an umbrella. Her lawyers had to wait 1 1/2 blocks away and her mother was not allowed to approach her daughter to give her her prescribed medicine. At one point, Carmen alleges the fiscal pushed her so hard she nearly fell over and that pressure was exerted on her to recall things that she did not remember happening - "they wanted me to say things that did not happen or that I did not remember" ("querían que dijera cosas que no había vivido o no recordaba".) Nevertheless and despite attempts by the clerk to confuse Carmen into thinking another man was Captain Fernández, she was able to identify him as the leader of the patrol and the one who had poured the inflammable liquid over her and Rodrigo Rojas. She also identified Captain Nelson Medina.

Two days later, the second part of the reconstruction was staged in Lo Boza, the deserted alleyway on the outskirts of Santiago, where Carmen says the two of them were dumped. Carmen's defence lawyers believed this part of the reconstruction would be important in helping to clarify the patrol's motives for transporting the injured youths 25 kilometres across town and leaving them in a deserted alleyway in their grievous condition.

The army have always maintained that they released the two youths on the main road near Lo Boza, after the two had told them they were all right. This contradicts the version of Carmen Quintana and key witnesses. Carabineros, who had been called to the scene by a passing car had found strands of burnt hair and the remains of some clothes in the alleyway. The army's version is also contradicted by a report carried out by a special unit of carabineros which concluded that the two had been left in the alleyway. (In its report, the special unit of carabineros had concluded that the hair belonged to Carmen Quintana and that it had been soaked with an inflammable liquid. The report, submitted to the courts the previous October, also stated that the burning could not have been an accident - for further information about the report, see AMR 22/09/87 - The Burning of Rodrigo Rojas and Carmen Quintana: 10 Months On).

This part of the reconstruction took place without the participation of the members of the military patrol. The construction workers who had been in the area and seen when the army trucks carrying the two burnt youths drove down the alleyway, were present but were not called to answer questions by the fiscal. The carabineros who had arrived at the scene, questioned the construction workers and found the hair and the clothes, was not called to participate, neither were Carmen Quintana's lawyers. "I told him (the fiscal) that various parts (of the reconstruction) were missing and he replied that it wasn't important" ("le hice notar que faltaban varias partes y me respondió que eso no tenía importancia"). Carmen went to take a short rest and tell her lawyers what was happening. When they returned the fiscal had already left.

