

EXTERNALAI Index: AMR 22/06/96

EXTRA 108/96 Death Penalty 17 July 1996

CHILE Cupertino Segundo ANDAUR CONTRERAS, aged 46

Amnesty International is concerned at reports that Cupertino Segundo Andaur Contreras was sentenced to death by the Santiago Appeals Court on 30 May 1996.

An appeal against the sentence, filed before the Supreme Court, will be considered in July 1996 (the exact date is not known). If the sentence is confirmed, all legal remedies will have been exhausted and the only recourse then will be a presidential pardon. The Chilean Constitution entitles the president to grant pardons (Article 32 (16)), and to commute death sentences to terms of imprisonment (Article 9).

Cupertino Segundo Andaur Contreras, at present detained at the *Centro de Detención Preventiva Santiago Sur ex Penitenciaria* (Preventive Detention Prison, Santiago South) in the Chilean capital, Santiago, was sentenced to death for raping and killing nine-year-old Victor Zamorano Jones in his own home in Santiago, during the course of a robbery on 31 December 1992.

While Amnesty International recognizes the seriousness of such crimes and the duty of the Chilean authorities to bring the perpetrators to justice, the organization is unconditionally opposed to the death penalty. The organization considers the death penalty to be the ultimate form of cruel, inhuman and degrading treatment or punishment and a violation of the right to life, as embodied in the Universal Declaration of Human Rights. Moreover, it is a punishment which has never been shown to have a unique deterrent effect and is one that is brutalizing to all those involved in its application. Amnesty International regards the use of the death penalty in Chile as a seriously retrograde step in the protection of human rights in that country.

BACKGROUND INFORMATION

Chilean civil and military legislation carries the death penalty on a number of criminal offences, including robbery with violence or intimidation, leading to death or rape, as stated in Article 433 (1) of the Penal Code. According to Article 4 of the Regulations on the Application of the Death Penalty [*Reglamentos Sobre la Aplicación de la Pena de Muerte*], once the death sentence has been confirmed and the prisoner has been informed, execution must take place three

days later.

Although in recent years no executions have been carried out, as death penalty sentences have been commuted to life imprisonment, prosecutors continue to call for the death sentence, and courts have handed down such a sentence for both political and common prisoners. Since government moves in 1990 to abolish the death penalty were blocked in Congress, the death penalty was retained for more than 20 offences. Since 1992, proposals to widen its scope have been studied in Parliament.

At present, five political prisoners face possible death sentences by the military courts.

RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters in Spanish or your own language:

- expressing concern that Cupertino Segundo Andaur Contreras may be executed, and urging that his death sentence be commuted;
- recognizing the seriousness of the crime in this case and acknowledging the duty of the government to bring perpetrators of violent crimes to justice, but stating opposition to the death penalty in all cases;
- stating that the death penalty is the ultimate form of cruel, inhuman and degrading treatment or punishment and a violation of the right to life, as embodied in the Universal Declaration of Human Rights;
- expressing concern that extensions of the scope of the death penalty have been considered in recent years which, were they to pass into law, would place the country in violation of its international commitment as a state which has ratified the American Convention on Human Rights; Article 4 (2) of the Convention states: "*The application [of the death penalty] shall not be extended to crimes to which it does not presently apply*";
- calling for the total abolition of the death penalty in Chile, drawing attention to world trends to abolish or reduce the use of the death penalty, the desirability of which was reaffirmed in Resolution 32/61 of 8 December 1977 of the United Nations General Assembly;
- welcoming the fact that President Eduardo Frei has repeatedly expressed his opposition to the death penalty and asking for his intervention to grant clemency when and if needed in this case.

APPEALS TO:

President of the Republic
Señor Presidente de la República de Chile

Señor Eduardo Frei Ruiz-Tagle
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Fax: + 562 694 5080
Telegrams: Sr. Presidente
Salutation Sr. Presidente /Dear President

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Salutation: Sra. Ministra

COPIES TO:

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President of the Senate's Commission on Human Rights,
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and to diplomatic representatives of Chile accredited to your

country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 14 August 1996.