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Chile: Commitments must be fulfilled

Today's visit to the United Kingdom by Chilean President Ricardo Lagos -- on the 28th anniversary of the military coup -- must serve as a reminder to both governments of previous commitments by the Chilean government that justice to victims of crimes -- including British citizens -- committed during the military regime of Augusto Pinochet is possible in Chile, Amnesty International said.

"This is the opportunity for the UK government to seek guarantees that the legitimate expectations of victims of grave human rights violations and their relatives for truth and justice will be fulfilled by the Chilean government," the human rights organization added. The human rights violations committed during the military government of Augusto Pinochet amount to crimes against humanity which are a matter of concern to the international community.

Amnesty International believes that both the UK and the international community have an obligation to help end impunity in cases of torture, "disappearances" and other grave human rights violations. Furthermore, there is a responsibility to help ensure that victims' families can gain access to the truth and justice that has been denied to them despite their 28 years of campaigning.

While important judicial decisions have been passed in Chile, following the arrest of Augusto Pinochet in the United Kingdom in October 1998 and his return to Chile in March 2000, the key bastions of impunity that have obstructed justice and truth in Chile remain in place.

"To achieve full justice and truth in Chile, the government must remove the obstacles that have obstructed them during the last 28 years," Amnesty International said. Chief among these is the Amnesty Law (Decree Law No. 2191 of 1978) that must be declared null and void. The wide jurisdiction given to military courts must also be reduced to exclude human rights violations.

Amnesty International is also calling for all judicial investigations against the perpetrators of the grave human rights that occurred during the military government of Augusto Pinochet (1973-1990) to be protected against the application of the Amnesty law or the intervention of the military courts. Legal proceedings need to be carried out in a fair and transparent manner. The independence of the judiciary must be preserved and judicial decisions need to be free of political interference.

The combined findings of two commissions created following the return to civilian rule recorded over 3,000 cases of "disappearance", extrajudicial execution and death resulting from torture. This figure did not include the thousands people who suffered torture during the military government of Augusto Pinochet and who survived their ordeal.

Since the return of Augusto Pinochet to Chile the focus in the struggle against impunity for crimes against humanity has shifted to Chile. The Chilean government has still to carry through its commitment to truth and justice in the country.

This year's anniversary of the military coup which brought General Pinochet to power, with its heavy weight of past crimes, should be a reminder to the Chilean government of its duty to cooperate fully in the achievement of truth, justice and reconciliation in Chile, Amnesty said.

Background:

British citizens were among the victims of human rights violations during the military government. These included, William Beausire an Anglo-Chilean who "disappeared" in November 1974 and whose whereabouts are still unknown, as well as the Catholic priest, Father Michael Woodward, who died as a result of being tortured in the Navy Ship Esmeralda in 1973.

Judicial proceedings against Augusto Pinochet for the case of the "Caravan of Death", a military operation that took place in October 1973 involving 75 victims of killings and/or "disappearances", were temporarily suspended (*sobreseimiento temporal*) by the Sixth Chamber of the Santiago Appeals Court on 9 July 2001 on health grounds. The majority of subsequent legal actions submitted to the courts by lawyers acting on behalf of the relatives of the victims and the State Defence Council (*Consejo de Defensa del Estado*), have been rejected by the courts. However, one legal action has been accepted by the Supreme Court and a decision is expected within the next three months.

One of the obstacles to bring Augusto Pinochet to justice in Chile was his immunity as a Senator for life. This was lifted following judicial proceedings initiated by relatives of the victims of the "Caravan of Death". A recent request by an Argentine judge for the arrest of Augusto Pinochet, pending a request for extradition in relation to human rights violations committed in Argentina and Chile, was denied by a Chilean judge on the basis of Augusto Pinochet's immunity as a Senator for life. The judge argued that the lifting of the immunity was only for the case of the Caravan of Death.

Over 250 legal complaints (*querellas*) are pending before the Chilean courts against Augusto Pinochet and other former members of the armed forces. A number of former members of the armed forces are also facing legal proceedings in civilian courts accused of past human rights violations.

Crimes against humanity committed between 11 September 1973 and 10 March 1978 fall within the Amnesty Law (Decree 2191 of 18 April 1978) decreed by Augusto Pinochet, then President of the Republic of Chile. The Inter-American Commission on Human Rights has stated that the Chilean Amnesty Law is incompatible with the obligations of the Chilean State under international law and considered that the legal effects were part of a general policy of human rights violations in Chile. (See: Chile Legal Brief on the incompatibility of Chilean Decree law No. 2191 of 1978 with international law, AI Index AMR 22/002/2001, January 2001).

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