

# AMNESTY INTERNATIONAL

## PRESS RELEASE

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### **Chile: Continuing failure to bring a complete end to impunity**

On Tuesday, 12 August 2003, President Ricardo Lagos of Chile announced his government's proposals for dealing with the heavy legacy of human rights violations committed under the military government of 1973-1990. Whilst acknowledging the importance of some of the proposals, Amnesty International is nevertheless concerned that they do not go far enough to end impunity completely.

"The human rights policy launched by President Lagos includes very important commitments. However, Amnesty International is concerned that some aspects of the announced policy may preserve the impunity of human rights violators," the organization said. "As we approach the thirtieth anniversary of the military coup the search for truth, justice and full reparations must not be compromised in any way."

Amnesty International especially regrets that there is no commitment to annul Decree Law 2191 of 1978, also known as the Amnesty Law, that has for decades obstructed the attainment of truth, justice and full reparations for victims of gross human rights violations committed during the military government. This decree law violates the international obligations of Chile to investigate and, where there is sufficient admissible evidence, prosecute those suspected of crimes against humanity and other gross human rights violations.

"The widespread and systematic extrajudicial executions, 'disappearances' and torture in Chile under the military government were crimes against humanity. Indeed, to the extent that the 'disappearances' remain unresolved, the 'disappearances' are continuing crimes against both the 'disappeared' and their families. As crimes against humanity, they are not subject to the statute of limitations under international law and states continue to have the duty to investigate and prosecute them," Amnesty International stressed. The organization urges that the law be ruled null and void rather than its application be left to the discretion of Chilean courts as President Lagos advocates.

Amnesty International is also concerned at proposals that could lead to immunity from prosecution for persons who present themselves before courts to supply information on the whereabouts of victims or the circumstances of their "disappearance" or death. This could result in de facto amnesties or pardons for human rights perpetrators currently not charged or on trial. Amnesty International believes that in cases of crimes against humanity there should not be amnesties or similar measures of impunity that prevent either judicial determinations of guilt or innocence, the discovery of the truth or full reparations for victims.

Similarly Amnesty International is concerned by proposals to grant anonymity to individuals under investigation for human rights violations who provide evidence leading to the location of the remains of victims of "disappearance" or the identification of those responsible for carrying out extrajudicial executions. This anonymity could violate the inalienable right of victims and their families to truth, justice and full

reparation.

The organization is also concerned about proposals that could, in effect, grant immunity from prosecution to members of the military who argue that they were acting under orders. The defence of superior orders to crimes against humanity is absolutely forbidden in international law.

"Lack of seniority does not imply lack of responsibility under international human rights law. Given efforts to ensure General Pinochet is not brought to trial, such proposals could result in impunity for military personnel further down the chain of command," Amnesty International said.

The Chilean government's commitment to expedite proceedings in cases of members of the armed forces involved in human rights violations under the military government is welcomed, provided that the acceleration of trials is not at the expense of full and impartial investigations.

Amnesty International also welcomes the proposal that all cases of human rights violations committed during the military government be investigated in civil courts, rather than in military ones. Amnesty International urges the authorities to take the necessary steps for this to be accomplished as soon as possible.

After almost 30 years of neglecting the issue, the Chilean government's decision to create a commission to deal with the thousands of cases of torture victims is a positive step. Amnesty International, however, believes that the commission's terms of reference must include the receipt of all the information provided by victims and witnesses and the disclosure of such information and the relevant investigations. Cases of torture were excluded from two previous human rights commissions set up by the Chilean government, the Truth and Reconciliation Commission (Rettig Commission) and the National Reparation and Reconciliation Corporation established in 1990 and 1992 respectively.

"Chile must take the responsibility for fully investigating this information and must take into account the victims' inalienable right to truth, justice and integral reparation," said the organization.

## **Background**

President Lagos announced his government's human rights plan following pressure from relatives of those persons who were "disappeared" and extrajudicially executed and the thousands of victims of torture and former political prisoners during the military government who are all demanding truth, justice and reparation. Their right to truth and justice has, however, been hindered by the wide jurisdiction of military courts and the Amnesty Law of 1978. On the eve of the thirtieth anniversary of Augusto Pinochet's military coup, victims and their families, Chilean human rights organizations and the international community are still awaiting a true commitment to ending impunity.

Among the proposals made by President Lagos are:

- possible immunity from prosecution for persons currently not charged or on trial who present themselves before courts to supply information on the whereabouts of victims or the circumstances of their "disappearance" or death;
- possible immunity from prosecution for military personnel who argue they were acting under orders;
- courts continue to decide the application of the Amnesty Law (Decree Law 2191);
- all cases of human rights violations committed during the military government currently under trial in military courts are to be transferred to civil courts;
- a commission is to be established to examine cases of torture under the military government.

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