

## Human Rights in Chile

Summary of court cases for past human rights crimes, to end Dec 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, 204 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 134 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. Of 68 former repressors sentenced to date, only two are currently serving confirmed custodial sentences (*Source CELS Argentina, see [www.cels.org.ar](http://www.cels.org.ar)*)

### CASES AND VICTIMS

293 cases are presently ongoing in Chile for crimes related to deaths or disappearances during the dictatorship period. There are a further 32 cases open for torture, illegal burial or conspiracy (the "Colonia Dignidad" episode). This gives an overall total of **325 active investigations** for past human rights crimes.

The 293 cases for deaths and disappearance cover 1,021 victims. This means that only 32% 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 **62% 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 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, **280** former security force agents have received a total of 493 condemnatory sentences (guilty verdicts) for dictatorship-era HRV crimes in Chile (with many agents subject to more than one sentence.) There have also been 12 full acquittals in the same period, 8 of which came about through the application of prescription (statute of limitations) rather than the revocation of the original verdict.

Of the 280 agents sentenced, 29 have been handed first instance sentences, 89 are subject to second instance (appeals court) sentences, and a further 204 have fully exhausted the appeals process (had their sentences confirmed by the Supreme Court, see above). *NOTE: the sum of these totals exceeds 280 because some agents have multiple sentences, which are at different stages.*

## **Charges pending and ongoing investigations**

There are an additional 3,105 formal investigations and indictments (*procesamientos and acusaciones*) currently pending against a total of 563 former agents. A further 40 1<sup>st</sup> or 2<sup>nd</sup> instance acquittals are presently under challenge.

## **Other news**

Chile's national Museum of Memory and Human Rights was inaugurated on 11 January 2010. The purpose-built museum tells the story of human rights violations in the period 1973-1990 and is set to become the main personal legacy of outgoing president Michelle Bachelet. The project has already provoked some controversy, in the context of an imminent (18 January) second round presidential election in which a right wing victory seems likely

## **NEWS FROM THE REST OF THE REGION**

### **Argentina**

On 21 December, the Grandmothers de la Plaza de Mayo announced the definitive identification of the 100th kidnapped grandchild of the disappeared to be recovered since the end of the 1976-1983 dictatorship. The 35 year old teacher had grown up aware that his father had been a victim of disappearance, but it was not until he traced his half sister in 2009 that he approached the National Commission for the Right to Identity, a genetic

database set up to trace the approximately 500 babies forcibly adopted by the military dictatorship.

In mid-January hearings recommenced in the ESMA and Club Atlético trials, two major episodes which involve a large number of victims/ survivors and of perpetrators. The first is against individuals accused of participating in the so-called 'task forces' that operated out of the notorious Navy Mechanics School, ESMA. The

second is against the team responsible for running the clandestine Buenos Aires detention and torture centres 'Club Atlético', 'Banco' and 'Olimpo', under army command. For more details see the trial blogs at <http://www.cels.org.ar/wpblogs> . According to data from local NGO the Centro de Estudios Legales y Sociales, CELS, as of January 2010 a further six major case hearings were under way, giving a total of 8 nationwide.

## **Brazil**

In December 2009 the Brazilian presidency announced the institution of an official Truth Commission, as part of a National Human Rights Programme. The announcement provoked immediate reaction from military ranks: the Defence Minister and the commanders-in-chief of the armed forces threatened to resign in protest at the wording of the enabling statute, which they feel unfairly demonises military actions during the 1964-1985 dictatorship. According to news reports, Lula climbed down and promised to 'review' the text. See [http://www.economist.com/world/americas/displaystory.cfm?story\\_id=15213769](http://www.economist.com/world/americas/displaystory.cfm?story_id=15213769)

## **Paraguay**

A Human Rights Day ceremony in the Paraguayan parliament to honour recognised human rights defender Luis Alfonso Resck caused controversy when a presentation was also made to retired general Lino Oviedo. Oviedo who led an unsuccessful coup attempt in 1996 and was later tried for his suspected role in the deaths of the country's vice president and a group of student demonstrators. The prize was apparently orchestrated by the head of the parliamentary human rights commission, a member of Oviedo's Unace party.

## **Peru**

On 4<sup>th</sup> January 2010, the final appeal court in the Fujimori case delivered its verdict, confirming the 25 year sentence handed to Fujimori in April 2009 for human rights crimes. The Sala Suprema Penal Transitoria rendered an almost unanimous verdict, with one of the five judges voting not to absolve but to lessen one of the charges (from aggravated kidnapping to simple kidnapping). Fujimori's accumulated sentences should in theory keep him in prison until 2032. See <http://blog.dhperu.org/> for details and to download a copy, in Spanish, of the final sentence (R.N. N° 19-01-2009-A.V)

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