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@The Case of Carmelo Soria A United Nations Official

JANUARY 1995

AI INDEX: AMR 22/05/95

DISTR: SC/CO

The case of the killing of dual Spanish-Chilean national and United Nations employee, Carmelo Luis Soria Espinoza is reaching a crucial stage in the courts in Chile.

Carmelo Soria was an official of the United Nations Latin American Centre of Demography (CELADE). He was found dead on 16 July 1976, in a canal in Santiago, Chile. The Chilean Comisión de Verdad y Reconciliación (Commission for Truth and Reconciliation) found in 1991 that he had been "executed by agents of the state". The investigation into Carmelo Soria's death has been closed and reopened and passed between different jurisdictions and judges on a number of occasions, and several attempts have been made to apply the Chilean 1978 Amnesty Law to it. This law (Decree Law 2191/78) has been widely applied to block full judicial investigations into human rights abuses committed in the period 1973-1978. Pressure by the United Nations and the Spanish Government on the Chilean Foreign Ministry, to ensure that the Carmelo Soria case is fully brought to justice, has been crucial in keeping it open. It continues to be vital.

Considerable progress was made in the investigation by a civilian investigating judge (Ministro en Visita) appointed by the Santiago Appeals Court in May 1992. In November 1993 details of this investigation were published in the Chilean press, indicating that six army officers, including two high ranking officers currently on active service were directly implicated in the detention, interrogation, torture and killing of Carmelo Soria. The

military courts ordered the confiscation of an entire edition of La Epoca newspaper for allegedly infringing court reporting restrictions on the Soria case. On 16 November the Supreme Court accepted an earlier petition by the military courts to take over jurisdiction of the case. In December the military court ruled to apply the Amnesty Law and close the case. This decision was upheld by the Supreme Court. However, the Soria family entered a petition to the Supreme Court that applying the amnesty to this case violated Article 2 of the Convention of Vienna on Crimes Committed against International Civil Servants and Other Diplomatic Officials. This convention, which requires states to punish those found responsible for such crimes, was ratified by Chile in 1977. In April 1994 the Supreme Court accepted the petition and ruled to reopen the case and appoint a member of the Supreme Court as a further special investigating judge (Ministro en Visita).

On 13 December 1994 United Nations Secretary General, issued a press release which noted *inter alia* that *"the judge in charge of the case of ECLA functionary, Carmelo Soria, who was brutally killed in 1976, will shortly be making his ruling on the case public...expressed the hope that his ruling facilitates a successful outcome.... Wished to record that since the day of Mr Soria's death the United Nations has actively followed the results of the investigation into the circumstances of his death, and demanded that there is full justice in this case."*

On 18 January 1995 the lawyer representing the accused petitioned for the preliminary stage of the trial (sumario) to be concluded and for the 1978 Amnesty Law to be applied. The lawyer representing the Soria family petitioned for the extradition of US-born Michael Townley from the United States to stand trial in the case, together with five members of the Chilean armed forces. Michael Townley, who was an agent of the Chilean Dirección de Inteligencia Nacional DINA (Directorate of National Intelligence) was convicted in the United States for participation in the car-bomb assassination of former Chilean Foreign Minister Orlando Letelier and US citizen Ronnie Moffit. In August 1993 he gave a television interview stating that Carmelo Soria had been interrogated, tortured and killed in his house in Santiago, Chile.

It is worth noting that an appeal against the 1993 conviction in Chile of General Manuel Contreras Sepúlveda, former director of the DINA, and Brigadier Pedro Espinoza Bravo, DINA's chief of operations, for the the assassination of Orlando Letelier and Ronnie Moffit in Washington DC in 1976, is currently being heard in the Chilean Supreme Court. The court has ruled to allow unprecedented live television coverage in this high profile case. Whilst many other cases have been closed because of the application of the 1978 Amnesty Law the Letellier-Moffit case was specifically excluded from that law, largely on the grounds that the case affected international relations with another country. The strength of interest expressed by both the United Nations and the Spanish Government, if renewed, may be instrumental in ensuring that the Soria case is also brought to a full trial. Action by the United Nations and Spanish Government thus has the chance of preventing impunity in this case, and in so doing strike a blow against impunity that has been the general rule for former human rights violations in Chile.

Amnesty International views this case within the context of its concern about serious and widespread human rights violations, including torture "disappearances" and extrajudicial

executions during the government of General Augusto Pinochet (1973-90), which affected thousands of Chilean citizens. Amnesty International has called for the 1978 Amnesty Law to be repealed, and for those found responsible for human rights violations to be brought to justice. Amnesty International does not oppose the granting of post-conviction pardons. However, the organization opposes any measures that impede clarification of the truth in cases of human rights violations and believes that the way in which the 1978 Chilean Amnesty Law has been interpreted in recent years contravenes international human rights standards. In particular application of the Amnesty Law is at variance with the UN Basic Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions which state:

Article 9: *"The purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible and any pattern or practice which may have brought about that death."*

Article 18: *"Governments shall ensure that persons identified by the investigation as having participated in extra-legal, arbitrary and summary executions in any territory under their jurisdiction are brought to justice. Governments shall either bring such persons to justice or co-operate to extradite any such persons to other countries wishing to exercise jurisdiction. This principle shall apply irrespective of who and where the perpetrators or the victims are, their nationalities or where the offence was committed."*

Article 19: *"..In no circumstances including a state of war, siege or other public emergency, shall blanket immunity from prosecution be granted to any person allegedly involved in extra-legal, arbitrary or summary executions".*

KEYWORDS: INVESTIGATION OF ABUSES¹ / EXTRAJUDICIAL EXECUTION / CIVIL SERVANTS / FOREIGN NATIONALS / UN / AMNESTIES FOR VIOLATORS / MILITARY /

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