

# AMNESTY INTERNATIONAL

## Public Statement

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### **USA: Amnesty International's concerns about criminal charges filed against two human rights activists who assisted migrants in desert**

Amnesty International said today that it was raising concerns with the US authorities about the filing of criminal charges against Daniel Strauss and Shanti Sellz after they attempted to provide humanitarian assistance to three migrants found in a distressed condition in the Arizona desert last July.

Daniel Strauss and Shanti Sellz were members of a group of volunteers called "No More Deaths", a network of individuals and organizations set up primarily to try to prevent deaths of irregular or undocumented migrants, hundreds of whom die each year after crossing into the USA from Mexico. The largest proportion die while crossing the Arizona desert which has reportedly claimed more than 260 lives in the past year alone. Many of these individuals died as a result of exposure to extreme temperatures, such as the record high temperatures that were reached during July 2005.

The three migrants picked up by Daniel Strauss and Shanti Sellz on 9 July 2005, were reported to have been extremely thirsty and hungry, suffering from persistent vomiting and from severe, crippling blisters which, if left untreated, could prevent a person from walking, a frequent cause of death in the desert. Strauss and Sellz were driving the three men for treatment by volunteer medical professionals in Tuscon when they were stopped by the United States (US) Border Patrol and arrested.

Daniel Strauss and Shanti Sellz were charged with committing two felonies under federal law: transporting illegal aliens and conspiring to do so. To be guilty under the statute in question the alleged violator must be found to have transported an illegal alien "in furtherance of such violation of law", the latter referring to the migrant's irregular status. The charges carry a maximum penalty of 15 years' imprisonment. According to their attorneys, it is not illegal under US law solely to provide humanitarian assistance, and they are seeking to have the charges dropped. A court hearing on a motion to drop the charges is due to take place on 14 December.

Amnesty International recognizes the sovereign right of states to control their borders, and does not condone contravening the law. However, the organization stresses that no policy of border controls can be at the expense of the international human rights obligations of the state. Amnesty International is concerned that in this case Daniel Strauss and Shanti Sellz face punishment, possibly involving a prison term, solely for providing humanitarian aid to individuals in need of urgent assistance. Given the high death toll among undocumented migrants crossing the Arizona desert, Strauss and Sellz were arguably acting directly to protect and preserve life, a basic human right to which everyone is entitled.

Amnesty International notes that at no point did either of the two assist migrants to enter the USA in contravention of the law, nor did they appear to be helping them to circumvent immigration controls. Their activities were confined to assisting the three men appearing to be in need of urgent medical treatment. Amnesty International further notes reports that volunteers have provided humanitarian assistance in similar circumstances openly for several years without being penalized.

In view of these circumstances, and on the basis of the facts as presented, Amnesty International is supporting calls for the charges to be dropped in this case and considers that, if convicted and imprisoned, Daniel Strauss and Shanti Sellz would be prisoners of conscience.

Two of the three migrants picked up by Daniel Strauss and Shanti Sellz on 9 July were immediately deported, without receiving medical attention. The third was detained for two months as a "material witness" in the case and deported without a hearing after he had made a video-taped statement which was used to indict Strauss and Sellz. All are believed to be Mexican and included a father and son.

Amnesty International believes that all migrants, including migrants who are irregular or undocumented, should have individual access to fair and transparent procedures prior to expulsion which should include the possibility to

submit reasons against expulsion and the possibility to have the case reviewed by an independent authority. The USA should ensure that the fundamental human rights of all migrants are protected prior to and during any process of expulsion.