

## Human Rights in Chile

Summary of court cases for past human rights crimes, to end Feb 2010

### 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 the Ford Foundation and the Heinrich Böll 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 CHARGED AND SENTENCED

Since 2000, **782 former agents** have been charged and/or sentenced for past human rights related crimes. Of these, 206 have received final stage confirmed sentences. Of these 206, **60** 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 135 people subject to confirmed sentences have been conceded benefits such as house arrest or suspended sentences.

The total of 60 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 in Argentina, only two are currently serving confirmed custodial sentences (*Source CELS Argentina, see [www.cels.org.ar](http://www.cels.org.ar)*)

### CASES AND VICTIMS

302 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 **334 active investigations** for past human rights crimes.

The 302 cases for deaths and disappearance cover 1,038 victims. This means that only 32.5% 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 **61.5% 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 3,186, to reflect errors discovered in 2008 and 2009 in official registers

## AGENTS (REPRESSORS)

This section offers a more detailed breakdown of the legal situation of the 782 former agents mentioned above. 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, **286** former security force agents have received a total of 499 condemnatory sentences - guilty verdicts, at any level from first instance to appeals or Supreme court - for dictatorship-era HRV crimes in Chile. Many agents are subject to more than one sentence. There have also been around a dozen full acquittals in the same period, most of which came about through the application of prescription (statute of limitations) rather than the revocation of the original guilty verdict.

Of the 286 agents sentenced, 35 have been handed first instance sentences, 87 are subject to second instance (appeals court) sentences, and a further 206 have fully exhausted the appeals process (had their sentences confirmed by the Supreme Court, see above). *NOTE: the sum of these totals exceeds 286 because some agents have multiple sentences, which are at different stages.*

### Charges pending and ongoing investigations

There are an additional 3,043 formal investigations and indictments (*procesamientos* and *acusaciones*) currently pending against a total of 557 former agents. A further 45 1<sup>st</sup> or 2<sup>nd</sup> instance acquittals are presently under challenge.

### Other news from Chile

On Saturday 27 February Chile suffered an earthquake measuring 8.8 degrees on the Richter scale. The earthquake caused around 800 deaths and considerable damage to property, and was followed by floods in coastal areas which added to the toll of destruction. In the days immediately following, aftershocks of an average of 5 degrees have continued to inflict damage and kept the country in a state of alert. The epicentre of the original quake was the southern city of Concepción, although the capital Santiago was also affected. It is still too soon to assess how much damage may have been caused to human rights related sites and installations, but to date we have had no reports of loss of life among the relatives' associations and human rights organisations. However, the recently inaugurated Museum of Memory and Human Rights has been forced to close to the public for at least a month. An emblematic recovered site, the Villa Grimaldi Peace Park in Santiago, suffered only minor damage to external walls plus the displacement of the small amount of original mosaic detail that had survived the demolition of the main house carried out by military authorities in the 1990s. We will continue to report in future editions of the bulletin on the long term impact of the quake, which has undoubtedly caused delays in preparations by state human rights institutions for the change of government which will take place as previously scheduled on 11 March.

The memory site Parque por la Paz Villa Grimaldi in Santiago, Chile is looking for a new executive director and a communications director. Details are available at <http://www.villagrimaldi.cl/noticias/destacamos/400-concurso-comunicaciones-director.html> and the closing date for applications is **Monday 15 March**

## NEWS FROM THE REST OF THE REGION

### Argentina

Hearings continue in two major judicial cases, "ESMA" and "Atlético-Banco-Olimpo". Each is a large scale investigation into crimes committed in these two notorious clandestine detention and torture centres which operated in the capital Buenos Aires during the 1976 to 1983 Argentine military dictatorship. On 16 February, a second trial began in the Argentine province of Tucumán of former repressors Antonio Bussi and Luciano Menéndez (both have previous sentences for other crimes). This trial is related to the so-called "Jefatura de Policía" case. At least four more large scale *debates* (trials) are due to begin between February and April 2010.

In relation to archives dealing with the dictatorship, a decree signed by president Cristina Fernández in December 2009 declassifying military files from the period has begun to take effect. The declassification has allowed access to personnel lists from the 601st Intelligence Battalion of the Army, which was the effective command and control centre of illegal repression. In theory, declassified documents can now be accessed by members of the public on submission of a written request to the National Memory Archive of the National Human Rights Secretariat, which also holds the archive collection of Argentina's 1983 Truth Commission, CONADEP.

In February the Argentine NGO Memoria Abierta, an umbrella group that brings together many of the country's main human rights organisations, launched a virtual 'consulting room' to improve remote access to its Documentation and Archive Centre. Replacing the previous online catalogue, the new space allows access to: databases belonging to member organisations (the Asamblea Permanente por los Derechos Humanos, CELS, Fundación Memoria Histórica y Social Argentina, Madres de Plaza de Mayo - Línea Fundadora, and SERPAJ, Servicio Paz y Justicia); an oral archive catalogue containing over 650 audiovisual testimonies; a photo archive and various digital collections including letters, posters and relevant academic publications. See [www.memoriaabierta.org.ar](http://www.memoriaabierta.org.ar) or mail [comunicacion@memoriaabierta.org.ar](mailto:comunicacion@memoriaabierta.org.ar) for further details and/or to subscribe to Memoria Abierta's free e bulletins (in Spanish only)

### Spain

Spanish judge Baltazar Garzón, well known for his invocation of universal jurisdiction principles to pursue investigations in the Spanish courts against Augusto Pinochet and other Chilean, Argentine and Central American repressors, faces disciplinary action and a possible judicial investigation in Spain for '*prevaricación*' (dereliction of professional duties). The controversy arose after he agreed to initiate an investigation into Spanish victims of the Spanish civil war, despite the fact that crimes of this type on national territory clearly fall outside the jurisdiction of the special court to which Garzón belongs (the *Audiencia Nacional*). Garzón is also under scrutiny for having accepted finance for a 2007/8 US speaking tour from the president of the Santander Bank: Garzón went on to rule in a legal case involving the bank president without declaring their previous financial connection.

## Uruguay

During February 2010 a law of reparations for victims of state terrorism went before the Uruguayan legislature. Previously, reparations had only been available through Argentine sources for those Uruguayans who were victims of rendition (forced transfer between the two countries, carried out as part of the 1970s Plan Cóndor collaboration between repressive military apparatuses in the Southern Cone).

February also saw two significant judicial verdicts in Uruguay. The first was an appeals court sentence on 4 February against repressors José Gavazzo and José Arab, for 28 counts of aggravated homicide. These include killings carried out on Argentine territory under Plan Cóndor. The verdict confirmed first instance sentences of 25 years for each defendant. The text of the verdict makes ample reference to international human rights law, explicitly acknowledging that the *ius cogens* status of the relevant norms imposes a duty on national courts to prosecute and punish. The second verdict was a first instance judgement emitted on 9 February against former dictator Juan María Bordaberry. He was sentenced to 30 years' imprisonment and 6 of political inhabilitation for his part in the coup ('unconstitutional acts') and for his subsequent criminal responsibility for 9 forced disappearances and two politically motivated murders. Full copies of both verdicts (in Spanish) can be obtained from [cath.collins@udp.cl](mailto:cath.collins@udp.cl), thanks to our Uruguayan partner, human rights lawyer Maria Pilar del Elhordoy.

On 1 March 2010 new Uruguayan president elect José Mujica officially took over from outgoing president Tabaré Vázquez. Both are of the centre-left coalition Frente Amplio, although the septuagenarian Mujica has a more radical past including almost 15 years spent in prison due to his involvement with the left wing armed Montoneros movement. Despite this profile, Mujica's inaugural speech promised economic 'orthodoxy' and salary improvements for what he called the 'impoverished' members of the armed forces.

## Perú

In the previous bulletin (Jan, bulletin 3) we reported the final confirmation of former president Alberto Fujimori's 25 year sentence for human rights crimes. Our thanks to the Coordinadora Nacional de DDHH de Perú for clarifying that the official date of this verdict was 30 December 2009. It was published by the Peruvian judicial branch on 3 January 2010.

**Contributions to the bulletin:** If you have relevant information or a news item for future editions of the bulletin please send them to the mails below by the 4th of each month, for publication on the 10th. Please include contact or citation details if you would like your organisation to appear cited as a source.

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