

# Chile

**In 2006, EAAF formed part of a panel of experts established by Chile's Presidential Advisory Commission on Human Rights to make recommendations on possible problems related to the identification of remains of disappeared persons exhumed from Plot 29 of Santiago's General Cemetery in 1991 and 1997.**

## BACKGROUND

After being elected president of Chile in 1970, Salvador Allende implemented far-reaching nationalization and Agrarian Reform programs.<sup>1</sup> Right wing groups opposed these measures through media campaigns, strikes, and artificial shortages, covertly supported by the U.S. Central Intelligence Agency. Publicly, the United States expressed opposition to the socialist policies of Allende, and carried through an economic blockade on Chile.<sup>2</sup>

Santiago, Chile. A mourner at Plot 29 of the General Cemetery, where "N.N." remains are buried.  
*Photo courtesy of Punto Final.*





On September 11, 1973, a military junta, headed by General Augusto Pinochet, took power after staging a military coup. Pinochet kept Chile in a state of emergency until 1980, claiming continued activity on the part of leftist guerrilla elements.<sup>3</sup> In 1980 a constitution was enacted to consolidate Pinochet's authoritarian rule. During the military dictatorship, the programs of industrial nationalization and Agrarian Reform were overturned, and the economy was put on a free market system. In the late 1980s internal and domestic pressure mounted on Pinochet as other military dictatorships in South America returned to democracy. In 1987, Pinochet allowed for political activity and parties to resume for the first time since 1973, in order to prepare for a vote promised in the 1980 constitution.<sup>4</sup> A "Yes" or "No" referendum on Pinochet's rule was won by the opposition, organized into the *Concertación de Partidos por el NO* (Coalition of Parties for NO), in 1988. In 1990, Patricio Aylwin became president following elections held in 1989. However, Pinochet remained Commander in Chief of the armed forces until March 1998, and a life senator until 2000, which granted him immunity from prosecution.

### Accountability

Gross human rights violations were widespread during the Pinochet regime, particularly immediately after the coup, continuing until the late 1980s.<sup>5</sup> The National Truth and Reconciliation Commission, appointed by President Aylwin in 1990, concluded that over 2,000 individuals were killed by security forces, of which 957 were

disappeared by the state between 1973 and 1990.<sup>6</sup> In 2004, The National Commission on Political Imprisonment and Torture, appointed by President Lagos in 2004 to collect more information on human rights abuses during Pinochet's regime, recognized over 27,000 victims of illegal detention and torture by state agents during the same time period.<sup>7</sup> The Aylwin government publicly accepted state responsibility for the disappearances and established in 1992 the National Corporation for Reparations and Reconciliation to compensate the victims' families.<sup>8</sup> However, neither the commission nor the corporation had prosecutorial authority.<sup>9</sup>

Meanwhile, judicial proceedings initiated in 1996 against Pinochet and other South American high-ranking military officers involved in Operation Condor, a covert agreement between military regimes in the region to exchange intelligence and political prisoners, were progressing in Spain. In 1998, General Pinochet was arrested in London following a warrant issued by the Spanish Judge Baltasar Garzón, who charged Pinochet with genocide, terrorism, and torture, justifying his intervention on the principles of universal jurisdiction for grave human rights violations and/or double citizenship of the victims.<sup>10</sup> The Chilean government strongly opposed Garzón's request on the basis of national jurisdiction, arguing that crimes committed in Chile should be tried in Chile, as well as on the basis of Pinochet's immunity as life senator.<sup>11</sup> Following a long dispute within the judiciary and executive branches of Spain, the U.K., and Chile, and a

strong mobilization of human rights organizations worldwide, Britain's House of Lords ordered Pinochet's extradition to Spain in October 1999.<sup>12</sup> However, the British Secretary of State decided against it, allowing his return to Chile on health grounds. Nevertheless, the Pinochet affair strengthened the application of principles of international law, such as universal jurisdiction and international human rights treaties, and led to a worldwide renewed hope for the prosecution of human rights violators who had, until then, enjoyed immunity in their own countries. Pinochet's immunity within Chile was stripped by the Supreme Court in 2000. Court cases brought against him were repeatedly put off by claims that the defendant was unfit to stand trial. In 2005, these grounds were finally overturned and Pinochet was indicted.<sup>13</sup> Pinochet died in December 2006 while under house arrest. At the time, he was being prosecuted in Chile on

charges related to the torture, kidnapping, and homicide of political opponents in 1973, the disappearance of 119 individuals in 1975, tax evasion, and passport falsification.<sup>14</sup>

As of October 2006, 109 military and police officials had been convicted of human rights violations during the military rule and 35 former generals had either been convicted or faced trials, including the former head of the Directorate of National Intelligence (DINA), ex-General Manuel Contreras Sepúlveda.<sup>15</sup>

### **Investigation of Identifications from *Patio 29***

Upon the return of democracy in 1990, judicial investigations into the fate of state terrorism victims led to the discovery of remains suspected to correspond to disappeared persons. Between 1990 and 2004, Chilean forensic experts identified 220 of these remains with traditional forensic methods.

Based on documentation by the *Vicaría de la Solidaridad*, the human rights office of the Catholic Archbishop in Santiago, which contains one of the most extensive archive of human rights abuses in Chile, a judge ordered the exhumation of over a hundred graves located in *Patio 29* (Plot 29) of the General cemetery, in Santiago. In 1991, Chilean forensic anthropologists excavated 107 graves and exhumed 125 remains that could belong to persons disappeared in 1973. They recovered the remains of another individual in 1997.

Between 1993 and 2002, Chile's Medical-Legal Service (SML) identified 96 of the 126 remains exhumed from Plot 29, which were based on anthropological and odontological analysis comparing ante-mortem and post-mortem data. In 2002, the SML established the Special Identification Unit to work on the identification of the remains of the disappeared. However, since 1994, some scientists and new developments in the historical investigation of cases began to raise doubts about the accuracy of the identifications. As a result, in 2005, Judge Carlos Gajardo ordered the re-exhumation of previously identified remains, which had been already returned to the families, for genetic testing. Mitochondrial DNA analyses conducted by the SML produced contradictory identification results on 48 of the 93 cases reexamined. The results were made public by the SML at a press conference in April 2006.<sup>16</sup> Shortly thereafter, the SML was put under governmental administration in order to address problems with identifications.<sup>17</sup> The former director, Dr. Óscar Vargas, resigned under pressure from the government and families of



Santiago, Chile. *Patio 29* was declared a National Monument in 2006 because of its importance as a place of memory those disappeared during Pinochet's regime. Photo courtesy of Mabel Vargas.

victims association.<sup>18</sup> The families of victims associations urged countertesting on the remains and the restructuring of the SML.<sup>19</sup> María Luisa Sepúlveda, former Vice President of the National Commission on Political Imprisonment and Torture, was appointed to administer the SML during its reorganization.

## EAAF Participation

In April 2006, President Michelle Bachelet established The Presidential Advisory Commission on Human Rights, which was dedicated to the thorough review of these identifications. The Commission formed a panel of 12 local and international experts to advise the government on the best way to address the situation. The international experts were: Clyde Snow, Douglas Ubelaker from the US National Museum of Natural History, and EAAF team member Luis Fondevbrider, acting as anthropology experts; Tom Parsons, director of genetic area of the International Commission on Missing Persons, Lance Gima, director of the Forensic Laboratory of the California Justice Department, and Ranajit Chakraborty from the University of Cincinnati, acting as genetics experts; Jose Luis Prieto, from the Madrid Institute of Anatomy, acting as the pathology and odontology specialist; and Maximo Duque, from the National Medical Legal Institute of Colombia, acting as the pathology expert. From Chile, the anthropologist Eugenio Aspillaga, the geneticist Pilar Carballo, and the archaeologist V. Standem participated in the panel.

Also involved to observe the panel were: representatives from the Association of Families of the Detained Disappeared; the Association of Families of the Detained Disappeared and Executed of



Santiago, Chile, 2006. The panel of international forensic experts met to review the misidentifications at Patio 29, and to make recommendations for future forensic work. *Photo by EAAF.*

Paine; the Association of Families of the Politically Executed; the Association of Detained Disappeared and Executed of the Victim of La Moneda; Morris Tidball-Binz, forensic coordinator for the International Committee of the Red Cross; Julio Ibáñez Burgos, the national director of the Police Division of Criminal Investigations; María Luisa Sepúlveda, director of the Presidential Advisory Commission on Human Rights; and various human rights legal experts.

EAAF member Luis Fondevbrider served on the panel and participated in one meeting held in Chile between July 31 and August 5, 2006. The panel's work focused on:

- Designing a comprehensive strategy to audit what had been done since 1990 with respect to the 126 remains exhumed from Plot 29, which included reviewing external reports, ante-mortem and background information, case expertise, some of the skeletal remains, and interviews with special-

ists involved in the identifications.

- Selecting scientists from among 40 international candidates to carry out the forensic audit on the Plot 29 remains.
- Proposing mechanisms to prevent future mistakes. This involves analyzing and proposing accreditation processes for the different areas of the Medical Examiners Institute, such as laboratory compliance with ISO 9000 and 17025 norms, and formulating an emergency strategy for future cases until the results of the forensic audit and the identification team has been properly qualified.
- Reviewing and offering a proposal to enhance the existing relatives of victims' genetic blood bank, originally administered by the SML. Up until the panel's work, the genetic bank contained approximately 1200 samples from relatives of victims, but mostly from the victims' maternal families, as the SML was



Santiago, Chile. Families of victims organizations demonstrating at Patio 29 on the Day of the Detained and Disappeared in 2006. Photo courtesy of Pablo Fuente Selman.

only utilizing mitochondrial DNA for identification purposes.

- Recommending the application of nuclear DNA, rather than solely mitochondrial DNA, to identify the remains of suspected disappeared persons.
- Recommending protocols to improve the different areas of the SML, such as genetics and anthropology.

The auditors selected by the panel were: María Cristina Mendocina, forensic pathologist coordinator from the University of Coimbra, Portugal; Barnardo Arriaza Torres, anthropologist from the University of Tarapacá; Francisco Exteberria, forensic pathologist from Pais Vasco, Spain; Dina Alejandra Jiménez Mora, forensic odontologist with the National Medical-Legal Institute

in Colombia; Baruch Arensburg, forensic anthropologist at the University of Tel-Aviv; Rhonda Roby, forensic geneticist from the University of North Texas; and Marcelo Moraga, forensic geneticist at the University of Chile. The forensic audit on the scientific reports for the *Patio 29* remains began in September 2006. The audit was to report which cases of the 126 would need full reexamination. In December 2006, the panel, which included Fondebrider, met again in order to evaluate the results of the audit. In addition to reporting its findings to the panel, the forensic audit acted as an expert witness in the case open under Judge Carlos Gajardo investigating the identifications from *Patio 29*. The families of victims organizations were kept up to date of the activities of the panel, and expressed satisfaction with the

schedule and progress of the review.

With respect to reviewing the genetic database and taking blood samples, the panel had observations derived from its own work. The panel recognized a need to emphasize the following:

- Chain of custody, from the moment a sample is taken and through its handling by different agents and laboratories.
- The necessity to certify, with fingerprinting, the identity of family members giving blood samples, in accordance with international standards.
- The coding of samples and on how anthropologists make the selection of best bone samples for genetic testing.
- The limitations of mitochondrial

DNA in small or endogamous populations.

- The necessity of a genetic mapping of local population.

The SML began to implement the recommendations of the panel, specifically in the work of the Identification Unit, in May 2007. The SML is currently remodeling laboratory facilities, updating lab equipment, and restructuring its management in order to improve the identification process.<sup>20</sup>

In August 2007, the International Committee of Experts (CIE) was formed from participants of the 2006 panel. EAAF member Luis Fondevibrer will continue to work in Chile as a forensic expert on the CIE. The Committee will assess the efforts of the SML as it implements the recommendations of the panel from the judi-

cial case for Plot 29. The families of victims organizations have been updated throughout the proceedings.

### Chileans Disappeared in Argentina

As part of the team's activities for the Latin American Initiative for the Identification of the Disappeared (LIID),<sup>21</sup> EAAF has been contacting human rights NGOs and families of victims associations in neighboring countries that are thought to have had citizens disappeared in Argentina. Some of the cases resulted from Operation Condor, a covert agreement among military governments in the Southern Cone for the exchange of information and political prisoners. This includes Chile, as well as Uruguay, Paraguay, Perú, Bolivia, and Brazil.

During its 2006 trip, EAAF met with the Presidential Advisory Commission

on Human Rights, and discussed LIID and its implications for the estimated 111 Chileans who disappeared in Argentina. The team left a list of current Chilean citizens with the commission and families of victims organizations. These Chilean citizens had had relatives disappeared in Argentina during the last military dictatorship. The team is seeking pre-mortem and historical information and blood samples for future genetics work. The Blood Collection Center in Santiago will collect samples for the team as part of LIID and send them to Argentina so that they can be compared with remains found in the latter country.

In 2006, the team identified the Chilean **María Cristina Carreño Araya** in the Argentine province of Buenos Aires, as reported in the Argentina section of this report.

## ENDNOTES

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