

Human Rights in Chile

Summary of court cases for past human rights crimes, to end Nov 2009

Introduction

The Human Rights Observatory of the Universidad Diego Portales is a joint initiative between the University's Human Rights Centre and Social Science Research Institute, supported by a grant from the Ford Foundation. It was set up to map current judicial activity in Chile for human rights violations carried out during the 1973 to 1990 military dictatorship, and create a database of cases presently ongoing in national courts. This bulletin provides a summary of case activity, based on information supplied by the Human Rights Programme of the Chilean Interior Ministry as well as on open sources and additional research.

FORMER SECURITY SERVICE AGENTS CURRENTLY SERVING SENTENCES

Between 2000 and the present, 185 former agents had received final stage confirmed sentences for past human rights related crimes. Of this number, **59 former agents** are currently serving confirmed custodial sentences. 7 more have already served their sentences, 2 have since died, 1 is on the run and 1 more (former general Sergio Arellano Stark) was given permission not to serve his sentence on medical grounds. The remaining 115 have been awarded judicial benefits such as house arrest or suspended sentences.

The total of 59 represents the highest single total of former repressors sentenced for these crimes anywhere in Latin America. In Argentina, where a higher number of former agents are currently in prison, most of these are on remand and only two former repressors are currently serving confirmed custodial sentences (*Source CELS Argentina, see www.cels.org.ar*)

CASES AND VICTIMS

297 cases are presently ongoing in Chile for crimes related to deaths or disappearances during the dictatorship period. There are a further 33 cases open for torture, illegal burial or conspiracy (the "Colonia Dignidad" episode). This gives an overall total of **330 active investigations** for past human rights crimes.

The 297 cases for deaths and disappearance cover 1,028 victims. This means that only a third of known victims* of these crimes are currently the subject of open investigations. Cases involving a further 6% of victims have already been concluded, leaving **61% of victims with no case either concluded or in progress.**

* Official numbers for deaths and disappearances remain at 3,195. This total should however be revised downwards, as here, to reflect errors discovered in 2008 and 2009 in official registers

AGENTS (REPRESSORS)

Investigations into dictatorship-era human rights crimes in Chile have since 2000 subjected a total of 779 former regime agents to indictment, formal charging and/or sentencing. The 2009 figure represents a 51% rise with respect to the 2004 baseline. The average increase in agents affected year on year is a fairly stable 14%.

The vast majority are former security force personnel, at all levels from general to rank and file. (The figures nonetheless include 53 civilian regime agents)

Sentences

Since 2000, **279** former security force agents have received a total of 490 condemnatory sentences (guilty verdicts) for dictatorship-era HRV crimes in Chile (with many agents subject to more than one sentence.) Only 4 of these sentences have been full acquittals. Eight more sentences were dissolved on appeal by application of prescription, although the original convictions were not overturned.

Of the 279 agents sentenced, 32 have been handed first instance sentences, 103 are subject to second instance (appeals court) sentences, and a further 185 have fully exhausted the appeals process (had their sentences confirmed by the Supreme Court, see above). *NOTE: the sum of these totals exceeds 279 because some agents have multiple sentences, which are at different stages.*

Charges pending and ongoing investigations

There are an additional 3,108 formal investigations and indictments (*procesamientos and acusaciones*) currently pending against a total of 567 former agents. A further 41 1st or 2nd instance acquittals are presently under challenge.

NEWS FROM THE REST OF THE REGION

Argentina

The ESMA case trial is scheduled to begin on 11 December 2009. On the same day, first-instance sentences are due for the Córdoba cases. The current total of 60 individuals sentenced is therefore likely to rise. See www.cels.org.ar to follow the trials via blog (in Spanish)

Brazil

There is growing pressure to finally institute an official Truth Commission in Brazil. The Supreme Court is also due to rule soon on an October 2008 petition from the Brazilian Federal Bar Association to declare the 1979 Amnesty Law inapplicable to common crimes committed by agents of repression. For information, and to support the petition, see http://www.ajd.org.br/contraanistia_english.php

Uruguay

On 19 October last, the Uruguayan Supreme Court declared the amnesty law ('ley de caducidad') unconstitutional in the case of the 1974 death in custody of Nibia Sabalsagaray. The ruling is for the present only applicable to the case in which it was made, however it may signal an important shift in the Court's position.

On 22 October, former military dictator Gregorio Alvarez and former navy captain Juan Carlos Larcebau were each sentenced to more than 20 years for their part in the presumed assassination of more than 30 Uruguayan citizens disappeared in Argentina (and later returned to Uruguay under clandestine rendition arrangements). The court changed the initial charges of forced disappearance to 'aggravated homicide'.

On 26 October, a plebiscite held alongside first round presidential elections did not reach the majority which would have been required in order to overturn the amnesty law by the legislative route.

Peru

Late November saw public hearings in the final stage of the appeal of former dictator Alberto Fujimori against the 25 year sentence handed down to him in April this year. The final verdict, which cannot be appealed further, is expected before the end of the year. Experts predict that the original verdicts will be upheld. The content of defence submissions nonetheless make it clear that Fujimori may be trying to pave the way for an eventual presidential pardon. See WOLA report:

http://www.wola.org/index.php?option=com_content&task=viewp&id=1029&Itemid=2

Guatemala

On 3 December last, a former colonel and three army associates were each sentenced to over 50 years for their part in the 1981 disappearance of 8 members of the same family in the El Jute district. Diplomats, including the current US ambassador to Guatemala, visited relatives to show support after the family denounced threats made on behalf of the accused. This is the second set of verdicts for the same crime: in August, another military associate was sentenced to 150 years for his involvement.

For more information on the Observatory project contact:

Dr Cath Collins

Instituto de Investigación en Ciencias Sociales, ICISO

Universidad Diego Portales, <http://www.icso.cl>

Grajales 1775 – Santiago – Chile Tel: +562-676.8430 or 676.8443

e-mail: observatorioddh@mail.udp.cl or cath.collins@udp.cl