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ARGENTINA AND CHILE: INITIATIVE BY THE SPANISH NATIONAL COURT SHOWS JUSTICE HAS NO BORDERS

Continued impunity in Argentina and Chile in respect of past human rights violations is intolerable to the international community, hence the initiatives by the Spanish judiciary to bring those responsible to trial deserve firm international backing and determined co-operation by the Chilean and Argentine authorities, Amnesty International stated today.

"In accordance with international law, the scale and severity of the human rights violations recorded in Chile and Argentina mean that they constitute a crime of lese-humanity, which is subject to international jurisdiction. Therefore, Amnesty International recognises the importance and value of the legal investigations instigated by the Spanish National Court into the cases of Spanish citizens who "disappeared" in Argentina, and into the cases of people who "disappeared" in Chile", the organization says.

The violations recorded in Argentina and Chile during the military governments from 1976 to 1983 and 1973 to 1990 respectively, were large-scale and deeply wounded the societies of those countries. Apart from the thousands of people who were tortured and extra-judicially executed, thousands of others have not been accounted for. Under successive civilian governments, most of these cases have continued to be forgotten, while the vast majority of the perpetrators have benefited from impunity.

"All states have an international obligation to guarantee human rights and, once a violation has occurred, they have a duty to investigate the facts and punish those responsible", says Amnesty International. "Impunity, as in the case of Argentina and Chile, constitutes a negation of that international obligation of States, which turns it into a dead letter".

Since the Nuremberg trials, at which the international community tried Nazi leaders, there has been no doubt at all about the interest which the States which make up the international community have in trying and punishing those responsible for crimes of lese-humanity and serious human rights violations – an interest which is reflected in the current process of establishment of the International Criminal Justice Court.

Given this historic background, and the importance of breaking the circle of impunity which reigns internationally, Amnesty International considers the court case initiated by the

Spanish National Court to be a brave challenge which the organization hopes will mark a new era in human rights defence.

Legal background

In recent years, international organizations, such as the United Nations Human Rights Committee and the Inter-American Human Rights Commission of the Organization of American States (OAS), have come out against impunity, stating that amnesties and other measures designed to allow those responsible for human rights violations to go unpunished are incompatible with the international obligations of States in this field, in particular, their obligation to investigate the facts and impose suitable punishment on those found guilty. This commitment by the international community to eradicate impunity was reiterated at the World Human Rights Conference in 1993 in Vienna, the final declaration of which urges States to repeal all measures which make impunity possible and to punish these violations.

In March 1997, the Inter-American Human Rights Commission of the Organization of American States issued a report on the cases of three disappeared persons and a victim of extra-judicial execution, which had been closed by the Chilean courts, in accordance with the 1978 Amnesty Law. In its resolution, the Inter-American Commission recommended the Chilean State to "bring its domestic legislation into line with the terms of the American Human Rights Convention, so that the human rights violations by the de facto government can be investigated, the guilty identified, their responsibilities established, and they can be properly punished, while guaranteeing the victims and their relations the right to justice which is theirs".

In its December 1996 report to the UN Human Rights Commission, the Working Group on Involuntary Disappearances observed that the Argentine State was obliged to carry out exhaustive, impartial investigations, "if the fate of a victim of a disappearance has not been clarified", in accordance with the United Nations Declaration on the Protection of all Persons against Involuntary Disappearances. Article 18 of the Declaration states that States cannot grant an amnesty to those responsible for "disappearances".

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For more information or to arrange an interview, please contact Amnesty International's press office: 44 171 413 5562