

CHILE

@Members of security forces charged in connection with "disappearance" of Mapuche Indians in 1974

In December 1991, the Appeals Court of Temuco (*Corte de Apelaciones de Temuco*) ordered the detention of two former *carabineros* (uniformed policemen) and a civilian for the abduction of two Mapuche Indians in 1974.

José Julio Llaulén Antilao, Juan Eleuterio Cheuquepán Levinilla and five other Mapuches "disappeared" following their arrest by *carabineros* in the town of Lautaro on 11 June 1974. Their cases were included in the report of the National Commission for Truth and Reconciliation (*CNVR, Comisión Nacional de Verdad y Reconciliación*), a commission set up by President Aylwin in April 1990 to investigate serious human rights violations during the period of military rule. According to the CNVR's report published in March 1991, Juan Cheuquepán, who was 16 years old at the time, was a student at the Santa Teresa School. He was arrested early on the morning of 11 June by *carabineros* from the police station in Lautaro who reportedly said that he was wanted for questioning in connection with a robbery. His relatives refuted this and said that the *carabineros* were drunk. The relatives also reported seeing 39-year-old José Julio Llaulén Antilao, an agricultural worker, under arrest.

The five other Mapuches who "disappeared" following their arrest by *carabineros* on the same day are: Miguel Eduardo Yaufulén Mañil; José Domingo Yaufulén Mañil; Oscar Romualdo Yaufulén Mañil, 18; Antonio Ceferino Yaufulén Mañil; and Samuel Huichallán Llanquilén. Samuel Huichallán who was married with three children, was reportedly arrested by *carabineros* early on 11 June. Three of the Yaufulén brothers, José, Oscar and Miguel were arrested at their home on the afternoon of 11 June, reportedly by the same *carabineros* who had carried out the previous arrests. Antonio Yaufulén was arrested in Lautaro with his father who was released a month later. The four brothers were all agricultural workers. As far as is known, none of the group had any political affiliation though it is believed they may have been active in peasant organizations.

The information gathered by the CNVR regarding the "disappearance" of the seven Mapuche Indians was presented to the Criminal Court of Lautaro (*juzgado de letras*) for judicial investigation. In November 1991, the judge closed the pre-investigative stage of the proceedings (*sumario*) and provisionally acquitted the accused pending consultation with the Temuco Appeals Court. In an important ruling, this decision was revoked by the Temuco Appeals Court in December 1991. The higher court referred the case back to the criminal

court in Lautaro, ordered the reopening of the *sumario* and the detention pending trial of two former *carabineros* and another man on charges of abduction (*secuestro*) and, in the case of 16-year-old Juan Cheuquepán, of abduction of a minor (*sustracción del menor*). In January the three men were detained.

According to the CNVR's report a number of people of Mapuche origin "disappeared" following their detention in or around the town of Lautaro in the southern central part of Chile in the early years after the coup. In many of these cases, the CNVR report says that the relatives never presented a judicial complaint or took any other steps to press for official action to clarify the fate of their loved ones. The report says that this is probably because they were too frightened, were unaware of the procedures and did not trust any of the state institutions.

The CNVR, which was mandated to examine cases of "disappearances", executions and deaths under torture at the hands of agents of the state, concluded that 957 people "disappeared" following their detention by the army or security forces and that 1068 people were executed or died under torture. Among these cases are those of more than 80 persons known or believed to be Mapuche Indians.

According to the CNVR, the Mapuche were treated with extreme cruelty after the 1973 coup. Under a programme of agrarian reform spearheaded by the government of President Allende, the Mapuche had regained some of the land taken from them since the arrival of the Spanish in the sixteenth century. When the military took power in September 1973 a large number of Mapuche leaders, activists and peasants were arrested and tortured. Others were killed or "disappeared". In its 1978 report the United Nations Ad Hoc Working Group on the Situation of Human Rights in Chile said, "On the day of the coup, the big landowners, the land barons, the military and the carabineros started a great manhunt against the Mapuches who had struggled and gained their land back ..."

The outstanding human rights issue of concern to Amnesty International in Chile today remains the failure to bring to justice those officials responsible for having ordered and carried out the massive human rights violations which occurred under the military administration in power for more than sixteen years (1973-1990). The impunity afforded to those responsible for the human rights violations has largely been brought about by means of an amnesty law passed in 1978 which continues to be used to close investigations into abuses pre-dating 1978 before the full facts have been clarified and criminal responsibility established.

During the years of military rule, many civilian judges appeared to be reluctant to pursue investigations actively, and closed the cases or declared themselves without jurisdiction in favour of the military courts. In turn, the military courts closed a large number of cases without apparently making any attempt to clarify the events, even where in a small number of

cases, criminal courts had recommended prosecutions against named members of the security services. One case in particular attracted much attention. In 1986 Judge Carlos Cerda Fernández investigating several "disappearances" in the 1970s brought charges against 38 members of the security forces, some of them high-ranking officials, and 2 civilians for their involvement in the "disappearance" of government opponents in the 1970s. The higher courts stepped in and closed the investigations on the grounds that the 1978 Amnesty Law - originally intended to pardon certain crimes after investigations had established the nature of the crime and the identity of those responsible - had eliminated criminal responsibility.

Since the restoration of civilian government, some civilian court judges have endeavoured to pursue investigations into past human rights violations to clarify the facts and establish criminal responsibility despite the knowledge that once there is evidence that members of the police or military forces were responsible, the military courts are likely to claim jurisdiction and subsequently invoke the 1978 Amnesty Law to impede further investigation. In almost every case, the military courts' decisions to close the investigations have been upheld by the Supreme Court.

To Amnesty International's knowledge, the decision of the Appeals Court in Temuco is the first of its kind in the case of Mapuches who "disappeared" following their abduction by the security forces. Amnesty International welcomes the court's decision to bring charges against those allegedly responsible for the "disappearance" of Juan Eleuterio Cheuquepán Levimilla and José Julio Llulén Antilao. While Amnesty International does not oppose the granting of post-conviction amnesties or pardons, this should never be at the expense of the rights of the victims and their relatives to the full truth, to justice and to compensation. Amnesty International believes that failure to bring those responsible for human rights violations to justice runs the risk of encouraging or facilitating future abuses. It is asking the Chilean authorities to ensure that those responsible for the "disappearance" of Juan Eleuterio Cheuquepán Levimilla, José Julio Llulén Antilao and the five other Mapuche Indians arrested on the same day are brought to justice.

According to estimates there are between 600,000 and 1 million Mapuche Indians living in Chile, either in rural communities or urban areas mostly in the Ninth Region in the central southern part of the country. The name Mapuche means "people of the land" ("mapu" - land, "che" - people). The Mapuche have their own traditional form of communal land holding, their own culture, language and religion. Other indigenous groups in Chile include the Aymaras and the Rapa Nuí.

INTERNAL (for AI members only)

AI Index: AMR 22/02/92

Distr : SC/CC/CO/GR

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CHILE

**MEMBERS OF SECURITY FORCES CHARGED
IN CONNECTION WITH "DISAPPEARANCE"
OF MAPUCHE INDIANS IN 1974**

February 1992

RECOMMENDED ACTIONS

Please ensure that all relevant people in the section have received copies for their attention, and that the document is centrally filed for future reference.

In those sections which intend to participate in AI's full programme of activities concerning human rights violations against indigenous peoples of the Americas in the context of 1992, please be sure that the person/s in your section who will be coordinating your section's participation receive a copy of this circular. In sections which will not be joining the full range of activities but where Americas RANs wish to receive 1992 indigenous material, please ensure that these RANs receive this action (See AI Index: POL 51/12/91, issued in December 1991).

DISTRIBUTION

This circular has been sent direct by the International Secretariat to SANDEAN/Chile coordinators/coordination groups for distribution to Sandean groups in their section. Please note that a more comprehensive set of recommended actions, SANDEAN Action No. 01/92, AI Index: AMR 22/03/92 is available.