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“Crimes against international law are committed by men, not by abstract entities” – Amnesty International spells out its legal arguments on the Pinochet case

Amnesty International has published today a paper spelling out its legal arguments on the Pinochet case.

The paper -- *Universal jurisdiction and absence of immunity for crimes against humanity* -- addresses the issues of:

- immunity under international and Chilean law,
- the scope of universal jurisdiction in cases of crimes against humanity and torture,
- and the absence of immunity for heads of state, and former heads of state, accused of those crimes.

The paper was submitted yesterday to the House of Lords together with a brief by the lawyers representing Amnesty International, the Medical Foundation for the Care of Victims of Torture, the Redress Trust, Mary Ann and Juana Francisca Beausire, Dr Sheila Anne Cassidy and the Association of Relatives of Disappeared Prisoners (UK).

“It is essential to remember, however, that what lies behind the legal arguments in this case is the duty of the international community to ensure that the thousands of people killed, tortured or “disappeared” during the military government in Chile are not just discarded as a bad memory,” Amnesty International said.

“This would represent an important sign of support for the relatives of the 'disappeared' and politically executed, who for 25 years have campaigned for truth and justice and have so far been denied the possibility to mourn their relatives.”

“Those responsible for crimes against humanity must be brought to justice not only for the sake of those victims and their relatives but also for that of the international community as a whole: the primacy of international law is a key element in the fight against impunity and in preventing human rights violations. The moment has arrived for it to be shown to be effective,” Amnesty International argued.

Ian Brownlie, Q.C., one of the barristers acting on behalf of Amnesty International and other intervening parties, will argue that the High Court decision saying that Augusto Pinochet has immunity as a former head of state is inconsistent with international law and misinterprets UK legislation.

The organization also highlights that several mechanisms guaranteeing impunity in Chile

have blocked -- and continue to block -- effective judicial investigations and prosecutions of those responsible for human rights violations during the military government in Chile.

The Amnesty International paper explores in detail the principles of international law that establish the ability of any state to exercise jurisdiction over crimes against humanity, no matter where they were committed and no matter the position of the persons who committed them (known as "universal jurisdiction"). The document also provides information on more than 25 countries, including Chile, which have recognised the right of national courts to exercise universal jurisdiction over such crimes or enacted legislation in that regard, or whose national courts have actually exercised universal jurisdiction in certain cases.

Countries with legislation authorizing the exercise of universal jurisdiction or extraterritorial jurisdiction include Belgium, Bolivia, Canada, Costa Rica, Denmark, El Salvador, France, Germany, Honduras, Nicaragua, Norway, Peru, Spain, Switzerland and the United States. In the case of Chile, in particular, the country is a party to the Inter-American Convention to Prevent and Punish Torture, and has also signed the Inter-American Convention on Forced Disappearances of Persons -- which provide for universal jurisdiction in cases of torture and "disappearance" respectively. Chile has also ratified the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which provides for universal jurisdiction. Also, Article 6 of the *Código Orgánico de Tribunales*, the law regulating the jurisdiction of Chilean courts, grants them jurisdiction over crimes committed abroad.

"It is simply not good enough for the international community -- including Chile and the UK -- to sign human rights treaties and conventions and then grant former heads of state immunity from prosecution for crimes against humanity and torture," Amnesty International said. "As experience shows, this only leaves the way open for future human rights violations."

The Amnesty International paper concludes by quoting the words of the Nuremberg Tribunal more than half a century ago:

"Crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced. . . . It was submitted that . . . where the act in question is an act of State, those who carry it out are not personally responsible, but are protected by the doctrine of the sovereignty of the State. In the opinion of the Tribunal, [this contention] must be rejected. . . . The principle of international law, which under certain circumstances, protects the representative of a state, cannot be applied to acts which are condemned as criminal by international law. The authors of these acts cannot shelter themselves behind their official position in order to be freed from punishment in appropriate proceedings" (Judgment., pp. 41-42).

For further information, to arrange an interview or to request a copy of the document *The Pinochet case: Universal jurisdiction and the absence of immunity for crimes against humanity*, please contact Amnesty International's press office on +44 171 413 5562 / 5566. For out of office hours, call +44 468 670 248. (0468 670 248 from within the UK) ISDN line available.