

INTERNAL (for AI members only)

AI Index: AMR 22/91/86
Distr: SC/DP/CO

ORIGINAL

Amnesty International
International Secretariat
1 Easton Street
London WC1X 8DJ
United Kingdom

To: All Sections (for information only)
All death penalty coordinators
Chile/CHAN coordinators (for information)

From: Americas Research Department

Date: December 1986

CHILE: FURTHER INFORMATION ON DEATH PENALTY ACTION (DP/05/86)

Summary

Attached is information about recent developments in the trial of Hugo Marchant Moya, Jorge Palma Donoso and Carlos Araneda Miranda who were sentenced to death in the first instance by a military judge on 28 November 1986.

This circular updates AMR 22/11/86, Chile: Death Penalty Action - a general background paper to the death penalty in Chile that was previously sent to death penalty coordinators and Chile/CHAN coordinators. The external part of this paper is attached for information (see APPENDIX).

To Amnesty International's knowledge, there have been no developments in the trials of the other cases mentioned in the original death penalty action (AI Index AMR 22/11/86).

Distribution

As above.

Recommended actions

Death penalty coordinators are requested to organize the sending of up to 10 individually written letters to the President and the Minister of Justice stating Amnesty International's opposition to the death penalty in all cases on the grounds that it is a violation of the right to life and the right not to be subjected to cruel, inhuman and degrading treatment. The letters should express concern that the three men have been sentenced to death in the first instance and should urge that steps be taken to prevent any executions from being carried out.

Groups who participated in the original action (AI Index AMR 22/11/86) may be asked to partake in this action.

ORIGINAL

INTERNAL (for AI members only)

AI Index : AMR 22/91/86
Distr : SC/DP/CO

CHILE: FURTHER INFORMATION ON DEATH PENALTY ACTION (DP/05/86)

RECOMMENDED ACTIONS FOR GROUPS

Letter-writing general

1. Letters can be written in AI's name, otherwise in your private or professional capacity.
2. Letters should be courteously written, preferably in Spanish, otherwise in your own language. The Chile/CHAN coordinator in your section may be able to assist you in preparing letters in Spanish, as well as providing further country background if needed.
3. Letters should not be too long; four or five paragraphs is usually sufficient.
4. Copies of all letters sent to government officials should be sent to Chilean diplomatic representatives in your country and to the addresses listed below.
5. Copies of any replies should be sent to the IS (Campaign and Membership Department).

Points for letters

1. Letters should express concern that Hugo Marchant Moya, Jorge Palma Donoso and Carlos Araneda Miranda have been sentenced to death in the first instance and should urge that steps be taken to prevent any executions from being carried out.
2. If appeals are sent in AI's name, letters should state that Amnesty International opposes the death penalty in all cases on the grounds that it is a violation to the right to life and the right not to be subjected to cruel, inhuman and degrading treatment.
3. Letters to the President should also respectfully urge the commutation of all sentences if they come before him for review.

In this connection you can refer to resolution 1984/50 of the UN Economic and Social Council on "Safeguards guaranteeing protection of the rights of those facing the death penalty" which states inter alia

"Anyone sentenced to death shall have the right to seek pardon or commutation of sentence; pardon or commutation of sentence may be granted in all cases of capital punishment."

["Toda persona sentenciada a muerte tendrá derecho a solicitar el indulto o la conmutación de la sentencia; en todos los casos de pena capital se podrá conceder el indulto o la conmutación de la sentencia."]

Addresses for appealsName

General Augusto Pinochet Ugarte Su Excelencia
 Presidente de la República
 Palacio de La Moneda
 Santiago Chile

Sr. Hugo Rosende Señor Ministro
 Ministro de Justicia
 Agustinas 1401 - 1419
 Santiago, Chile

Copies of appeals

Sres. Ministros Señores Ministros
 Corte Suprema
 Plaza Montt Varas
 Santiago, Chile

Sr. Presidente Señor Ministro
 Corte Marcial
 Santiago, Chile

Brigadier Samuel Rojas Estimado Brigadier Rojas
 II Juzgado Militar
 Zenteno 102
 Santiago, Chile

CODEPU Estimados Señores
 Bandera 465, Of. 501 A human rights organization
 Santiago, Chile whose lawyers are defending
 the three men

EXTERNAL

AI Index: AMR 22/91/86
Distr: SC/DP/CO

Amnesty International
International Secretariat
1 Easton Street
London WC1X 8DJ
United Kingdom

December 1986

CHILE: FURTHER INFORMATION ON DEATH PENALTY CASES

Amnesty International has received reports that on 28 November 1986, Carlos Araneda Miranda, Jorge Palma Donoso and Hugo Marchant Moya were sentenced to death in the first instance by a military judge (juez militar). Arrested in September 1983 they were allegedly tortured by the security forces before being transferred to prison. They were charged under the Anti-terrorist Law with the murder on the 30 August of General Carol Urzua, governor of Santiago, and in January 1986, the prosecution recommended the death penalty.

The defence lawyers subsequently submitted a petition to the Supreme Court arguing that the application of the death penalty for offences committed under the Anti-terrorist Law was unconstitutional. On 11 November 1986 however the Supreme Court rejected the petition and ruled that the death penalty can be applied for offences under the Anti-terrorist Law.

The lawyers are currently submitting an appeal to the military appeals court (Corte Marcial) against the death penalty passed by the military judge. If the appeal fails the lawyers can then take legal action before the Supreme Court.

Amnesty International is deeply concerned that 14 people in Chile are currently facing possible death sentences and that according to the constitution those sentenced to death under the Anti-terrorist Law have no right to appeal for clemency to the President.

On 1 December political prisoners in Chile initiated an indefinite hunger strike, one of their demands being an end to the death penalty.



Relatives of political prisoners campaigning against the death penalty

APPENDIX

EXTERNAL (for general distribution)

AI INDEX: AMR 22|11|86

Distr: DP|CO

Amnesty International
International Secretariat
1 Easton Street
London WC1X 8DJ
United Kingdom

April 1986

CHILE: DEATH PENALTY CASES

The first judicial executions in Chile since 1967 took place in October 1982* when two members of the security forces were shot by firing squad. Since then, two others have been executed. One political prisoner is currently awaiting the outcome of an appeal against a death sentence passed by a court of first instance. Thirteen other political prisoners are being tried in cases where the prosecution has recommended death sentences.

These cases, together with amendments to laws increasing the number of offences carrying the death penalty which have been introduced since the present government came to power in 1973, mark a reversal in progress towards abolition. This had begun in 1967 with the de facto suppression of executions and continued in 1970 with the abolition of mandatory death sentences.

Amnesty International opposes the death penalty against all prisoners without reservation and is concerned that its reimplementation in Chile is contrary to the spirit of international human rights standards which advocate moves towards its abolition.

Under the 1981 Constitution (article 19.1), the death penalty may be imposed for certain offences specified by law. Under the Penal Code and the Code of Military Justice, offences carrying the death penalty during peacetime include parricide, robbery with homicide, arson resulting in death, and the murder of a carabinero (uniformed policeman.) Under the State Security Law they include the killing or seriously injuring of individuals on account of their office. In 1983, the law was modified to introduce a clause providing for the death penalty for crimes of kidnap with murder, and kidnap with rape or certain types of injuries. Both the State Security Law and the Arms Control Law were modified in the early years after the 1973 coup, increasing the number of offences carrying the death penalty during wartime. Decree Law 81, promulgated in 1973 and still in force, provides for the death penalty for those "who clandestinely enter the country...with a view to threatening state security."

In 1984, the government introduced the Anti-terrorist Law which provides for the death penalty for those responsible for deaths resulting from "terrorist" offences defined by this law, and for kidnap resulting in serious injuries or death. Amnesty International is concerned that, according to article 9 of the Constitution, those sentenced to death under this law have no right to appeal for clemency. Although none has yet been sentenced to death under this law, a military prosecutor has recommended death sentences in the case of three political prisoners.

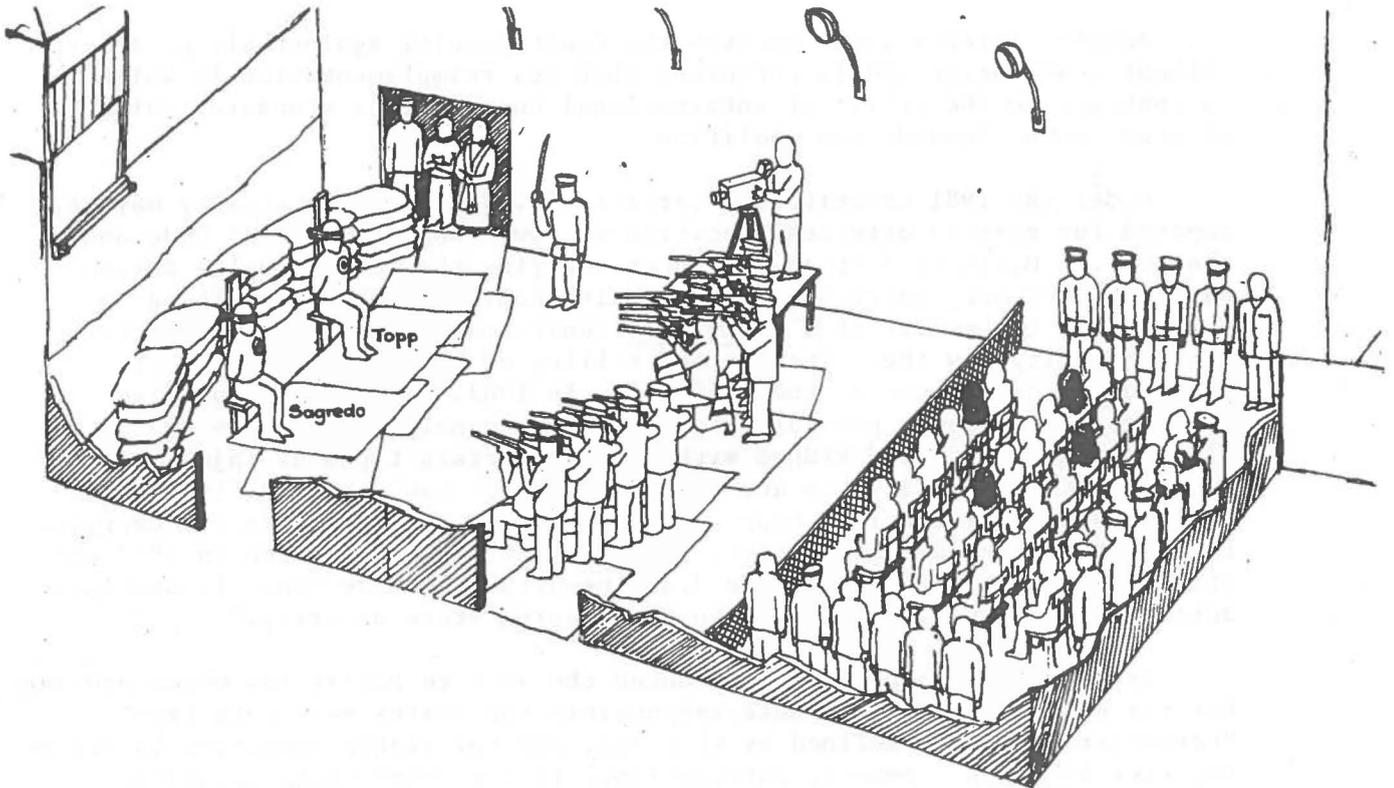
* Although no judicial executions took place under the present government until 1982, many people were summarily executed in the early years after the 1973 coup and in recent years a number of suspected government opponents have been killed in extra-judicial executions.

Recent Executions

The four men executed since 1982, all members of the security forces, had been convicted of criminal offences. Gabriel Hernández Anderson and Eduardo Villanueva Márquez, former members of the secret police, were executed by firing squad in the northern town of Calama in October 1982 after being convicted of murder and armed robbery.

In January 1985, two carabineros, Jorge Sagredo and Carlos Topp Collins, were executed in Quillota prison, near Valparaíso, after being found guilty of a series of rapes and murders in the regions. Sagredo's lawyer had appealed against the death sentence on the grounds that it was unconstitutional, since the Constitution guaranteed the right to life. However the Supreme Court rejected the appeal, confirming that the death penalty is still applicable. Lawyers and families of several of the victims themselves had also expressed their opposition to the death sentences. They had also called unsuccessfully on the courts to reopen investigations which they believed had not been fully exhausted and had not fully clarified each of the crimes. Shortly before the executions, the Minister of Justice expressed his support for the death penalty because he believed "there are crimes for which a person should pay for with his life."

There are fears that these four executions might open the way for the execution of political prisoners. President Pinochet rejected appeals for clemency which were submitted on behalf of the four convicted men. Amnesty International, in line with its policy of opposing the death penalty without reservation, had also appealed for the sentences to be commuted.



Artist's impression of the scene of the execution of Sagredo and Topp.
(Hoy magazine, 3-10 February 1985)

Political Prisoners Facing Possible Execution

The fourteen political prisoners who at present face possible death sentences were arrested by the security forces between September 1980 and February 1983. They were held incommunicado in secret detention centres, some for twenty days, where they were tortured. They were then taken before a military prosecutor, charged and transferred to prison to await trial. Three of the accused were charged under the Anti-terrorist Law, the remaining prisoners under the Arms Control Law. The charges which resulted in recommended and actual death sentences relate to the prisoners' alleged involvement as members of the MIR (Movimiento de la Izquierda Revolucionaria, Movement of the Revolutionary Left) in politically motivated armed attacks and robberies during which several members of the security forces and a military governor were killed.

Carlos García Herrera, who has already been given a death sentence in the first instance, is now waiting to hear the outcome of his appeal to the Military Appeals Court (Corte Marcial). The trials of the prisoners who have had death sentences recommended by the prosecution are at the end of the initial stage, the Fiscal Militar (Military Prosecutor) responsible for each trial having completed his investigations and recommended sentence. In at least two of the trials referred to below, the respective military prosecutors had recommended prison sentences but these were subsequently changed to recommended death sentences after review by a Fiscal Militar General. The accused are now waiting for a juzgado militar (military court) to pass sentence in the first instance.

Carlos García Herrera, 32 years old, was arrested on 25 January 1981 with his wife and daughter who were later released. In addition to the death sentence already passed in the first instance, he is also involved in three other trials where the prosecution has recommended the death penalty. (Trials 992-80 and 947-80, II Fiscalía Militar (Military Prosecutor's Office) and trial 275-80, III Fiscalía Militar)

Fernando Revenco Soto, 37 year old economist, was arrested on 31 May 1982. He is involved in one trial where the prosecution has recommended the death penalty. (Trial 275-80).

Fermin Montes García, 38 year old social worker, was arrested on 27 September 1980. The prosecution has recommended the death penalty in one trial. (Trial 275-80.)

Pedro Burgos Ibañez, 32 year old electrician arrested on 11 February 1983 and detained in Valparaíso prison. He is involved in one trial where the prosecution has recommended a death sentence. (Trial 275-80)

Gonzalo González Quiroga, 25 year old electrician, was arrested on 14 January 1982. The prosecution has recommended one death sentence. (Trial 992-80).

Juan Gajardo Ortiz, 50 year old mechanic, was arrested on 13 February 1981. The prosecution has recommended two death sentences. (Trials 992-80 and 947-80.)

Rolando Cartagena Cordova, 30 years old, was arrested in July 1981. One death sentence has been recommended by the prosecution. (Trial 992-80.)

Miriam Ortega Araya, 35 years old, was arrested on 31 January 1981. Two death sentences have been recommended by the prosecution. (Trials 992-80 and 947-80.)

Rodolfo Rodríguez Moraga, 57 years old, was arrested in January 1981. He is involved in two trials where the prosecution has recommended the death penalty. (Trials 992-80 and 947-80.)

Cecilia Radrián Plaza, 44 year old teacher, was arrested on 24 October 1981. She is involved in one trial where the prosecution has recommended the death penalty. (Trial 947-80.)

Raúl Castro Montanares, 33 years old, was arrested on 8 July 1982 and is involved in one trial where the death penalty has been recommended. (Trial 947-80.)

Jorge Palma Donoso, Hugo Marchant Moya and Carlos Araneda Miranda were arrested in September 1983 and charged with the murder of the military governor of Santiago the previous month. Trial proceedings for wartime were immediately invoked and the prosecution requested the death penalty. Repeated petitions to the courts by the defendants' lawyers, and a national and international campaign against the wartime proceedings resulted in the trial being annulled. Amnesty International was concerned that had the trial continued, the accused would have been summarily tried and, if sentenced to death, would have had no right of appeal to an independent judicial authority.

A trial by peacetime procedures was subsequently initiated for offences under the Anti-terrorist Law. In January 1986, the prosecution recommended the death penalty for the three men.