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Legal Concern

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CHILE: "Disappearance" Cases Closed

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Amnesty International is seriously concerned at the Chilean Supreme Court's recent decision to uphold the 1978 Amnesty Law in the case of 35 "disappeared" people, before investigations to determine the full facts and responsibilities of those involved have been established.

The case stems from a criminal complaint presented in 1978 against General Manuel Contreras, former director of the Dirección de Inteligencia Nacional (DINA, Directorate of National Intelligence) and other senior officials of the intelligence agency for their responsibility in the abduction and subsequent "disappearance" of 70 people between 1974 and 1976. The complaint is one of the most important legal actions to have been taken on behalf of the "disappeared", containing substantial material, including personal testimonies to back up the allegations of illegal arrests, torture and "disappearances" by the DINA.

The complaint was originally presented before the 10th Criminal Court (juzgado del crimen) who, without conducting any investigations, declared itself without jurisdiction and passed the case to the military courts. The case remained closed until 1983, when the Military Court of Appeal (Corte Marcial) ordered that 35 of the cases be reopened. On 30 November 1989 the then military judge (juez militar) of Santiago, General Carlos Parera, closed the case on the basis of the 1978 Amnesty Law, even though numerous investigative steps (diligencias) remained pending.

The 1978 Amnesty Law was originally intended to be used in the cases of individuals charged with certain crimes, including those committed by military personnel between September 1973 and March 1978, following judicial investigation. Instead, it has been used in recent years to close inquiries into allegations of serious human rights violations, including "disappearances", before the facts have been clarified.

BACKGROUND INFORMATION

More than 830 "disappearances" took place in Chile, mostly between 1973 and 1977, at which point the policy of "disappearing" political opponents largely ceased. In April 1990, President Aylwin established the Comisión de Verdad y Reconciliación (Commission for Truth and Reconciliation) whose task includes the establishment of the identity of the "disappeared", what happened to them and their current whereabouts. Since the creation of the Commission, a number of relatives have come forward with their testimonies and the figure for the "disappeared" continues to rise. Although a large body of evidence has been presented to the courts about many cases of "disappeared" prisoners, none of those allegedly responsible for involvement in "disappearances" have been brought to justice.

The Supreme Court's decision comes at a time of increasing evidence of the involvement of members of the security forces in serious human rights violations and as bodies of some "disappeared" prisoners are being exhumed in various sites throughout the country. As a result, discussions about the applicability of the Amnesty Law are intensifying in Congress where

