

Torture and the Right to Rehabilitation in Chile

Overview

Chile has a long history of struggle in protecting and promoting human rights. Since the return to democracy in 1990, concerted efforts have been made by the government and non-governmental organizations to place the country on the path of full respect for human rights. These attempts have produced some remarkable results, enacting national laws and institutions and ratifying regional and international human rights instruments.

Despite these successes, the laws on redress are currently not effectively implemented and attempts to establish the full facts of the grave violations of human rights that took place during the dictatorship (1973-1990) has been met with consistent opposition from successive governments. This, coupled with ongoing human rights violations and the use of torture and ill-treatment against protesters and indigenous populations, means that much work remains to be done in Chile.

This briefing note will highlight three key areas of concern regarding the situation of torture and ill-treatment in Chile. First, it will critically examine the policies designed to provide redress to victims of torture from the dictatorship. Second, the briefing note will explore how impunity for past violations is hampering victims' quest for justice. Third, it will highlight the context in which torture and ill-treatment is perpetrated by law enforcement in social protests and in a background of ongoing discrimination against indigenous populations in Chile after the fall of dictatorship.



Redress for Victims of Torture from the Period of the Military Dictatorship (1973 - 1990)

Past UPR Recommendations

During the Second Universal Periodic Review of Chile in 2014, the State of Chile accepted recommendations made by Canada, Bangladesh, Italy, France, Iran, Mexico, Ghana, Nicaragua, Spain, Azerbaijan and Switzerland, on measures of redress to victims of torture.

Current State of Implementation

Chile has implemented a national torture rehabilitation program. Commonly known by its Spanish acronym, PRAIS, it consists of multidisciplinary teams of medical doctors, psychologists and social workers whose task it is to design a holistic health intervention to address trauma caused by torture. Anyone who is a family member of a disappeared or summarily executed person as well as to those registered under the National Commission on Political Imprisonment and Torture has access to its services.

There are currently serious impediments that prevents PRAIS from accomplishing its stated aims. It is under resourced, which causes long waiting lists and limited services to victims. The multidisciplinary teams that provide the services vary widely in training and experience in the field of torture rehabilitation. This is due to lack of continuous or standardized training provided by the State and large staff turnover. As a result, access to quality services depends on the time and location where the victim seeks support.

Finally, PRAIS' operational logic is currently confined to a strictly clinical health-based focus, which fails to take into consideration the wider biopsychosocial, community and transgenerational needs of its users.

These issues have very practical ramifications. Many of CINTRAS' clients wait for years to access services and some express that they were very disappointed with the treatment they received under PRAIS. Repeatedly having to recount traumatic experiences to potentially untrained staff who lack the expertise to treat them fails to provide appropriate care and risks retraumatizing the victim. Torture rehabilitation is a specialized service requiring specific training in the sequelae of torture.

Recommendations

1. Increase the annual budget for PRAIS so that it can operate effectively and expand its benefits and services to meet current needs.
2. Reform PRAIS in accordance to the Committee against Torture recommendations of August 2018 so that it assumes a truly victim-centred, biopsychosocial and community-oriented approach to rehabilitation.
3. Ensure that the pensions provided to victims of torture are equal to those pensions received by the families of enforced disappearances and summarily executed persons (US \$ 596).

Impunity for Past Violations

Previous UPR Recommendations:

In 2014, Chile supported the following recommendations from Mexico, France and Italy, respectively:

'Repeal the provision of Law No. 19.992 that establishes confidentiality for 50 years of information concerning the practice of torture during the dictatorship.'

'Prosecute, proportionally to the severity of the offence, serious violations of human rights perpetrated under the dictatorship'

'Abrogate the Amnesty Decree-Law No. 2'

Current State of Implementation

In 2003, the government launched a National Commission on Political Imprisonment and Torture, tasked with investigating violations under the Pinochet regime. The Commission found that close to 39,000 people had suffered from violations. However, 22,000 people who filed complaints were excluded from submitting evidence without being given a reason or means to appeal.

The government legislated to keep crucial archives - including the testimonies of victims of torture - secret for 50 years, restricting access to people's own case information.

Chile has also been slow to investigate allegations of torture and prosecute perpetrators. The amnesty law is still in force today and although the Chilean state claims it is dormant, it is used by defendants of the accused as a tactic to cause judicial delay.

The Supreme Court of Chile also recently released five men convicted of committing crimes against humanity under the military dictatorship.

Recommendations:

1. Repeal the Decree Law No. 2191 of 1978, known as the "Amnesty Law", which allows the establishment of trials for crimes against humanity carried out prior to 1978.

2. Ensure that those convicted of crimes against humanity serve their full prison sentences, without special treatment, and that their sentences are commensurate with the crime committed.

3. Eliminate Article 15 of Law 19.992 of 2004, which prohibits the Judiciary from accessing complaints of torture made to the National Commission on Political Prison and Torture, thus ending the 50-year secret.

Excessive Use of Force Against Demonstrators and Indigenous Communities

Previous UPR Recommendations:

During the Second Universal Periodic Review of Chile in 2014, Canada, Uzbekistan, the UK, the Czech Republic, Cyprus and Cuba made recommendations on the excessive use of force and torture and ill-treatment by law enforcement and the military.

Current State of Implementation

According to Amnesty International, "impunity for past and present human rights violations" remains a serious concern in Chile.

In the Araucanía sector, hundreds of suspects live under a militarized surveillance system and uniformed police continue to subject this group of people to torture, physical and psychological abuse. There have been allegations of torture against the Special Police Task Force (GOPE), in the fight against students and the Walmapu area.

National and international organizations have observed that a police unit known as "Jungle Command" has become a "danger to society, torturing its victims with impunity", in the Araucanía area.

Since 2011, student groups have led largescale demonstrations. The Medical College of Chile reported on 101 allegations of torture in police vehicles and Carabineiro custody between 2011 and 2016 but note that there are likely a much higher number of students who have not filed complaints. CINTRAS has worked with several student clients, including minors, who report having been beaten, threatened, asphyxiation, detained incommunicado, experienced sexual violence and rape. Currently, survivors of torture from after 1990 do not qualify for the support provided by PRAIS or any other rehabilitation programme.

Furthermore, Chile has yet to establish a National Preventative Mechanism, which further exacerbates efforts to prevent torture from happening in the future.

Recommendations:

1. Effectively investigate and criminally prosecute State agents responsible for torture and ill-treatment.
2. Implement reparations policies for contemporary victims of torture including specialized health services that provide comprehensive care to victims and their families.
3. Ensure that the protocols of detention procedures for minors in police and prison facilities, as well as their application, comply with the International Convention on the Rights of the Child and other relevant international treaties.
4. Ensure that the doctors responsible for examining detainees are trained in and comply with international protocols and standards.
5. Establish or designate a national torture prevention mechanism in compliance with international obligations.
6. Demilitarize the Araucania area and the immediately withdraw the "Jungle Command" unit.

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Center for Mental Health and Human Rights (CINTRAS) was founded in 1985 and is an NGO based in Santiago, Chile, which specializes in providing medical, psychological and social assistance to victims of human rights violations and their families.

The International Rehabilitation Council for Torture Victims (IRCT) is a health-based association working on rehabilitation of torture victims and the prevention of torture worldwide. Our members comprise more than 160 independent organisations in over 70 countries. Our work is governed by these member organisations. Today, we are the largest membership-based civil society organisation to work in the field of torture rehabilitation and prevention.

The Unitary Command of Former Political and Family Prisoners-Chile: Is a national umbrella organization of civil society that represents torture survivors and their families.