



THE SERIES OF REPARATIONS PROGRAMS IN CHILE¹

The series of reparations programs gradually implemented in Chile after the end of military dictatorship reflects the manner in which the post-dictatorship government, the victims and perpetrators of human rights violations struggled over how to manage Chile's post-dictatorship transition.

From 1973 to 1990, Chile was governed by a military dictatorship headed by Augusto Pinochet. The regime carried out systematic human rights violations and subjected hundreds of thousands of people to extreme pain and fear. Persecution forced thousands more to go into exile, both inside and outside the country. A 1978 amnesty law passed by a military-controlled parliament allowed perpetrators of homicide in cases of disappearances and political executions to escape prosecution.

Political change came in 1990 as the Pinochet dictatorship ended and a democratic government was elected. The new President, Patricio Aylwin, created the National Truth and Reconciliation Commission, also known as the Rettig Commission, after its chairman. Its mandate was limited to cases involving the disappearance of detainees, political executions and torture leading to death. The commission issued its report in February 1991. It determined that 2,298 persons had died for political reasons between September 11, 1973 and March 11, 1990. Among them, 979 persons were classified as disappeared detainees, 1,061 as detainees who died in detention or people killed in different circumstances by security forces, 168 as victims of political violence and 90 as victims killed by civilians for political reasons (victims of the leftists groups that opposed the dictatorship). There were some 630 cases the Commission could not satisfactorily determine.

Other controversial aspect of the Commission's work was its refusal to identify perpetrators by name. However, naming alleged perpetrators was not part of its mandate and it is not clear that should be done by a non judicial body. In any case, the Commission identified the military or police units involved in many of the crimes and subsequent judicial investigations had led to the conviction of more than 257 agents, including 45 generals or admirals, up to December 2008.

The commission recommended various reparations measures for the victims identified in its report and the creation of the National Corporation for Reparations and Reconciliation (NCR) in 1991 to follow up the Commission's recommendations and continue the identification of victims. The corporation existed for four years. It examined cases and determined who qualified for 'victim status', concluding that 899 new cases qualified, which established the final figure of victims of disappearances and killings as 3,197. The Corporation also investigated the whereabouts of disappeared detainees (this was the least successful aspect of its activities). It operated a social and legal assistance program, which helped expedite proceedings so victims could enjoy the benefits to which they were entitled. The Corporation also established an educational and cultural program, legal studies and research program and an archive and documentation center. After its expiration, a permanent program inside the Ministry of Interior was created to continue its work, known as the Human Rights Program.

Eligible victims' beneficiaries were entitled a monthly pension, educational benefits for children of the disappeared, exemption from military service, and priority access to state health care services, through a

¹ This summary was prepared by ICTJ Senior Associate Ruben Carranza, with assistance from Research Interns Farrukh Lalani and Andrew Andrzejewski. It is based on the summary appearing in Pablo De Greiff, ed., *The Handbook of Reparations* (Oxford: Oxford University Press, 2006), and updated in December 2008 through information provided by ICTJ Senior Associate Cristian Correa, former Legal Advisor and Secretary of Chile's Presidential Commission to Investigate Cases of Torture and Political Imprisonment.

Comprehensive reparations Program in Health Care designed for victims of human rights violations. These programs were administered by several different state agencies. In addition, other measures were implemented to returning exiles. Also laws were passed to grant pensions and retirement benefits for those dismissed from jobs for political reasons as well as peasants excluded from agrarian reform and expelled from their land.

Victims who survived detention or torture were initially excluded from acknowledgment and reparations, even if they were among the most numerous of the Pinochet regime's victims. Criticism over the exclusion later led to the creation of another commission in 2003, the National Commission on Political Imprisonment and Torture, also known as the Valech Commission after its chairperson. In 2004-2005, the Commission came out with its two-part report. It identified 28,459 victims of torture (including about 3,400 cases of sexual abuse of women). As in the case of the previous commission, it didn't identify perpetrators. Right after the release of its report, a law was enacted that sealed the statements received by the Commission for the next 50 years to protect their confidentiality, preventing also its use for prosecuting perpetrators. The same law provides for reparations for the torture victims identified in the report, which includes annual pensions of between approximately US\$2,300 and US\$2,600 for survivors. Children born in prison or detained with their parents would receive a lump-sum payment of approximately US\$6,800. Reparations for survivors of torture include also access to the Comprehensive Reparations Program in Health Care, scholarships to enroll in university programs and exemption from the military service to the survivors' children. The reparation pensions begun to be paid to the victims identified by the Commission four months after the law was passed and the victims were able to apply to scholarships within a year.

Some limitations of this process are referred to the short period that the Commission had to receive testimonies (6 months) and the exclusion of widows of victims as beneficiaries of the pensions, despite the Commission acknowledged the impact that torture had on the families of victims. Both issues have been included in a project of law that will create the National Institute for Human Rights, which is something that was recommended by both commissions and that has not been establish yet. The creation of the institute is still being debated in Congress.

According to the Government, between 2000 and 2008, the equivalent of over \$113 million was spent on compensatory allowances for members of the families of political prisoners who disappeared and were executed. Between 2005 and 2008, over \$103 million was spent on vouchers for the children of victims who had received no, or only partial, compensation. In the same period, the total paid in pensions for political prisoners and torture victims rose to over \$195 million. Between 1996 and 2008, financial compensation for people dismissed on political grounds amounted to over \$1,205 million, which is by far the most expensive of the reparations measures implemented. In total, the State paid out more than \$1.6 billion in the above-mentioned periods.

INFORMATION TABLE	
REPARATIONS FOR VICTIMS OF DISAPPEARANCES AND KILLINGS	
Origin	Law 19,123 of February 8, 1992 established a variety of programs constituted under the National Corporation for Reparations and Reconciliation (NCRR) including a monthly reparations pension. After the dissolution of the NCRR in 1996, the program has been administered through the interior ministry. Reparations were improved by law 19,880 of 2004.
Time Frame	1992-to date. Different initiatives were introduced at different times.

<p>Institutional Framework</p>	<p>From 1991-1996 the NCRR implemented the recommendations of the Truth Commission. It promoted reparations for moral harm done and helped search for truth regarding disappeared detainees.</p> <p>The Institute of Pension Normalization paid out the pensions since 1992. The Subsecretary of Interior was responsible for a "Follow-up Program" from 1997 to date, after the NCRR closed. The social program continues to work with families, the judicial program still provides logistical support to investigating judges and the studies program implements symbolic reparations.</p>
<p>Eligibility</p>	<p>The beneficiaries are the families of victims identified in the report as having disappeared or died in detention or were executed. If a victim was not identified in the Report, eligibility could be determined by the NCRR.</p>
<p>Procedure</p>	<p>Reparations pensions had to be expressly requested. Newspapers published lists of victims who qualified in 1992 so families could submit requests. Others applied to the NCRR.</p>
<p>Cash Benefits:</p>	<p>Monthly reparations pension to direct relatives of the victim. The amount to be paid to each relative was based in a referral amount of approximately US\$537 (at 1996 rates), equivalent to 70% of the national medium income at the time. 40 percent of that amount was to be given to the surviving spouse, 30 percent to the decedent's mother (or father in the mother's absence), 15 percent to the mother or father of the natural children of the victim, and 15 percent to each child of the victim under the age of 25 and to disabled children of any age. The portion of each beneficiary was not reduced if the total was higher than 100%, so relatives didn't exclude each other. Each beneficiary was also given a one time payment equivalent to 12 months of pension payments. In 2004 the amount of the pensions were increased in 50% and children of victims who have not received a pension because of their age received a lump sum of \$17,000. The same reform increased the portion of the mother or father of extra-matrimonial children to 40%, setting them in equal status as surviving spouses.</p>
<p>Health Care for Victims (Still ongoing)</p>	<p>The reparations law for relatives of the disappeared and killed law also confers the right to free health care services in the national health care system to victims' relatives whose income is below the poverty line. The Ministry of Health also established a specialized "Program of Reparation and Integral Health Care" (known as PRAIS) to cover individuals affected by human rights violations. The program includes general medical care, social services, psychological counseling, and other services free of charge. The victims' parents, children or siblings are eligible to receive this assistance. This program was built from specialized services that different civil society groups had offered victims during the Pinochet dictatorship.</p> <p>Access to the program expanded over time. In 2000, it expanded to include persons working on human rights who were providing assistance victims directly affected by violations. To protect them from humiliation and discrimination, beneficiaries did not need to demonstrate that their medical condition was caused by political repression.</p>

<p>Education benefits (Still on-going)</p>	<p>The children of victims are entitled to special educational benefits until the age of 35. The law provides that children studying in secondary schools, universities, professional institutes or technical institutes shall receive scholarships to pay for registration and tuition fees, plus a monthly allowance to cover living expenses. The status of each student had to be reconfirmed each semester. Beneficiaries were allowed to attend the institution of their choice at any level. Payments were made through a savings account at the State bank. The law also exempts children of victims from mandatory military service.</p> <p>In addition, the corporation also investigated the whereabouts of disappeared victims, ran a human rights education program, a legal studies program, and established an archive and documentation center.</p>
<p>Memorials and Human Rights Museum</p>	<p>There were also memorial and symbolic initiatives. In 1991 the government agreed to build a memorial plaza and a mausoleum at the General Cemetery in Santiago. In 2002, a registry was compiled of 134 reparations projects constructed to date primarily at the initiative of families with some support from civil and government organizations. These projects included memorials, parks, monoliths, sculptures and other public monuments and places.</p> <p>The government also signed agreements for seven memorial projects honoring the deaths of 215 men and women who were executed or detained without due process. The process of building memorials have continued to date, by the allocation in 2004 of a \$765,000 fund for it at the Human Rights Program of the Ministry of Interior.</p> <p>In December 2007 started the construction of the National Museum of Memory and Human Rights, which is expected to be inaugurated in January 2010.</p>
<p>Applicant Statistical Information</p>	<p>Overall, the Truth Commission and the NCRR received 4,750 applications. 3,197 qualified as victims (1,102 disappeared detainees and 2,095 deceased).</p> <p>In 1991, there were some 5,794 beneficiaries of the reparations pensions. This number has been dropping slowly over time.</p>
<p>Program Funding and Cost</p>	<p>The NCRR was funded through the national budget as well as from other national and international sources, including an initial grant from US AID – one of the few instances where foreign government assistance has been extended to finance reparations. The other programs that followed were funded from various ministry budgets</p> <p>Exact figures are not available. From 1999 to 2001, reparations pensions cost roughly US \$9 Million. This amount was increased after a 2004 law that increased the pensions by 50% and provided a lump sum payment for children of victims that did not receive a pension or received less than that amount. It is useful to note that the budget of the “Follow Up” program to the NCRR’s initial reparations work was roughly US\$300,000 per year. It rose to</p>

	<p>around US\$750,000 yearly after 2000. Currently it costs US\$1.2 million.</p> <p>There are no figures about the cost of the reparations for the dismissed, the most expensive of the measures and the one that covers the largest number of people. There are also no figures of the cost of PRAIS, which has nominally included more than 190,000 beneficiaries.</p> <p>The pension for the victims of torture cost US\$25 million a year and there are no estimates about the cost of the scholarships.</p>
--	--

<p>Context and analysis</p>	<p>There was ongoing public debate between victim groups and political conservatives, including the military. Victim groups emphasized that financial benefits were no substitute for prosecutions or for knowing what happened to their relatives. The military initially refused to assist the search to determine the whereabouts of victims, but eventually cooperated in some cases.</p> <p>Chile has a functioning state medical system that allowed it to supply special services to victims. It also had sophisticated capacity to calculate pension benefits and social benefits, based on previous experience.</p> <p>Many victims and their families thought that “reparations” could never address their suffering and those reparations <i>methods</i> could only attempt to do so; some also thought that symbolic measures acknowledging the past as well as prosecuting the perpetrators may be more important than financial compensation.</p> <p>In the end, the fact that Chilean society had to struggle every step of the way in recognizing victims and providing for reparations indicates the limitations of a transition where perpetrators – especially Pinochet in this case – continued to exercise a significant degree of power in the State. At the same time, victims advocates had to erode that power over time so as to expand the boundaries of accountability and the effects of reparations. In the end more than 100 agents were sentenced for human rights violations and more than 400 were prosecuted. Pinochet was prosecuted in two cases of human rights violations and one case of corruption, but died while in house-arrest before being sentenced. Even then, impunity has remained strong in Chile.</p>
------------------------------------	---

<p>REPARATIONS FOR RETURNING EXILES (1990-1994)</p>	
<p>Summary description</p>	<p>Two laws were also passed that awarded benefits to returning exiles. The program served a total of 52,557 persons but was criticized because it did not include social or cultural aspects. The budget totaled some US\$12 Million. “Exiles” included those who were banished, who left voluntarily, were denied permission to return, or children born abroad of Chilean parents. Benefits included legal return, permission to work in Chile with foreign university degrees, access to education, and modified customs and taxes for luggage and merchandise. A National Office for Return was created inside the Ministry of Justice and functioned from 1990 to 1994 to implement the program.</p>

REPARATIONS AND REINCORPORATION FOR POLITICAL PRISONERS (1990-1992)	
Summary description	<p>Although some political detainees were released earlier, many could not be freed because they were detained through the military justice system. The legal situation was complex and it was difficult to find satisfactory solutions. In the end, the President gave many prisoners individual pardons. Certain functions of military tribunals were transferred to domestic courts. At the end of the dictatorship 397 people accused of politically motivated crimes were in detention. 45 were freed immediately, 160 political prisoners received presidential pardons and others were freed gradually. Former prisoners received a one-time payment of US\$1,312. A 1994 civil society report indicated many problems with the program. There was no compensation for: time served in prison; harm to dignity or reputation; physical or mental harm; loss of opportunities or education; damage to property; or loss of income.</p>

PROGRAM OF RECOGNITION OF THE POLITICALLY DISMISSED (1993 – 2008)	
Summary description	<p>Many thousands of government employees were dismissed for political reasons by the Pinochet regime. At first, President Aylwin issued a memo instructing public sector institutions to rehire those laid off for political reasons. The government also offered a minimal single pension which was deemed unsatisfactory. The Program of Recognition of the Politically Dismissed was introduced in 1993, and altered in 1998 and 2003 to include personnel dismissed from various military and security forces during certain periods.</p> <p>Benefits include a tax-free pension of roughly USD \$112 per month and social security benefits, and also special time bonuses to enhance their pension benefits. However, if a Program beneficiary receives a regular state granted assistance pension, they must choose between that pension and the dismissal program pension. 258,767 people applied and when the Program closed, in June 2008, 141,009 were approved and had received some kind of benefit, including 68,000 had received a tax free pension. The Program budget ran at approximately \$430,000 per year from 2001-2003. Many beneficiaries have complained of the inadequacy of the pensions. The sense of reparation through the Program was diminished because some members of the military regime and former members of parliament who were dismissed and immediately rehired obtained program pensions.</p>

PENSIONS FOR PEASANTS EXCLUDED FROM AGRARIAN REFORM OR EXPELLED FROM THEIR LAND (1995 – 2000)	
Summary description	<p>The idea of reparations for peasants excluded from agrarian reform or expelled from land was initially proposed by the Bishops of the Catholic Church in 1979. Peasant organizations demanded a "land fund" without success.</p> <p>The program began operating in 1995, and has some 4,579 beneficiaries. Benefits include a modest monthly pension of roughly USD \$212, but which varied according to three age categories. The pension expires on the death of</p>

	<p>the beneficiary. Beneficiaries also have access to the PRAIS health program. Applicants must validate their qualifications with a certificate from the Ministry of Agriculture.</p> <p>The program implemented was very different from what the peasants wanted. They requested a “land fund”, a “productive plot”, family housing, educational assistance, other measures and incorporation into other programs.</p>
--	--

REPARATIONS FOR VICTIMS OF TORTURE (2003 – 2005)	
Origin	<p>In 2003, the government created the National Commission for Political Imprisonment and Torture (known as the Valech Commission) with the aim of identifying the victims that were detained and tortured for political reasons during the 1973-1990 dictatorship. After the first year, the Commission delivered a report that revealed how torture was implemented and made recommendations for reparations. It also identified 28,459 victims of torture.</p> <p>After the report was made public, in December 2004 law 19,992 required reparations for victims. It also sealed the records of the Commission for the next 50 years.</p>
Time Frame	<p>Testimonies were received by the Commission from November 2003 to May 2004. The process of evaluation of the cases received ended in November 2004, when the report was published. A review process of those cases excluded was conducted until May 2005. Pensions began being received by certified victims in April 2005.</p>
Institutional Framework	<p>Each Ministry or service is responsible for implementation. The Human Rights Ministry and later the Presidential Commission for Human Rights Policies had played a coordinating role. The Institute of Pension Normalization has been paying out the pensions.</p>
Eligibility	<p>The beneficiaries are the direct victims of political imprisonment and torture, certified by the Valech Commission. No benefits include the victims’ family, as was recommended by the Commission, except access to health care through PRAIS. No new process of eligibility has been open, but that possibility is under debate in Congress.</p>
Procedure	<p>Reparations pensions had to be expressly requested by the victims individualized by the Commission’s report to the Institute of Pension Normalization. Victims received a copy of the report, also available online, which includes the list of certified victims eligible for the benefits</p>
Benefits:	<p>Victims are receiving an annual pension ranging from US\$2,300 to US\$2,600, according to their age Children born in prison or detained with their parents will receive a lump sum payment of US\$6,800. All victims are entitled to the health (PRAIS) and education benefits (full scholarships for university studies). They also receive additional points for applying to housing subsidies.</p>

	Victims receiving pensions from the Politically Dismissed Program have to chose between both and are entitled to a \$5,100 lump sum.
Applicant Statistical Information	35,868 people presented testimonies and applied for reparations at the Valech Commission. 28,459 of them were recognized as victims of political imprisonment and torture. 20,000 of them had received the pension established by law 19,992. Other 5,000 survivors, who are also receiving pensions for being politically dismissed, had to choose among both pensions and received a lump sum payment of US\$5,100. Around 3,000 of the victims of torture had attended university thanks to the scholarships granted by the law.
Program Funding	The reparations program, as well as the Valech Commission, was entirely founded by the national budget.