

Document #1425326

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Amnesty International Report 2017/18 - The State of the World's Human Rights - Chile

Impunity for past and present human rights violations remained a concern. Police continued to use excessive force, especially against Mapuche Indigenous Peoples. The Anti-Terrorism Law was used against Mapuche people, despite violating international standards on due process guarantees. A law decriminalizing abortion in three specific circumstances entered into force; abortion continued to be otherwise criminalized.

Background

Presidential and congressional elections were held between November and December, and Sebastián Piñera Echenique was elected President. The President-elect and new members of Congress were due to begin their mandates in March 2018.

Refugees' and migrants' rights

Congress considered a bill proposed by the executive for a new immigration law.

The first 14 Syrian families (66 people) arrived in October under a resettlement programme announced in 2014.

Police and security forces

There were continuing reports of excessive use of force by the police.

In June, police used tear gas in close proximity to a school in the Temucuicui Mapuche community where young children were attending class. The action was deemed “proportionate” by the Supreme Court.

In November, a judge in Collipulli, Malleco Province, opened an investigation against a police officer for shooting 17-year-old Brandon Hernández in December 2016; he received more than 100 pellet wounds in his back. The hearing was rescheduled three times because the accused police officer did not appear in court.

The Supreme Court reopened the case of Alex Lemún, who was shot and killed by a police officer in Ercilla, Malleco Province in 2002. A military court had closed the case in 2004 without finding anyone responsible.

Impunity

Victims of human rights violations during Chile’s military regime continued to demand truth, justice and reparation. Although courts had heard hundreds of cases, most of those convicted did not serve prison sentences, and many victims continued to lack access to institutional mechanisms to demand reparation.

Congress discussed a bill to make information gathered by former truth commissions available to prosecutors and parties to relevant judicial proceedings.

In May the government filed a bill before Congress to establish a National Mechanism for the Prevention of Torture.

Indigenous Peoples’ rights

In June the government announced the Plan for the Recognition and Development of Araucanía to promote Indigenous Peoples’ participation, economic development and protection of victims of violence.

President Bachelet extended a formal apology to the Mapuche People for “errors and horrors” perpetrated by the state against them. A bill was under discussion to create a Ministry of Indigenous Issues.

As part of the process of developing a new Constitution, scheduled to be completed in 2018, a consultation was conducted with Indigenous Peoples’ representatives. The process was criticized by some representatives for excluding some key issues brought forth by Indigenous Peoples.

The Attorney General’s Office and the government continued to misuse the Anti-Terrorism Law to prosecute Mapuche people in violation of due process guarantees. In 2014, similar applications of the Anti-Terrorism Law against Mapuche activists were found by the Inter-American Court of Human Rights – in *Norín Catrimán et al v. Chile* – to be in violation of the American Convention on Human Rights.

In October, 11 Mapuche people, including Machi Francisca Linconao, who had been charged with “terrorism” for a fire that killed landowners Werner Luchsinger and Vivian Mackay in January 2013, were acquitted. The 11 defendants had been held in pre-trial

detention or under house arrest for 18 months. Upon appeal by the Attorney General's Office in December, the trial and acquittal were declared null and void. The trial was due to be repeated in 2018.

The government and Attorney General's Office also brought “terrorism” charges against four Mapuche men for a fire that destroyed a church in the city of Padre las Casas in June 2016. No one was hurt in the fire. The men were arrested, detained and indicted on the day of the incident and continued to be held in pre-trial detention at the end of 2017. After the four accused held a prolonged hunger strike, the government filed a request for reclassification of the crime. However, the prosecution decided to continue pursuing terrorism charges.

In September the government implemented “Operation Hurricane”, arresting and charging eight people with conspiracy to commit terrorist acts in connection with burning and planning to burn dozens of cargo vehicles. No one was hurt in these incidents. The eight accused were held in pre-trial detention until October when the Supreme Court declared their detention unlawful and ordered their release, since the judge had not sufficiently justified the need for pre-trial detention. Investigation of the alleged crimes was ongoing.

Human rights defenders

In April, Rodrigo Mundaca and other leaders of the Movement for the Defence of Water, Land and the Environment (MODATIMA) in the province of Petorca received death threats. An investigation was ongoing into the harassment and intimidation that MODATIMA's leaders had been subjected to for a number of years.

In May the Temuco Public Prosecutor's Office announced the closure of the investigation into the abduction and torture of Víctor Queipul Hueiquil, a Mapuche lonko (traditional community authority) in the Autonomous Community of Temucucú in June 2016. He had been threatened with death if he continued his work as a leader and supporter of the Mapuche People. The Public Prosecutor said that the investigation could not proceed because Víctor Queipul did not collaborate with the investigation. In May, the National Human Rights Institute filed a new lawsuit relating to the torture of Víctor Queipul; the investigation for the second case was ongoing.

Sexual and reproductive rights

In September a law entered into force decriminalizing abortion in three circumstances: when the pregnancy poses a risk to the life of the pregnant woman or girl; when the foetus is not viable; or when pregnancy is a result of rape. It also established the right to conscientious objection for medical professionals and institutions who choose not to perform abortions even in those circumstances. Guidelines for the implementation of the law were approved in December. Abortion continued to be criminalized in all other circumstances.

Rights of lesbian, gay, bisexual, transgender and intersex people

In August a criminal case filed against a judge for allowing the change of name and gender markers for a transgender girl was closed with all charges dropped.

In June the Senate approved the Gender Identity Bill, which established the right of people over the age of 18 to have their gender identity legally recognized by changing their name and gender markers on official documents through an administrative process, without requiring gender reassignment surgery or medical certification. The bill was pending before Congress at the end of the year.

In August the government filed a bill in the Senate establishing marriage and adoption rights for same-sex couples in equality with different-sex couples.

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ecoi.net summary:

Annual report 2017/18 (covering 2017)



Country:

Chile

Source:

AI – Amnesty International (</en/source/10960.html>)

Original link:

<https://www.amnesty.org/en/countries/americas/chile/report-chile/> (<https://www.amnesty.org/en/countries/americas/chile/report-chile/>)

Document type:

Periodical Report

Language:

English

Published:

22 February 2018

Document ID:

1425326 (former ID [353773](/en/document/353773) (</en/document/353773>))

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ecoi.net is run by the Austrian Red Cross (department ACCORD) in cooperation with Informationsverbund Asyl & Migration. ecoi.net is funded by the Asylum, Migration and Integration Fund, the Austrian Ministry of the Interior and Caritas Austria. ecoi.net is supported by ECRE & UNHCR.

