

UA 283/93 Legal concern

20 August 1993

**CHILE: Proposed law would ensure impunity for perpetrators of gross
 human rights violations**

Amnesty International is deeply concerned about a recent legal reform proposed by President Aylwin to speed up investigations into the cases of more than 950 "disappeared" prisoners and other victims of gross human rights violations committed during the military government of General Pinochet. If approved, the law would shield perpetrators of gross human rights violations from prosecution.

Although Amnesty International welcomes the decision to speed up the investigations, the organization is seriously concerned that this proposal ensures the application of the 1978 Amnesty Law once the truth about these violations is established. The 1978 Amnesty Law was originally intended to apply to individuals charged with politically motivated crimes perpetrated between September 1973 and April 1978, when most of the "disappearances" reported in Chile took place. This law has been repeatedly used by the military courts to block investigations into human rights violations before the facts about the case have been fully established and criminal responsibility determined.

Amnesty International is also seriously concerned at the recent decision by the Second Military Court (*Segundo Juzgado Militar*) to definitely close the cases of the 1974 "disappearance" of Alfonso Chanfreau Oyarce (see Extra 84/92, AMR 22/15/92, 21 October 1992) and the 1975 "disappearance" and killing of Alejandro Ávalos Davidson. Both cases were closed on the basis of the 1978 Amnesty Law. The case of Jorge Elías and Juan Carlos Andrónicos Antequera, "disappeared" in October 1974, was transferred in July 1993 to the military jurisdiction and is now likely to be closed on the basis of the 1978 Amnesty Law.

Amnesty International is greatly concerned that on 4 August, the day after the announcement by President Aylwin, relatives of the "disappeared" staged a peaceful protest in Santiago and were harassed and detained by the uniformed police (*Carabineros*). One of the mothers of the "disappeared" had her arm injured by a member of the police trying to disperse the march.

BACKGROUND INFORMATION

President Patricio Aylwin presented on 3 August a draft law that would bring to an end all pending cases of human rights violations from the previous military government. The law is currently being debated in Congress. On 28 May 1993, armed soldiers in full combat gear reinforced security around the Armed Forces building as General Pinochet met with his generals. The army remained in "red alert" for several days while matters relating to army-government relations were discussed. According to reports, this unusual display of force prompted the government to present a draft law that would promptly resolve the issue of investigations into past human rights violations. Although this law, if approved, will accelerate these investigations by the appointment of new judges (*ministros en visita*), it will ensure the impunity of scores of perpetrators through the application of the 1978 Amnesty Law. The proposed law also establishes the secrecy of declarations and testimonies given by those involved and might therefore be misinterpreted by the courts, who could keep the findings secret.

Human rights organizations in Chile continue to call for full investigations and for those responsible to be brought to justice and have therefore strongly criticised the proposed legal reforms. Relatives of the "disappeared" have begun a hunger strike calling for the repeal of the proposed reforms.

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

- expressing Amnesty International's concern about the impunity of those responsible for human rights violations during the former military government and urging the government to ensure that those responsible are brought to justice so that the full truth in all cases of gross human rights violations can be revealed;
- asking the government to repeal the 1978 Amnesty Law (Decree Law 2191) which has prevented and continues to obstruct full judicial investigations into abuses committed before 1978. Requesting that any proposals to modify or extend the pardoning of the perpetrators, should comply with the UN resolution carried on 20 December 1978, at the 90th Plenary Meeting of the United Nations General Assembly, calling governments to: *"in the event of reports of enforced or involuntary disappearance] ensure that law enforcement and security authorities or organizations are fully accountable, especially in law, in the discharge of their duties; such accountability to include legal responsibility for unjustifiable excesses which might lead to enforced and involuntary disappearances and to other violations of human rights"*;
- expressing concern about the closure of the cases into the "disappearance" of Alfonso Chanfreau Oyarce and Alejandro Ávalos Davidson, and the possible closure of the cases of Jorge Elías and Juan Carlos Andrónicos Antequera, before the facts have been fully clarified and those responsible brought to justice;
- expressing serious concern about the harassment and ill-treatment suffered by relatives of the "disappeared" at the hands of the police during a peaceful demonstration.

APPEALS TO

1) President of the Republic:

Señor Patricio Aylwin Azócar
Presidente de la República de Chile
Santiago, Chile

Telegrams: Presidente Aylwin, Santiago, Chile

Telexes: 240152 segreg cl

Faxes: + 56 2 697 3262

Salutation: Excelencia/Your Excellency

2) President of the Senate:

Señor Gabriel Valdés Subbercaseaux
Presidente de la Mesa Directiva
del Senado

Cámara de Senadores

Edificio del Congreso

Valparaíso, Chile

Telegrams: Presidente del Senado, Valparaíso, Chile

Faxes: + 56 2 32 232654

Salutation: Señor Presidente del Senado/Dear President

3) President of the Chamber of Deputies:

Señor José Viera Gallo
Presidente de la Mesa Directiva

de la Cámara Baja
Cámara de Diputados
Edificio del Congreso
Valparaíso, Chile

Telegrams: Presidente de la Cámara de Diputados, Valparaíso, Chile

Faxes: +56 32 230509

Salutation: Senor Presidente de la Camara de Diputados/Dear President

COPIES OF YOUR APPEALS TO:

Supreme Court:

Sr. Presidente

Corte Suprema de Justicia

Plaza Montt Varas, Santiago, Chile

Association of Relatives of the "Disappeared":

Agrupación de Familiares de Detenidos Desaparecidos

Manuel Rodríguez 33, Santiago, Chile

Daily newspaper:

Sr. Editor

La Época

Olivares 1229, piso 6,

Santiago, Chile

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 1 October 1993.