

REPUBLICA DE CHILE  
MINISTERIO DE JUSTICIA

RES : N° 62.- /

F : s/f

ANT : Declaración de AMNESTY  
INTERNACIONAL.

MAT : Informa

SANTIAGO, 18 OCT 1993

DE : SECRETARIO REGIONAL MINISTERIAL DE JUSTICIA  
REGION METROPOLITANA

A : SEÑOR JEFE GABINETE PRESIDENCIAL  
CARLOS BASCUÑAN EDWARDS

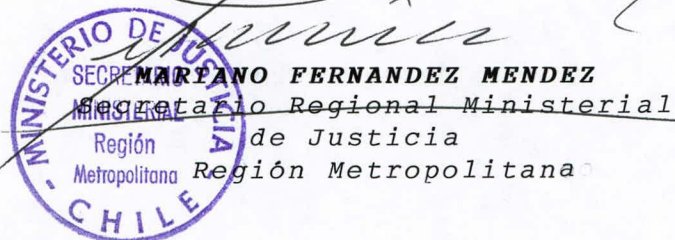
Hamish Adamson , Director Internacional de The Law Society de Londres, una de las más prestigiadas Organizaciones Jurídicas de Europa , a la cual pertenezco, me hizo llegar un ejemplar del Boletín U.A 283/93 de Amnesty International , cuyo texto acompaño y que se refiere a la última iniciativa legislativa referida al tema de las Violaciones de los Derechos Humanos ocurridas en nuestro País y cuya aprobación o rechazo ha sido sometida a un pronunciamiento de The Law Society.

En su comunicación , Hamish Adamson solicitó mi parecer personal sobre el tema a objeto de ser tenido en consideración en la oportunidad que corresponda.

En estas circunstancias , envié el Fax que en fotocopia adjunto y cuyo texto se explica por si mismo .

Esta información es para su conocimiento y fines que se estimen pertinentes.

Le saluda con especial atención.,



MFM/grm

Distribución

- Sr. Jefe Gabinete Presidencial
- Archivo

8097 T30 81



SANTIAGO DE CHILE, Octubre 14 de 1993

Señor  
HAMISH ADAMSON  
DIRECTOR INTERNACIONAL  
THE LAW SOCIETY  
FAX 071-8310057  
LONDRES

Querido amigo:

Gracias por tu carta en la que me comunicas la preocupación de Amnistía Internacional, con respecto a un eventual proyecto de Ley en mi país, que garantizaría la impunidad a los autores de graves infracciones a los Derechos Humanos.

Ello no es efectivo.

El Presidente, don Patricio Aylwin distinguido Abogado, que fuera Parlamentario, Profesor Universitario, y Presidente del Partido Demócrata Cristiano en diversas oportunidades, caracterizo siempre su actuar profesional y político como un acendrado defensor del Estado de Derecho y de la integridad de los Derechos Humanos.

Durante su Gobierno se han realizado, con gran éxito, denodados esfuerzos con el objeto de custodiar en mi Patria los valores permanentes de la Justicia y del Derecho; y ello, en el complejo marco de una institucionalidad de un régimen militar de carácter fuertemente autoritario que rigió los destinos de Chile por espacio de más de diecisiete años.

El proyecto de Ley a que se refiere Amnistía Internacional tenía por objeto, fundamentalmente, instalar la Justicia en el esclarecimiento de las infracciones de Derechos Humanos, cometidas en Chile y que aun se encontraban en estado de investigación. Para ello se contemplaban diversas reformas legales que hicieren posible este objetivo. Se aceleraban los procesos ante Tribunales de más alta jerarquía y se concedían estímulos para que los que tenían antecedentes pudieran darlos a la justicia, a cambio de reserva, con el objeto de saber qué pasó y donde están los detenidos desaparecidos.

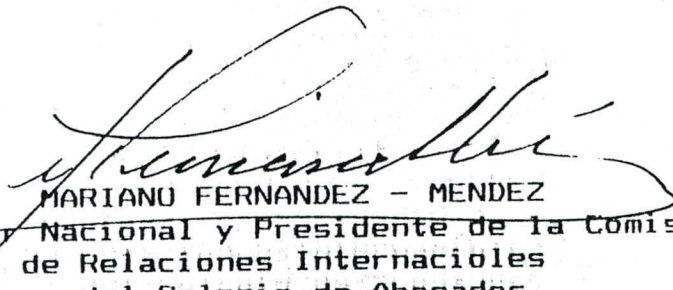
Lamentablemente, no se logró en el Parlamento el nivel de consenso requerido, pues subsisten factores heredados que no hicieron posible la expedita tramitación del cuerpo legal propuesto, el que contaba con el acuerdo del Ejecutivo y de las grandes mayorías nacionales, razón por la cual el Presidente Aylwin retiró la urgencia del proyecto sin que ello signifique renunciar a esta iniciativa y que esta opción sea acordada en el nuevo Parlamento que habrá de ser elegido el día 11 de Diciembre próximo.

Querido amigo, me conoces personalmente, y conoces también mi intransable defensa al Estado de Derecho y a los Derechos Humanos, que reiteradamente he expresado en diversos congresos internacionales, en que he compartido contigo las mismas preocupaciones.

La información que te envié, es la síntesis de la realidad en mi país.

Estoy cierto que tú, Tony Holland, J.A.E. Young, Lord John Buckley, Ross Harper, John Salter, y otros distinguidos amigos de la Law Society, sabrán apreciarla en la dirección correcta.

Te saluda con especial atención y afecto,



MARIANO FERNANDEZ - MENDEZ  
~~Director~~ Nacional y Presidente de la Comisión  
de Relaciones Internacionales  
del Colegio de Abogados  
Vicepresidente del Comité  
de Estado de Derecho y  
Derechos Humanos de la I.B.A. ( *International Bar Association* )  
Consejero honorario y Vitalicio de la  
Federación Interamericana de Abogados  
Miembro de la Unión Internacional  
de Abogados  
Miembro Honorario de las Barras  
Argentinas y Venezolanas  
de Abogados  
Miembro de la American Bar Association





AMNESTY INTERNATIONAL

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Nobel Peace Prize 1977  
UN Human Rights Prize 1978

EXTERNAL (for general distribution)

AI Index: AMR 22/04/93  
Distr: UA/SC

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 Avalos 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). (See photograph overleaf). 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.

Amnesty International is an independent worldwide movement working for the international protection of human rights. It seeks the **release** of men, women and children detained anywhere because of their beliefs, colour, sex, ethnic origin, language or religious creed, provided they have not used or advocated violence. These are termed **prisoners of conscience**. It works for **fair and prompt trials for all political prisoners** and works on behalf of such people detained without charge or trial. It opposes the **death penalty and torture** or other cruel, inhuman or degrading treatment or punishment of **all prisoners**.



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**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 Avalos 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:

President of the Republic:  
Señor Patricio Aylwin Azócar  
[Salutation: Excelencia/Your Excellency]  
Presidente de la República de Chile  
Santiago, Chile  
**Telegrams: Presidente Aylwin, Santiago, Chile**  
**Telexes: 240152 segreg cl**  
**Faxes: + 56 2 697 3262**

President of the Chamber of Deputies:  
Señor Jorge Molina  
[Salutation: Señor Presidente de la Cámara de Diputados/Dear President]  
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**

 President of the Senate:  
Señor Gabriel Valdés Subbercaseaux  
[Salutation: Señor Presidente del Senado/Dear President]  
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**

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If you are a regular **Urgent Action** participant please inform your local group coordinator if you are unable to respond to this appeal.

✓ Please take action as soon as you receive this **Urgent Action** appeal. Carefully read the recommended action. If possible, send a telex telegram or express letter immediately to one or more of the addresses given. Other letters can be sent afterwards. An explanatory booklet is available from the British Section Office.

✓ Telegrams and letters should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights.

✓ The name of Amnesty International may be used, although letters written in a private or personal capacity may be more effective.

✓ In **Urgent Action** cases, Amnesty International has to act rapidly to prevent the ill-treatment of prisoners. An appeal is issued when Amnesty International believes it has received reliable and accurate information in such cases. It is not always possible to verify all details independently and in some instances the situation outlined in the appeal may change. **Urgent Action** participants are always notified of any significant new facts.

✓ Copies of any replies received from government authorities should be sent immediately to the **Urgent Action** coordinator at the British Section Office. If appropriate, thank the official who has replied and ask to be kept informed about the case.



Codigo CVO

Panel de Actualización  
Correspondencia

Fecha 18-OCT-1993

Nip 93/21125\_-\_- Hora 16:19 Tipodoc OFI Caracter RES \_\_\_

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Firma Mariano\_Fernández\_Méndez\_ \_ \_ \_ \_

Institución Seremi\_de\_Justicia\_ \_ \_ \_ \_

Ciudad Santiago\_ \_ \_ \_ \_ Región RM\_ \_

Derivada CBE Fecha 18-OCT-93 Nop \_ \_ \_ \_ \_ Pais CHI

Resumen \_\_\_\_\_ Necesita Respuesta S  
\_\_\_\_\_ Responde al Nop N° \_\_\_\_\_

INFORMA QUE SR.HAMISH ADAMSON DIRECTOR DE THE LAW SOCIETY DE LON-  
DRES LE ENVIO EJEMPLAR DE AMNESTY INTERNACIONAL QUE SE REFIERE A  
TEMA DE VIOLACIONES.ADJUNTA RESPUESTA DADA POR EL.

*Con un copy de  
a E. epodha*

*Nachó*

**ARCHIVO**



Ant. 93/21125

CBE. 93/21125

Santiago, 27 de octubre 1993

Señor  
Mariano Fernández Méndez  
Secretario Regional Ministerial de  
Justicia de la Región Metropolitana  
Santiago

**ARCHIVO**

Estimado señor:

Por encargo de S.E. el Presidente de la República, don Patricio Aylwin Azócar, tengo el agrado de acusar recibo y de agradecerle muy sinceramente su gentileza al enviar copia de la respuesta que Ud. diera al Sr. Hamish Adamson, respecto de la situación de los Derechos Humanos en nuestro país.

Saluda atentamente a Ud.

CARLOS BASCUÑAN EDWARDS  
Jefe de Gabinete Presidencial

MARCELO TRIVELLI OYARZUN  
Asesor Presidencial

CHC/NRB/imr.

c.c.: Archivo Presidencial