

## The Human Rights Violations of the Pinochet Regime and Their Legacy

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- *Chile under Pinochet: Recovering the Truth*, by Mark Ensalaco. Philadelphia: University of Pennsylvania Press, 2000.
- *International Human Rights and Authoritarian Rule in Chile*, by Darren G. Hawkins. Lincoln and London: University of Nebraska Press, 2002.
- *Las suaves cenizas del olvido: vía chilena de reconciliación política 1814-1932*, by Brian Loveman and Elizabeth Lira. Santiago: LOM, 1999.
- *Las ardientes cenizas del olvido: vía chilena de reconciliación política 1932-1994*, by Brian Loveman and Elizabeth Lira. Santiago: LOM, 2000.

In December 1989, on the eve of the first elections for president and congress in almost two decades, the Centro de Estudios Públicos (CEP) asked a group of representatively selected Chileans to identify the three major problems that in their view the next government should focus its energies on. Confronted with ten options, the respondents revealed clear priorities. Health, education, salaries, employment and poverty topped the list; human rights, on the other hand, were trailing far behind. Indeed, only seventeen per cent of all interviewees felt that the new administration, which was to replace the military regime headed by General Augusto Pinochet after more than seventeen years in power, should pay attention to this problem area. In comparison to the sixty per cent who identified health as their main concern, the interest shown in human rights clearly faded (CEP 1990, p. 1). One might have thought that in view of the importance the human rights violations of the dictatorship had played in the struggle against it, more Chileans would have seen it as a pressing issue that needed attention. This was not the case, however, and during the 1990s the situation did not change. On the contrary, the interest in human rights declined even further. By mid-2002, only four per cent of Chileans still saw the issue as a problem (CEP 2002, table 10).

Even though politicians do not enjoy the best of reputations in Chile, they did act in agreement with the population's wishes. After assuming power in March 1990, the successive centre-left governments of the Concertación prioritised issues that proved popular and politically uncontroversial. They concentrated on economic growth and social issues, while the thorny question of human rights, as Felipe Portales has argued, forcefully and with barely concealed bitterness (Portales 2000, pp. 60-109), was rather ignored. Certainly after the findings of the Comisión Nacional de Verdad y Reconciliación (commonly known as the Rettig Report, after the head of the commission, Raúl Rettig) had been published in the (Chilean) autumn of 1991, the interest of the former opposition in human rights sharply declined. During the remainder of his presidency, Patricio Aylwin (1990-1994) did not undertake any other major initiatives that would have resulted in

justice for the victims; his successor, the fellow Christian Democrat Eduardo Frei Ruiz-Tagle (1994-2000), showed even less inclination to address the human rights legacy of the dictatorship. The administration emphasised seemingly more pressing and important problems – economic growth and modernisation.

While Aylwin has to be given credit for seeking the reconciliation of a divided nation at least initially, in the end both administrations reckoned that, by insisting on human rights, progress in other areas would be jeopardised, if not democracy itself. In view of the political, legal, and institutional impediments the Concertación faced when dealing with the human rights violations of the military regime, these fears might not have seemed completely unjustified. After all, Pinochet had repeatedly warned that he would not accept that members of the armed forces were persecuted for the role they had played in the repression of the opposition during his rule. Moreover, the amnesty law of 1978, a complacent judicial branch, a strong, pro-military civilian right that defended the *oeuvre* and memory of the military regime, as well as Pinochet himself, who continued to be commander-in-chief of the army, were formidable obstacles. Last but not least, through constitutional and electoral engineering, the supporters of the military regime had the power to derail government measures in Congress. Nonetheless, it is noteworthy how little commitment to human rights the ruling Concertación showed during the 1990s and how careful it was not to offend the military and its civilian collaborators.

It should not come as a surprise that the conciliatory and cautious approach of the Concertación towards the human rights legacy and those responsible for the violations had its limits. Throughout the 1990s, Chile was repeatedly shaken by events that reminded the nation of its conflictive past, for instance the discoveries of mass graves containing the bodies of extra-legally executed supporters of the administration of Salvador Allende (1970-1973). The controversy surrounding the arrest of Pinochet in London in October 1998 as well as the internationally less noticed resignation of the commander-in-chief of the Chilean Air Force General Patricio Ríos, who was forced to step down from office in October 2002 because of the alleged obstruction of justice in five cases of detained-disappeared, were forceful reminders that the crimes committed by the military regime have continued to haunt the country. Beneath the mantle of silence, the human rights legacy of the military regime still divides Chilean society. Time, after all, is not always a good healer, especially when perpetrators and victims continue to live side by side, and the former show no remorse while the latter feel ignored.

In contrast to the Concertación's reticence and the Chilean public's emphasis on the need to solve problems that affect the quality of everyday life, the academic community has always paid considerable attention to the question of human rights. In fact, besides studies dealing with the neo-liberal transformation of the Chilean economy under the Pinochet regime, it is fair to say that it has attracted the greatest number of scholars. In both Chile and the international academic community, this issue has been (and still is) followed with great interest. Three factors account for that interest: firstly, the notorious nature of the dictatorship; secondly, the prominent role human rights played in the struggle against it for almost seventeen years; and thirdly, the general interest in the relationship between past human rights violations, democratic transition and consolidation. This last point reflects the widespread agreement that a society has to deal with its past and try to come to terms

with it, especially when, as in the case of Chile, it is so divisive, in order to progress and achieve stability. It also reflects a consensus in the academic community that a society has to call those responsible for human rights violations to account, as impunity undermines the faith in the rule of law.

Examples of the incessant interest in the human rights violations of the Pinochet regime and their legacy are the studies under review here: Mark Ensalaco's *Chile under Pinochet*, Darren G. Hawkins's *International Human Rights and Authoritarian Rule in Chile*, and the two books by Brian Loveman and Elizabeth Lira on political reconciliation in Chile between independence and the end of Aylwin's presidency in 1994. As the titles indicate, each book has its different emphases, with Ensalaco providing an in-depth account of the Pinochet years; Hawkins addressing the human rights violations of the authoritarian regime in an international perspective; and Loveman and Lira, who cover Chile's entire history since independence in their two books, looking specifically at the way Chileans attempted to reconcile a divided nation after periods of crises. Common to all of them is, however, that they claim – explicitly, as Ensalaco and Hawkins, or implicitly, as Loveman and Lira – to make new contributions to the study of the violations of human rights and their impact on Chilean politics during the dictatorship (and beyond). To what extent do these publications, then, add to our knowledge and understanding of the violations of human rights and a military regime that was ultimately responsible for more than 3,000 dead, tens of thousands of tortured and even more exiled Chilean citizens as well as some foreign nationals?

Ensalaco, Director of International Studies and Human Rights Studies Programmes at the University of Dayton, sets out to present, as he states in the preface, 'a case study of repression in an authoritarian regime: how the state was organized to repress, how the repression was carried out, who directed it, who suffered from it' (p. xi). The book deals, moreover, with the human rights movement that emerged in response to the widespread and systematic repression that started with the coup of 11 September 1973, and assesses the significance of truth, justice, the rule of law, and human rights in the transition to democracy. In sum, it is Ensalaco's objective to provide a comprehensive study of the human rights violations that took place during the seventeen years of rule of Augusto Pinochet, putting them in the context of the politics of a regime that ruled Chile longer and certainly more ruthlessly and in disregard of the rules of law than any other in her history since independence from the Spanish empire in the early nineteenth century. Ensalaco tells the story of both the repressors and the repressed, leaving no doubt that his sympathies are with those who struggled for dignity during a period when human lives counted for little.

Divided into nine chapters, which follow a chronological order, *Chile under Pinochet: Recovering the Truth* opens with an account of the developments that led to the coup and the bloody insurrection itself, its losers – the different leftist supporters of Allende – and victors – the armed forces and the civilian opponents of the Popular Unity administration, including the parliamentary and extra-parliamentary right and, initially at least, the Christian Democrats of former president Eduardo Frei Montalva and future president Aylwin. The story Ensalaco then narrates in chapters two to six, although well known, is still a gruesome and sobering one. It is a story of the militarisation of the state and state terrorism, at first

mainly led by the infamous Directorate of National Intelligence (DINA), which was under the command of Lieutenant Colonel Manuel Contreras, and then, in a second phase, coordinated by the National Centre for Information (CNI), as well as the failure of a subservient judicial system to protect the victims. On the other hand, it is also a story about personal courage and selflessness on the part of human rights activists who, despite the pressure of the Pinochet regime, could count on the support and protection of the Chilean Churches, especially the Roman Catholic Church, and international organisations and institutions. Ensalaco has to be given special credit for exploring this international context and linking it to developments within Chile.

The politics of repression and gross violations of human rights, the national and international reactions to them, and the role they played in the overall development of the regime constitute the core of the book. Yet, Ensalaco looks beyond the end of the dictatorship, assessing, in chapters eight and nine, how the democratically elected government of Aylwin dealt with the human rights legacy and how the military, the judiciary, and the families of the victims, especially those of the disappeared, reacted to these efforts. Both the armed forces and the Supreme Court of Justice rejected the report of the Rettig Commission outright, denying any responsibility, while the victims' families were dismayed by its failure to breach the reigning impunity and establish the whole truth about the detained-disappeared. For Ensalaco, who also feels that the Aylwin administration did not do enough to hold the perpetrators of human rights violations legally accountable, this is also the decisive issue and the most problematic legacy of the Pinochet regime, particularly as regards its long-term implications for the rule of law. The '“disappearances”', he states, 'define the political legacy of the Pinochet regime, and the inability of the democratic government to compel the armed forces to disclose information about the “disappeared” marked the imperfect democratic transition' (p. xv).

Although this is certainly correct as far as it goes, one should not forget, as he does, another group of victims that has not received adequate attention, let alone material or emotional compensation for their sufferings since the return to democracy, the countless victims of torture.<sup>1</sup> The fact that their grievances and traumas have not been adequately addressed has equally negative consequences for Chilean democracy. How can one expect them to have faith in the rule of law and democracy? Despite this reservation, and the occasional repetitions that a more careful editing could have avoided, Ensalaco's book is convincingly argued and written in an accessible style. Indeed, as stated in the introduction, it provides a comprehensive account of the human rights violations that took place during Pinochet's rule and briefly discusses the Chilean process of coming to terms with the past.

The same cannot be said about *International Human Rights and Authoritarian Rule in Chile*, notwithstanding the book's title. Hawkins, an Assistant Professor in the Department of Political Science at Brigham Young University, rather than telling, explaining, and interpreting the human rights violations that were justifiably responsible for establishing Pinochet's bad image in the world, is more interested in theoretical debates about human rights and 'theoretical debates in international relations about the relative importance of norms in shaping state behavior, the role of nonstate actors in world politics, and the origins of state preferences' (p. 1). In other words, authoritarian Chile only serves as a case study for proving and/or dis-

proving his theoretical assumptions, which eclectically draw on elements of various schools, as regards the way authoritarian regimes do or do not respond to international and national human rights pressures. This emphasis on theory negatively influences the readability and accessibility of the study; Hawkins does not provide a fluent narrative.

Hawkins starts his study, which is based on his doctoral dissertation submitted at the University of Wisconsin, by outlining his theoretical argument. He discusses at some length under which circumstances international norms can influence the behaviour of states that, he argues, 'care about their legitimacy in both the domestic and international arenas' (p. 27). Hawkins identifies four variables that in his view are likely to have an impact on government reactions to human rights pressures; namely the domestic structure; the normative fit, i.e., 'the extent to which well-ingrained domestic cultural beliefs are compatible with international norms and with the discourse and activities of transnational groups' (p. 37); crisis situations or the lack thereof; and the composition of elite coalitions and the significance of rule-orientated factions within them, a variation of the hypothesis of 'softline' factions, in the case of Chile generally known as '*blandos*'. Against the background of these theoretical considerations, he discusses the evolution of the authoritarian regime and its attempt to gain legitimacy in four consecutive chapters, starting with the coup of September 1973 and ending with the plebiscite of October 1988, which Pinochet lost, signalling the end of his, and the military regime's, rule.

Overall, in terms of facts presented, Hawkins does not considerably add to our knowledge or understanding of human rights violations committed during the Pinochet dictatorship. Despite using unpublished primary sources, for example the minutes of the Junta's meetings and interviews with forty-one Chileans, amongst them Sergio Covarrubias and Francisco Javier Cuadra, two former secretary generals of the military government, and Sergio Fernández Fernández, twice minister of the interior, he does not revise or substantially correct Ensalaco's account, or any other for that matter. Another shortcoming is that Hawkins, who rightly stresses the authoritarian regime's strong interest in legitimacy, both within domestic society and among the international community, does not seem to be aware of the legalistic tradition that is so characteristic of Chile. If he had known this fact, and a scholar of Chilean political history ought to be aware of it, he would have been less surprised about the dictatorship's quest for it. Starting with the coup itself the incoming junta was at pains to justify its actions against the democratically elected Allende administration, and to demonstrate its own legitimacy. Throughout its existence it would continue to do so. The Constitution of 1980, approved in a rigged plebiscite, was the highpoint of these endeavours. With it, Pinochet became *de jure* president of Chile.

In the end, the main strength of the study is its comparative aspect. Hawkins, who underlines that Chile 'marks a crucial case in the development of transnational human rights activists and state pressures on abusive governments', triggering 'one of the first and most extensive efforts to translate those norms into practice' (p. 3), is at his relatively best and most interesting when he briefly compares Chile (1973-1990) to Cuba (1960-present) and South Africa (1960-1994), countries that, like Chile, faced (and in the case of Cuba still face) high levels of international pressure

to ease domestic repression against its opponents in general and human rights advocates in particular. I am not entirely convinced that domestic structures add 'little if anything to the explanation' (p. 173) and that, consequently, the normative fit, crisis situations, and the composition of the elite coalition are the crucial factors; but his conclusions at least suggest why and under what circumstances countries may or may not react to external pressure and may or may not change their policies. The question remains whether anybody will pay any heed to the recommendations for government and non-governmental organisations regarding states abusing human rights, which follow at the end of the book; I have my doubts.

What neither Ensalaco nor Hawkins mention, let alone address, is the fact that the politics of reconciliation pursued by Aylwin during his four-year presidency was not a new phenomenon. As a matter of fact, as Brian Loveman, professor of political science at San Diego State University in California, and Elizabeth Lira, professor of psychology at the Universidad Alberto Hurtado in Santiago, state in the prologue to their book on political reconciliation between 1814 and 1932, since independence 'the political violence deployed in the name of political doctrines and antagonistic loyalties produced wounds in society (*cuero social*) that hampered the creation and consolidation of a consensual political system', making it necessary 'to think of some form of reconciliation as fundamental basis of the New Fatherland' (p. 7). Time and time again, political confrontations led to violent conflicts and traumas that threatened the unity of the Chilean nation. Time and time again, however, at some point after the hostilities had ended, the victorious factions sought the reconciliation with its defeated opponents, attempting to re-establish peace, order, stable governments, and the 'Chilean family' through a combination of amnesties, pardons, the process of gradual forgetting, concessions and a certain political pragmatism.

Loveman and Lira start with an extensive and illuminating discussion of models and concepts of reconciliation and the specific Chilean way of reconciliation and how the emphasis on, and implications of, certain aspects changed over time, with amnesties and pardons being increasingly used not only to reincorporate the defeated but also as a means to guarantee the impunity of the victors and those who had abused their authority. Based on these observations, they subsequently recount Chilean history from the point of view of reconciliation. In a chronological order, starting with the wars of independence in the 1810s and ending with the administration of Aylwin in 1990s, the authors illustrate and back up their case in their two voluminous books, never forgetting to provide the proper historical context. By using extensive quotes from government decrees and especially newspapers and congressional debates, with statements from both supporters and opponents of amnesty projects, Loveman and Lira succeed in conveying the tensions and conflicts that characterized the contemporary discussions. The accessibility and readability of the books greatly benefit from this fact.

The most remarkable and at the same time problematic and insincere effort to reconciliation discussed by Loveman and Lira was the one undertaken by the Pinochet regime during the 1970s. The dictatorship, in contradiction to Chile's long history of reconciliation characterized by tolerance and political pragmatism, pursued, in fact, a strategy akin to the Spanish Inquisition. After having been persecuted, tortured, stigmatised, and exiled, it would allow those identified as the ene-

mies of the nation, particularly Marxists and other followers of equally godless ideologies, to return into the Chilean family, but only if they had renounced ‘their errors and false beliefs’ and accepted the powers of the new authorities, its ideology and absolute truths. Since these former enemies could not be trusted – one never knew, after all, if their repentance had been sincere or just a convenient way to escape the unchristian punishment of the defenders of the allegedly besieged Christian West –, a ‘permanent vigilance’ had to be maintained (vol. 2, p. 406). If only in the world-view of the military regime and its civilian supporters and apologists, both at home and abroad, this justified continued repression, although its severity changed over time, easing off towards the end of the 1980s.

The unprecedented level of human rights violations of the Pinochet regime, together with the changed international environment and the development of international human rights law since the end of World War II, also explain why the legacy of the dictatorship continues to be an issue in Chile. Under these circumstances it was impossible that time would heal all wounds, as the Concertación hoped, or to follow the traditional Chilean way of reconciliation; amnesties and pardons could not have reconciled the divided Chilean nation. Too many peoples had suffered injustices and violations of their most basic human rights. The families of the victims and those who had survived physical and psychological torture asked, and still ask, for justice and repentance on the part of the perpetrators of these violations, and justifiably so. Unfortunately, apart from some isolated cases, there are no indications that persons that have committed these crimes, let alone the institutions they belonged to, will acknowledge their responsibilities. As in the 1970s, they justify their actions with reference to a non-existing state of war. If Loveman and Lira had said more about the implications of impunity for the quality of Chilean democracy under the changed international situation, and not just posed two questions at the end of their epilogue, an otherwise remarkable book would have been even better. But then, this objection should not in any way lessen their achievement.

In sum, while Hawkins theoretical exercise is somewhat disappointing – even the international aspect which is the most interesting and innovative aspect of his study, suffers from this approach –, Ensalaco’s as well as Loveman and Lira’s books are welcome. They all make important contributions to our understanding of Chile’s recent and (seemingly) more distant history. Ensalaco provides a coherent, well-informed, and accessible global history of the repression under the Pinochet regime, while Loveman’s and Lira’s studies are timely reminders that the (elusive) goal of reconciliation is a phenomenon that did not only emerge in the 1990s but dates back to the days of Chilean independence. As recent events in Chile emphatically demonstrate in fact, the issue is as important as ever.

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## Note

1. Alfredo Jocelyn-Holt Letelier stressed this point in a conversation with the author in Santiago in August 2002.

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