Truth, Reparation and Justice: The Past Living in the Present*

Elizabeth Lira

One country have I lost
When I sleep
In my dreams
It comes to me
Like a foe
As if my heart were hit
By the sea I cast in oblivion
And my eyes witnessed
*The life I lived before***.

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** Eugenio Llona and Horacio Salinas, *Cueca de la Ausencia*, Inti Illimani.

Background Information

The military dictatorship in Chile (1973-1990) overthrew the Constitutional Government led by President Salvador Allende Gossens. Reasons for the **military coup** were first cited in *Bando 5* issued on September 11, and then included in Executive Decree 5 of September 12 (published in Official Gazette, Issue 28 657 of September 22, 1973), stating that "…the state of siege decreed because of internal disturbance, in the situation prevailing now in the country, should be understood as 'state or time of war' for the purposes of the provisions contained in the Code of Military Justice and other criminal laws" (Loveman and Lira, 2002: 321, 337-341). Chile was subject to several states of constitutional exception until August 30, 1988, and different types of curfew prevailed.

Authorities of the Government overthrown, their supporters and members of political parties grouped in *Unidad Popular* (Popular Unity) were forced into councils of war across the country, prosecuted for short periods and sentenced to capital punishment or long prison terms with little or no defense whatsoever. Torture was an everyday experience. The condition of **enemy** was the excuse for political repression, ignoring the rights of prisoners of war as set forth in the Humanitarian Law, effective in the country since 1951 (National Commission on Political Imprisonment and Torture, 2005).

Since 1974, some of the detained never returned, whether arrested at home, in the workplace or in the presence of witnesses. The Government denied their arrest in each and every case, and the Judiciary dismissed nearly every remedy for the protection of constitutional rights of the detained (Vicariate of Solidarity, 1979).

State responsibility for human rights violations was reported to the Courts of Justice and international organizations in 1973, leaving numerous records on human rights violations perpetrated at that time. All special reports on Chile from the Inter-American Commission on Human Rights and annual reports until 1989 recorded these reports (Vargas, J. E., 1990). The IACHR received and followed up on different cases of the dictatorship[1]. On some occasions the military dictatorship excused authorities for their actions, but in most cases it denied arrests and their legal existence and distanced itself from any responsibility.[2] The United Nations General Assembly, in turn, issued convictions for the military dictatorship in Chile from 1974 to 1989. The initial conviction was a consequence of the pressure by the international community on human rights violations occurring in Chile (Vargas M. C., 1990). Every conviction highlighted the lack of information about the disappeared. The United Nations appointed a commission to investigate the reported situations, and then special rapporteurs were appointed to follow up on cases reported to the end of the dictatorship.

In addition, the Committee on Freedom of Association of the Governing Body –the executive body of the International Labour Organization (ILO) –received numerous complaints on trade union rights violations perpetrated in Chile since 1973. The ILO maintained constant follow-up on the complaints filed by Chilean trade union organizations until 1990, demanding information on and solutions to the cases submitted to the military dictatorship (Lira and Rojas, 2009).

In retrospect, reports on human rights violations showed how repressive politics caused fear and pain, their consequences being in most cases traumatic for those who suffered and resulting in subjugation

1 See special reports of the Inter-American Commission on Human Rights: 1974, 1976, 1977 and 1985 at http://www.cidh.oas.org/pais.esp.htm (accessed on 07/27/2011).

2 Chilean delegate to the United Nations, Sergio Diez Urzúa, submitted to the General Assembly of this body on November 7, 1975 two documentary reports titled "Situation of Human Rights in Chile," revealing that of a total of 768 allegedly missing people, 153 had no legal existence. Similar reports were submitted in June 1976 at the 6th General Assembly of the OAS held in Santiago.

and silence of most people involved for many years. At the same time, the effects of persecution, torture, imprisonment, disappearance and death not only had a psychological and material effect on those who were under persecution and their families, but also on many other close people and their communities, and an indirect effect on society as a whole.

The consequences of persecution forced thousands of people to protect their lives and leave the country. Many of them were dismissed from their jobs and had to move somewhere else in the country or, in the case of farmers, they lost their jobs, their houses and lifestyle. These situations concerned different groups, especially some churches, resulting in their implementation of provision of legal defense, assistance and support to those under persecution (Orellana and Hutchinson, 1991). The Committee for the Peace first and then the Vicariate of Solidarity gave priority over legal defense before councils of war and courts of justice.

The families of the victims formed groups in 1974 to support their members who were in prison but above all to keep track of those missing:

> (...) because the life of our people was in danger, we set to the task of keeping track of them across the Stadium of Chile, the National Stadium, Chacabuco, Pisagua, Tejas Verdes, Quiriquina, Tres Álamos, Cuatro Álamos, Puchuncaví, Ritoque, and many other places that were concentration camps during the military dictatorship, holding a red carnation in our hands as our identifying characteristic (Association of Families of the Detained and Disappeared, 1997: 11).

Reports for missing people and lawsuits for torture against those responsible were filed with no effective results throughout the dictatorship. Nevertheless, insisting on legal proceedings made it possible to leave record in courts of hundreds of cases of those claiming for their rights or their families'. With a few exceptions, the judges dismissed remedies for the protection of constitutional rights or failed to effectively process cases or find the perpetrators. In 1989, most cases were granted amnesty. In spite of this, human rights lawyers were seeking and are still seeking justice before the courts to date.

In 1988, according to the 1980 Constitution, a referendum was conducted to determine the continuity of the dictatorship. 54% of the electorate voted **against** the Government of Pinochet running for an additional eight years. In June 1989, a new referendum was conducted on some reforms to the constitution agreed with the opposition party. In December 1989, the President of the Republic and the Congress were elected by democratic rule. Christian democrat Patricio Aylwin was elected President of Chile, marking the **transition** within the framework established by the 1980 Constitution.

Human Rights Policy by the Concert

President Patricio Aylwin and his supporting party coalition –the Concert of Parties for Democracy– proposed a program of deep institutional reforms seriously constrained in their implementation by the Constitution and institutionalism imposed between 1973 and 1990. With regard to human rights violations, this project pointed out:

> The Democratic Government will insist on finding the truth in cases of human rights violations occurred after September 11, 1973. (...) will allow for judging under the existing criminal law on human rights violations amounting to atrocities against life, freedom, and personal integrity (...). The knowledge of these cases will lie in regular Courts of Justice whose knowledge and judging should conform to the rules of due process of law in full compliance with the legal protection of victims and offenders (Concert Project, 1989: 3-4).

This program contained specific proposals for victim reparation (property damage, pain and suffering), restoration of nationality (to the nine Chileans who were denied their nationality as a repressive measure, including Orlando Letelier, assassinated in Washington in 1976). Such project proposal sought to develop

> an active policy to promote the return of all Chileans to their homeland, "exploring possibilities for their full integration." Preparation of social, physical and mental health policies was expected and targeted specifically at the people affected by political repression as so was return of confiscated property to individuals, political parties or social and trade union organizations. Finally, it expressed their intent to "vindicate those fellow citizens who were victims of crime against their lives or arrests followed by disappearances for their political beliefs (Concert Program, 1989: 4).

Such proposal admitted that the legacy of human rights violations was a major obstacle to democracy building. Consequently, the program required the new Government to a) find out the truth about human rights violations; b) ensure the necessary information to conduct the judicial investigation into these crimes; and c) vindicate the victims.

It is important to remember that by the time Patricio Aylwin took office as the President of the Republic in March 1990, the 1980 Constitution was in effect and Augusto Pinochet was Commander-in-chief of the Chilean Army, serving in the office of Commander-in-chief until January 1998. Amnesty Executive Decree 2191, issued in 1978, under which persons who committed offences between September 11, 1973 and March 10, 1978 were granted amnesty. During this period, the state of siege was put in place with most cases reported as enforced disappearances, extrajudicial murders, and the highest number of torture victims. Such executive decree favored a certain number of political prisoners, who were released in 1978. In contrast, those who commuted imprisonment for estrangement had to remain in exile because they were denied entry to the country. Although the Concert of Parties for Democracy was determined to repeal the Amnesty Executive Decree once in the Government, such coalition failed to gain the necessary votes in Congress to make it happen. During the validity of this Executive Decree, the results of court proceedings on human rights violations were conditioned, especially for the detained and disappeared until 2004.

The Government of President Aylwin witnessed the first policies of truth. Reparation policies were developed, considering different human rights violations during the military dictatorship. A first attempt was made to address the situation of political prisoners by enforcing laws to ensure due process, and several legislative initiatives were presented to expedite judicial investigation on cases of the detained and disappeared and on the Amnesty Executive Decree. Only a few of these bills were passed by Congress. Doing justice took decades.

President Patricio Aylwin frequently declared that he planned to fulfill his commitment in a short term (i.e., the four years of his Administration) and reach reconciliation. Still, it was impossible to complete the tasks scheduled for such term. This process was simultaneously developed in different fields, including the Government, associations of victims, national and international human rights organizations, the armed forces, the Judiciary, and Congress at different times and with different objectives in line with their views on the legacy of human rights violations and their political approach. For some, general and inclusive amnesty was sufficient. For others, identifying and healing the victims and doing justice were essential conditions for a political reconciliation process.

The Government was required both to comply with constitutional obligations and those derived from international commitments of Chile to the victims and to provide for legal, social and political conditions to ensure non-repetition. The proposed policy reasserted that human rights violations and reparations were a problem to be faced by the ruling coalition but assumed by the Government. Therefore, large consensus was required to rule on these subjects.

Different political views and tensions derived from these differences made it difficult to reach consensus and meet these objectives. Political discussion gave account of convictions and loyalties around these processes and marked ideological and ethical differences between the past and the present. Opposing views

of the past seemed to reinforce, for some sectors of society, preference for legal oblivion (amnesty and pardon) as the political formula to **close** the past, as it has always been in the history of the Republic. Still, other sectors –especially associations of victims– were constantly questioning impunity: the historical key of what was then considered social peace. A growing change in political expectations was observed mostly to gain recognition of responsibilities by various political figures. Nonetheless, persistent divisions and a break in national coexistence –and fear to build on them– were not only ideological but also moral and emotional concerns rooted in painful and traumatic experiences of the victims, revived to excuse what happened for the sake of the common good. As torture and disappearance were justified as a political need **to save the nation**, it seemed impossible to provide minimum reconciliation conditions.

To President Patricio Aylwin, reaching political reconciliation was a key objective during his Government service. His foundations were in finding the truth about what happened to the victims in a highly sensitive political context, his approach to human rights violations both by the victims and by Commander-in-chief Augusto Pinochet, the Armed Forces, and supporters. President Patricio Aylwin put institutional stability first and was not willing to risk a new military coup:

> (...) We have said –as we solemnly reaffirm today– that the moral awareness of the nation requires the truth to be told about the missing people, atrocious crimes, and other serious human rights violations during the dictatorship. We have also said –as we say today– that we should address such a delicate matter by reconciling virtue of justice and virtue of good judgment, and once relevant personal responsibilities are defined, the time for forgiveness will arrive (Aylwin, 1992: 20-21).

However, the **national reconciliation** process in Chile after 1990 required identification and reparation of victims and punishment of perpetrators, mainly due to centralized political resistance to human rights violations by the opposition party during the military dictatorship before the Courts of Justice, since the beginning.

Implementing the policies of truth, reparation, justice and memory took more time than initially expected, mainly because of different and growing ethical, political, and cultural demands. For centuries, social peace had been built on impunity, but as soon as the first remedy for the protection of constitutional rights was filed on September 14, 1973, courts became the places where people claimed for their rights, accountability of the authorities, and duty of the judges to enforce the law, preventing –in practice– the legitimacy of impunity as a political resource used to resolve conflicts and put an end to their consequences. Such dispute took on different tones in the years of transition. A general demand for rights and guarantees as the foundation of social peace suggested radical questioning on historical political reconciliation rooted in impunity. The process is not over, neither is dispute among various ethical and political views. The ending is not predictable because it depends not only on the development of a democratic culture in the country but also on the international context for the protection of human rights.

In this chapter and following a chronological order, policies of truth, reparation, justice, and memory developed by the Government of Chile to date were revealed, examining their continuity over time through local governments from 1990 onwards. Such distinction is somewhat arbitrary because the truth depends on the particular truth of court proceedings rather than on truth commissions. Reparation is not reached through administrative measures but through acknowledging what happened to the victims and punishing perpetrators. Truth and reparation pervade in sites of memory and in various initiatives restoring the good name of victims. In other words, these processes are interrelated, mutually developed, and added to a major process to recognize the rights of the victims and their rehabilitation, requiring specific actions by the Government to ensure political conditions and a culture centered on the value of life and dignity of people, preventing new human rights violations in society.

Moral Resistance to Dictatorship and the Fight for the Lives of their People and of Others

The following history would not have been possible without victims' and their families' constant fighting to know the whereabouts of their people, especially in the case of the detained and disappeared. Women started to protest wearing pictures of their relatives on their chest and holding banners with the phrase **"Where are they?"** The first hunger strike by the Association of Families of the Detained and Disappeared (hereinafter "the Association") took place between June 14 and 23, 1977 at the offices of the United Nations Economic Commission for Latin America and the Caribbean (ECLAC) in Santiago. The strike ended with a commitment by the military dictatorship before the General Secretariat of the United Nations to "investigate reports for enforced disappearances" (Association of Families of the Detained and Disappeared, 1997: 23).

The Amnesty Executive Decree in April 1978 led to a hunger strike in several parishes. The statement of women on hunger strike was: *Our life for the truth!* This hunger strike started on May 22 and finished on June 8. External support comprised of 80 groups who organized hunger strikes in more than sixty cities around the world. Numerous Catholic Church premises hosted reflection meetings and supporting actions to petitions to the Association (Archdiocese of Santiago, Vicariate of Solidarity, 1978).

The Association has been founded and run by women. The first president was Sola Sierra, wife of detained and disappeared Waldo Pizarro. Following her death, Viviana Díaz, daughter of detained and disappeared Díaz, presided over the Association. Lorena Pizarro, daughter of Sola Sierra, has been the president since 2003. In the mid-eighties, Viviana Díaz commented on the ultimate goal of constantly working for the Association, "To me, the most important thing is to show everyone that this is a problem requiring a solution, where each and every Chilean plays a major role (…). But we know, we are aware, that we are not going to make it alone. The entire community has to be involved." (Rosario Rojas, 1987: 299)

In retrospect, sudden disappearances caused such great despair and helplessness that mothers, wives, cohabitants, daughters, and sisters changed their lives into a relentless search for their people sustained over time especially on legal proceedings. Only in cases where bodies were identified, the case was closed and funeral rituals were held. Nevertheless, an accurate identification of bodies **found** has taken decades due to a lack of proper scientific and technological resources in the country, still pending for most people. In rare cases, court proceedings have revealed the truth about the fate and whereabouts of the disappeared and the circumstances around them. A statement by the Armed Forces in 2001 that a certain number of disappeared victims were thrown out to the sea drowned –for many– any hope to find and bury remains of their people.

Although the Association of Families of the Detained and Disappeared has been ponderous on human rights policies for the last two decades, reparation policies were founded on organized claims of the victims, including outcasts, farmers expelled from the land, exonerated civilians, returnees, and former political prisoners. Such claims have led to a review and reorganization of policies in different Governments. Although the history of these claims and the fights is outside the scope of this paper, what has been achieved so far would not be possible without the existence of these organizations and their constant reparation claims and reports. Similarly, such achievements would not be possible without the constant work by human rights lawyers, who have supported victims and their organizations for decades.

The Policies of Truth

Historically, the country has been through civil wars and dictatorships in the past, in some cases seeking the truth about what happened mainly to legitimize new authorities after the crisis (Loveman and Lira, 2003). Additionally, reparation measures were implemented, but every conflict ended in wide and inclusive amnesty

for the sake of national reconciliation[3]. In 1990, the truth about what happened to the victims seemed a key element to grant them recognition and reparation, and –unlike previous conflicts– demands for truth and justice started to redefine requirements for political reconciliation, seemingly more reliant on responsibility recognition and criminal trials than on immediate perpetrator impunity, as in the past. Nonetheless, a large number of issues related to human rights violations during the dictatorship were addressed as contradictory matters putting stress on political transition.

Below is a summary of the different **truth and clarification** initiatives on human rights violations that affected victims, including commissions and institutions established to support and follow up on such initiatives.

National Commission on Truth and Reconciliation (1990-1991)

President Patricio Aylwin established the National Commission on Truth and Reconciliation (Supreme Decree 355 on April 25, 1990). Commonly known as the Rettig Commission after its chairman and lawyer Raúl Rettig, the report released in 1991 identified the victims of enforced disappearances, extrajudicial killings, and political violence. Such document accounted for 3,550 reports received, and registration of 2,130 victims of enforced disappearances and extrajudicial killings, and 168 victims of political violence[4]. Some unregistered cases were handed over to the National Corporation for Reparation and Reconciliation founded in 1992 by Law 19 123.

The report's recommendations included reparation policies for families of the victims and suggestions to implement ways for symbolic reparation of society (National Commission on Truth and Reconciliation, 1991). President Aylwin announced such Commission report to all Chileans in the first days of March 1991, stating that the recognition of the truth was a way of repairing the dignity of the victims. He apologized to the families of the victims. In his speech, he declared, "Many fellow citizens believe it is time to close this chapter, but for the sake of Chile, we should look into a future that will bring us together rather than to a past that will set us apart."[5]

The Armed Forces and the Supreme Court both rejected the report, arguing that it failed to consider the political and historical context and the circumstances of the facts. The Army said that they condemned "the campaign to announce the report alluding to punishment or inhuman coercion for innocent people" (Law Enforcement and Armed Forces, 1991: 471).

The statement by the Armed Forces justified the repressive measures and pointed out the inconvenience of holding celebrations and acts to teach future generations since they "could contradict the concepts of reconciliation, forgiveness, and oblivion that should prevail in this stage of the historical process in Chile" (Law Enforcement and Armed Forces, 1991: 484). The Armed Forces insisted on the value of the Amnesty Executive Decree as a reconciliation instrument to "give form to the first stage of peacemaking in the country" (Law Enforcement and Armed Forces, 1991: 488). The Air Force and Chilean *Carabineros* [police force and gendarmerie] rejected the report and emphasized that they had to leave the past behind to achieve reconciliation in the country (Law Enforcement and Armed Forces, 1991: 489-504).

The Supreme Court strongly denied that the Judiciary was responsible for the lack of protection of the victims (Supreme Court, 1991: 237-250). Given this context of reactions, President Aylwin sent an official

3 Constitutional charges against the ministers of President José Manuel Balmaceda accounted for the first *truth commission* in the Nineteenth Century established to examine political actions leading to the civil war and repressive measures by the Government of Balmaceda, who lost the war.

4 The Commission cost nearly one million dollars payable to the National Treasury.

5 http://www.derechoschile.com/espanol/rettig.htm (accessed on 07/27/2011).

letter to the Supreme Court requesting such authority to investigate the facts "that led to the death and disappearance of people without the 1978 Amnesty Executive Decree being an obstacle for such purposes" (*APSI*, 1991: 6). Notwithstanding the political rejection of the report by the Law Enforcement and Armed Forces and the Supreme Court, human rights violations against individual victims could not be denied.

Commission on Human Rights, Nationality and Citizenship of the Senate: The Search for the Detained and Disappeared (1998-2000)

The Commission on Human Rights, Nationality and Citizenship of the Senate received a claim sustained by the Association of Families of the Detained and Disappeared about the fate and whereabouts of their relatives, initially filed to the Executive Branch and to Congress. The Commission informed that "for a simpler acceptance of records (...) with regard to the detained and disappeared because they unanimously believed that this situation was probably one of the most serious issues in the case of suspected or actual human rights violations that were confirmed in the country" (Senate, January 19, 1999). The Commission worked between 1998 and 2000, receiving representatives of the Association of Families of the Detained and Disappeared and of the Communist Party of Chile, and former president of the Corporation for Reparation and Reconciliation. In addition, it held private meetings with the Commander-in-chief of the Armed Forces, Minister of National Defense Edmundo Pérez Yoma, and President of the Senate Andrés Zaldívar. The Commission held meetings with auditors from different ranks of the Law Enforcement and Armed Forces, candidates for President of the Republic Ricardo Lagos and Joaquín Lavín, and President of the Episcopal Conference Monsignor Francisco Javier Errázuriz.

The Association of Families of the Detained and Disappeared released classified information on 985 cases, including 132 detained and disappeared minors; 31 initially disappeared minors whose bodies were found; 9 cases of pregnant women at the time of their detention and later disappearance, ignoring if their children were born; a list of public and secret detention centers, identifying people in charge. They reminded that these cases were not included in the Amnesty Executive Decree, for cases outside the scope of this law (Art. 3) included the crime of child abduction and infanticide. With regard to the 39 cases involving minors, they were not granted amnesty either because they were child abduction cases. Consequently, they allowed for both investigation and punishment to perpetrators.

The Commission summarized actions taken and submitted a report on the *Collection of Records for the Detained and Disappeared* (Senate, July 11, 2000) to the Senate. As to this final report, President of the Commission on Human Rights, Nationality and Citizenship, senator José Antonio Viera Gallo, pointed out that such report would have mentioned that the number of the detained and disappeared amounted to 952 people, including those identified by the Rettig Commission, of which 39 were minors, and nine were pregnant women: eight from Chile and one from Argentina. He concluded that they spared no efforts to collect information on the fate of the detained and disappeared and believed that "this work contributed to promoting an atmosphere of understanding (...) that subsequently paved the way for the Round Table" (Senate, July 11, 2000). The Commission completed their work with this report accounting for actions taken and recommending actions to Congress and the Executive Branch with respect to some matters related to the main issue, including:

1. -Characterization of the crime of enforced disappearance.
2. -Creation of a DNA bank: the Forensic Autopsy Agency started the creation of such bank in August 1998, forming a special commission for such purpose.
3. -Identification of human bodies of the detained and disappeared in *Patio 29*, General Cemetery, in Peldehue and San Francisco de Mostazal.
4. -Establishment of rules to regulate certain civil situations derived from disappearances.

The completion of the work by the Commission coincided with the end of the Roundtable Discussion on Human Rights. The creation of the latter seemed to have influenced the work of the former by exposing the seriousness of the situation of the detained and disappeared and the need to face political and ethical problems involving their persistence in families and society.

Roundtable Discussion on Human Rights

Various initiatives for the search, identification, and recognition of the victims failed to gather more information on the fate and whereabouts of the detained and disappeared, becoming a pending issue for the Chilean society. Some decades later, authorities of the military dictatorship and the Armed Forces assumed responsibility for their involvement in the disappearance of the detained. Such identification took nearly 25 years to complete, following the arrest of Augusto Pinochet in London, as a result of the agreements by the Roundtable Discussion on Human Rights (1999-2000).[6]

In August 1999, during the Government of President Eduardo Frei Ruiz Tagle and at the initiative of the Minister of Defense Edmundo Pérez Yoma, the Roundtable Discussion on Human Rights was established with the participation of representatives of the civil society, human rights lawyers, and representatives of Commanders-in-chief of the Armed Forces.[7] The discussion started as Augusto Pinochet was arrested in London. The main topic was the situation of the Detained and Disappeared. A final agreement was reached with the Law Enforcement and Armed Forces on June 13, 2000. They committed themselves to collecting information in their institutions about the detained and disappeared because they reported lacking such information (Roundtable Discussion, 2000).

Pamela Pereira, human rights lawyer, daughter of a detained and disappeared victim, and member of the Roundtable, stated –a few days after the end of the Roundtable– that:

> Building institutional commitment of the Armed Forces to the country and the President of the Republic to deliver information was the heartfelt aspiration of the families throughout these years. But for many cases, families spared no efforts in searching yet afraid of what they may encounter because life is destabilized again. We have to express our deepest sympathy to the family: we are living in a true reality where this information will be available, forcing us to go back to a tragedy that torn our lives apart (Pamela Pereira and Raquel Correa 2000: 491).

In addition, in an interview to *El Mercurio*, General Juan Carlos Salgado stated:

> (…) because of a commonly held opinion that could not be supported any longer... I am not saying hiding *ex profeso* [looking for the right expression]... but revealing the truth. That was part of the catharsis we needed. Everyone knowing what happened is not the same as we confirming that it happened. That was the brilliant part of the statement. Although some people may not like how it was said, it confirmed tragic situations that must not be repeated (Juan Carlos Salgado and Mauricio Carvallo, 2000: 502).

He added that the best support given to Commander-in-chief Pinochet

> was to express our willingness to move past issues of the situation and the past. And although hierarchical institutions –like our institution– are not supposed to evaluate the Superior, the gesture of the Commander-in-

6 The detention of Augusto Pinochet in London on October 16, 1998, occurred due to an injunction of Judge Baltazar Garzón by virtue of a genocide trial that started in 1996 in Valencia. See the details of the proceeding in Spain at: http://www.ua.es/up/pinochet/noticias/mundo/19N0084.html

7 Roundtable participants included delegates of the Commander-in-chief from each rank and of the General Director of the *Carabineros*. Representatives of the civil society included Catholic bishop Sergio Valech, former Vicar of Solidarity Neftalí Aravena, Methodist Church bishop León Cohen, representative of the Jewish community Jorge Carvajal, Great Master of the Masonic Order, three members of the former Rettig Commission –one of them a former minister of the military Government, three human rights lawyers who worked for the Vicariate of Solidarity, and other academic members invited by the Government. Other participants included deputy secretaries of the Ministry of Defense, the minister, and two coordinators. The author of this chapter participated as a scholar.

> chief to sign the document is the best support ever given to Commander-in-chief Pinochet because the Army is dealing today with a situation from the past (Salgado and Carvallo, 2000: 503).

Finally, he insisted that although he did not condone human rights violations, they were somewhat understandable in terms of the context in which they occurred: "(...) our staff was dragged to these behaviors. We dare not judge perpetrators of acts considered human rights violations today. On the contrary, the Army is somehow assuming such responsibility" (Salgado and Carvallo, 2000: 504).

The Association of Families of the Detained and Disappeared refused invitation of the Government to participate in the Roundtable Discussion. Similarly, it opposed to such Discussion.

The Roundtable Discussion on Human Rights ended after the return of Augusto Pinochet to Chile, agreed between the authorities of England and Chile on the grounds of humanitarian reasons for his mental deterioration. His arrest influenced many aspects, but above all questioned how Chilean courts responded to crimes against humanity during the military dictatorship.

In January 2001, President Ricardo Lagos received the report on the detained and disappeared subject to agreement by the Roundtable Discussion. He handed the report over to the President of the Supreme Court and asked him to appoint on-site ministers for the specific task of finding the whereabouts of the detained and disappeared. Such report contained information about 180 individual victims and 20 anonymous victims, indicating that most bodies or remains of the detained and disappeared were thrown out to the sea. The official report of the Government in late 2001 put on record that such report admitted that "(...) the detained, disappeared, and executed for political reasons –Chilean men and women– were thrown out to the sea or illegally buried in different places." "The inalienable right of the families of the victims to find the whereabouts and the circumstances of the disappearances of their loved ones" and the duty of the State were both recognized, forcing the Government to "reinforce legal and institutional bodies to find out the truth about what happened (...) and continue searching for the 1,180 Chileans whose bodies have not been found." The Judiciary appointed special judges to investigate reported cases with the help of the Human Rights Program of the Ministry of the Interior, the Armed Forces, and other public entities[8]. Searching for the detained and disappeared and imposing court sanctions to those responsible for such disappearances continued for the following decade, with varying levels of support from armed institutions, in connection with court proceedings initiated by the victims or their families.

Historical Truth and New Deal Commission

The policy of the Government of Chile for the *Mapuche* people and, in general, for indigenous peoples has a long history of conflicts denied for centuries and pending issues in different areas. In the case of the *Mapuche* people, claiming ancestral lands has been one of the major and most controversial issues since the Nineteenth Century. The conflict became more and more tense in the ensuing years because of the lack of clarity on legitimacy and legality of land transfer, sale, or appropriation. Added to this was the impact of projects developed in the Twentieth Century, especially hydroelectric and forestry projects in some of these lands, and the resistance to such investments and development projects, regardless of the communities living in such lands.

In response to the claim by the *Mapuche* people, whose organizations and leaders insisted for the last years on the need to have a deeper discussion on issues underlying the relationship among indigenous peoples, the State, and the Chilean society, the Government of President Ricardo Lagos decided to establish on January 18, 2001 by Executive Decree 19, the Historical Truth and New Deal Commission with Indigenous

8 "Government Accountability 2001: Human Rights Policy" (Taken from the website of the Government of the day, summarized and cited by Lira and Loveman (2005).

Peoples (CVHNTPI). This Commission was composed of indigenous and non-indigenous representatives and chaired by former President Patricio Aylwin.

The Commission was established to give the Government advice on developing a new policy for the Government of Chile, addressing key problems of indigenous peoples. Such Commission was organized in task forces: historical review, legislation and institutional system, social and economic development, and land use planning. These task forces produced background reports for the final report submitted by the Commission.

The final Report by the Commission was submitted to President Ricardo Lagos on October 28, 2003. Such report made reference to indigenous peoples and their relationship with the Government and the Chilean society. It offered a series of recommendations to develop a new policy allowing for new treatment by Chilean society and a new encounter with indigenous peoples.

The Commission reconstructed the historical background of the conflict with the *Mapuche* people. It put on record that most of the press in the Nineteenth Century reproduced and reinforced the political views in favor of "peacemaking," stressing the enormous economic benefits of occupying these lands. Journal references of the day were misleading and biased against the *Mapuche*, justifying the reduction and dispossession policy developed by the Government of Chile during the "peacemaking" (CVHNTPI, 2008). Indigenous lands were considered "colonized lands." The province of Arauco was established in the land of the *Mapuche* people. The Government developed a "reduction" policy; that is, it defined a reduced land area for the *Mapuche* settlement (CVHNTPI, 2008: 44). The Indigenous Settlement Commission was founded in 1883 to define their land area, posing a threat to their survival.

In the words of the Commission:

> The Government of Chile was responsible for creating a conflict with immediate effects on the area and a strong impact on the *Mapuche* people. In addition, the Government promoted a conflict with the indigenous peoples –prevailing to date– not only for misappropriating lands but also for entrapping numerous *Mapuche* communities into serious and long legal disputes with third parties through the process of land settlement and distribution in the Araucanía Region –a situation clearly reflected today (CVHNTPI, 2008: 46).

The Commission admitted that the Government owed a 'historical debt' to indigenous peoples, either for a failure to recognize their rights or for non-recognition in political terms of a multicultural reality in the past and in the present (CVHNTPI, 2008).

This Commission based their assessment on historical investigation rather than on victim statements. It was the only commission appointed to acknowledge violations of economic, social and cultural rights of hundreds of thousands of people for being indigenous, adopting a process initiated in the Nineteenth Century and permeated with violence and death from the beginning, with the history of such conflict not included in the national history, affected individuals not considered rights holders, or their rights not recognized because they were indigenous peoples.

Nevertheless, recommendations by the Commission were not considered, and legal, political, and economic reforms –suggesting recognition of collective rights and repair of damage caused by the Government– were not implemented. Michelle Bachelet, president of the Republic, published the report of the Commission in 2008 –pending since 2004. She admitted that such initiative was unprecedented. Never before had the Government addressed the relationship with indigenous peoples, reviewed what happened to these peoples –even those extinct– and considered the possibility of developing proposals for a new State policy.

Nevertheless, in terms of reclamation of ancestral lands by some *Mapuche* groups, the conflict escalated to higher levels in the ensuing years. Governments applied the Anti-terrorism Law to the groups claiming these lands through violence. The conflict with these groups pushed into the background other aspects of the historical conflict, which was not only about them claiming lands but also about their recognition as indigenous peoples (CVHNTPI, 2008: 5).

National Commission on Political Imprisonment and Torture

In 2003 and even some years before, several organizations of former political prisoners advocated to the Government for the need to tell the truth about what happened to them. They demanded reparation policies for the large number of people who suffered imprisonment and torture, and required a special commission to carry on this task, given that such cases were left off the Commission on Truth and Reconciliation in 1991, focusing on the executed and disappeared victims. Ricardo Lagos, President of the Republic, replied with a general proposal on human rights: "No tomorrow without yesterday," addressing various issues pending and emphasizing follow-up on measures. Lagos advanced on the creation of the National Commission on Political Imprisonment and Torture (also known as the Valech Commission), stating that this initiative was:

> A further step in this long process by which the Government of Chile somehow answers to the pain of those who were victims of serious human rights violations in the recent past (...) Many have thought that "moving on" or repressing memories was enough to heal past traumas (…) A social, political and moral fracture as serious as we Chileans went through is not going to be repaired in a specific time or situation. It is impossible to heal the pain embedded in the memory through a series of measures, regardless of how many, how well intended and how bold they are. We need to move faster in the healing of our wounds, walk through the roads we have taken wisely and tenaciously: the road to the Courts of Justice and the rule of law, with no exceptions (Ricardo Lagos Administration, 2003).

These assertions left no room to "close" the chapter on human rights violations and their consequences, reaffirming that the final judgment issued by the Courts of Justice would close each of the cases. The political construction of the consequences of human rights violations required both victim identification and sentences for perpetrators. Such plan emphasized the need to face the truth about what happened as the basis for national unity, openly expressing a view opposite to the tradition of impunity of the political reconciliation in the history of Chile.

The Commission on Political Imprisonment and Torture was established on November 11, 2003 by Executive Decree 1040 of the Ministry of the Interior, to "determine (...) who were the victims of imprisonment and torture for political reasons or acts by agents or servants of the State from September 11, 1973 to March 10, 1990." In addition, the Commission was supposed to "propose reparation measures to the President of the Republic for victims to be identified and to produce a work report."[9]

The Commission received statements of 35,868 people. Information collected was subject to strict review process to determine the truth and relevance to the situations defined in the mandate. Most deponents provided documents supporting their testimonies. The Commission, in turn, collected information from several sources to subsequently determine the nature of the crime and of the applicable punishment. Databases were built using information from international organizations (IACHR, ILO, among others), the press of the day, remedies for the protection of constitutional rights, and lawsuits for torture. Additionally, the Army provided a list on political prisoners in the country in November 1973, including nearly 15,000 names and identifying the reason for and the place of detention. Each case was reviewed and assessed against available records. Commissioners formed their belief in view of the facts reported, especially of imprisonment for political reasons by the agents of the State.

9 For six months, the Commission received statements through personal interviews across Chile and in more than forty other countries, where people submitted their statements in writing.

The Commission submitted their report to the President of the Republic on November 10, 2004. A total of 28,459 people were identified as victims of political imprisonment and torture, including other 1204 people during the review process extended to May 31, 2005. Such examination revealed that 1,244 were under eighteen and 176 under thirteen years of age. Women amounted to 3,621, that is, 12.72%. 94% declared to be a victim of torture (National Commission on Political Imprisonment and Torture, 2005).

The report stated that the most common acts of torture included beating, public display of nudity and denigration, humiliation associated with physical traits, death threats (by firing squad or suffocation), electric shocks to sensitive body parts, rape of men and women and other forms of sexual abuse, interrupted sleep, exposure to hunger and cold temperature, manipulation of feelings and emotions, and forced witnessing of torture and violation of others, including relatives. The report indicated that thousands of tortured people exhibited physical and emotional effects, some of these effects intact when making statements.

Said document addressed violence and sexual abuse against women and some men who reported abuse. Most of the 3,399 women declared that they were victims of sexual abuse and molestation; 316 said that they were raped. 229 pregnant women were detained and tortured, and twenty suffered miscarriage due to torture. Eleven women gave birth in prison. The Commission determined that unborn babies upon detention were affected by torture inflicted on their mothers, given the biological bond between pregnant women and their fetuses, regarded as victims. Thirteen women reported to be pregnant by their abductors. Only six of these pregnancies were carried to full term.

1,132 imprisonment sites were identified, and torture was established as a systematic practice during the military dictatorship. These and other findings no longer justified torture as a result of individual excess demands. The Commission put on record the lack of legal protection and defense for the victims, resulting from actions of the Judiciary by resigning their powers in terms of supervision of military courts and, especially, in terms of sentences. The victims –prosecuted and sentenced in councils of war– lacked in most of the cases minimum conditions of due process. For the Commission, political imprisonment and torture were part of a State policy installed by military dictatorship authorities, using resources, personnel and equipment from public institutions since day one all over the country.

In compliance with their mandate, the Commission offered reparation recommendations considering petitions by organizations and people appearing to make their statements. Proposed reparation measures were targeted at the victims in the first place, designed to repair any damage caused.

President Ricardo Lagos announced the report to the country on November 28, 2004. In his speech, he said that the work of the Commission and the report both represented "an act of dignity for the victims and an effort to heal the wounds of our national soul." He pointed out that the report would reaffirm that "political imprisonment and torture were an absolutely unacceptable institutional practice of the State, completely unrelated to the historical tradition of Chile" (Lagos, 2005: 310).

The Armed Forces, the *Carabineros*, Investigations, and the Supreme Court ended up with some responsibility for the acts described in the report. Institutions admitted their responsibility for the first time not only for the past but also for the future. Days before the report was submitted, Juan Emilio Cheyre, Commander-in-chief of the Army, described the position of said institution:

> (...) the Chilean Army has been making, for several years now, decisions designed to retreat from a Cold War-centered concept. (...) A view leading to an understanding of politics from a perspective considering enemies those who were only adversaries and reducing the respect for people, their dignity, and rights (...) As a result of the abovementioned situation, the Chilean Army could not escape the final whirl of this view (...) becoming one of leading figures in our country. It firmly believed –in that context– that their actions were well intentioned and stood up for the general common good and most of its citizens (Cheyre, 2005: 505-506).

Some days before the report was announced, the Chief of the Investigation Police, Arturo Herrera, made a public statement, pointing out that the truth about human rights violations that had been disclosed accounted for "institutional practices and behavior of Police officers that resulted in serious crimes against basic rights derived from human dignity." In his capacity of Chief of Police, he appealed to "all fellow citizens for forgiveness" (Arturo Herrera, 2005: 509-510).

The Commander-in-chief of the Navy, Admiral Miguel Ángel Vergara, made a statement on behalf of his institution on November 30, indicating that the Navy "generously and humbly received the report of the National Commission on Political Imprisonment and Torture… We accept every statement as true (...) the reading is shocking and moving, and no one can ignore that human rights and dignity of many innocent victims were seriously violated in Chile." In this respect, such institution asserted, "We have never approved or even hinted at the application of torture. Human Rights violation has never been an Institutional policy," but they could not ignore "that some people in the chain of command running interrogation processes made, authorized or just allowed such deplorable acts it their detention sites." His statement made clear that using training ship **Esmeralda**, "a true symbol for all Chileans," as a detention center and "establishing a special unit on board to interrogate the detained civilians under duress" had both been unfortunate. "In this regard, we are willing to do everything in our power as a gesture of reparation and reconciliation." He pointed out that you had to understand what happened in the context of "polarization and hatred" before 1973 and concluded asserting, "This context is luminously explained in the Report prepared by the Commission on Truth and Reconciliation (Rettig Report), Chapter I: Political Framework, pages 33 to 53" (Vergara, 2005: 511-512). More than a decade has passed since this report was rejected at an institutional level in 1991. A somewhat different view of the facts seemed to partially change judgments made at another time. Yet, attempts were made to "explain", once again, that human rights violations were somehow justified, given the environment of "polarization and hatred" generated by the era of the Government of the Popular Unity (1970-1973).

The Air Force said that they appreciated the work of the Valech Commission as a contribution to the national reconciliation. They said that "the content of the report of the Commission compromised the Air Force," and that "the High Command of the Air Force faces such painful truth and reaffirmed their commitment so that these acts will never happen again" (Chilean Air Force, 2005: 514-516).

Chilean *Carabineros* admired the work of the Commission, adding that this institution "takes care of their history and believes that acts of political repression, imprisonment and torture described in the Report should have never happened since they were against the essence and mission of said institution" (Chilean *Carabineros*, 2005: 513).

On the other hand, the Supreme Court stated that "it was impossible to escape the seriousness of these acts and their painful effects" and was "in great dismay" for the situations described in the report, acting differently from the judges during the military dictatorship but complained about "general reproaches against the Judiciary released in said report (…) even though during such period the institutionalism in the country, the judges and High Courts could not fully perform their duties effectively." They further stated that in light of reports of illegal detention and disappearance of people, the courts lacked an effective support from the relevant authorities "and in most cases, information or accurate records were withheld (...) becoming evident (...) with the establishment of the 'Roundtable Discussion,' which accounted for what have really happened to numerous victims whose bodies were thrown out to the sea" (Supreme Court, 2005: 527-529).

The report of the Valech Commission allowed for the broadcasting of victim testimonies in the media and for public statements of numerous institutions, condemning the torture perpetrated by the State agents and admitting that it was about institutional practices rather than "individual excesses," as stated on numerous

occasions until then. Further human rights violations will not be justified by "any war," as it happened with these institutions reacting to the report of the Rettig Commission when the Commission was criticized for overlooking contextual conditions under which the reported acts happened.

In 2004, the Commander-in-chief of the Army, Juan Emilio Cheyre, said that explaining what happened –in reference to the context of the conflict –was not a sufficient argument. Conflicts are actually tests for the effectiveness of institutional principles and adherence to self-proclaimed morality centered on the dignity of the human being.

The truth about what happened to the victims and to society as a whole was investigated in depth in legal proceedings at national and international courts. Various trials were held in countries where crimes were committed, describing the organizational structure developed to perpetrate these crimes outside the country, e.g., the assassination of Carlos Prats and his wife Sofía Cuthbert in Buenos Aires in 1974; the assassination attempt on Bernardo Leighton and his wife Ana Fresno in Rome in 1975; and the assassination of Orlando Letelier and Ronnie Moffit in Washington in 1976. These cases were widely advertised outside the country and contributed over the years to telling the rest of the truth about the dictatorship in the country.

The search for truth is not over yet. Nevertheless, what has been commonly known as **the truth** is still dividing society. Generally, human rights violations have been condemned, but there is a sector of society insisting on excusing them as "some collective madness" that has been taking place in a "context of polarization and hatred" before 1973, as clearly expressed in the statement of the Navy in response to the Valech Report.

The truth known to date is mostly about admitting that these acts really happened and that State agents were actually involved in them, that is, in human rights violations. In addition, it has been determined that these acts had an impact on the victims, their families and their social and work environment. Following the statement of the Navy mentioned above, the truth must include the previous conflict and the actors responsible for the political crisis and the outcome, although the conflict continues to be approached from a subjective perspective (hatred) and an ideological perspective (polarization), detached from the social, economic, and political conditions of society at that time, and further away from reliance on the political and ideological framework of the Cold War, whose most critical expression was found in massive human rights violations against those regarded as enemies. The truth of the victims is not sufficient, especially when said truth, in practice, is limited and restricted. The **never again** as an ethical and political statement accounts for recognition and condemnation for what happened, yet requiring institutional and legal support to effectively and sustainably protect the rights of people. Although accounting for this context is outside the scope of this chapter, it is important to mention that amendments to the criminal proceedings as relevant institutional reforms have aimed at protecting the rights of the detained and defendants within the framework of due process, ending the inquisitorial criminal justice system.

Reparation Policies

Reparation policies were implemented in specific programs dealing with different human rights violations and designed to compensate for damages; rehabilitate and redress victims; and reinstate and restore their rights. Reparation measures were based on individual recognition and identification of those who were considered as victims in every situation through administrative programs established by law.

Each of the programs applied measures by law to different groups of people who suffered specific rights violations. In many cases, people suffered various cumulative situations. It was not uncommon for a person to be detained, tortured, dismissed from work, and exiled. In some cases, reparation measures contradicted each other, as in the case of the pension for those dismissed for political reasons and reparation pension

for former political prisoners, but there was no conflict with legal actions of any kind, including private prosecutions.

A certain number of private prosecutions were filed for the detained, disappeared, and executed for political reasons and tortured victims for amounts far exceeding the total amount of pensions granted. Requested compensations were rarely granted, given that the State Defense Council constantly argued that compensations for the detained and disappeared and executed for political reasons had been duly repaired through pensions as established by Law 19 123. In 2002, the Supreme Court ruled on three cases in which administrative reparations established by said law successfully compensated for damages caused (Lira and Loveman, 2005).

Once legal proceedings were exhausted in national courts, some cases were submitted to the Inter-American Commission on Human Rights, and some of them were referred to the Inter-American Court of Human Rights, claiming denial of justice. The cases of Carmelo Soria and Luis Alfredo Almonacid Arellano were examples of such interventions. Following case review, the Court set forth several measures. In the case of Almonacid, the Court admitted administrative reparations granted yet ordered –among other measures– to refer "the case file to provincial courts to identify and punish those responsible for the execution of Almonacid Arellano in criminal proceedings" (Inter-American Court of Human Rights, 2006: 59). The Court ordered to publish the judgment as part of the reparation. In the Carmelo Soria case, the Court ruled additional indemnity to administrative reparation pensions paid by the Government of Chile.

Agreements of the Inter-American Commission and judgments of the Inter-American Court have included options of individual reparations based on circumstances and suffering of the victims and their families. In every case, the Government claimed in their defense that the country had implemented administrative and symbolic reparation policies and that claimants successfully received such reparations. Nevertheless, behind the claims of the victims was generally a notion that what they suffered was beyond repair. Although the Court admitted and considered initiatives implemented by the Governments in addition to taking specific actions for each claimant family, it is clear that they will rarely be sufficient for the victims and their families in **subjective and moral terms**.

A brief and succinct description of each of the programs that contributed to implementing administrative reparation measures included specific actions and elaborated on the institutional system to implement said actions. Each program was established by law, defining their competence and power, except for the initial measures to identify farmers expelled from the land. Targeting people by the same situation encouraged these groups to organize locally and regionally into associations with representation in and pressure on the Governments to obtain recognition and reparation for themselves and their members.[10]

National Office of Return

In 1990, the Government submitted to Congress a bill to establish a program designed to support the return of the exiled. The bill was passed as Law 18 994, allowing for the establishment of the **National Office of Return**, subordinate to the Ministry of Justice.

Two laws were subsequently enacted, solving specific problems related to the reintegration of the exiled. Professional practice was granted to people who majored abroad by Law 19 074. Duty-free import to the country of household goods (up to US$ 5000), work equipment (up to US$ 10000), and a motor vehicle (up to US$ 10000) –working until 1994, was granted by Law 19 128.

10 In addition to the Association of Families of the Detained and Disappeared and the Association of Relatives of Executed Political Prisoners, local and regional associations of former political prisoners, of those dismissed for political reasons, and of PRAIS (Integrated Healthcare and Reparation Program) beneficiaries were established, among others.

This Office offered employment grants in cooperation with the World University Service; developed a work support program in cooperation with the International Organization for Migration (IOM), made arrangements and signed agreements with universities for the enrollment of students with incomplete studies in their countries of exile and provided healthcare through different programs. The National Office of Return closed in September 1994, assisting 19,251 returnees. These returnees and their families amounted to approximately 52,577 people back to the country, that is, over 25% of the exiled returned to the country between 1982 and 1994, following that previous estimates showed that 200,000 Chileans were exiled for political reasons (Lira and Loveman, 2005).

Freedom for Political Prisoners

Upon taking office, President Patricio Aylwin committed himself to granting freedom to nearly 400 political prisoners who were prosecuted or serving a sentence. Some of them were sentenced for offences defined by the Anti-terrorism Law, preventing prison benefits and pardon. Release from prison as promised by Aylwin took place throughout his Administration.

On March 20, 1990, various bills were submitted and later known as "*Cumplido* Laws" (after the last name of the Minister of Justice who led this initiative). Their objective was to amend court proceedings by abolishing typical crimes during the military dictatorship, especially those related to lawful behaviors regarded as offences by said legislation. In 1991, Law 19 029 abolishing capital punishment for some offences; Law 19 027 amending Law 18 314 on Terrorist Behavior; Law 19 047 modifying Law 12 971 on Interior Security of the State; the Code of Military Justice; Law 17 798 on Arms Control; the Criminal Code, and the Code of Criminal Procedure were all passed. Such laws allowed the defendants to withdraw before provincial courts what they declared before the military court (given the risk of out-of-court confessions obtained during torture). Most of the cases were referred to provincial courts.

A constitutional amendment was subsequently implemented to regulate Law 18 050 and Article 9 of the Constitution, authorizing the President of the Republic to grant one-time pardons to political prisoners accused of terrorist acts. Such constitutional amendment was negotiated between the National Renovation Party and the opposition party and was used by 119 people (Loveman and Lira, 2002). With these measures, all prisoners were released although their court proceedings were not completed. The Government, through the Ministry of Justice, implemented different initiatives to support labor insertion for those set free (obtaining employment, supporting capital up to US$ 1,500 for micro-entrepreneurship initiatives funded by international cooperation agencies).

The last prisoners to be released were those accused of the assassination attempt on Augusto Pinochet in September 1986. They left the country, as they commuted imprisonment for estrangement at the end of the Patricio Aylwin Administration in March 1994.

National Corporation for Reparation and Reconciliation

In April 1991, processing the General Law of Reparation was initiated in Congress to follow some recommendations by the Rettig Commission. On March 26, 1991, the President sent a message to Congress to initiate the processing of the law (National Corporation for Reparation and Reconciliation, 1996). The Association of Families of the Detained and Disappeared and the Association of Relatives of Executed Political Prisoners were both consulted. Enacted on February 8, 1992 as Law 19 123, this law created the **National Corporation for Reparation and Reconciliation** (CNRR) as a decentralized public service supervised by the President of the Republic through the Ministry of the Interior[11].

11 The text of the law is available at http://www.ddhh.gov.cl/ddhh_ley19123.html (accessed on 06/26/2011).

The first objective of the Corporation was to implement the recommendations made by the National Commission on Truth and Reconciliation (CNVR) and the reparation of moral damage caused to the victims, providing the social and legal assistance required by families to access reparations established by law. As mandated by the law, the second objective was to determine the whereabouts and circumstances of the disappearance or death of the detained and disappeared and of those whose bodies could not be traced despite legal recognition of their death. In addition, this Corporation had to analyze those cases in which the National Commission on Truth and Reconciliation was not convinced about the condition of the victim.

Finally, they were advised to file records collected by the National Commission on Truth and Reconciliation and those collected during their term. The law established that the term of the Corporation was for two years, but it was annually extended in Congress (Laws 19 274 in 1994; 19 358 in 1995, and 19 441 in 1996), expiring on December 31, 1996 (CNRR, 1996).

The work of the Corporation was organized along six lines of action, each running as a specific program:

a) The *Assessment Program* collected records to analyze 634 pending cases from the CNVR and to examine reports received on the dates specified and announced for this purpose. 2,188 cases were examined, and 899 were assessed (644 victims of human rights violations, and 255 victims of political violence). Due to the lack of records or cases inconsistent with the mandate of the Corporation, 1,289 cases were not assessed. The assessment process was developed between August 5, 1992 and February 28, 1994. Finally, 3,197 people were recognized as victims under the characterization mandate of the Rettig Commission and the Corporation: 2,095 cases were confirmed deaths, and 1,102 victims who disappeared after their detention. This number was corrected in 2009 by subtracting six disqualified cases. 3,189 qualified cases were then recognized by these authorities (CNRR, 1996: 18-46).

b) *Investigation Program about the Final Destination* of the victims was intended for the most part to determine the whereabouts of the detained and disappeared and of those whose bodies had not been found despite legal confirmation of death. The law granted the Corporation specific powers to collect information, ask for assistance from State organizations, and conduct investigations to determine the circumstances of detention followed by disappearance. 1,251 cases were investigated, and bodies of 144 people were found: 54 detained and disappeared victims and 90 deaths (CNRR, 1996).

The investigations conducted by this program led to finding bodies of 117 people: 79 detained and disappeared and 38 dead, and location and exhumation of remains in *Patio 29*, General Cemetery, following the proceedings before the 22nd Criminal Court in Santiago. In regards to exhumed bodies, although allegedly and properly identified and returned to their families, 10 years later it was revealed that at least 48 bodies were misidentified[12].

c) *Social and Legal Assistance Program*. The team of this program consisted of professionals involved with the victims, their families and their associations, who developed procedures for families to make use of reparations by lawn because said reparations were granted or managed by different services of the State Government.

12 On October 17, 2006, the Chamber of Deputies released the Report of the Commission on Human Rights, Nationality and Citizenship investigating misidentification of the bodies found in *Patio 29* of the General Cemetery in Santiago. The report summarized the actions of the Forensic Autopsy Agency and the Judiciary in this case, indicating that in July 2003, judicial investigation of *Patio 29* was assigned to the then Minister of the Court of Appeals, Sergio Muñoz, who arranged exhumation of most of the previously identified bodies and ordered to conduct mitochondrial DNA tests on the 96 skeletons identified and sent from *Patio 29* for suspicions and contradictions raised from these cases. On April 19, 2006, Minister Carlos Gajardo, replacing Minister Muñoz, revealed to the board of the families associations the findings of the expert report, account for 48 misidentified cases. http://ciperchile.cl/wp-content/uploads/Informe-C%C3%A1mara-Diputados-Patio-29.pdf (accessed on 09/03/2011)

d) *Education and Cultural Promotion Program* aimed at introducing a program on human rights formal education from kindergarten to college in order to consolidate a human rights culture in the country (CNRR, 1996: 58-74). Upon expiration of the Corporation, the team of the program joined the Ministry of Education.

e) *Program on Legal Investigation and Studies* developed studies on military justice, criminal proceedings, and criminal justice (CNRR, 1996).

f) *Program "Archive and Documentation Center of the Corporation"* aimed at laying the foundations for a historical, documentary and bibliographical background of public information collected, analyzed and processed by the Corporation (CNRR, 1996).

In June 1996, the Corporation Board submitted a plan to the Minister of the Interior to establish nationwide a constitutional institution for the promotion and protection of human rights with functional, financial and administrative independence to the maximum extent possible, intended to consolidate a culture of respect for human rights. This plan was turned down (CNRR, 1996).

The Corporation was legally terminated in December 1996. Some of their responsibilities were allocated to the Follow-up Program under Law 19 123 by virtue of decree 1005 of the Ministry of the Interior. As to reparation measures, Law 19 123 set forth life pensions for immediate family members (wives and mothers; children below 24 years, except for handicapped children, who were given life pension)[13]. Children of the detained, disappeared, and executed for political reasons were entitled to a full scholarship from school through college to vocational training, including tuition and monthly fees until they turned 35. In addition, they were exempted from mandatory military service and provided with professional healthcare by the Program of Reparations and Comprehensive Healthcare (PRAIS).

In 2004, Law 19 980 was enacted, amending Reparation Law in 1992, Law 19 123, increasing or offering other benefits. Article 2 changed life pension for wives or mothers from $104,000 pesos (US$ 175) to $ 156,000 pesos (US$ 260), that is, an increase of 50%. Pension amount for cohabitants was equivalent to a pension amount for wives and mothers.

Article 5 set forth a reparation bond for children of the detained, disappeared, and executed for political reasons –to be expressly requested by them– for $10,000,000 (then equivalent to US$ 16,600) as the total amount, subtracting amounts granted as pension until they turned 24. Most children were not granted reparation whatsoever because they were above 24 when Law 19 123 was enacted.

Article 6 authorized the President of the Republic to grant a maximum of 200 discretionary pensions, especially naming as beneficiaries economically dependent cohabitants with no children of the victim as well as economically dependent siblings or third-degree relatives of the victim. The amount for discretionary pensions was equivalent to 40% of the amount for reparation pensions, as set forth in Article 2 thereof, that is, $ 156,000 pesos.

Program of Reparations and Comprehensive Healthcare for Victims of Human Rights Violations

The National Commission on Truth and Reconciliation recommended reparation measures and included specific considerations for health of victims. They referred to the consequences of human rights violations on the victims, stressing the need for professional healthcare services for victims and their families (CNVR,

13 Pensions were calculated on the amount of $250,000 pesos, then equivalent to US$ 500 (1992). Wives were granted 40% of said amount and each child 15% until 24 years of age. Cohabitants received a pension equivalent to 15%.

1991: 830-832). Furthermore, this Commission stated that health authorities were to be responsible for running a special care program with funds and the technical coordination of the Ministry of Health, and the technical cooperation of non-governmental health organizations, especially those that provided healthcare to this population.

At the beginning of 1991, the Ministry of Health established the Program of Reparations and Comprehensive Healthcare for victims of human rights violations (PRAIS) by ministerial decision, setting up seven teams between 1991 and 1992 in regional hospitals and in Santiago. Said decision set forth that the objective of this program was to provide free healthcare and mental health to all the victims of human rights violations and their families. In the first years (1992-1995) the program setup and implementation was funded by the United States Agency for International Development (USAID) for $205,823,739 or equivalent to US$ 600,000 (Lira and Loveman, 2005).

PRAIS teams consisted of physicians, psychiatrists, psychologists, social workers, and service assistants, usually from eight to ten people. Once the first stage was completed, this program was then part of the Ministry of Health, assigned to the Department of Mental Health and charged to sector funds. Procedures to regulate the incorporation of such population into public healthcare system were established by the **Standards for Qualifying as PRAIS Beneficiaries** (1993), defining criteria to grant PRAIS certificates and identify the benefit holder[14]. Former political prisoners, families of the detained, disappeared, and executed for political reasons, those dismissed for political reasons, people in exile who had returned to the country, tortured victims, and underserved groups were all qualified as beneficiaries under technical standards. The above situations included immediate family members such as parents, children, siblings, and grandchildren[15]. These standards provided that people qualified for the healthcare system on the grounds of the repressive situation they suffered rather than some previous medical diagnosis since the benefit stemmed from the recognition of the right to reparation for human rights violations. Once the status of beneficiary was demonstrated, people were entitled to free healthcare for life by the public healthcare system, regardless of any health condition over the course of their lives. The Government informed that 4,197 family groups –with members who were victims of torture– were assisted by PRAIS until 1995 (United Nations Covenant on Civil and Political Rights, Fourth Periodic Report of Chile, 1998).

The population registered in PRAIS until August 2003 included 110,453 beneficiaries across the country (Ricardo Lagos Administration, 2003). Law 19 980 of October 29, 2004 regulated PRAIS running as a health reparation program. Article 7 thereof established that planned assistance must be extended to grandchildren of those qualified as beneficiaries. This Law provided that every beneficiary was entitled to free access to any public health service, including healthcare and dental care, tests and consultations by specialists, hospitalization, diagnosis and therapeutic procedures, and urgent care. These rights are in force. The number of beneficiaries in 2007 was 189,831, but in April 2011, the number of PRAIS beneficiaries reached 600,030 users[16].

The institutional and professional capacity of the health system has managed to meet healthcare needs of most PRAIS beneficiaries, despite limitations of the public healthcare system assisting 80% of Chileans with variable waiting times to access services (mostly medical specialties) –same waiting times for any other patient in the public health system: from 15 days to some months. PRAIS programs have tripled their coverage for the last three years, reaching the entire country. Yet, PRAIS teams themselves did not guarantee

14 The technical standard was developed in 2000. Years later, exemption resolution 437 of June 30, 2006 passed a new general technical standard. See juridico1.minsal.cl/RESOLUCION_437_06.doc (accessed on 08/24/2011).

15 Internal exile was about forcing people to live in some location, being subject to regular monitoring by police authorities rather than imprisonment.

16 http://consejonacionalusuariosprais.blogspot.com/2011/06/consejo-nacional-de-usuarios-prais-y.htm (accessed on 08/23/2011).

compliance with their reparation objectives. A local and national assessment of the level of compliance with political and technical objectives was required, assessing especially how healthcare needs of patients varied and identifying the epidemiological profile of such population[17].

A key aspect was the relationship between the demand for mental healthcare –service specifically provided by PRAIS teams– and the demand for general health. To date, epidemiological records and analyses by these teams are classified, and there is no data on health requirements for patients.

Recognition Program for Those Dismissed for Political Reasons

Those dismissed from their positions for political reasons during the military dictatorship asked for recognition in the **Recognition Program for Those Dismissed for Political Reasons**, subordinate to the Ministry of the Interior. This program was established upon publication of Law 19 234 of August 5, 1993. Said law provided for pension benefits by favor to people dismissed for political reasons and established credit for time of dismissal[18]. Opposition deputies and senators attempted to limit the recognition of pension benefits (time credits and non-contributory pensions) and even the very notion of "dismissed for political reasons."[19]

In 1998, the Government of Eduardo Frei (1994-2000), second president elected by the Concert of Parties, enacted Law 19 582 to expand the categories of renown civilians dismissed for political reasons, including members of the Armed Forces. The Government of President Ricardo Lagos enacted Law 19 881 of June 27, 2003, granting a new term to submit applications for recognition as persons dismissed for political reasons.

The established benefits were based on pension savings of the beneficiary to determine time credits and make up for the years required to obtain a pension. In most cases, pension savings were insufficient. Therefore, the President of the Republic granted beneficiaries life discretionary pensions. In 2010, there were 157,624 beneficiaries with 12,000 files still pending. The Government of President Sebastián Piñera decided to supervise the recognition process for those dismissed for political reasons. This process was under way upon publication of this paper.[20]

Reparation Program for Farmers Expelled from the Land

This program was established to meet the demands of organizations representing farmers and obtain reparation for those who were expelled from land reform settlements and expelled from land allocation by application of Executive Decree 208 of 1973, amending Land Reform.[21] Said executive decree excluded farmers who lead and supported this process from land allocation. These organizations had requested as reparation the establishment of a Lands Fund for allocation to those excluded. Filed in 1982 and supported by the Catholic Church, said demand was eventually replaced by the allocation of discretionary pensions by the President of the Republic. An estimated number of 5,000 farmers were living in this situation.

17 See PRAIS teams in force until July 2010 at http://www.ddhh.gov.cl/prais.html (accessed on 08/25//2011).

18 *Leyes sobre beneficios para exonerados y exiliados políticos*. Santiago, Ediciones Publiley, Carlos González. Editora Jurídica Manuel Montt. Ed. 1998.

19 Discussion in *Diputados*, session 26, November 26, 1992, on the different political views in terms of reparations for this sector is particularly revealing.

20 Ninoska Leiva. "Gobierno denuncia mil 500 casos de exonerados políticos falsos e interpone querella" in *Diario Electrónico. Radio Universidad de Chile*. August 13, 2010. http://radio.uchile.cl/noticias/78493/ (accessed on 08/23/2011).

21 Executive Decree 208 (December 19, 1973) regarded as non-expropriable, for the purposes of land reform, properties equal or less than 40 hectares for basic irrigation –excluding some countrymen from allocation.

In his speech on the Farmer's Day in 1996, President Eduardo Frei reported on the reparation initiative for farmers excluded from the land reform, referred to as "reparation of injustice" to the world of farmers, "especially to leaders that, by virtue of Executive Decrees 208 and 1600, were denied access to the right to land." He asserted that said reparation was brought to the program by the first Government of the Concert of Parties for Democracy but was not implemented: "For approximately twenty years, hundreds of farm leaders and their families have failed to initiate a family development process based on the land where they had put their efforts and certainly their hopes into a future of greater welfare for them and for their children" (Frei, 1996). He finally stated that these measures contributed to "meeting the justice imperative of Chilean farmers. Once again, we support Government determination to make all efforts to consolidate the reunion process among Chileans in the country."

The program began in 1995, and pensions were initially granted in 1996. Those above 65 upon qualification were paid the highest pensions for a monthly amount equivalent to the minimum pension in the Chilean system. By 2000, 2,999 farmers had been admitted through the program in the Agricultural Development Institute (INDAP). By 2007, 3,574 farmers –and other 328 later that year– had been qualified, obtaining pensions equivalent to the monthly minimum wage.[22]

In March 2009, 5,000 farmers were qualified as those dismissed for political reasons, ending the reparation process for farmers with 400 recognition certificates issued in Ñuble.[23]

Restitution of Confiscated Property

The Government of Eduardo Frei passed a law to **restitute** (or otherwise compensate) lawful owners their property confiscated during the military dictatorship. Law 19 568 provided "the restitution or compensation for property confiscated and transferred to the State" by Executive Decrees 12, 77 and 133 in 1973, 1697 in 1977, and 2346 in 1978 (Loveman and Lira, 2001). Said law set forth processes and conditions for such restitution, considering confiscated property only (Sanhueza, Ana María, and Vanessa Bravo, 2002).

A cadastral survey on confiscated property by the Ministry of Public Property identified 258 properties (houses, apartments, buildings, and plots). Owners included political parties (114), individuals (62), legal entities (60), and trade and labor unions (22).[24] In addition, this ministry survey included personal property and broadcasting concessions. Each and every one was incorporated into the equity of the Department of the Treasury and allocated to public services, Armed Force units and non-profit organizations, especially those run by the wives of Commanders-in-chief. 119 properties were sold, and their owners had to be compensated for such loss. 224 restitution or compensation applications were submitted in connection with 114 properties, most of which were headquarters of political parties. Claims were filed by seven political community groups who declared themselves lawful heirs to those groups whose properties were confiscated from. Properties were returned to the Government and the opposition parties, labor and trade unions, and different people and families.

Passing this law took eight years. The opposition sustained due process of executive decrees for the Military Junta and therefore for confiscations. In spite of this, they brought into a political agreement and

22 "Discretionary pensions were granted to farmers in the province of Talca. Said measure helped a total of 80 farmers in the Maule Region, affected by Executive Decree 208 of 1973". August 6, 2007. See http://www.elamaule.cl/admin/render/noticia/11450 (accessed on 08/07/2011).

23 "*Minagri* (Ministry of Agriculture) arranged historical reparation for farmers dismissed for political reasons by the Land Reform. Said measure was designed to certify nearly 5000 farmers as dismissed for political reasons so that they had access to benefits by the Social Security Administration Institute." 18/03/2009 Chilean Ministry of Agriculture. See http://www.infoagro.com/noticias/2009/3/5214_minagri_concreta_reparacion_historica_campesinos_e.asp (accessed on 08/12/2011).

24 Based on public information, the State completed the restitution or compensation process for more than 500 properties in 2002.

avoided formal questioning of due process. Yet, this law was enacted to restitute or compensate those affected by these measures under these executive decrees and those deemed to have "inherited" those rights. Such inheritance was a delicate matter in many cases, especially in connection with those political parties that had been dissolved and many labor and trade unions that had lost their legal status. In 2002, the process to claim 516 confiscated properties was completed, restituting or compensating their owners in order to repair any property damage caused by said confiscation as set forth by Law 19 568.

Continuation Program by Law 19 123: Searching for the Detained and Disappeared

Upon legal termination of the National Corporation for Reparation and Reconciliation in 1996, more than 1,000 people were regarded as disappeared. No more than 150 victims of those found in different places in the country had been identified. The Forensic Autopsy Agency maintained remains of nearly 100 unidentified bodies.[25]

The Board of the Association of Families of the Detained and Disappeared (AFDD) met with authorities of the Ministry of the Interior and the Corporation before termination to insist that the Government continued to make efforts to find out the whereabouts of the detained and disappeared. The Government of Eduardo Frei believed matters pertaining to victims of human rights violations to be finalized by the previous administration. Nevertheless, former president of the Corporation for Reparation, some human rights attorneys, and families of victims let the Government know that Law 19 123 required the State to continue searching for the whereabouts and circumstances of the disappearance or death of the detained and disappeared.

Supreme Decree 1005 in 1997 provided that the Ministry of the Interior, under the authority of the Deputy Secretary of said Ministry, maintained this program for pending actions, as set forth in Law 19 123:

a) Search for victims and determination of the circumstances of their disappearance and death.
b) Symbolic and social integration initiatives on the basis of truth, justice, forgiveness, and reconciliation.
c) Centralization and custody of information from the National Commission on Truth and Reconciliation and the National Corporation for Reparation and Reconciliation.

Emphasis was placed on out-of-court investigations to determine the circumstances for the disappearance of people and try to find their bodies. This work required reopening of court cases through the families. Attorneys acted in most cases as claimants, collecting data from the report by the National Commission on Truth and Reconciliation and records from out-of-court investigations. For illegal internment, the program sponsored the Association of Families of the Detained and Disappeared. For lawsuits, attorneys could take part in the proceedings on their own behalf rather than on behalf of the program, which could only work with legal status of the Ministry del Interior.[26]

Most actions included determining the fate and whereabouts of the detained and disappeared, supporting families through different initiatives before courts of justice and developing initiatives for symbolic reparation and memory. This program ran through 2001. Their main results were related to opening court proceedings with program attorneys acting as claimants and supporting families whenever the bodies of the detained and disappeared were identified, financing burial expenses just as they did when the Corporation for Reparation and Reconciliation was in place.

25 Such delay was not successfully accounted for. There was also criticism for the lack of technical knowledge by the identification unit. This referred mainly to outdated professional procedures, resulting in misidentifications reported in 2002 and then in 2006.

26 The program did not favor civil actions against the State, and neither could program lawyers secretly favor said actions.

The Program did not publish work reports for that period. It could be said that this program continued with the tasks assigned by Law 19 123 in a limited fashion and lacked visibility.

Human Rights Program of the Ministry of the Interior

This program resulted from rearranging the previous program to meet the needs detected in the information provided by the Armed Forces by virtue of the agreement at the Roundtable Discussion on Human rights. The Government stipulated that the Human Rights Program should be incorporated into court proceedings and in-court and out-of-court investigations and followed up on lawsuits pertaining to the detained, disappeared and executed for political reasons between September 11, 1973 and March 11, 1990. The program provided logistics and documentary support to investigations conducted by special judges on regiments, underground cemeteries, and other places, as mentioned in the report by the Armed Forces. In addition, the Government stipulated that the program encouraged and disseminated cultural and symbolic actions to promote historical truth and human rights protection in society, and planned the establishment of memorial sites across the country. In 2011, the Human Rights Program was subordinate to the Ministry of the Interior and Public Security[27].

Enacted in December 2009, Law 20 405 created the Institute of Human Rights and authorized said program "to pursue legal actions deemed necessary for the performance of their duties, including pressing criminal charges for kidnapping or enforced disappearance and murder or summary execution. The legal role of the Human Rights Program is played along with the legal order to provide social assistance to the families of the victims and foster a culture of respect for human rights, promoting, spreading and supporting cultural and educational actions." In other words, the main actions of the program were centered on court proceedings and symbolic and memory reparation measures.

Reparation for Victims of Political Imprisonment and Torture Recognized as Such in the Report of the Valech Commission[28]

On December 24, 2004, Law 19 992 was published, establishing a reparation pension and granting benefits in favor of those qualified by the Commission as prisoners and victims of torture for political reasons. Victims recognized by this Commission receive an average annual pension –in Chilean pesos– of $1,353,798 (under 70 years old), $1,480,284 (70 to 75 years old), and $1,549,422 (75 years old or above) (Lira, 2009).

The Pensions Law encountered pension conflict with those dismissed for political reasons, establishing an "optional bond" –a bond for three million pesos then equivalent to US $5,000, granted one time only to victims directly affected by human rights violations who received pensions on the grounds of dismissal for political reasons under Laws 19 234, 19 582, and 19 881. Therefore, they were forced to choose one pension over the other. In addition, this law established a "bond for minors" for four million Chilean pesos equivalent to US $6,600 for those who were born in prison or were detained with their parents and were included in the list of people recognized as torture victims by the report of the National Commission on Political Imprisonment and Torture. In 2009, Law 20 405 regarded those as direct victims and established the right to receive an annual reparation pension. Said law established a widowhood pension for the surviving spouse of the victim of torture or political imprisonment for 60% of the original pension. Victims of political imprisonment and torture could apply for housing benefits as set forth by the Ministry of Housing and Land Development.

27 For the Human Rights Program by the Ministry of the Interior and Public Security, see http://www.ddhh.gov.cl/quienes_somos.html (accessed on 08/22/2011).

28 The report of the National Commission on Political Imprisonment and Torture was known as the Valech Report after the name of its president, Sergio Valech (died in 2010).

It was expressly stated that sons, grandsons, brothers, and cousins (fourth-degree collateral relatives) of people recognized as victims be exempted from the Military Service. To implement this, they had to send a petition to the General Directorate for National Mobilization and enclose a birth certificate showing identity of their parents. Additionally, it was stipulated that criminal records be removed in case of sentences issued by military courts for offences established by certain laws.

Victim Identification: Human Rights Program by the Forensic Autopsy Agency

The forensic identification of the bodies of the detained and disappeared is the condition to satisfy the right of people to find and bury their missing relatives. Identifying the bodies of the detained and disappeared suffered many inconveniences, mostly due to the limitations of the Forensic Autopsy Agency in terms of scientific competence to perform these tasks.

The legal complaints for misidentification of 48 cases where the detained and disappeared returned to their families from 1990 onwards led to the foundation of the Forensic Autopsy Agency by the Human Rights Program in 2007. The objective was to bring to courts scientific evidence of crimes of torture, enforced disappearance, and execution for political reasons –all related to court proceedings in connection with human rights violations between 1973 and 1990.

To do this, the Blood Test Bank was established and on August 31, 2007, the Blood Test Center for Families of the Detained, Disappeared, and Executed for Political Reasons with Bodies Pending for Return was also established. The objective was to take and collect blood tests by choice, across Chile and abroad, from families of the victims to create a DNA test bank in order to identify the bodies that have not been identified yet. Based on information from the Forensic Autopsy Agency, 103 people have been identified. This number overrides previous figures, including misidentified cases.[29] Most bodies pending identification have been sent to different forensic laboratories at foreign universities since 2007. Thanks to their expertise, they were able to identify some of the detained and disappeared that were later returned to their families and buried as these families waited to do it for decades.[30]

Institutions failed to attend body identification for years, ignoring that families were waiting to find and bury their relatives in order to go through a mourning process because this was not possible before confirming their death and burying their bodies. For this reason, the identification process should be considered a basic right of families, incorporated into the reparation measures to be pursued by the State in proper and efficient scientific and technological conditions.

Symbolic Reparation and Relief

That President Patricio Aylwin, upon announcing the report of the National Commission on Truth and Reconciliation in 1991, rejected human rights violations in the past and appealed to the victims for forgiveness on behalf of the Government of Chile is a symbolic act especially relevant to the country.

In addition, while implementing administrative reparations, some actions were initiated to vindicate the reputation of the victims and keep the memories of their lives and violation of their rights in symbolic events to remind society of what happened. A case in point, the Memorial Foundation of the Detained, Disappeared, and Executed for Political Reasons was created upon the request of the Association of Families of the

29 See the Forensic Identification Special Unit at: http://www.sml.cl/portal/index.php?option=com_content&task=view&id=245&Itemid=78 (accessed on 08/19/2011).

30 During the identity correction process at the beginning of August 2011, Minister Alejandro Solís identified new victims buried in *Patio 29*, General Cemetery, amounting to sixteen families who are once again uncertain about the whereabouts of their relatives. See http://ciperchile.cl/2011/08/03/patio-29-la-doble-tragedia-de-las-familias-obligadas-a-devolver-sus-muertos/.

Detained and Disappeared and the Association of Relatives of Executed Political Prisoners by Supreme Decree 294 of March 13, 1991, issued by the Ministry of Justice. Supported by the Government, this Foundation was in charge of building a mausoleum in the General Cemetery, in the city of Santiago, to bury the bodies of victims found. An engraved marble plaque with the names of the detained, disappeared, and executed for political reasons was erected on the plaza next to the mausoleums. Some bodies of the detained and disappeared are buried there (United Nations Covenant on Civil and Political Rights, Fourth Periodic Report of Chile, 1998).

As part of the symbolic reparation initiatives, the Ministry of Education declared, in 1996, the bodies blown up with explosives in lime kilns in Lonquén as a National Monument. Remains of fifteen bodies of the detained and disappeared were found there in 1978. Furthermore, the Minister of Public Property handed over a state property to the President of the Association of Families of the Detained and Disappeared, in the city of Santiago, headquarters of the Association *Casa de la Memoria Sola Sierra*, in honor of the deceased President of the association. Pursuing similar goals, the Ministry of Housing confiscated the lands where Villa Grimaldi originally stood to build a park and turn it into a remembrance site in memory of the victims of the National Intelligence Directorate or DINA (Lira, 2009). Villa Grimaldi has become one of the memorial monuments in the country. *Londres 38* in Santiago was another torture and disappearance camp turned into a memorial. Initiatives to build monuments in different places in the country, mausoleums in local cemeteries and to erect commemorative plaques in public places, trade and labor unions, and colleges have been widely reproduced (Lira and Loveman, 2005).

Until 2003, the Human Rights Program by the Ministry of the Interior had conducted a survey on memorials, monoliths, parks, sculptures, halls, and other public places –a total of 134. In 2009, this number doubled. In 2003, on the 12th anniversary of the submission of the Rettig Report to *La Moneda* Palace, associations of families entered into agreements to build memorials in different parts of the country. Jorge Correa, Deputy Secretary of the Interior, pointed out that "...the truth has also led to paths of reparation. Symbolic reparation plays a key role in finding the truth since it actually helps remembering the unalienable value of dignity of those who died or disappeared between September 1973 and March 1990. In other words, they were and will continue to be part of the history of Chile. At least, that way, they will never be forgotten" (Correa Sutil, 2003).

The Human Rights Program by the Ministry of the Interior supported these initiatives, including symbolic reparation works, to remember each and every single victim (Human Rights Program by the Ministry of the Interior, 2011). Memorials and remembrance sites built until 2007 were photographed and reproduced. Today, this initiative has contributed to keeping the memory of their construction alive, for many of them have been destroyed or removed (FLACSO), 2007).

The Ministry of Public Property developed a line of work between 2006 and 2010 in terms of state property and memory and promoted academic thinking on the relationship between memory and democracy to frame the political objective of these initiatives. Along these lines, the program "A Survey to Remember: a Different View of the Land" was established as part "of the actions intended by the State" to reinforce a human rights culture and consolidate democracy. The Cadastre Department of the Ministry of Public Property identified government properties where human rights violations were committed, based on information provided by the National Commission on Political Imprisonment and Torture, in order to reclaim these "sites of memory." Public institutions running their administration between 1973 and 1990, their use at that time, and the current administrative situation of each property were all identified. It was determined that 515 sites (of the 1,132 detention centers) were government property, identified in a detailed map of each region. This survey was available at the website of the Ministry, developed as an interactive space. Authorities of the Ministry of the Government of Sebastián Piñera removed the program from the website in 2010.

The Ministry of Public Property also developed a memorial initiative in Santiago: "The path of memory." It started in the building that used to hold the Vicariate of Solidarity at the Palace of the Archbishop in Santiago and included a tour of the property connected with human rights violations and defense of victims. This path is no longer used.

The most important initiative is the Museum of Memory and Human Rights, opened on January 11, 2010 in Santiago. The official opening statement pointed out, "the Museum of Memory and Human Rights is open to everyone in the country to make sure these events will never happen again." Based on published project information, their heritage came from a set of documentary collections declared by UNESCO as part of the Memory of the World Program, specifically those organizations gathered at the House of Memory: Social Aid Foundation of Christian Churches (FASIC), Corporation for the Promotion and Defense of the Rights of People (CODEPU), Foundation for the Protection of Children Damaged by the State of Emergency (PIDEE), and *Teleanalisis*. In addition, it included collections –in different formats and back-ups– from other human rights organizations in Chile and abroad, associations of victims and families, and personal collections. Such collections contained documentary files, oral and written testimony, legal documents, letters, stories, literature, written press, audio, video and radio media, feature films, historical data, and documentary photography (Museum of Memory and Human Rights, 2011).

Initiatives have also been implemented in other fields, combining symbolic memory and reparation measures and particularly contributing to political and emotional development processes related to political repression. These symbolic measures included two visits to former political prisoners on Dawson Island south of the Strait of Magellan. This was a reparation measure for prisoners in the concentration camp located southernmost Chile, on Dawson Island. On November 22, 2003, a visit to this island was arranged together with associations of former political prisoners in Punta Arenas, the Ministry of Defense, and the Navy. The Navy was in charge of the transfer, and memorial ceremonies were held to pay tribute to former political prisoners there. A second visit took place on November 2, 2006, transporting nearly 270 people on naval ships to the island and making a tour of what used to be detention camps and holding an official ceremony attended by former prisoners, naval authorities, and State authorities, including Minister of Defense Vivianne Blanlot. Naval authorities recognized what happened there and the violence against many of those who assisted the ceremony and expressed their intent that these situations would never happen again in Chile (Lira, 2009).

Along these lines, in 2007, the ship *Grumete Pérez* headed for Quiriquina Island in Talcahuano. Former political prisoners in Tomé promoted this initiative. People involved included 130 former political prisoners and naval personnel, Minister of Defense José Goñi, and Commander-in-chief of the Navy Rodolfo Codina, who pointed out that the most important contribution of that trip was to take Chileans a step closer to reconciliation.

Presidential Advisory Commission for the Qualification of the Detained, Disappeared, Executed for Political Reasons and Victims of Political Imprisonment and Torture

Victim identification was not complete under the Valech Commission, in the opinion of the association of victims. From 2005 onwards, organizations of former political prisoners filed different claims against the State to identify as victims minors detained with their mothers or those unborn, and widows of political prisoners. Moreover, they requested a new timeframe for the identification of victims of political imprisonment and torture. During the Government of President Michelle Bachelet, an agreement was reached with the opposition to reopen the Valech Commission and identify victims of political imprisonment and torture, subsequently adding any pending cases of the detained, disappeared, executed for political reasons, and victims of political violence. Reopening a term for such purposes was incorporated as a provisional article

of Law 20 405, expressly excluding any detained in protests and requiring new records of those cases for reconsideration submitted to previous commissions.

On February 13, 2010, the "Advisory Commission for the Qualification of the Detained, Disappeared, Executed for Political Reasons and Victims of Political Imprisonment and Torture between September 11, 1973 and March 10, 1990" was established as a presidential advisory body. Said commission completed its work on August 17, 2011.

They received qualification applications for 621 claims of the detained, disappeared, executed for political reasons, and victims of political violence, and 31,831 qualification applications from people who declared that they were victims of political imprisonment and torture. Filing all requests and previous cases was dated from September 11, 1973 and March 10, 1990. The number of applications submitted was beyond the expectations of lawmakers when defining the terms for the commission, which should have been extended by law for six months starting in February 2011. This Commission formed their belief in 30 cases of the former and 9,795 cases of the latter. The qualification required –by law– the involvement of State agents in reported acts and a clear political motivation. The abuse of power for other than political reasons and cases of death with uncertainty about actions by State agents were not subject to qualified.

The President of the Republic received the report and decided that the lists would be posted on the website of the Commission on August 25. Such decision was not announced, and the President decided not to inform the country about the results of the commission. Said commission was legally dissolved on the seventeenth at midnight.

No official announcement of the report led to advertising based on statements of the associations of victims, criticizing non-qualification of nearly 22,000 applications for political imprisonment and torture.[31] Non-qualification was mostly based on the lack of background information to confirm cases reported despite the databases developed by the commission and a case-by-case investigation, as described in the report. For many cases in 1973, especially in rural areas, there was hardly any possibility to record testimonies because *Carabineros* did not submit the documents related to reported detentions, among others. For the most part, the Commission managed to make up for the lack of documents with their own investigation studies. Nevertheless, in most of these cases, records provided by deponents and information gathered by the Commission were not sufficient to call for imprisonment (Advisory Commission for the Qualification of the Detained, Disappeared, Executed for Political Reasons and Victims of Political Imprisonment and Torture, 2011).

In addition, a large number of applications were beyond mandate, including those who were detained in protests and those who were not detained but had their house violently broken into, among others – being effectively and subjectively regarded as victims, yet deprived of the law (Advisory Commission for the Qualification of the Detained, Disappeared, Executed for Political Reasons and Victims of Political Imprisonment and Torture, 2011). 223 qualified cases were submitted: 186 to the Valech Commission and 38 qualified cases to the last two commissions to identity the detained, disappeared, and executed for political reasons.

31 Qualification was also criticized for two cases of people detained by the National Intelligence Directorate (DINA) in underground detention centers, who became informers and perpetrators. One of them is serving a life sentence in Punta Peuco Prison for his involvement in the decapitation of three communist professionals. The Government criticized qualification for one of the murderers of UDI (Independent Democrat Union) Senator Jaime Guzmán, living in Argentina as political refugee, who was detained and tortured by DINA at detention camp *Londres 38*. The law failed to consider the possibility of exclusion from confirmed cases of imprisonment and torture, judging their subsequent political or criminal acts and giving the Commission no other option than to qualify them as victims for known circumstances.

To sum up, in the case of the detained, disappeared, and executed for political reasons and for the victims of political violence, this was the third qualification and reconsideration authority, amounting to 3,219 cases. For political imprisonment and torture, this was the second time for identification, except for the court of appeals in 2005, amounting to 38,254 victims. In general, features and profiles of the victims as described in the Valech Commission remained the same, except for the percentage of women, increasing from 12% to 16%. The number of people identified as victims by the State is 41,513.[32]

Final Comments on Reparation Policies

The institutional framework to implement reparation measures has been diverse and, as mentioned above, these measures have been evolving over time and expanding their applicability. Nevertheless, not a single measure has been evaluated against their objectives and the perception of their beneficiaries. For some measures, sustainability has been clear and effective. For others, there has been no sustainability or appropriate institutional channels as in the case of the Presidential Advisory Commission for the Qualification of Victims (2010-2011).

Funds allocated by the State to reparation pensions for families of the detained, disappeared, and executed for political reasons, between 2000 and 2008, were then 113,000,000 dollars. Between 2005 and 2008, more than 103,000,000 dollars in bonds were granted to children of these victims to compensate them for not receiving a reparation whatsoever or receiving a partial reparation. Pensions for victims of political imprisonment and torture during that period amounted to 195,000,000 dollars. Between 1996 and 2008, the State invested more than 1,205,000,000 dollars on pensions for those dismissed for political reasons[33]. This reporting method placed more emphasis on the description of what happened and costs incurred than on the impact of these measures on the lives of the victims and their families.

Justice

The victims and their families have claimed for truth and justice since 1973 and expressed their moral and political resistance to impunity, favoring legal proceedings to leave record before the courts of the facts and circumstances of detention, torture, and kidnapping of people. The most critical part was to find out the whereabouts of those who were not coming back. Legal proceedings initiated by filing remedies for the protection of constitutional rights, although results were far from successful, for no more than three remedies were accepted during the life of the Cooperation Committee for Peace, and others in the cases brought to the Vicariate of Solidarity of more than eight thousand remedies filed since 1973.

Insisting on truth and justice was an essential part of the political resistance to the military dictatorship –a cohesive element and complex aspiration. By admitting and taking responsibility of the State for finding the truth about human rights violations and for developing reparation policies, the Concert of Parties stirred resistance in sectors sympathizing with the Pinochet Administration. These sectors were threatened by their supporters and questioned about their principles and core concepts such as honor and truth, but above all, they believed that they were wrongly accused because they called themselves "heroes of the Nation" for preventing this country from "being conquered by international communism."

In spite of this, repealing remedies for the protection of constitutional rights and rejecting other requests was no obstacle so that human rights attorneys maintained the claim for justice to the victims and challenged the Amnesty Executive Decree after 1978 every time it was applied in courts. Said executive decree provided applicability to "perpetrators of, partners in, and accessories to murders..." This wording offered the possibility of investigation, encouraging President Patricio Aylwin, at the beginning of his Administration,

32 Expenses claimed by the Commission were included in the National Budget in 2010 and 2011.
33 See the Report of Chile in 2009 to the United Nations Human Rights Council.

to address the Judiciary and recommend the investigation of what happened before granting amnesty. Such recommendation was quite controversial, facing great pressure mainly from the Army to grant amnesty "without any reason."

Between 1994 and 1995, kidnappers and murderers of three communist professionals were tried and convicted. This crime was committed in March 1985 by members of DICOMCAR (Communications Directorate of *Carabineros* Police). In addition, the trial held in Chile for the assassination of Orlando Letelier and his secretary Ronnie Moffit in Washington 1976 by DINA (National Intelligence Directorate) agents came to an end. DINA Commanders, former general Manuel Contreras and Espinoza –masterminds of the crime– were sentenced to seven and six years in prison, respectively. They did serve time in prison.

Some sectors bet that victim claims would fade away over time. Others encouraged or waited for a political agreement to terminate legal proceedings or to apply Amnesty Executive Decree 2191 in 1978. Consecutive failed attempts to "close" the chapter on human rights discouraged new initiatives of the Government since 1996, keeping human rights matters from the immediate interest of the public opinion and raising expectations that such initiatives would eventually fade away.

Despite frustrating court results for decades, victim attorneys used every legal remedy available to throw light on the cases and convict the perpetrators.

The Arrest of Pinochet in 1998

In January 1998, upon resignation as Commander-in-chief to become senator for life, complaints were filed against Augusto Pinochet for different cases of human rights violations that took place since 1973. On March 3, 1998, on behalf of the Association of Families of the Detained and Disappeared, attorneys Nelson Caucoto and Héctor Salazar filed a complaint against Pinochet for 1,198 detained and disappeared people. Juan Guzmán was appointed as jurisdictional judge to be charge of the investigation of cases. The complaints against Pinochet amounted to 299 in 2002 for cases of the detained, disappeared, executed for political reasons and victims of torture.

Pinochet was arrested in London in 1998 at the request of Judge Baltazar Garzón for an open process in Valencia in 1996, accusing him and others of the disappearance and death of Spanish citizens in Argentina and Chile. The possibility to bring Pinochet to trial resumed conflicts of human rights violations and limitations of previous actions. All in all, many still insisted that social peace would depend on legal oblivion extended to 1990.[34] Lawsuits reminded the courts of the sordid history of political repression by secret organizations created by the dictatorship to face "subversion." The judges had to connect the tangle of lies by State agents with those meant to hide thousands of crimes and offences in order to determine what happened and either grant amnesty or punish the perpetrators. Growing tension was heightened by the fact that these crimes were not to be granted amnesty, challenging impunity traditionally excused as a requirement for social peace. In addition, since 2001, Chile started to implement the reform of criminal justice –drastic amendments to proceedings of criminal justice. Nevertheless, proceedings on human rights violations were not incorporated into the new system, because they thought, among other things, that these would call for short-term resolution.

34 For the arrest of Augusto Pinochet in London on October 16, 1998, claims for dementia and cognitive impairment were sought so that he was immune from prosecution. He remained 503 days extraditable from Spain. He returned to Chile in March 2000 for humanitarian reasons, making this decision based on a diagnosis of subcortical dementia and following a political agreement in that sense between the Governments of Chile and Great Britain. For a couple of years, he remained immune from prosecution by virtue of such diagnosis. Different sorts of evidence revoked such immunity for subsequent cases. See lawsuits at http://www.memoriayjusticia.cl/espanol/sp_home.html (accessed on 07/27/2011).

Following the Roundtable Discussion on Human Rights (1999-2000), the decision of the Supreme Court to appoint nine exclusive judges and 51 special judges, at the request of the Executive Branch, to investigate 114 cases of the detained and disappeared was based on the assumption that said dedication would allow for case resolution in two or three years. At the same time, various sectors applied political pressure to set a timeframe of two years and close cases, but conditions were not favorable to set "political" deadlines. Consequently, these judges continued with the investigation to the end. Ministries and judges appointed for this task started working in the places mentioned in the report by the Air Force. One of these places was Cuesta Barriga, 55 kilometers from Santiago on Route 68 (on the way to Valparaíso). The judge could confirm that the bodies were removed. However, in Chena, inside the premises in San Bernardo Infantry School, south of Santiago, some bodies were found and sent to the Forensic Autopsy Agency for identification. In Arteaga Fort, a military construction in Colina, north of Santiago, they found bodies blown up with explosives of those detained at *La Moneda*, and some witnesses confirmed that these bodies were removed in 1978. In other places, legal investigations confirmed that bodies were removed, proving that these measures were attributable to an institutional decision to make bodies disappear.

The legal investigations showed how "perfect" crimes became a nightmare for those involved and for the Armed Forces. Disappearing bodies turned the murders into aggravated kidnapping, preventing amnesty on the grounds of interpretation still sustained by some judges, despite the fact that they were crimes against humanity. New special and exclusive judges were appointed for human rights cases. The judges in charge of investigating these cases since 2001 had sustained the criminal act of permanent kidnapping for the detained and disappeared, and aggravated murders for executions. Upon investigating the information released by the Armed Forces in January 2001, some of the judges found out that bodies were removed from the places where they were originally buried. For the first time, former members of the Army who were involved in these raids provided a detailed account of how the bodies of some of the detained were thrown out to the sea and how, years later, bodies of other detained victims were removed and thrown out to the sea too[35]. Such revelation led to civil commotion.

At the opening of the legal year in 2004, President of the Supreme Court Marcos Libedinsky stressed how relevant human rights matters were to this Court, appointing exclusive judges since June 2001 and, later, Court of Appeals judges since October 2002 to work exclusively on human rights cases. He pointed out that it was impossible to investigate crimes by the time they occurred because they involved security institutions, their directors and members. In-depth investigation was possible only after the return of democracy. In 2004, 311 agents linked to 515 victims were prosecuted. 146 agents of the Army were prosecuted, including 21 generals and six brigadiers (Archive and Documentation Foundation of the Vicariate of Solidarity, 2004). Hernán Álvarez, former president of the Supreme Court, upon resignation of the Judiciary in 2005, justified how this body proceeded during the dictatorship, saying, "We were in a permanent state of exception, and remedies for the protection of constitutional rights did not prosper." He added, "We could probably have done more because people appeared before the court to report arrest or disappearance, (...) but there was not much that could be done without government approval back then." He asserted that, in his opinion, he would rather had the judiciary apologize for their actions during the military dictatorship, but "when this matter was discussed, no consensus was reached."[36]

Proceedings for the cases of the detained were no longer granted amnesty. The case of Miguel Ángel Sandoval in 2004 was the first case in which DINA agents were found guilty for disappearance. While the

35 Interview with a non-commissioner officer (r) of the Army, who "gives account of what happened to the 21 detained victims at *La Moneda* on September 11, 1973. He saw when they were executed, with their eyes uncovered, by a firing squad and when in 1978, their bodies were exhumed and piled on a helicopter to an unknown destination." See www.emol.com, *El Mercurio,* "Ejecuciones y remociones: Impactante confesión de testigo militar clave" June 29, 2003. See http://www.fasic.org/bol/bol03/bol0306.htm.

36 *Hernán Álvarez: 'Justicia debió pedir perdón'*, 08/09/2005. See http://rie.cl/lanacioncl/?a=38033.

Inter-American Court of Human Rights described enforced disappearance as permanent offence, Chilean judges defined the offence as "aggravated kidnapping," preventing amnesty because they were not able to determine when "the criminal offence" ended, considering that said offence continued to be committed (Galdámez, 2011). This situation changed the opinion of the judges and prevented the application of the Amnesty Executive Decree, despite being in force for the time being.

Nevertheless, from this date onwards, although State agents involved in human rights violations were prosecuted between 2007 and 2010, the Supreme Court issued 72 rulings pertaining to human rights violations, 48 of which were crimes of murder and kidnapping that, although imprescriptible on the basis of crimes against humanity, were eventually prescribed. By applying partial prescription, perpetrators received such short sentences that they were released, resulting in a breach of the international obligation to punish crimes against humanity and protect fundamental rights, compromising the State of Chile as a whole (Fernández, 2010).

On January 26, 2011, district attorney Beatriz Pedrals filed complaints for 726 people with no legal proceedings of their death or disappearance in Chile. Pedrals filed these complaints as a representative of the Office of Public Prosecutor in the exercise of the powers conferred to file lawsuits. This initiative of the Judiciary appeared to respond to the will of complying with the moral and legal obligation to offer equal treatment and conditions to all victims. Judge Mario Carroza was appointed to take new lawsuits for this crime, reported from mid-June 2010 onwards.

According to data from the Human Rights Program of the Ministry of the Interior and Public Security, 1,418 criminal cases were active in Chile in late February 2011 for disappearance, torture, illegal internment, or illicit association between 1973 and 1990. Most of the cases (1,393) were filed for disappeared or murdered victims. Only 24 lawsuits were filed by survivors. The Human Rights Program of the Ministry of the Interior was involved in 22.9% of the cases (325). In March 2011, the Association of Relatives of Executed Political Prisoners filed new complaints for execution for political reasons, in addition to those filed by district attorney Pedrals. These cases had been under investigation in the first instance by judge Mario Carroza, who was handling 803 complaints filed in 2011. By April 6, 2011, this judge was handling 746 lawsuits at different processing stages (Human Rights Watch, 2011).

The Human Rights Program of the Ministry of the Interior announces on a monthly basis rulings on human rights cases and relevant statistics.[37] Based on information from this program, between 2000 and late February 2011, 777 former security service agents were prosecuted or convicted for human rights violations (including agents with acquittal currently on appeal). 230 of the 777 agents have received a final judgment and different sentences: 162 of the 230 are not confined. By late March 2011, 68 convicts were in prison (Human Rights Watch, 2011).

Final Thoughts

"Brevity" longed for by Patricio Aylwin took longer than expected. Deadlines were extended due to the weight of the events, despite the intention and political will of the authorities and the purpose of some stakeholders, who believed that it was possible to **close** the chapter in the traditional way: legal oblivion to bury the past. The first Concert of Parties failed to achieve national reconciliation and close this chapter, and the following governments had similar chances. From the very beginning, they announced that the framework of discussion for any human rights proposal lied in truth and justice clearly in line with the values and principles established by the Government of Patricio Aylwin. Every initiative would eventually evolve into steps or stages of a process involving several generations.

37 Human Rights Program of the Ministry of the Interior. See http://www.ddhh.gov.cl/fallosJudiciales.html.

Nonetheless, human rights and reparation policies in Chile were defined as requirements for the political reconciliation process and framed in contradictory efforts to solve the problems of the past and at the same time prevent the conflicts of the present arising from such efforts. In a way, at some point, there were some attempts to leave problems unresolved as if time could tone down these conflicts. But these conflicts were actually heightened by delaying the implementation of pledged policies and overlooking some situations such as political imprisonment and torture, as if this would make their effects fade away. What happened in 2003 was another instance of moral and political resistance in the country to impunity of crimes perpetrated during the dictatorship. It was also clear that reparation policies implemented by the Concert of Parties were making progress despite their inconsistencies, seeking completion of initial proposals in the program in 1989, admitting that the past was unforgettable and that a large number of victims felt that what they went through was irreparable.

The profile of the victims recognized by the State of Chile confirmed that political repression was targeted against political leaders of the ousted Government, leaders and members of left-wing political parties, social organizations, trade and labor unions nationwide, in every region, province and location, linked to the Popular Unity. Rare cases dealt with random situations. Most of the detained and disappeared accounted for a specific selection giving priority to repression against leftist political parties. That is how most of the members of the Revolutionary Left Movement (MIR) disappeared in 1974 and most of the members of the Communist Party, in 1976. The figures, however, revealed that dead and missing women amounted to nearly 6 % in comparison with the total of victims, reflecting a lack of female leadership in political parties and social, trade and labor unions at the time.

The number of missing women is not what matters most. Stories of these women fill the pages of political memory. These pages were written by disappeared victims, by women searching for them –a story that keeps you turning pages through the channels of justice available to the Association, human rights attorneys, and families of the detained. Part of their stories can be found in different sites of memory and recreated with ceremonies, remembering them not only as victims of degrading repression but as the main characters of a story interrupted by death, who were trying to end the dictatorship, fighting for their rights, and aspiring of a more fair and human society.

Globalization and vast literature open new possibilities to think about the rights and social relationships of men and women, but those for women are still in dispute, not just in Chile. Exclusion and discrimination in everyday life, in the workplace and in politics are yet to be overcome.

Finally, it is important to mention that facts were acknowledged through the reconstruction of the truth of victims, from the time the first remedies for the protection of constitutional rights were filed in 1973. This truth was certainly not definite for the Commission on Truth and the Commission for the Qualification of Victims. Trials for torture and for the detained and disappeared reconstructed specific truths and their circumstances and, in some cases, revealed the final destination of some of the disappeared. Consequently, court proceedings became a deeply valued recognition and reparation solution for the victims and their families.

Fact acknowledgement and victim reparation were possible thanks to some consensus and cooperation among different political sectors. This has allowed for recognition of this truth as the legal grounds for reparation laws in Congress and accountability for the actions of some key institutions such as the Armed Forces. The ideological justification for crimes against humanity such as torture and enforced disappearance has been condemned from an ethical and political point of view by most political sectors, also rejecting the labeling of political opponents as enemies.

In addition, it has been recognized that impunity and legal oblivion are no longer acceptable as legal grounds for social peace and political reconciliation as it was in the past. Challenging the granting of amnesty to crimes against humanity has allowed for sentences on offenders since 2004 for cases of the detained and disappeared. Perpetrators have been convicted, although criminal penalties have been inconsistent, causing some legal insecurity in those involved, especially in the victims. Judges hold different opinions, especially when applying, in many cases, partial prescription, contradicting imprescriptibility required from cases of crimes against humanity.

Reinstating dignity to the victims rests not only on court proceedings but also on symbolic actions of the State, especially on those that contribute to ensuring future political and cultural conditions so that human rights will **never again** be violated or sacrificed in the name of the country. A critical look at the recent past and constant clarity on the values to develop a climate of democratic coexistence contributes to a culture of peace. Truth turned into memory, victim recognition and reparation, and clarification of human rights violations –legally construed as a matter of the past living in the present, where pending– is still a developing process. The question for political reconciliation is open like never before in the history of the country. The big change was, incidentally, to admit that although the past is still living in the present –inevitably involving separation and distance, it is no longer possible to **turn the page** and "ensure" social peace. This process requires full completion, seeking cultural and legislative safeguards so that these actions and their consequences will never happen again.

Bibliographical References

APSI. (1991). Informe Rettig. Un trago amargo, in *Revista APSI*. (379, March 11-24). Chile.

Agrupación de Familiares de Detenidos Desaparecidos de Chile. (1997). *Un Camino de Imágenes: 20 años de historia de la Agrupación de Familiares de Detenidos Desaparecidos de Chile*. Santiago.

Aylwin, P. (1992). *La transición chilena. Discursos escogidos, 1990-1992*. Santiago: Editorial Andrés Bello.

Cámara de Diputados. Comisión de Derechos Humanos, Nacionalidad y Ciudadanía. (2006). *Informe de la Comisión de Derechos Humanos, Nacionalidad y Ciudadanía acerca de las eventuales irregularidades cometidas en el Servicio Médico Legal, las que condujeron a la errónea identificación de los cuerpos humanos hallados en el 'patio 29' del cementerio general de la ciudad de Santiago*. Accessed on 09/03/2011. [Online]. Available at http://ciperchile.cl/wp-content/uploads/Informe-C%C3%A1mara-Diputados-Patio-29.pdf.

Carabineros de Chile. (2005). Comunicado Oficial de Carabineros de Chile. November 30, 2004. In *Estudios Públicos*. (97). Accessed on 07/27/2011. [Online]. Available at http://www.cepchile.cl/dms/lang_1/doc_3480.html.

Cheyre, J. (2004). El Ejército de Chile. El fin de una visión. In *Estudios Públicos*. (97). Accessed on 02/07/2011. [Online]. Available at http://www.cepchile.cl/dms/lang_1/doc_3480.html.

Comisión Nacional de Verdad y Reconciliación. (1991). *Informe de la Comisión Nacional de Verdad y Reconciliación*. Accessed on 06/26/2011). [Online]. Available at http://www.ddhh.gov.cl/ddhh_rettig.html.

Comisión Nacional de Prisión Política y Tortura. (2005). *Informe Comisión Nacional de Prisión Política y Tortura. Santiago*. Accessed on 07/26/2011. [Online]. Available at www1.umn.edu/humanrts/links/commission-political_imprisonment.html.

Comisión de Verdad Histórica y Nuevo Trato con los Pueblos Indígenas. (2008). *Informe de la Comisión de Verdad Histórica y Nuevo Trato con los pueblos indígenas*. Accessed on 06/26/2011. [Online]. Available at http://www.memoriachilena.cl/upload/mi973056855-6.pdf.

Concertación de Partidos por la Democracia. (1989). Programa de la Concertación de Partidos por la Democracia. Bases programáticas político institucionales. In *Diario La Época*. July 25, 1989. Edición n.º 856.

Corporación Nacional de Reparación y Reconciliación. (1996). *Informe a su Excelencia el Presidente de la República sobre las actividades desarrolladas al 15 de mayo de 1996*. Santiago.

Corporación Nacional de Reparación y Reconciliación. (1996). *Informe sobre calificación de víctimas de violaciones de derechos humanos y de violencia política*. Accessed on 07/24//2011. [Online]. Available at http://www.ddhh.gov.cl/informes_cnrr.html.
Also available at http://www.archivochile.com/Derechos_humanos/Com_Rettig/hhddrettig0017.pdf.

Correa, J. (2003). *Discurso del Subsecretario del Ministerio del Interior, Jorge Correa Sutil con ocasión del 12 aniversario del Informe de la Comisión de Verdad y Reconciliación*. (Internal document). Santiago: Programa de Derechos Humanos. Ministerio del Interior.

Inter-American Court of Human Rights. (2006). *Case of Almonacid Arellano et al v. Chile. Sentence of September 26, 2006*. Accessed on 08/15/2011. [Online]. Available at http://www.corteidh.or.cr/docs/casos/articulos/seriec_154_esp.pdf.

Corte Suprema de Chile. (1991). Respuesta de la Corte Suprema al Informe de la Comisión Nacional de Verdad y Reconciliación. In *Estudios Públicos*. (42). Accessed on 06/20//2011. [Online]. Available at www.cepchile.cl/dms/lang_1/doc_1181.html.

Fernández, K. (2010). *La Prescripción gradual, aplicada a los delitos de lesa Humanidad*. (Master's Thesis in Law, School of Law). Santiago: Universidad de Chile.

Frei, E. (1996). *Discurso de S. E. el Presidente de la República, Don Eduardo Frei Ruiz-Tagle, en el Día del Campesino*. Accessed on 08/09/2011. [Online]. Available at www.fundacionfrei.cl/efr/pdf/272.pdf.

Fuerza Aérea de Chile. (2005). Declaración Pública de la Fuerza Aérea de Chile. December 1, 2004. In *Estudios Públicos*. (97). Accessed on 07/27/2011. [Online]. Available at http://www.cepchile.cl/dms/lang_1/doc_3480.html.

Fuerzas Armadas y de Orden. (1991). Respuestas de las Fuerzas Armadas y de Orden al Informe de la Comisión Nacional de Verdad y Reconciliación. In *Estudios Públicos*. (41). Accessed on 06/20/2011. [Online]. Available at www.cepchile.cl/dms/lang_1/doc_1184.html.

FLACSO. (2007). *Memoriales en Chile*. Santiago: Ocho Libros Editores.

Fundación Documentación y Archivo. Vicaría de la Solidaridad. (1987). *Derechos Humanos en Chile. 1986*. Working Paper. (Vol. 196). Santiago.

Fundación Documentación y Archivo de la Vicaría de la Solidaridad. (2004). *Informe de Derechos Humanos del Primer Semestre de 2004*. Accessed on 08/27/2011. [Online]. Available at http://www.vicariadelasolidaridad.cl/index1.html.

Galdámez, L. (2011). *El deber de prevenir, juzgar y sancionar violaciones de Derechos Humanos: el caso chileno*. Bilbao: Universidad de Deusto. Instituto de Derechos Humanos Pedro Arrupe.

Gobierno de Chile. (2003). Propuesta de Derechos Humanos del Gobierno del Presidente Ricardo Lagos. No hay Mañana sin ayer. In *Estudios Públicos*. (92). Accessed on 06/20/2011. [Online]. Available at http://www.cepchile.cl/dms/archivo_3237_1583/rev92_gobiernodechile.pdf and at: www.cepchile.cl/dms/archivo_3237_1583/rev92_gobiernodechile.pdf.

Herrera, A. (2005). Declaración pública del director general de la Policía de Investigaciones de Chile, Arturo Herrera. November 13, 2004. In *Estudios Públicos*. (97). Accessed on 07/27/2011. [Online]. Available at http://www.cepchile.cl/dms/lang_1/doc_3480.html.

Lagos, R. (2005). Reflexiones y Propuestas de S.E. el Presidente de la República, Ricardo Lagos Escobar: Para Nunca Más Vivirlo, Nunca Más Negarlo. Speech by the President of the Republic to submit on November 28, 2004 the Report of the National Commission on Political Imprisonment and Torture. In *Estudios Públicos*. (97). Also in: CEME. Archivo Chile Para nunca más vivirlo, nunca más negarlo. Accessed on 11/08/2011. [Online]. Available at www.archivochile.com/Derechos_humanos/com_valech/gob_otros_estado/hhddgobotros0020.pdf.

Lira, E. (2009). Legado de las violaciones de Derechos Humanos: Políticas de Verdad, Justicia, Reparación y Memoria en Chile, 1990–2007. In C., Arnson. (*et al*). *Nueva Izquierda en América Latina. Derechos Humanos, Participación Política y Sociedad Civil*. Washington: Woodrow Wilson Center. Latin American Program. Accessed on http://www.wilsoncenter.org/sites/default/files/Nueva%20Izquierda%20Enero%2020091.pdf.

Lira, E. (2009). Las resistencias de la memoria. Olvidos jurídicos y Memorias sociales. In R., Vinyes. (Ed.). *El Estado y la Memoria. Como los gobiernos y los ciudadanos superan los traumas de la historia*. Barcelona. RBA. pp. 67-115.

Lira, E.; Loveman, B. (2005). *Políticas de Reparación. Chile: 1990-2004*. Santiago: LOM. DIBAM. Universidad Alberto Hurtado.

Lira, E. and Rojas, H. (Eds.). (2009). *Libertad Sindical y Derechos Humanos*. Santiago: LOM. DIBAM. OIT. Universidad Alberto Hurtado.

Llona, E.; Salinas, H. (s.f). *La Cueca de la Ausencia*. Accessed on 09/03/2011. [Online]. Available at http://www.cancioneros.com/nc/334/0/cueca-de-la-ausencia-eugenio-llona-horacio-salinas Also available at http://www.youtube.com/watch?v=fgsgeDEpwOU.

Loveman, B.; Lira, E. (2000). *Las ardientes cenizas del olvido. La vía chilena de reconciliación política 1932-1994*. Santiago: LOM. DIBAM.

Loveman, B.; Lira, E. (2002). *Arquitectura Política y Seguridad Interior del Estado, Chile 1811-1990*. Serie Fuentes para la Historia de la República. (Vol. XIX). Santiago: Dirección de Bibliotecas, Archivos y Museos. Centro de Investigaciones Diego Barros Arana y Universidad Alberto Hurtado.

Loveman, B.; Lira, E. (2002). *El espejismo de la reconciliación política. Chile 1990-2002*. Santiago: LOM. DIBAM. Universidad Alberto Hurtado.

Loveman, B.; Lira, E. (2003). *Acusación constitucional contra el último ministerio del Presidente de la República don José Manuel Balmaceda. 1891-1893*. Serie Fuentes para la Historia de la República. (Vol. XXII). Santiago: DIBAM. Centro de Investigaciones Diego Barros Arana y Universidad Alberto Hurtado.

Mesa de Diálogo sobre Derechos Humanos. (2000). Acuerdo de la Mesa de Diálogo sobre Derechos Humanos. In *Estudios Públicos*: (79). Accessed on 07/31/2011. [Online]. Available at http://www.cepchile.cl/dms/lang_1/doc_1121.html.

Museo de la Memoria y los Derechos Humanos. (2011). Accessed on 08/26/2011. [Online]. Available at http://www.museodelamemoria.cl/ES/Museo/Fundamentos.aspx.

United Nations. (1984). *Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes*. Accessed on 06/28/2011. [Online]. Available at http://www2.ohchr.org/spanish/law/cat.htm

United Nations. Human Rights Council. (2009). *Informe Nacional presentado de conformidad con el Párrafo 15 A) Anexo a la Resolución 5/1 del Consejo de Derechos Humanos Chile*. Accessed on 08/29/2011. [Online]. Available at http://www.minrel.gov.cl/prontus_minrel/site/artic/20090305/asocfile/20090305093923/a_hrc_wg6_5_chl_1_e.pdf.

United Nations. (1998). *Cuarto Informe Periódico de Chile sobre la aplicación del Pacto Internacional de Derechos Civiles y Políticos. Chile [October 6, 1997]. CCPR/C/95/Add.11. Chile 02/12/98*. Accessed

on 07/27/2011. [Online]. Available at http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CCPR.C.95.Add.11.Sp?Opendocument.

Observatorio Derechos Humanos. Universidad Diego Portales. (2011, February and March). Boletín N.º 12. Accessed on 08/26/2011. [Online]. Available at http: //www.icso.cl/wp-content/uploads/2011/03/boletin_12.pdf.

Orellana, P.; Quay Hutchinson, E. (1991). *El movimiento de derechos humanos en Chile 1973-1990*. Santiago: Centro de Estudios Políticos Latinoamericanos Simón Bolívar.

Pereira, P.; Correa, R. (2000). Encontrar un camino para hallar a los detenidos-desaparecidos. In *Estudios Públicos*. (79). Accessed on 07/27/2011. [Online]. Available at http://www.cepchile.cl/dms/lang_2/doc_1122.html.

Programa de Derechos Humanos del Ministerio del Interior (2011). *Memoriales por región*. Accesed on: 07/26/2011. [Online]. Available at http://www.ddhh.gov.cl/memoriales_regiones.html.

Rojas de Astudillo, R. (*et al*). (1987). *Memorias contra el Olvido*. Santiago: Amerinda.

Salgado, J.; Carvallo, M. (2000). No es que haya ganado uno y otro, ganamos todos... (Interview with General Juan Carlos Salgado). In *Estudios Públicos*. N.º 79. Accessed on 07/27/2011. [Online]. Available at http://www.cepchile.cl/dms/lang_1/doc_1123.html.

Sanhueza, A.; y Bravo, V. (2002). Indemnizaciones por violaciones de DDHH: el otro costo de la dictadura. In *Siete+7*. 27. December 2002. pp. 40-43.

Senado de la República de Chile. (1999). *18th Session, January 19. Intervención del senador Enrique Silva Cimma, senador. Presidente de la Comisión*. Accesed on: 08/01/2011. [Online]. Available at www.senado.cl/appsenado/index.php?mo=sesionessala&ac=getDocumento&teseid=18931&legiid=201.

Senado de la República de Chile. (2000). *9th Session, July 11, 2000. Intervención de José Antonio Viera Gallo. Presidente de la Comisión*. Accessed on 08/01/2011. [Online]. Available at www.senado.cl/appsenado/index.php?mo=sesionessala&ac=getDocumento&teseid=18642&legiid=261.

Vargas, J. (1990). El caso chileno ante el Sistema Interamericano de Protección de los Derechos Humanos. In *Revista chilena de Derechos Humanos*. (Número Especial). Programa de Derechos Humanos. Universidad Academia de Humanismo Cristiano. (12). pp. 11-29.

Vargas, M. (1990). El caso chileno en la Asamblea General y la Comisión de Derechos Humanos de la Organización de Naciones Unidas. In *Revista chilena de Derechos Humanos*. (Número Especial). Programa de Derechos Humanos. Universidad Academia de Humanismo Cristiano. (12).

Vergara, M. (2005). Declaración Pública de la Armada de Chile. November 30, 2004. In *Estudios Públicos* (97). Accessed on 07/27/2011. [Online]. Available at http://www.cepchile.cl/dms/lang_1/doc_3480.html.

Vicaría de la Solidaridad. (1976). *Presentación de la Vicaría de la Solidaridad con motivo de la inauguración del año judicial*. February 8, 1976. Accessed on 06/20/2011. [Online]. Available at www.archivovicaria.cl/archivos/VS4cc4b655d36de_24102010_742pm.pdf.

Vicaría de la Solidaridad. (1978). *La huelga de hambre por los detenidos desaparecidos. Alcances Morales*. Santiago: Arzobispado de Santiago.

Vicaría de la Solidaridad. (1979). *Dónde están*. Santiago: Arzobispado de Santiago.