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United Kingdom

To: All sections
Chile/CHAN coordination groups
Lawyers Groups

From: Americas Research Department

Date: March 1987

CHAN 04/87

CHILE ACTION NETWORK

THE BURNING OF RODRIGO ROJAS AND CARMEN QUINTANA: TEN MONTHS ON

Summary

This is the first of a number of actions we have planned for this year with the latest information on key investigations into human rights abuses. These investigations concern cases of execution, death under torture, and other particularly serious human rights abuses that caused great concern at the time of the events. It is very important that these cases should not be forgotten - especially as relatives, surviving victims and human rights lawyers are still fighting for justice in the courts.

Many of these cases were featured as Appeal Cases in the Chile Campaign. Sections and groups may want to use the new information to follow-up on contacts or press work done during the campaign.

This circular contains recent information on the case of Rodrigo Rojas and Carmen Quintana, the two youths who were burnt alive by troops on 2 July 1986. This case featured in the Chile Campaign and was widely publicized in many countries. The mother of Rodrigo Rojas De Negri toured Europe, North America and some parts of the Far East during the AI campaign and talked about her fight to bring those responsible to justice in the Chilean courts. Carmen Quintana, who miraculously survived, is undergoing intensive treatment in Canada. Recently she returned to Chile for a few days -despite her fragile condition- to meet the Pope. Carmen has been called to testify before the court investigating the incident on 10 June 1987.

Initially it was thought that the weight of the evidence, plus national and international pressure, would make possible a quick and successful judicial investigation. However, the investigation has encountered many problems, and at the moment the military courts are accepting the explanation offered by the military patrol that the burning was an accident. Only one member of the patrol has been charged with a minor offence.

In April a report submitted by one branch of the police to the court was leaked to the press that stated that the burning could not have been an accident. This development - plus the forthcoming appearance of Carmen Quintana in court- may lead to a breakthrough in the investigation.

The next few months will be crucial to the outcome of this case. AI should continue to exert pressure for an impartial judicial process and for an end to the campaign of harassment and threats that witnesses, lawyers and others involved in the case have been suffering for many months.

This action -and other similar ones to be sent out later- are being prepared partly in follow-up to CHAN 02/86: Judicial Enquiries into Human Rights Abuses, which contains useful background information on the failure of the courts to bring to justice those responsible for human rights abuses. Also, as mentioned above, these documents will be useful as a follow-up to the 1986 Campaign. The next planned document in the series will be "The Execution of Manuel Guerrero, Santiago Nattino and Jose Parada (the degollados): Two Years On"

Distribution

As above.

Recommended actions

1. As this case featured prominently in last year's Chile campaign, Sections and Chile/CHAN coordination groups may therefore distribute the attached information to contacts and others who may have taken action on the case last year and be interested in participating in follow-up action.
2. As both the victims were students, you may ask students to take part.
3. Publicity: The attached information is external. CHAN groups should if possible try to publicise it. If articles were printed in the local press last year about the case, groups may be able to interest the same journalists in writing a follow-up.

A photocopy of a recent photo of Carmen Quintana is attached. We can send you the original if needed.

4. Letter-writing;

(a) CHAN coordinators should assign each member of the Supreme Court to a CHAN group. Groups should write courteously worded letters expressing concern at apparent difficulties in the judicial investigation of serious human rights violations, which have resulted in the failure of the military and civilian courts to clarify the circumstances leading to the serious injury or death of people at the hands of the security forces. Ask the Supreme Court to consider taking steps to secure full investigations by independent tribunals.

Express concern that in the case of Rodrigo Rojas and Carmen Quintana, the military courts appear to have failed to take into account the evidence of civilian witnesses and the report submitted to the court by the carabineros police.

Ministro Rafael Retamal López	Corte Suprema
" Luis Maldonado Boggiano	Plaza Montt Varas
" Victor Manuel Rivas del Canto	Santiago
" Abraham Meersohn Schijani	Chile
" Carlos Letelier Bobadilla	
" Enrique Zurita Camps	
" José María Eyzaguirre Echeverría	

" Enrique Correa Labra
 " Marcos Aburtoa Ochoa
 " Estanislao Zúffiga Collao
 " Hernán Cereceda Bravo
 " Israel Bórquez Montero
 " Octavio Ramirez Miranda
 " Osvaldo Erbetta Vaccaro
 " Emilio Ulloa Muffoz
 " Servando Jordán López

4 (b) Groups can also write to the Chilean diplomatic representative in your country, along similar lines. Ask the ambassador/consul to relay your concern to the Chilean authorities in Santiago.

5. Copies of Appeals

Erwin Blanco	new military prosecutor in charge
Fiscal Ad Hoc	of the case
Zenteno 102	
Santiago	
Chile	

Sr Luis Correa Bulo	president of the military
Presidente de la Corte Marcial	appeals court
Palacio de los Tribunales	
Santiago, Chile	

Vicaria de la Solidaridad	human rights organization
Casilla 26D	that provides legal counsel
Santiago, Chile	to the two families

5. Lawyers groups

Lawyers groups were already asked to write to the Minister of Justice about the Rodrigo Rojas case as part of the Chile Campaign. You can therefore follow up your letters sent previously. Express concern that you have received no reply (if this is the case) and restate your concerns, updating them with the new information given in this circular. Please send copies of your letters to some individual members of the Supreme Court, or to the military prosecutor, or to the military appeals court.

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EXTERNAL

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March 1987

CHILETHE BURNING OF RODRIGO ROJAS AND CARMEN QUINTANA: TEN MONTHS ON

Victims of human rights abuses and their relatives continue to face huge obstacles when trying to seek justice through the courts. The harassment of witnesses, lawyers and even court officials continues. The police and military often obstruct rather than assist the work of the judges. In some cases the courts do not act with objectivity and independence, for example when they accept the explanations provided by the security forces despite the submission of substantial evidence that contradicts those versions.

The case of Rodrigo Rojas and Carmen Gloria Quintana, two young people who were arrested and burnt by a military patrol in July 1986, shocked many because of the brutality with which the two were treated. Rodrigo Rojas died shortly afterwards. Carmen Quintana is still recovering from the 60 per cent burns she suffered. Ten months later, only one member of the military patrol has been charged with a relatively minor offence, for failing to ensure that the two were given medical treatment.

The military prosecutor dealing with the case has ignored or failed to take into account the now extensive witness and medical evidence which corroborates allegations that the two were arrested and set on fire by the military patrol, and not, as the army maintain, burnt by accident when Carmen Quintana accidentally kicked a bottle of inflammable liquid.

Furthermore, police authorities confirmed in May 1987 that a report submitted to the court by a special unit of the carabineros (uniformed police) in the month of October 1986 stated that the burning could not have been an accident. The report by carabineros was one of several prepared at the request of the court by a number of different police agencies. The contents of the document by carabineros were leaked to the press in April 1987. Official sources have confirmed that the press report is correct.

The victims' lawyers have reported numerous irregularities in the investigations, and they and witnesses have been subjected to intimidation.

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Carmen Quintana denounces her attackers

At about eight o'clock on the morning of 2 July 1986, a group of young people including Carmen Quintana and her sister, were gathering to take part in a national day of protest. Popular demonstrations against the military regime of General Pinochet had been growing in the last few years,

and thousands of people throughout the country went to the streets to join the protests on that day.

Rodrigo Rojas, a 19-year-old amateur photographer, had recently arrived in Chile after many years in the USA, where he lived with his exiled mother, Veronica De Negri. Mrs. De Negri had been imprisoned and tortured following the military coup of 1973, and had left Chile after her release, together with her two small children. Rodrigo grew up in the USA, but he had a deep desire to return to his native land, which he finally did in May 1986. On 2 July, according to his friends, he had set out to record with his camera the events of the day.

Rodrigo joined in with several groups of youths that were converging in a neighbourhood of Santiago. Some of the youths were carrying containers with petrol and old car tyres -- the materials used by protesters to build burning barricades in the streets.

Carmen Quintana gave her account of what happened in an interview with a Chilean magazine, Hoy; published in November 1986:

"My sister, Luis, Florencio, Maria Eugenia and I left my house very early because the day before, we had decided we would take part in the street protests. We were walking along to see if there was a demonstration we could join but we didn't see one. Then, by chance, we met with Marcelo and Rodrigo and began to build a barricade. We were carrying the tyres towards General Velasquez street when we were intercepted by a patrol in a truck.

We got scared and started to run away...They [the military] had their faces blackened and had their machineguns raised at chest level. They went after Rodrigo first, who was ahead of me, and then they turned the truck round and came after me.

They put the two of us together our backs to a wall. They had scarcely looked at Rodrigo's identity documents than they began to hit him. They kicked him. Blood came out of his mouth. They beat him in the testicles, in the chest, in the back. Rodrigo lost consciousness as a result. I gave them my documents and told them I was a student. They became angry and swore at me. They said it was the students' fault that they had to go out in freezing morning temperatures and that they were at war with us. Then they began to hit me. Two civilian agents arrived in a yellow van. They wanted to take a photograph of me with tyres in my hands..I didn't want to do it.. but they made me.

They made me stand facing a wall and poured petrol over me from the head downwards. I kept asking them "Why? Why? Why are you pouring petrol over me?" They didn't answer. All of them were laughing. I told them the petrol was going into my mouth and they just shouted insults and obscenities.

The person who poured the petrol over me was the person giving most of the orders..They were saying to me [sarcastically] "Ah, the poor little thing, petrol's getting in her mouth."

Rodrigo was on the ground, unconscious. They poured petrol all over him. One of them...threw an incendiary device between Rodrigo and myself. I was very nervous and didn't see what it was they threw but it broke between us.

I began to burn. I was jumping all over the place and trying to put the fire out with my hands but I couldn't. They hit me in the mouth with the butt of a machine gun while I was burning because I was trying to put the fire out. Rodrigo was burning and I fell unconscious."

Witnesses to the event, including members of the group of demonstrators and passers-by say that the two were then wrapped in blankets and thrown into a military truck "like smouldering sacks".

Carmen continues her story:

"We woke up in the countryside. Rodrigo woke me up, shaking me, and told me we should walk to a clinic. We walked down some unpaved roads. We looked like zombies. I could see pieces of flesh falling off my body, and Rodrigo's head was all burnt, he had no hair."

Rodrigo was able to give a statement to a civilian judge before he died on 6 July. Carmen, who suffered 60% burns, also gave testimony while she fought for her life in a Chilean specialist hospital, before being flown to Canada for long-term treatment.

The Official Reaction

As the news of the tragic incident spread, the Ministry of Defence and top military officials made statements categorically denying the participation of military personnel in the incident.

Two weeks later, however, the military authorities admitted that a military patrol had in fact detained the two youths. They claimed that the burning had been an accident caused by the youths themselves, and not a deliberate act. Twenty-five members of the military patrol were placed at the disposal of the courts. The original denial of military involvement was explained as a break-down in internal communications.

The version provided by the members of the military patrol was that, after the arrest, Carmen Quintana had accidentally spilt some combustible liquid, which had caught fire. The members of the patrol had put the flames out with blankets, and taken the youths away to hand them over to the police. During the journey - the military statement said - the youths had asked the patrol to let them go. According to press reports, the members of the patrol quoted the severely burnt youths as saying " Please, do not turn us over to the police! Do not take us to hospital! We are all right now. We admit it was an accident! Let us go!"

This version of events was not accepted by public opinion. The Catholic Church, the human rights organizations, and the Chilean Bar Association were among the many institutions to make public statements demanding an impartial investigation. Some of the questions raised were: why did the patrol fail to report the incident? Why were the youths left in a place far away from any hospital or other help? If the petrol had been spilt on the floor and not over the youths' heads, how come their feet were not burnt? Why would two severely burnt people ask not to be taken to hospital? How could they, in the agony of the first days in hospital, make up elaborate statements to the judge accusing the military of deliberately burning them? Why was the official version so different from the events described by the the eye witnesses?

The Judicial Inquiry

The special investigating judge appointed to look into the case, Judge Alberto Echavarría, completed his work in little over two weeks. No reconstruction of the events was made, and it appears that witness evidence by civilians who saw what happened was rejected. The judge accepted the claim by the military patrol that the burning had been an accident. He charged one of the officers leading the patrol, Lieutenant Pedro Fernández Dittus, with a relatively minor offence - that of a "quasi-delict" (meaning negligence in this case) leading to serious injury and death, because he had not secured prompt medical treatment for the injured youths.

From then on, the case was heard by the military tribunals - as is the norm with all cases of prosecution against members of the military for offences committed while in service.

At the beginning the military appeals court accepted that there was evidence of a serious crime and modified the charges to the much more serious crime of "unnecessary violence" resulting in serious injury and death. But soon after the charges were changed again to the original formulation, and the lieutenant was released on bail. Many appeals and complaints submitted by the families' lawyers since then have been rejected.

Relatives of the victims and their lawyers have repeatedly complained that the tribunals are conducting the case in a manner that appears to be designed to obstruct rather than facilitate the emergence of the truth. For example, early requests for a reconstruction of the events were ignored by the courts for months. Eventually the reconstruction was carried out secretly in January 1987, by which time Carmen Quintana had been transferred out of the country. Other key witnesses had also gone abroad, after being threatened and intimidated. The witnesses that were still in Chile were informed at the last minute that they had to go to the tribunal, but were not told why. The lawyers for the victims were not informed. Also, the investigation dossier has been kept secret for most of the time, despite many requests by the lawyers to be allowed to examine it.

One of the lawyers said in a press interview that *"the way in which the summonses (for the reconstruction) were carried out, and the fact that the lawyers were not informed that the reconstruction was to take place, together with the continual refusal to allow us access to the investigation papers, confirm our suspicions that the military court has intended to keep us completely outside the investigations. This makes it extremely difficult to represent the interests of our clients."* The lawyers have requested a new reconstruction with the participation of Carmen Quintana, who has said she is willing to go to Chile to help with the investigation. She has recently received a summons to appear in court on 11 June, but it is not yet publicly known whether a new reconstruction will take place.

In April 1987 a report submitted to the court by a special unit of the carabinero (uniformed) police was leaked to the press and published. Senior police sources later confirmed that the report is genuine, and that it was submitted to the courts in October 1986. The findings of the investigation carried out by this branch of the police (other branches are believed to have carried out their own investigations) reached the conclusion that the burning could not have been an accident. According to this report:

- the bomb could not have exploded by being dropped accidentally by one of

the two people;

- the burns could not have been caused by the bomb exploding after being kicked by one of the two;
- the incendiary bomb was thrown from a distance no greater than 1.5 metres from the victims, the sufficient and necessary distance for the incendiary substances to reach the victims' clothes;
- the clothes were soaked in benzine;

The investigation is expected to reach a crucial stage during the next few months.

Original Spanish quotations:

"El procedimiento utilizado y la no notificación a estos abogados de la realización de esta diligencia, agregado a la sistemática negativa a concedernos el conocimiento del sumario, confirman nuestras aprehensiones en orden a que el Tribunal Militar ha pretendido mantenernos totalmente al margen de la investigación, dificultando con ello la defensa de los intereses de nuestros mandantes."

"nosotros, yo, mi hermana, Luis, Florencio y Maria Eugenia veníamos de mi casa bien temprano porque el día anterior habíamos programado salir a protestar a las calles. Ibamos caminando para ver si veíamos una manifestación para unirnos a ella y no vimos ninguna. Entonces, de repente, nos encontramos con Marcelo y Rodrigo y empezamos a hacer una barricada. Estábamos llevando los neumáticos hacia General Velásquez cuando nos interceptó una patrulla en una camioneta.

Nos asustamos y salimos arrancando... Todos tenían la cara pintada de negro y llevaban las metralletas en el pecho. Primero persiguieron a Rodrigo, que estaba más adelante que yo, y después se devolvió la camioneta para pescarme a mí.

Nos juntaron a los dos, nos pusieron de espalda a la pared y apenas vieron los documentos de Rodrigo empezaron a pegarle. Le tiraban patadas, le salió sangre por la boca, le pegaron en los testículos, en el pecho, en la espalda. Rodrigo quedó inconsciente de tanto golpe. Yo les pasé los documentos y les dije que era universitaria. Se enojaron. Dijeron que por culpa de los universitarios pasaban frío en las mañanas, que estaban en guerra con nosotros. Ahí me empezaron a pegar. Llegaron dos civiles en una camioneta amarilla. Querían sacarme una foto con los neumáticos en las manos... Yo no quería hacerlos... me obligaron a tomar los neumáticos y me sacaron la foto.

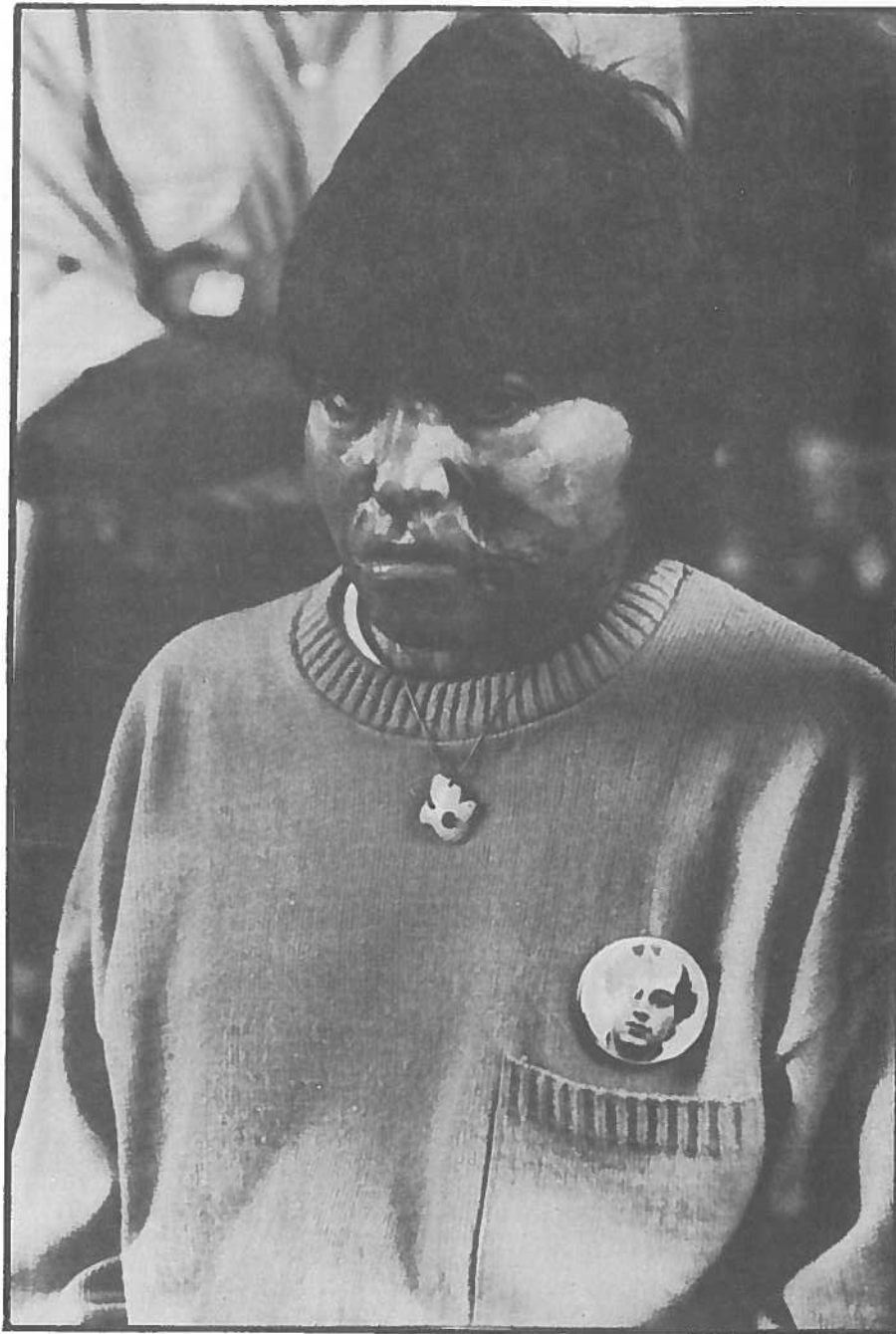
Me pusieron de frente parada contra la pared y me rociaron con bencina de la cabeza hacia abajo. Yo le preguntaba: por qué? por qué me rocías con bencina? por qué me estás echando bencina? Y no me decía nada. Todos se reían. Me está entrando bencina por la boca, les decía. Y me echaban puros garabatos.

Yo vi a la persona que me echó bencina. Era la cabeza, el que mandaba más... Ay pobrecita! me decían, le está entrando bencina a la boca.

Rodrigo estaba en el suelo, inconsciente, y lo rociaron todo con bencina. Uno de ellos... tiró un artefacto incendiario entre yo y Rodrigo. Yo estaba muy nerviosa y no me fijé bien, no sé lo que tiró pero fue una cosa que se rompió entre nosotros dos.

..empecé a arder, saltaba para todos lados y trataba de apagar el fuego con las manos y no podía. Me pegaron un culatazo en la boca cuando estaba quemándome porque yo me trataba de apagar. Rodrigo estaba quemándose y yo quedé inconsciente."

"Despertamos en el campo. Rodrigo me despertó remeciéndome y me dijo que caminaríamos hasta la Posta. Caminamos por unas calles de tierra, por el campo. Parecíamos zombies. Yo me veía el cuerpo, como se me salían las carnes, y Rodrigo tenía toda la cabeza quemada, sin pelo."



A recent photo of Carmen Quintana

Rodrigo Rojas

