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## Chile Dusts Off Pinochet-Era Terror Law

by LADB Staff

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Ida Huenulef has neither seen nor spoken with her son in three weeks, not since the night an overwhelming contingent of police burst into her Santiago home, pointed machine guns at her head, and dragged Miguel Tapia Huenulef away by his long black hair.

After learning nothing more about her son's whereabouts than what she could glean from snippets on the television news, Huenulef now at least knows where he is locked up inside a high-security prison in Valdivia, more than 800 km south of Santiago. She has also learned that Tapia, a 45-year-old construction worker of Mapuche descent, is the first Chilean since President Michelle Bachelet came to office three years ago to be processed under the country's controversial anti-terrorism law (Ley 19.027), a relic of the Gen. Augusto Pinochet (1973-1990) dictatorship.

Originally aimed at controlling armed political groups involved in kidnappings, attacks on police stations, and assassinations, the law provides prosecutors with special privileges by allowing, for example, testimony from hooded witnesses.

Chilean authorities accuse Tapia of involvement in a January arson attack on a private estate near the town of Lautaro, in the Araucania Region. Also known as Region IX, the Araucania is home to approximately 33% of Chile's Mapuche, by far the country's largest indigenous group. Tapia has also been charged in connection with an attack last December on the public defender's office in Temuco, the Region IX capital.

In addition, police claim they found a stash of weapons in Tapia's bedroom. Among the items allegedly seized were a submachine gun, ammunition clips, two grenades, and bomb-making materials evidence that, according to Interior Minister Edmundo Perez Yoma, more than justifies the application of Law 19.027. "This has all the hallmarks of an organization or of an attempt to create a terrorist organization," Perez Yoma told reporters last month. "We are therefore going to employ all the appropriate measures in this case, including application of the anti-terrorism law."

### *State security or police repression?*

The interior minister's assessment aside, the case against Tapia is hardly cut-and-dried and may have as much to do with politics and persistent police repression as it does with any alleged terrorism activities. Ida Huenulef and the rest of her family insist the real agents of terror in this case were the approximately 50 police who, on Feb. 11, raided their home, berated them with racial slurs, threatened them with guns, stole money, tools, and cell phones, and toward the conclusion of the horrific five-hour ordeal planted the evidence against Tapia.

"They kept me in my room and told me I couldn't move," said Huenulef. "We were all prisoners in here. They separated all the men my sons, my grandchildren, even a truck driver and some

neighborhood kids who were helping move furniture. They took them outside and had them all down on the ground, machine guns pointed at their backs."

Approximately 15 of the police officers crowded into a 15-sq meter shack Tapia uses as his bedroom, trashing the interior and confiscating everything from his work tools and a Che Guevara poster to Silvio Rodríguez CDs, Huenulef explained. It wasn't until approximately two hours later, after several men wearing civilian clothes and black backpacks entered Tapia's room, that police finally discovered the alleged weapons stash, she recalled.

"The whole procedure is extremely strange," said Fernando Lira, vice president of Chile's Partido Humanista (PH). "So much so that it's fair to say this was a setup, that the police needed to discover an arsenal to justify applying the anti-terrorism law. That was their motive." It certainly would not be the first time police have planted evidence in a Mapuche arrest case, according to Lira, a former political prisoner during the Pinochet dictatorship.

In recent years Lira has helped defend several indigenous people accused of property attacks. "We're certain that in many of the cases we've participated in police planted evidence," he said. "After the fact, in a trial, it's very hard for someone to defend himself against this type of charge. How can you defend yourself when 20 police officers all line up and say the same thing, that they found a weapon in your house? It's your word against 20. Are all 20 people wrong?"

### *Presidential promise rings hollow*

Moreover, when the anti-terrorism law comes into play, defense is even more difficult. According to Human Rights Watch (HRW), Law 19.027 is the "harshest" of all Chilean statues as it extends prison sentences, restricts pre-trial release, allows for anonymous witnesses, and gives prosecutors the right to withhold evidence from the defense for up to six months. "A person who's been charged as a terrorist has no access to any benefits. He or she is outside the normal legal regime," said Rodolfo Valdivia, a lawyer with the Temuco-based Observatorio de Derechos de los Pueblo Indígenas (ODPI).

In a joint report filed in 2004, HRW and the ODPI argued that the anti-terrorism law as applied to cases involving Mapuches accused of arson or other types of property destruction violates the defendant's right to due process. The law has also been criticized by Amnesty International (AI) and by the UN's special rapporteur on indigenous rights, Rodolfo Stavenhagen, who visited Chile on a fact-finding mission in 2003.

President Bachelet may have had those criticisms in mind when she promised in 2006 not to wield the anti-terrorism law during her mandate. In light of Tapia's case, that promise suddenly rings hollow. What's not clear is why Bachelet's administration would suddenly about-face on the issue. After all, arson attacks like those being linked to Tapia are nothing new in southern Chile, where the "Mapuche conflict" has simmered for years.

One possibility, says the ODPI's Valdivia, is that the Bachelet administration is reacting to political pressure from the right from people like front-running presidential candidate Sebastian Pinera of the conservative Renovacion Nacional (RN).

On a campaign stop in Region XI last month, Pinera, a wealthy businessman and former senator, promised that, if elected president, he would not hesitate to use the anti-terrorism law. That kind of tough talk resonates well with business leaders like Rene Araneda, general manager of Temuco's Sociedad de Fomento Agrícola (SOFO).

Unless authorities can secure the Araucania, said Araneda, all its residents will suffer because investors and tourists will continue to shy away from the region. "The groups carrying out the violence are small but well-armed, and well-supported by national and international organizations. They're creating a climate of violence," he said. "In the sense that these acts cause terror, for me they're terrorist acts. As long as a law exists to deal specifically with terrorist acts, then we shouldn't be afraid to use it."

It remains a fact, nevertheless, that the only people who have lost their lives in the Mapuche conflict are Mapuches at the hands of police. Last year, carabineros (national police) shot and killed a 22-year-old Mapuche activist named Matias Catrileo. In 2003, another young Mapuche man, 19-year-old Alex Lemun, died after police shot him in the head. "Plus there are a lot of Mapuches locked up," said Alicia Tapia Huenulef, Miguel Tapia's sister. "But we don't call them prisoners. We say instead that they've been kidnapped by the Chilean state. Because this is a kidnapping. The fact that they can't have contact with their families, that they've been taken away from their communities, that's called kidnapping."

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