

The Víctor Jara Case and the Long Struggle against Impunity in Chile

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THE JUDICIAL CASE CONCERNING THE 1973 TORTURE AND MURDER OF VÍCTOR Jara, beloved Chilean singer-songwriter and pioneer of Chile's New Song movement, has continued for almost 40 years. Víctor Jara was a celebrated musician, theater director, and composer. His songs spoke stirringly of the lives of the poor, denounced injustices and massacres, and communicated the vision of a new, socially just future. Jara was also a Communist Party militant actively involved in the social and political movements of the day, movements that elected democratic socialist Salvador Allende as president in 1970. Jara was killed in the Chile Stadium in one of the military's first and most infamous extrajudicial executions after the bloody September 1973 coup. The artist, and thousands of other supporters of the Popular Unity government, were detained in the stadium in the first days after the coup. The ongoing judicial case of Víctor Jara symbolizes the long struggle against impunity in Chile.

General Augusto Pinochet and his fellow officers used harsh repression to crush Chile's popular movements. Some 3,000 Chileans disappeared and at least 40,000 people were tortured after the coup; some 200,000 more were forced into exile (Wright and Oñate 2005, 57). Amnesty International and the UN Human Rights Commission estimated that 250,000 people were detained for political reasons after the coup. Parliament was closed, political parties outlawed, and media outlets shut down or subjected to strict controls. The New Song movement was repressed and even the indigenous instruments were banned. Over time the military regime implanted a number of "guardian structures" to limit a future transition to full democracy (McSherry 1995, 1998). Today, many cases of crimes committed by military or police officers are still sent to military courts, for example, and there are some 700 outstanding cases of human rights violations pending in the judicial system. An antiterrorist law from the Pinochet era is still in effect, despite some modifications. The law has been used against urban protesters and Mapuche land-rights activists, and in July 2014 the United Nations Human Rights Council

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criticized the law, not for the first time.¹ Another guardian structure, Pinochet's binomial (or binominal) system of elections—designed to give disproportionate weight to right-wing minority political parties, impede the Left, and obstruct the reemergence of a multiparty system (Huneus 2005)—was just beginning to be seriously challenged in parliament in 2014.

Yet despite the years of state terror and the difficult transition, Chilean society has made significant advances in its redemocratization process in recent years. The country is not the same as it was in the first years of the transition (beginning in 1990). A key catalyst was a massive student movement that took shape in 2011. Demonstrations of 100,000 took place weekly to demand free, quality public education and an end to the privatized and unequal system of education in Chile, another heritage of the military regime (McSherry and Molina Mejía 2011). This movement, led by a generation of young students born after the dictatorship, played an important role in awakening society, quelling the legacy of fear, and revitalizing other mass movements.

During the student marches, young people carried banners with Víctor Jara's visage and sang songs from the New Song movement such as "El pueblo unido jamás será vencido." Flags and posters of Jara continue to appear around Santiago, concerts are dedicated to him, his music is played by street musicians on buses and by professional musicians in elegant theaters, and he is invoked in many popular marches and demonstrations. Chilean society has never forgotten Víctor Jara, or the tens of thousands of other Chileans persecuted, tortured, exiled, and killed during the dictatorship. The dictatorship was unable to erase the historical memory of the New Song movement, or the music that represented the hopes and dreams of a generation. The memory of Víctor Jara as a cultural giant and committed political activist lives on. But the armed forces continue to resist accountability in this case and others.

This article examines the judicial case of Víctor Jara, providing updated information on its development and analyzing its significance. Under the current government of socialist Michelle Bachelet, who took office in 2014, political conditions may be more promising for a resolution. But there are strong forces in Chile—and probably in the United States—opposed to clarifying Jara's murder. Pressure from within Chile and from the international human rights community will be crucial to finally identifying and holding accountable those who authorized and carried out the murder of Víctor Jara.

Background: The Life of Víctor Jara

Víctor Jara was born in 1932 in Chile's south, near Chillán, to a humble peasant family. His father ploughed the fields of the landowner and his mother was a popular folk singer in the village (Jara 2014). After his father left the family, his mother took her children to Santiago, where they tried to eke out a living. When his mother died, the 15-year-old Jara began seeking his own path. He joined a

seminary, thinking of becoming a priest, but left after two years; he also served in the military as a conscript. Jara entered the University of Chile in 1957 as a theater student. Around the same time he met legendary singer-songwriter Violeta Parra—the “mother” of the New Song movement—and joined the Juventudes Comunistas (Young Communists, affiliated with Chile’s powerful Communist Party or PC). It was a time of burgeoning social movements in Chile as shantytown dwellers, workers, peasants, and students increasingly organized to demand changes in Chile’s elitist and exclusionary political system. The PC had a long history of democratic participation in Chile, as well as deep roots in the working class and in the cultural sphere. Chile’s electorate was divided roughly into thirds, with multiple political parties representing the left, center, and right.

Jara began singing and dancing with a popular folk group called Cuncumén, which collected traditional folk dances and songs in the countryside and performed them for urban audiences. He began to develop his talents as a singer, poet, and composer, and created a singular style of guitar playing and singing. In the 1960s, Jara began to compose songs that built upon rural rhythms and guitar styles but made innovative creative advances. He wrote lyrical poetry for his songs that highlighted the lives of the humble people of Chile, their trials and their struggles, and their nobility and strength. Jara became a well-known theater director in Chile in the 1960s and released his first album in 1966. Around this time the New Song movement—as yet unnamed—was emerging in Chile. New Song (or *la Nueva Canción*) was a major artistic phenomenon that transformed the cultural fabric of Chilean society. Young musicians adapted ancient indigenous pipes, bamboo flutes, and stringed instruments such as the *charango* to create haunting and ethereal original music, blended with poetic lyrics that spoke of the burning social and political issues of the day. The movement was part of the rediscovery and validation of Latin America’s popular and indigenous cultures; it was a political and cultural phenomenon. The new music expressed the values of social equality, popular power, and solidarity. Some of Jara’s songs are known worldwide: “Te recuerdo Amanda,” “Plegaria a un Labrador,” and “Preguntas por Puerto Montt” are a few examples.

Jara became famous both for his innovative theater work and for the force of his musical presence. In 1965, he was a fixture in Chile’s first *peña* (intimate salons where folk music was played), La Peña de los Parra, along with other pioneers of the New Song movement. He became the musical director of the young New Song group Quilapayún in 1966. Jara was also a collaborator and mentor of another emblematic young group, Inti-Illimani. Jara was powerfully drawn to music and to political militancy in favor of the poor and working classes, and his charisma and political conviction attracted a large following. In 1969 he decided to leave the theater to dedicate himself to his musical creativity and his political activity. In that year the Popular Unity coalition took shape, uniting six left parties, including the Socialist and Communist parties. The coalition named Salvador Allende as its

presidential candidate. Allende pledged to begin a transition to socialism through constitutional and peaceful means, the “Chilean road to socialism.”

“Víctor was known for his work in music and theater, but especially for his enormous humanity, his qualities as a human being,” said Max Berrú, a founder of Inti-Ilumini. “He was modest, humble, but with such force and conviction, especially regarding abuses committed against the workers. His music, his interactions with working people, inspired them, gave them confidence and encouraged them to keep on struggling.”² Jara, along with the other artists involved in the New Song movement, was deeply involved in the campaign to elect Allende. After Allende’s victory in 1970 (despite right-wing subversion and secret CIA plots to prevent Allende’s presidency), the New Song musicians continued to work with the Popular Unity government as unofficial ambassadors and supporters, singing in venues throughout Chile and in other countries to communicate to masses of people the promise and excitement of the Popular Unity program. “We often went to sing to groups of people carrying out voluntary work projects in the countryside,” Berrú continued. “Víctor did everything passionately, it was his character. His music, his political work, he worked harder than anyone and always inspired enthusiasm and commitment.... He was a consequential person.”

Allende’s government made notable advances: nationalizing the US-owned copper mines, building houses for shantytown residents with running water and electricity, raising salaries for workers and incorporating them into management decision-making, extending a land reform, and providing a half-liter of milk per day for schoolchildren. But major forces, both domestic and international, worked to undermine his government. Secretly supported by the Nixon administration, right-wing political actors, wealthy elites and some middle-class sectors, and anticommunist military officers moved to block Allende’s initiatives and sabotage his government. Finally, in September 1973, the military carried out a violent coup. Allende died in the presidential palace and a long night of repression descended over Chile.

The Coup of September 11, 1973

On the morning of the coup on September 11, Jara went to defend his place of work, the State Technical University, as did thousands of other supporters of the government in other locations. Military units surrounded and attacked the university. Captain Marcelo Moren Brito led the offensive. He later became infamous for his role as a brutal torturer and member of Operation Condor, the transnational covert military intelligence network that pursued, tortured, and killed exiled political activists who had escaped to other countries (McSherry 2005). During the night, at least two young people died in the university. A photographer bled to death after being shot and a female student died instantly when hit by a bullet (Orellana n.d.). The next day the military took hundreds of professors and students prisoner; some were shot. The detainees were transported to the Chile Stadium, which, along with

the National Stadium, served as convenient mass prison camps for the military regime, epicenters of torture and death. More than 5,500 people were detained at the Chile Stadium. There they were registered, interrogated, beaten, and tortured; some were killed. According to testimonies, military officers recognized Jara and singled him out for torture. Jara's hands and wrists were fractured, and soldiers asked mockingly whether he would play guitar now. One detainee, an engineer who worked for the Allende government, told of seeing Víctor Jara in the stadium: "He was in very bad condition, beaten and with one eye practically closed.... He couldn't move his hands; it was clear they were fractured, swollen, and blistered" (González n.d.). Jara managed to write a last poem in his final days, full of outrage at what was happening. The poem, "Chile Stadium," was somehow smuggled out and became internationally famous.

After a few days the military began rounding up prisoners in the Chile Stadium to transfer them to the larger National Stadium. As the detainees waited in line, soldiers took Víctor Jara and two other persons out of the lineup. Jara and Littré Quiroga, a Communist Party member who was the national director of prisons under Allende, were tortured and killed in a basement locker room. The third detainee, Danilo del Carmen Bartulín Fodich, was finally sent to the National Stadium. On September 16 the bodies of Jara and Quiroga, and those of several others, were found dumped near the Metropolitan Cemetery in Santiago (Memoria Viva n.d.). Jara's hands had been crushed with blunt instruments and his wrists broken, his face had deep wounds, and his body had been riddled with 44 machinegun bullets, from a type of gun used officially by army officers (Vásquez Indictment 2014).

Joan Jara, a British-born dancer who was part of Chile's flourishing cultural movement and Jara's wife, left Chile with her two daughters after burying her husband's body semi-clandestinely in 1973. While Pinochet was in power the possibility of advancing a judicial case was essentially null. Nevertheless, she filed a case in 1978, which was closed subsequently by the military court. But the martyrdom of Víctor Jara was already a rallying cry for people internationally. He and Salvador Allende became symbols of the cruel repression and fascist impulses of the Pinochet regime. Chileans in exile, including New Song artists such as Quilapayún, Inti-Illimani, Patricio Manns, and siblings Ángel and Isabel Parra, played a key role in building a massive global solidarity movement in favor of Chilean democracy.

In recent years, progress in the Víctor Jara case has been due to the tireless efforts of Joan Jara, president of the Víctor Jara Foundation she founded in 1993, as well as to Chilean and foreign supporters. In 1993 she, accompanied and assisted by Chile's most revered and committed artists (many from the New Song movement) organized a "purification" of the Chile Stadium (Chaparro, Seves, and Spener 2013). Numerous musical and dance performances took place to commemorate Víctor Jara and celebrate his life and work. The Víctor Jara Foundation was created to make his legacy known to future generations.

Joan Jara refiled the legal case in 1998, when Pinochet was arrested in England. In 2004, Juan Carlos Urrutia, a judge in the Fifth Criminal Court of Santiago, charged Lt. Col. Mario Manríquez Bravo, the commanding officer in the Chile Stadium in 1973, with murder in the case of Víctor Jara. Also in 2004 Chile Stadium was renamed Víctor Jara Stadium.

The Long Process of Justice

In 2006, Pinochet—in disgrace after Spanish Judge Baltazar Garzón and Chilean judges charged him with human rights abuses—died in his home without ever being held accountable. He had named himself senator for life as a condition of the transition, to ensure his impunity, but in 2000 a Chilean court began the process of revoking his immunity from prosecution. The Jara family's lawyer, Nelson Caucoto, had wanted Pinochet to testify in the Jara case in 2004. In 2008, Judge Fuentes, who had taken over the case, ruled that Manríquez, the commander of the Chile Stadium (and later a DINA commander active in clandestine torture centers), was the lone responsible officer in Jara's murder. The actual killers were not identified and the judge closed the investigation.

Joan Jara said at the time that the family was “shocked and surprised.... We began to immediately react to this and take measures. We expressed this to the media and we asked for support from our friends all over the world by signing a petition to demand that the case be reopened” (“Interview with Joan Jara,” <http://donpalabra.com/?p=45>, 2009). The judge's closure of the investigation sparked a strong outcry in Chile, especially from artists, human rights advocates, and political organizations. Some congressional deputies and officials in the Ministry of the Interior also supported reopening the investigation. The family appealed to the more than 5,000 people detained at the stadium, as well as to the conscripts who had been forced to commit repressive acts, to come forward with information. Many did, and the family's lawyer passed the new data to the judge. Caucoto made several statements to the press about the military's lack of cooperation. In 2009, he said that “the only important information on this case has come from the conscripts” and that the high command had not even revealed the command structure in the Chile Stadium at the time (Cooperativo Chile 2009). Caucoto spoke of an ongoing “code of silence” within the military, 36 years after the murder of Víctor Jara.

The judge reopened the investigation and in 2009 the body of Víctor Jara was exhumed for tests. A few months later, the family and the Foundation organized a two-day wake and funeral ceremony to celebrate the singer's life and work. In response to their call, thousands of people marched to the cemetery with Joan Jara to rebury Víctor's body. Marchers came from all walks of life. Artists, students, workers, and political leaders came to honor Víctor Jara. The family wanted him to be remembered for his theater and musical contributions, for his political commitment to the dispossessed, and for his life, not for his death. During these

events, the massive attendance offered dramatic proof of Jara's significance in Chile, as well as of the living historical memory that was latent among Chileans.

Manríquez died in 2009. A breakthrough in the case also came in that year when a former conscript questioned by Fuentes provided crucial information. José Paredes—who had been 18 in 1973—admitted involvement in the murder and named his superior officers in the stadium (Pérez G. 2009). Paredes told the judge how Víctor Jara had been killed, a secret he had kept even from his wife. In a macabre “game” of Russian roulette with other officers, a lieutenant had shot the singer, who had been viciously tortured, in the head at pointblank range. Then the officer ordered several conscripts to shoot rounds of bullets into the lifeless body of Víctor Jara (Cuevas 2009). Paredes was imprisoned for his role. For the first time, the judge was able to identify some of the officers who had carried out the crime.

Joan Jara stressed the importance of these and subsequent events. “Former conscripts are beginning to talk about what they witnessed,” she told me in January 2013. “They had been seriously threatened over the years and they had been living in fear. The investigation has produced witnesses who saw these officers in the stadium, even though they deny it.” Some soldiers who had been in the stadium identified Pedro Barrientos as the one who actually killed Víctor Jara (Center for Justice and Accountability 2013). Other survivors highlighted the role of a tall, blonde officer, nicknamed “The Prince,” who was particularly sadistic, intimidating, and violent toward the prisoners. “The Prince” recognized Jara and subjected him to insults and cruel punishments. Yet his identity has never been established definitively. Noted journalist Pascale Bonnefoy conducted an investigation to determine his identity, and concluded that the Prince was Edwin Dimter Bianchi, a fiercely anticommunist officer who had been at the stadium (*Santiago Times* 2009). Her investigation was published around the world in a 2006 article. The ex-military man sued her for libel. In 2010, the judge rejected the suit on the grounds that there was no evidence of malicious intent and that Bonnefoy's work was protected by freedom of expression. Moreover, four witnesses testified that Dimter was indeed the Prince (Federación Internacional de Derechos Humanos 2010, Kelly/Warner International Defamation Law Database 2010). Joan Jara observed, however, that several officers fit the description of the Prince.³ Officers of the Chilean army tended to come from the upper classes, and many had German facial characteristics and surnames. The final determination must be established in a judicial proceeding.

More key developments in the case came in 2012. In January, Judge Miguel Vásquez took over the case, and in December the court issued an arrest order for eight military men in the torture and murder of Víctor Jara. The accused were retired lieutenant Pedro Barrientos Nuñez, retired colonel Hugo Sánchez, and officers Raúl Jofré González, Edwin Dimter Bianchi, Nelson Hasse Mazzei, Luis Bethke Wulf, Roberto Souper Onfray, and Jorge Smith Gumucio. They had been in charge of the detainees at the stadium. It remained unclear who was directly responsible for the murder of Víctor Jara (Corte de Apelaciones, Santiago 2012).⁴ But in the

Chilean legal process, persons are charged only when there is substantial evidence implicating them. That is, not only are they suspects, but there is also solid evidence of their involvement in the crime, a higher standard of proof.⁵

Journalistic efforts also advanced the investigation. A television crew from Chilevisión that was filming a documentary called “Quién mató a Víctor Jara” (“Who Killed Víctor Jara”) tracked down Pedro Barrientos in Florida, where he had been living since 1990. Barrientos, who had become a US citizen, denied ever being in the stadium. The film aired in 2012, and the officers were indicted at the end of the year. Then the judge called for Barrientos’s extradition, with the Chilean Supreme Court authorizing the request in January 2013. As of September 2014, the United States had still not responded to the request (Vásquez indictment, September 4, 2014). Barrientos had not been extradited, though in December 2013 the press reported that the FBI had questioned him about possibly making false statements on his citizenship application. Apparently, Barrientos had denied ever being in the Chilean army (*El Mostrador*, Chile, December 6, 2013; *La Nación*, Chile, March 14, 2014).

Four of the eight officers charged in the Jara case had received training at the US Army School of the Americas (SOA) in Panama: Jofré (1968), Barrientos (1968), Dimter (1970), and Smith Gumucio (1972). Latin America coordinator of the School of the Americas (SOA) Watch and torture survivor Pablo Ruiz said that in 2013 SOA Watch had collected thousands of signatures to demand Barrientos’s extradition.⁶ The petition was delivered to the US Embassy in Santiago in September 2013, but no one at the Embassy spoke to them or responded to the letter. In the United States, SOA Watch initiated a campaign in 2013 that called for people to send emails to the Departments of State and Justice, among other agencies, demanding action on the Chilean extradition request. SOA Watch declared that after a year of inaction, US authorities began to move after receiving some 15,000 emails from individuals who responded to their campaign (SOA Watch 2013).

The Military Men

Many of the accused officers had been stationed at the Tejas Verdes military base, a center of subversion against the Allende government. Manuel Contreras was the commanding officer of the base. One conscript related in court that on September 10, 1973, the day before the coup, Contreras had told troops at Tejas Verdes that they were being ordered into combat. The commanding officers of the troops included Barrientos and Smith Gumucio.

Contreras went on to head the Dirección de Inteligencia Nacional, DINA, a Gestapo-like organization that became the main propagator of disappearance, torture, and extrajudicial execution after the coup. DINA set up numerous secret detention centers where thousands of people were held and tortured. Tejas Verdes was one. In July 2014, human remains were found near the military base (*El Ciudadano*, August 1, 2014).

Contreras also played a key role in the nascent Operation Condor, the cross-border, covert terrorist alliance among military intelligence organizations in six countries, assisted by the CIA. Operation Condor was responsible for the disappearance, extralegal transfer, torture, and murder of numerous exiled political activists and prominent politicians who were considered threats to the military regimes. Contreras was an organizer and commander of Condor as well as DINA. Moreover, the CIA itself admitted in September 2000 that he had been a CIA asset between 1974 and 1977, and that he received an unspecified payment for his services.⁷ The CIA did not divulge this information in 1978, when a federal grand jury indicted Contreras for his role in the car-bomb assassinations of Orlando Letelier, a former Allende minister, and his coworker Ronni Moffitt. Both were killed in 1976 when their car exploded on the streets of Washington, DC. Contreras eventually was sentenced to a prison term in Chile for this crime. He was convicted in absentia in Italy for another Condor operation, an assassination attempt against exiled Christian Democrat Bernardo Leighton and his wife Ana Fresno (the two were seriously wounded but survived).

During the investigation of the Jara case, one former Chilean military intelligence operative testified that the CIA had occupied an entire floor of a building adjacent to the Chilean Ministry of Defense before 1973, with heavy security (Expediente Homicidio Calificado de Victor Lido Jara Martinez, ROL no. 108.496-MG 2010). The CIA helped to organize and train DINA in 1974, and retained Contreras as an asset for a year after the Letelier/Moffitt assassinations. The CIA destroyed its file on Contreras in 1991 (McSherry 2001). Several former officers and conscripts testified that in June 1973, three months before the coup, all the military intelligence operatives and officers in Section II, Intelligence, in every army regiment in the country had been ordered to take an intelligence course (Expediente Homicidio Calificado de Victor Lido Jara Martinez, ROL no. 108.496-MG 2010). This course was certainly another piece of preparation for the coming coup. Many of the participants took on the function of interrogator in detention centers after the coup.

Dimter, Raúl Jofré González, and other seditious officers had participated in a failed uprising against the Allende government led by Roberto Souper in June 1973. It was called the *tancazo* or *tanquetazo* because the putschists drove tanks into the streets of Santiago. They were collaborating with the quasi-fascist group Patria y Libertad—which was secretly funded by the United States (Senate Committee 1975). Dimter drove one of the tanks during the *tancazo*. Some 20 civilians died, including a television cameraman who filmed his own murder. After the mutiny was put down by constitutionalist troops, Dimter, Souper, and Jofré were arrested for treason and imprisoned. They were freed on September 11 by the forces of the coup. Dimter told the judge in the Jara case that Augusto Pinochet personally received him and other freed officers and gave them new orders. He acknowledged that he had been assigned to the Chile Stadium, as did Jofré. Conscripts in the stadium testified that they had seen Souper, Dimter, and Jofré there, interrogating prisoners.

A retired officer who knew these men told journalist Bonnefoy that Dimter and Jofré had been filled with hatred and revenge toward the detainees in the stadium, who were at their mercy. “They were the most vicious,” he told Bonnefoy. “They had blood in their eyes. They came with a lot of hate for having been imprisoned.... Their brutality toward the detainees can be explained by the psychological state they were in” (Bonnefoy 2006a,b; González 2009). These officers singled out Víctor Jara and Littré Quiroga among the detainees. They hated Jara, particularly for his songs of denunciation such as “Preguntas por Puerto Montt” (which named a Christian Democrat minister as responsible for the 1969 massacre of peasants occupying land in Puerto Montt) and Quiroga, whom they considered responsible for their imprisonment.

Other conscripts and former detainees identified other officers at the stadium. Several also related that they had seen Jara, badly tortured, there. One conscript who testified in the Jara trial said that on September 15 an officer appeared at Chile Stadium. “In an arrogant way he started giving orders to all the officers in the place,” he testified. The conscript’s immediate superior ordered him to bring Víctor Jara before the newly arrived officer. The conscript’s superior also told him that the new officer giving orders had been detained for participating in the *tanquetazo* (Expediente Homicidio Calificado de Victor Lido Jara Martinez, ROL no. 108.496-MG). He said the new officer produced a guitar and told Jara to play it. The musician refused. The officer became angry and said, “If you don’t sing, things will go badly for you.” The conscript was ordered to leave the area. Several hours later, he testified, he heard gunshots. Another conscript, whom he had known since childhood, told him Jara had been killed along with two Uruguayan detainees (*ibid.*).

Recent Developments

In 2013, the San Francisco-based Center for Justice and Accountability (CJA) filed a civil case against Barrientos in the US District Court for the Middle District of Florida. The case, brought on behalf of Joan Jara, Amanda Jara Turner, and Manuela Bunster Turner (Víctor Jara’s daughters), accused Barrientos of arbitrary detention; cruel, inhuman, or degrading treatment or punishment; extrajudicial killing; crimes against humanity under the Alien Tort Statute; and of torture and extrajudicial killing under the Torture Victim Protection Act. CJA’s suit claimed that Barrientos was “liable for Víctor Jara’s death as a direct perpetrator, as well as a commander, and an indirect collaborator to the crimes at Chile Stadium” (Center for Justice and Accountability 2013).

In May 2014, popular organizations and prominent artists and political figures in Chile sent an open letter to President Michelle Bachelet, asking that she intercede with President Barack Obama to facilitate the extradition of Barrientos. The signers included 11 parliamentarians; 6 mayors; 112 municipal representatives; 41 artists and intellectuals; 12 union, human rights, and law organizations; and 44 citizen

representatives. They also asked her to intercede on behalf of three Cubans (of the “Cuban Five”) still imprisoned in the United States.

In July 2014, the head of the Chilean Supreme Court announced that he would like to finish human rights investigations, including the Jara case investigation, by the beginning of 2015. As the new coordinator of human rights cases, Supreme Court President Sergio Muñoz sought to finally come to a conclusion regarding ongoing investigations of human rights violations. The motive was to proceed to the next stage of the judicial process: to move from the investigation stage to the stage of sentencing on the culpability of the accused. Moreover, in Chile today there are two parallel systems of justice. In the Víctor Jara case, the Chilean court is operating under the old judicial system, where the judge acts as investigator, prosecutor, and sentencing judge. Under the judicial reform of 2000, prosecutors take the role of investigators. Because the Víctor Jara case dates from before the judicial reform, it falls under the old system.

Even if Barrientos was not yet extradited, the judge sought to move forward with the other accused in a timely way and then, if necessary, to try Barrientos separately in the future.⁸ Judge Vásquez commented: “The case could be closed if Barrientos were present, but the issue with Barrientos is unclear: It could be six months more, a year, two years, or just not happen, so I’m not waiting for that to finish the case” (Cooperativo Chile 2014).

According to human rights lawyers I spoke with, Chile has made important advances in its judicial system, extirpating many remaining structures of authoritarian rule, although problems remain such as a lack of attention to crimes committed by police or military officers against civilians, and the continuing presence of pro-Pinochet judges. On the positive side, there are no longer judges appointed by Pinochet in the Supreme Court, a guardian structure inserted before the transition to assure control of the high court. The 2000 reform modernizes the old system. “The proof of this, that there are no remaining vestiges of the dictatorship now blocking this case, is that there has never been an attempt or a call for amnesty,” said attorney Nelson Caucoto; “No one complained in 2012 when the eight military officers were charged, no one said it was too late, forty years later.”

Yet there is an obstacle to clarifying the case of Víctor Jara, among other human rights cases. That obstacle is the military. “The armed forces have not cooperated with this investigation,” said Caucoto; “For years—years!—we were trying to ascertain who was in charge of the Chile Stadium. It took ten years of investigation to arrive at Manríquez. The military has not collaborated at all. To this day they have not told me the command structure within the stadium, the chain of command, although they have the information. We’ve had to put it together in an artisanal way.... I think there will never be a confession in this case either. No one from the dictatorship will ever admit to killing Víctor Jara. Víctor is so beloved, so iconic: No one will admit to murdering him.”⁹ Caucoto emphasized the enormous amount of time and energy that had been invested in the investigation over the years. Judges

responsible in the case had interviewed almost all of the thousands of soldiers who were at Tejas Verdes, and carried out an immense, meticulous investigation despite the lack of cooperation by the military leadership. Caucoto believed that the problem was not in the judicial system, but in the intransigence of the military command.

In September 2014, another breakthrough occurred when Judge Vásquez indicted three more retired military officers. Army Majors Hernán Chacón Soto and Patricio Vásquez Donoso were charged as direct perpetrators of the crime, and a former military prosecutor, lawyer Ramón Melo Silva, was charged with covering it up. “The military prosecutor interrogated the victims, but those declarations never appeared,” said Judge Vásquez. “He also received the autopsy reports on the victims, but nothing was ever known about these either.” Joan Jara stated that she was gratified that “after forty-one years we heard in a judicial proceeding what happened with Víctor and Littré, and we must celebrate this, in spite of everything” (*Biobiochile.cl*, September 3, 2014). The two men indicted as authors of the crime were detained by military police in an army barracks. The lawyer was granted “provisional freedom” on bail several days later.

The Heritage of Military Rule in Chile

Justice continues its slow and fitful march in Chile. Manuel Contreras has been imprisoned under sentences of literally hundreds of years, as have other key DINA and Condor officers, for crimes committed during the dictatorship. Yet the sites where they have been imprisoned have been criticized for their luxury accommodations. In Punta Peuco, for example, about 70 military human rights offenders have had access to high-speed Wi-Fi, tennis courts, a swimming pool, and barbecues, in two-bedroom bungalows rather than prison cells. Another “hotel prison” for military and police prisoners, Penal Cordillera, was closed in 2013. One officer imprisoned there for human rights abuses, Odlanier Mena, former head of the secret police agency Centro Nacional de Información (CNI, National Information Center), committed suicide at his own home rather than being transferred to Punta Peuco. He had been allowed “passes” from the prison on weekends and had access to his gun. In July 2014, 53 members of parliament formally called on President Bachelet to close Punta Peuco (20 members of the two right-wing parties in parliament opposed the effort).

There are other signs of progress in some human rights cases. In recent years, officers of the former DINA and the military have been indicted for many disappearances and murders of Chilean activists in the 1970s. In 2011, Judge Jorge Zepeda indicted a Chilean general and a US military officer for the murders of Charles Horman and Frank Teruggi, two US nationals who were tortured and killed in Chile in 1973. In 2012, the indictments in the Jara case were issued. In 2013, eight police and military officials were indicted in the case of US citizen Boris Weisfeiler, who disappeared in Chile in 1985. And in 2014 Judge Vásquez identified more officers responsible for the murder of Víctor Jara.

In short, the status of Chilean justice can be characterized as mixed, rife with contradictions, but with encouraging advances recently. The legacy of a state policy of human rights atrocities persists, however, and, despite forward movement, many families still have no information about the fates of their loved ones. Many of the perpetrators are old now and some have died. In September 2014, human rights organizations, backed by mayors, parliamentarians, and artists, launched a new campaign against impunity, called the National Campaign for Truth and Justice Now. Lorena Pizarro, president of Relatives of the Detained-Disappeared, told the press: “Impunity in our country is a reality and is not over, which causes great pain and fear. We cannot build a real democracy in Chile without bringing perpetrators to justice” (Nelson 2014).

Chile is a country full of complexities. The most encouraging aspect of the country’s democratic progress is its newly mobilized society. There are strong popular movements and, increasingly, commemorations of historical memory. In September 2013, for example, for the 40th anniversary of the coup, there were innumerable conferences, seminars, film festivals, marches, candlelight vigils, and concerts to memorialize Allende’s peaceful revolution and the horrors of the coup. The music of Víctor Jara and the New Song movement was everywhere. Even the conservative mass media—especially television—began showing documentaries never seen before about the years of the Popular Unity government and the coup. In other unprecedented developments, the principal organization of judges issued a formal statement asking to be pardoned by society for their “actions and omissions” regarding protection of human rights during the dictatorship (BBC Mundo 2013). President Sebastián Piñera—a right-wing multimillionaire—said that “many of us could have done much more in defense of human rights” (*Buendiarío.com* 2013). All this was painful, but also encouraging for many Chileans, and represented a qualitative change in the popular culture and in the political system. However, traces of the Pinochet regime can still be found in Chile’s institutions, and governments—even those of the Left—have been cautious about reforming or eliminating them. Moreover, sectors of society—and the security forces—are still strongly identified with the dictatorship.

During the week of September 11, 2014, for example, two ominous events took place in Santiago. A bomb exploded in a metro station, wounding at least 14 people. It was the worst act of terrorism in the country in over 20 years. There had been a wave of bomb threats in the previous month. Conservatives immediately blamed anarchists, but one senator, Jaime Quintana, said, “We believe that it is important as well to analyze what might be happening with cells of ex-agents linked to the dictatorship” (Barraza Riso 2014). On September 10, 2014, the conservative newspaper *La Tercera* published a menacing insert, a statement by retired military and police officers vindicating the coup and denouncing the trials against those who “fought in combat and created the conditions that gave us security.” On the next day, President Bachelet called on parliament to eliminate Pinochet’s Amnesty Law,

decreed in 1978 to protect security officers from crimes committed between 1973 and 1978. She also announced the formation of a new Undersecretary Office for Human Rights and called for unity in the search for the truth about the disappeared.

Conclusion

Crucial information concerning the murder of Víctor Jara, and so many others, is still unknown. There are ex-military officers who have much to tell, and, undoubtedly, there are secret Chilean military files. Moreover, there are undoubtedly classified US documents on Víctor Jara and on the events in the Chile Stadium. US military and intelligence officers worked closely with their Chilean counterparts before, during, and after the coup. Despite important cracks, the wall of impunity still exists in Chile. That impunity is still enabled in part by the US government, which was an important force behind the coup and in the subsequent repression. The United States could cooperate by extraditing Barrientos and collaborating with the Chilean justice system with its extensive archives and informants from the 1970s.

The Víctor Jara case symbolizes the savage violence of the Pinochet regime and the perversity of a national security doctrine that targeted unarmed civilians as “internal enemies,” as well as the ongoing struggle against impunity. Jara’s social conscience and his artistic power—to move and mobilize masses of people, to portray the struggles and pain of ordinary, excluded Chileans, and to denounce government injustices and violence in his songs—were considered dangerous threats by anticommunist military officers. The case is one among thousands in Chile and throughout Latin America. But the persona of Víctor Jara, and the power of his music, represent the ideals of the time, the promise of the Allende government, and the terrible violence that extinguished them. Solving this case will have substantial significance in Latin America and in the world. It will signify the illegitimacy of brutal national security states—states supported by Washington at the time—and the extralegal methods they used to prevent deeper democratization and social equality in Latin America.

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NOTES

1. The Inter-American Court of Human Rights ruled in 2014 that in 2003 eight Mapuche were denied due process and the presumption of innocence under the law.
2. Author interview with Max Berrú, July 23, 2014, Santiago.
3. Author interview with Joan Jara, president of the Víctor Jara Foundation and Víctor Jara’s widow, July 18, 2014, Santiago, Chile.
4. Author interview with Nelson Caucoto, lawyer for the Jara family, August 8, 2014.
5. Caucoto interview, August 8, 2014.
6. Author interview with Pablo Ruiz, July 23, 2014, Santiago.

7. The 2000 CIA report to Congress is known as the Hinchey Report.
8. Caucoto interview, August 8, 2014.
9. Caucoto interview, August 8, 2014.

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