

ORIGINAL

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Amnesty International  
International Secretariat  
10 Southampton Street  
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TO: National Sections  
Chile Coordination Groups  
Adoption groups with prisoners in Chile  
Medical Groups

FROM: Americas Research Department

3rd August 1981

CHILE GROUP LEVEL SPECIAL ACTION

CIRCULAR No 4 - DISAPPEARED PRISONERS

SUMMARY

Attached is the third background paper to be sent out in connection with the Group Level Special Action to take place in September 1981, as described in AMR 22/44/81 (Chile Group Level Special Action: Circular No 1).

DISTRIBUTION

This circular is being sent to national sections, Chile coordination groups and Chile adoption groups.

AI CONCERN

AI is concerned at the lack of action taken by the Chilean authorities to fully clarify the fate of the estimated 1,500 people who "disappeared" in Chile between 1973 and 1977. AI is also concerned at the failure of the government to cooperate with the judiciary once the involvement of police or members of the armed forces in "disappearances" has been established.

The objectives of the action are:-

- a) to bring pressure on the Chilean Government and judiciary to take measures to clarify the whereabouts of the "disappeared" prisoners;
- b) to ensure that "disappearances" do not start again;
- c) to provide moral support to the relatives of the "disappeared" prisoners in their constant efforts to discover the truth about what happened to their loved ones;
- d) to ask the Chilean authorities to guarantee the physical safety of the relatives who have often been harassed and threatened.

RECOMMENDED ACTIONS

1. As a minimum action, national sections are requested to translate the attached circular and distribute it as widely as possible.
2. Further background material on "disappearances" in Chile may be found in the many circulars prepared for the 1977 campaign on "disappearances" in Chile, as well as in more recent circulars, in particular AMR 22/12/78, AMR 22/26/78, AMR 22/05/79, AMR 22/12/79, AMR 22/15/79 and AMR 22/16/80.
3. Coordination groups and adoption groups who wish to, particularly those working for "disappeared" prisoners, might like to undertake the following actions:
  - a) Write letters to the Chilean authorities (see List of Government Authorities - AMR 22/05/81 and AMR 22/26/81), expressing concern about the following:
    - i) The well-documented involvement of the security forces in the arrest and "disappearance" of political prisoners. Whenever possible, quote examples of "disappeared" prisoners allocated to your section.
    - ii) The failure of the government to cooperate with the judiciary in the clarification of the "disappearances", e.g. the refusal of members of the security forces to come forward and testify when requested to do so by the investigating judges.
    - iii) The harassment and persecution of the relatives of the "disappeared" as a result of the activities undertaken by them in their efforts to discover the truth.
  - b) Give as much publicity as possible to the issue of "disappeared" prisoners. In order to do this, you might like to select a case allocated to your section and try to get his/her story published together with any response received from the Chilean authorities. If the authorities have never responded, you should mention that. Some target sectors might be willing to express concern on behalf of one or more of the "disappeared" prisoners mentioned in the AI report on "Disappeared Prisoners in Chile" (PUB 66/00/77).
4. Medical groups and individual doctors, in particular forensic experts, might like to write to the Instituto Médico Legal (Forensic Institute) (for address see List of Government Authorities referred to above) requesting that the results of the examinations made in connection with bodies found that are believed to be those of "disappeared" prisoners be made public or at least shown to independent doctors and to the families of the victims. The letters might also express concern for the feelings of the relatives in the case of Lonquén when the bodies were buried secretly without their knowledge.
5. The information provided in this circular will also be useful for your work in the forthcoming general "Disappearances" Campaign which will take place at the end of 1981.

EXTERNAL (for general distribution)

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CHILE

"DISAPPEARED" PRISONERS

Amnesty International continues to work on behalf of the estimated 1,500 political prisoners who "disappeared" in Chile between 1973 and 1977. In some cases, for example, Lonquén and Yumbel, bodies have been found and investigating judges (ministros en visita) have been appointed to determine who was responsible for the deaths. In the cases of both Lonquén and Yumbel, members of the armed forces or police were found to be responsible. However, the military courts ruled that they were covered by the Amnesty Law of 1978.

In the cases of those who have remained "disappeared", many are still being investigated by the courts. However, in several cases, the civilian courts have closed the investigation, either for lack of evidence or because they have accepted the version of events provided by the authorities (usually that the person left the country of their own accord or that s/he was killed in a confrontation with the security forces in Argentina). Many cases have been passed on to the military courts because military or police personnel were found to be involved in the events. In general, the courts have proceeded very slowly with their investigations and often seemed reluctant to follow up what would appear to be strong evidence.

Below is a summary of events and developments that have taken place over the past year concerning the question of the "disappeared" prisoners.

Five bodies found at Alto Molle (near Iquique)

On 10 January 1981 it was reported in Las Ultimas Noticias, a national newspaper, that the remains of three people (two men and one woman) with bullet holes in their skulls had been found buried in the desert at Alto Molle, east of the northern city of Iquique. They were half-naked as the wind had ripped their clothes but the bodies were intact and dried by the desert sun. The newspaper report suggested that the nature of the finding was such that the military courts would eventually have to deal with it. It said that a local Iquique newspaper La Estrella had a photograph of the remains. However, when members of the Agrupación de Familiares de Detenidos-Desaparecidos (Group of Relatives of Disappeared Prisoners) went to Iquique to see the photograph, they were told that El Mercurio, the owners of La Estrella,

had ordered the photograph(s) and negative(s) to be sent to their offices in Santiago. Later, when five women from the Agrupación went to the offices of El Mercurio in Santiago to try to speak to the director about the photograph, they were arrested before they had even entered the building. They were later released.

A few days after the initial newspaper report, it was revealed that another two bodies had been found. It was also announced that as the city of Iquique did not possess adequate technical facilities for a proper investigation into the identity of the victims to be carried out, the remains would be taken to the Instituto Médico Legal (Forensic Institute) in Santiago.

At the same time as reporting the latest findings in Alto Molle, the newspaper reports referred to other similar occurrences in the area in recent years. In particular, they mentioned a disused mine called Huantayaja, El Dragón hill and the discovery of some bodies buried on the coast near Iquique.

The first three bodies found at Alto Molle were discovered by a group of young people, including a photographer from La Estrella, who were riding motorbikes in the desert about two or three kilometres from the main road out of Iquique. The remains were removed by the police and taken to the local mortuary. The other two bodies found buried in the sand near Pozo Almonte were also taken there.

Two women who went to the mortuary to see the bodies, Sonia Ulloa Rodríguez de Manríquez and Raquel Rodríguez de Martínez, claim that two of the bodies they saw were those of their husbands, Aníbal Manríquez Wilden and Hugo Martínez Guillén, who had "disappeared" from Pisagua Prison Camp in January 1974. The women say that they recognized them from their clothes which they had personally sent to them in Pisagua. The military authorities claim that the two men were released from Pisagua, which was situated near Iquique and used for holding political prisoners following the coup d'état in September 1973, on 29 January 1974.

The First Criminal Court of Iquique has been put in charge of the investigation.

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### Mulchén

On 29 December 1980 Carlos Cerda Medina, the investigating judge appointed by the Concepción Appeals Court to investigate "disappearances" in the Mulchén area in 1973, declared himself incompetent to continue the investigation given the involvement of police and members of the armed forces in the events.

In this summing up, the judge stated that "on 5, 6 and 7 October 1973 the following people were first arrested in El Morro by police and military personnel accompanied by civilians, and then killed: Juan LABRA Brevis, José YÁÑEZ Durán, Delsio VIVANCO Carrasco, Edmundo VIDAL Aedo, and Domingo SEPULVEDA, whose bodies were recognized when they were in "La Playita", their hands tied behind their backs and gunshot

wounds in their bodies . . . that in Carmen y Maitenes, in similar circumstances, the following people were first taken prisoner, locked up and forced to fight amongst themselves in the buildings on Carmen y Maitenes Farm, later killed and their bodies buried in a sandy area near the administrative buildings: José Liborio RUBILAR Gutiérrez, Florencio RUBILAR Gutiérrez, José Lorenzo RUBILAR Gutierrez, Alejandro ALBORNOZ González, Luis Alberto GODOY Sandoval, Miguel del Carmen ALBORNOZ Acuña, Daniel Alfonso ALBORNOZ González. . . . Vehicles and people were seen moving around suspiciously near the said grave and probably proceeded to secretly exhume and conceal the remains elsewhere, which was facilitated by the proximity of the river. . ."

He went on to say that statements exist saying that Guillermo ALBORNOZ was arrested "while he was carrying out tasks to do with social security, he was taken prisoner and kept tied up all night and next day sent in the back of a tractor to Pemehue Farm, where he was untied and forced to cross a bridge across the river, which was running very high, where he was presumably shot and his body fell in the river and was found buried downriver."

"In Pemehue Farm the following people were killed: Alberto ALBORNOZ González, Felidor Exequiel ALBORNOZ; Jerónimo Humberto SANDOVAL Medina, Juan de Dios ROA Riquelme, and Fernando GUTIERREZ Ascensio. Sufficient evidence exists to state that members of the aforementioned security forces arrested these people in their homes on 7 October 1973 and that the latter were later killed, according to testimonies by numerous witnesses who state that late at night they heard continuous shooting and that the bodies of the people named were found a few days later with signs of having been shot, their faces horribly disfigured and their hands tied behind them, although they were still recognizable by their faces, clothes, build, etc. . . and that three of them were buried in a ditch in Pemehue near the river, Jerónimo SANDOVAL (was buried) a bit further away, and further away still on the slope of the hill, Juan de Dios ROA Riquelme, whose identity card was found near his body. . ."

"There is evidence that a similar group to the one which secretly exhumed the remains at Carmen y Maitenes and El Morro also exhumed in the same secretive manner the remains of four of the dead, and probably threw them in the river. . ."

The judge went on to say that witnesses had reported that those responsible for the arrests had gone to the farms with a list of people whom they were to arrest and kill "without any confrontation taking place and without having concrete proof of (the people being) leftwing extremists."

The relatives of the people arrested and killed in Mulchén have appealed against the declaration of incompetence in the hope that the case will remain in the hands of the civilian courts and not be passed to the military courts.

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Yumbel (Laja and San Rosendo)

On 18 March 1980, José Martínez Gaensly, the investigating judge appointed by the Concepción Appeals Court, declared himself incompetent to continue investigating the case of 19 people who disappeared from Laja and San Rosendo in 1973 and whose bodies were found in Yumbel cemetery in 1979. In his final resolution, the judge declared that "Everything previously described leads to the conclusion that carabineros (uniformed police) from Laja participated immediately and directly in the incidents. . . and in accordance with Article 1 of the Code of Military Justice, I declare myself incompetent to continue instructing these proceedings. , , "

The next day he passed the lawsuit to the military courts without waiting the five days required for his resolution to take effect. On 21 March the lawyers for the families appealed against the resolution but instead of taking a decision himself, the investigating judge passed that too on to the Third Military Court of Concepción, who instead of taking a decision immediately just added it to the rest of the papers on the case.

The defence lawyers then asked the investigating judge to order the military court to stop investigating the case and to return the papers to the civilian court. On 14 May, the investigating judge refused to do this. Later, the Concepción Appeals Court upheld his ruling as regards the question of competence but ordered the military court to return the papers in order for the appeal to be considered. Two complaints have subsequently been presented to the Supreme Court.

While all this was going on, the military courts continued their investigation and on 9 June 1980 decided to amnesty all those who had participated in the criminal acts under the 1978 Amnesty Law.

In the course of the investigations into the Laja "disappearances" it was revealed that the local magistrate at the time of the arrests and killings, Corina Mera, was aware of what had taken place. According to one police witness, she herself verbally authorized the transfer of the bodies to Yumbel cemetery. The courts decided that she had failed in her duty by not initiating legal proceedings in connection with the killings. She was ordered to be suspended for three months by the Concepción Appeals Court. However, when she appealed to the Supreme Court the sanction was reduced to a simple written warning.

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Lonquén

- In June 1980 the Supreme Court rejected a petition requesting the military judge who was in charge of the Lonquén investigation to authorize the recording of the deaths of the 14 peasants in the Civil Register. Thus, even though their deaths were established during the proceedings, they are still not legally dead.

- In July 1980 the then head of the Santiago area under the state of emergency, General Humberto Gordon Rubio (now head of the CNI) refused to authorize the publication of a book by Máximo Pacheco called "Lonquén". General Gordon stated that "in accordance with the legal powers vested in me. . . I communicate to you that it is not possible to accede to your request on account of the fact that the publication of your book is considered inconvenient, given that it does not help Chileans to live together fraternally and because this case is already known to public opinion."

- In June 1981 the Third Court of the Santiago Appeals Court rejected a petition to initiate proceedings for illegal burial against the ex-director of the Instituto Médico Legal (Forensic Institute), Claudio Molina Fraga, and the ex-deputy director, Dr Julio Veas. The case was brought by the relatives of the Lonquén victims, who allege that the persons referred to refused to hand over to them the remains of their relatives who had been killed by the police and that instead they went ahead and buried them without consent. The court ruled that there was insufficient evidence to proceed with the case. The relatives have appealed to the Supreme Court.

#### Paine

In October 1980 the Agrupación de Familiares de Detenidos Desaparecidos requested the Deputy Commander-in-Chief of the Army, General Washington Carrasco, to clarify and reveal the truth concerning the fate of 24 peasants from the Paine area who "disappeared" following their arrest in October 1973 by personnel from the San Bernardo Infantry School. The Supreme Court had previously appointed an investigating judge, Humberto Espejo Zúñiga, to investigate the cases. He has summoned several high-ranking military officers to make statements but when they did not come forward, he declared himself incompetent and passed the case on to the military courts. Since then, nothing further had happened. The Agrupación therefore presented a complaint to the Pedro Aguirre Cerda Court in Santiago.

The Agrupación believe that the bodies of some of the people who "disappeared" in Paine were buried in unmarked graves in Patio 29 of the Santiago Cemetery but the courts have refused to authorize the grave to be opened so that the bodies can be identified. Both the judge investigating the "disappearances" in Paine and Servando Jordán, the judge investigating "disappearances" in Santiago, have declared themselves incompetent to follow up these allegations.

The unmarked graves in Patio 29 of Santiago Cemetery were discovered in November 1979 and contained an estimated 300 bodies.

#### "Disappeared" prisoners from Santiago

In May 1980 Servando Jordán, the investigating judge studying the cases of people who have "disappeared" in the Santiago area since 1973, declared himself incompetent in 54 cases and passed them on to the military courts, thus indicating the involvement of members of the armed forces or police in the events surrounding their "disappearance". He had already done

this in the case of the estimated 300 bodies found in an unmarked grave (Patio 29) in Santiago General Cemetery.

Jordán on several occasions questioned ex-head of the Dirección de Inteligencia Nacional (DINA - secret police, now known as the CNI), Manuel Contreras Sepúlveda, in connection with the "disappearances". 21 of the cases have been added to Lawsuit No 1533 against Contreras which was started in the Tenth Criminal Court and then passed to the military courts by investigating judge Carla Figueroa. The 21 cases are:

Sergio INSUNZA Bascuñán  
Sergio TORMEN Mendez  
Jorge MULLER Silva  
Martín ELGUETA Pinto  
Muriel DOCKENDORF Navarrete  
Mario ZAMORANO Donoso  
Jaime DONATO Avendaño  
Carmen BUENO Cifuentes  
María Inés ALVARADO Bórgel  
Juan CHACON Olivares  
Luis GUAJARDO Zamorano  
María Angélica ANDREOLI Bravo  
Alan BRUCE Catalán  
Onofre MUNOZ Poutays  
Elisa ESCOBAR Cepeda  
Eliana ESPINOZA F.  
Héctor DIAZ Silva  
Lenin DIAZ Silva  
Luis MATURANA González  
Manuel VARGAS Leiva  
Uldarico DONAIRE

Other cases in which Servando Jordán declared himself incompetent are:

Juan AVALOS Davidson  
José BAGUS Valenzuela  
Eduardo PAREDES Barrientos  
Enrique PARIS Roa  
José HINOJOSA Araos  
Pedro VERGARA Inostroza  
Arturo BARRIA Araneda  
José FLORES Araya  
Ricardo LAGOS Salinas  
Juan MENESES Reyes  
Alejandro PARADA Reyes  
Maño JUICA Vega  
Pedro PAREDES Godoy  
Gustavo RAMIREZ Calderón  
Jacqueline BINFA Contreras  
Isidro PIZARRO Meniconi  
Ida VERA Almarza  
Ricardo WEIBEL Navarrete

In another 13 cases in which Jordán declared himself incompetent, the

lawyers for the families have appealed against the decision in the Santiago Appeals Court.

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As for the cases of José Vicente TOLOSA Vásquez and Marcelo Renán CONCHA Bascuñán, who "disappeared" in 1976, Jordán ordered the proceedings to be temporarily stayed because the information at the disposal of the court did not allow it to make any judgement. The lawyers for the families of both men have presented a complaint to the Supreme Court.

In March 1979 Jordán had closed the cases of Bolivian students Ramiro Carlos GONZALEZ González and his cousin Enrique Antonio SAAVEDRA González, who "disappeared" in Santiago in 1973. However, in June 1980 the Santiago Appeals Court agreed by 2 votes to 1 to order Jordán to re-open the investigation.

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In July 1980 it was revealed that ex-DINA agents involved in an enormous tax fraud had used the names of "disappeared" prisoners to carry out the crime. One of the names used was that of Alvaro Miguel BARRIOS Duque, who "disappeared" in 1973. It is believed that Servando Jordán interviewed Eduardo Romero, ex-DINA agent and one of the principal suspects in the fraud, in connection with his investigations into "disappearances",

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In October 1980 the Fourth Court of the Santiago Appeals Court confirmed an earlier ruling by Servando Jordán in which he declared himself incompetent to continue investigating the "disappearance" of Luis Gregorio MUNOZ in 1975. The case is now in the hands of the military courts.

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In January 1981 the Agrupación de Familiares de Detenidos Desaparecidos requested the President Pedro Aguirre Cerda Appeals Court in Santiago to appoint an investigating judge to study the cases of a further 62 people who "disappeared" in the Santiago area between 1973 and 1977.

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In May 1981, the cases of 13 members of the Communist Party who "disappeared" in Santiago in 1976 were closed for the second time by the Santiago Appeals Court. The cases were first closed following the receipt of an international police report claiming that the "disappeared" persons had voluntarily left the country by car and gone to Argentina through Los Libertadores Pass in the Andes. When it was proved that the car in which

they were supposed to have travelled did not exist and that the police evidence was not sound, the cases were re-opened. The 13 cases are:

Santiago Edmundo ARAYA Cabrera  
Carlos Patricio DURAN González  
Hector VELIZ Ramírez  
Fernando ORTIZ Letelier  
Edras PINTO Arroyo  
Lincoyán BERRIOS Cataldo  
Lizandro Tucafel CRUZ Díaz  
Horacio CEPEDA Marinkovic  
Fernando NAVARRO Allende  
Waldo Ulises PIZARRO Molina  
Reinalda del Carmen PEREIRA Plaza  
Armando PORTILLA Portilla  
Luis Segundo LAZO Santander

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#### Two "disappeared" prisoners from Concepción

On 4 September 1980 criminal proceedings were opened in the Third Criminal of Concepción by lawyers from the Concepción Archbishopric in connection with the kidnapping and possible murder of "disappeared" prisoners Hernán QUILAGAIZA Oxa, a radio operator at Radio Enacar arrested at his workplace on 6 October 1973, and Zenón SAEZ Fuentes, a driver at Coronel Hospital arrested in the hospital on 3 October 1973 together with 16 other workers who were later released.

These cases are connected with the arrest of teacher Frank Mardones, who according to official sources, was killed while attempting to escape and then, according to rumours circulating in the area, buried in an unmarked grave, in Coronel cemetery, without his parents having been given a death certificate. Police from both Coronel and Concepción are known to have made the arrests.

On 15 September 1980 the Concepción Appeals Court was requested to appoint an investigating judge to look into the case.

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#### Activities of the Agrupación

Despite the continually unsatisfactory response of the authorities to their petitions in the face of concrete evidence and the fact that those found responsible for some "disappearances" have been identified and subsequently left unpunished, the Agrupación de Familiares de Detenidos Desaparecidos has continued to pursue its grievances in the courts and to publicize both nationally and internationally the fate of their relatives and the attitude taken by the government to the problem.

Over the past year, several relatives of "disappeared" prisoners have been subjected to harassment or arrested although usually for only short periods. Some have found the level of harassment so great that they have decided to leave the country.

Apart from the five women arrested in February 1981 when attempting to see the director of El Mercurio (see Alto Molle above), in April 1981 a group of women attempted to chain themselves to the doors of the office of ex-DINA chief Manuel Contreras. The police attempted to arrest them but passers-by intervened and they were allowed to leave. One of them, Ernestina Alvarado, explained that it was the fifth anniversary of the arrest of her daughter, son-in-law and his brother on 29 April 1976. "Manuel Contreras was in charge of the DINA. We think that he has to reply. . . We want justice and we want them to tell us where our loved ones are. My daughter's name is Nalvia Rosa MENA Alvarado. When they took her she was 21 and three months pregnant. Her husband is Luis RECABARREN González and her brother-in-law Manuel Segundo (RECABARREN González)."

Other relatives of "disappeared" prisoners have been arrested in connection with their political activities. Vicente and Laura Atencio Vargas are the children of "disappeared" prisoner Vicente ATENCIO Cortés. Vicente was a student of engineering at the Universidad Técnica del Estado until he was expelled following his arrest on 12 June 1980. He was arrested during an artistic performance in support of colleagues who had been expelled from the university and subsequently sent without trial into internal exile (relegación) for three months in the south of Chile. In May 1981, the authorities ordered 9 people, including Vicente and his sister Laura, to report to the police "for reasons of state security". Vicente and three of the others went on hunger strike in Santiago Cathedral where they were arrested on 3 June and taken to prison. He has since been released on bail. His sister Laura and two others occupied the UNESCO offices in Santiago on 1 June, demanding to be allowed to leave the country. The authorities allowed them to do so and she is now in Sweden. Her mother is reported to have said, "I don't understand why the government is looking for her. I think that she, like my other daughter Isabel who has just been expelled from university is being punished for the single crime of being the daughter of a "disappeared" prisoner and for being Vicente's sisters."

Two other active members of the Agrupación were arrested on 28 February 1981. They are Lidia del Carmen ARAYA Araya, and her husband Orlando FLORES Quijano, the parents of "disappeared" prisoner José Orlando FLORES Araya. They are accused of assisting five "terrorists" who are also under arrest. Most of the accusations initially made against them have been dropped and it is believed that the real reason for their arrest was probably the fact that they have been extremely persistent in their efforts to discover what happened to their son. Lidia Araya is 54 years of age and is suffering from a serious heart condition, varicose ulcers and rheumatoid arthritis. She is at present being held in the Centro de Orientación Femenina, the main women's prison in Santiago. Her husband is in the Santiago Penitentiary.

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#### Further appeals to the authorities by the Agrupación

On the occasion of the coming into force of the new constitution in March 1981, the Agrupación took the opportunity to write to President Pinochet requesting him yet again to seek the truth about the fate of the "disappeared" prisoners.

In June 1981, following revelations that CNI agents had been involved in a million dollar bank robbery and two horrific murders in Arica in northern Chile, the relatives again used the occasion to highlight the extraordinary powers enjoyed by the security forces and the fact that it is not the first time that they have been implicated in such crimes.

Conclusions of the United Nations Special Rapporteur concerning "disappeared" prisoners in Chile

In his report to the United Nations General Assembly (A/35/522 of 23 October 1980) the Special Rapporteur on the situation of human rights in Chile reached the following conclusion:-

"Despite some progress noted in the cases referred to certain judges who actually perform their duties, it is not in fact possible to report any legal procedure which has helped to put an end to these violations of human rights by determining the fate of the missing persons, by identifying and punishing those responsible, and by indemnifying the relatives of the victims in accordance with Chilean legislation and the international instruments and principles applicable to this matter. Furthermore, there is no sign that the Chilean Government is willing to ensure that these crimes do not recur in future. Although there have been no more disappearances in Chile since November 1977, the recent kidnappings followed by torture, and sometimes very severe torture, by groups which have been identified but against which resolute action has not been taken could give rise to similar situations."