1-24-2014

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Chilean Rights Groups Applaud Demise Of Government-Backed 'Anti-Protest' Bill

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Category/Department: Chile
Published: 2014-01-24

Two days after losing last month’s presidential runoff, the Chilean right suffered a second stinging defeat, this time in the lower house of Congress, the Cámara de Diputados, which voted Dec. 17 to reject a controversial law-and-order bill known popularly as the Ley Hinzpeter.

The bill—a key item in President Sebastián Piñera’s legislative agenda—was first presented in late 2011 by then Interior Minister Rodrigo Hinzpeter (now minister of defense). It was designed to give authorities added leverage in clamping down on street demonstrations. At the time, Piñera and his Cabinet were struggling to contain an outpouring of popular frustration at deficiencies in Chile’s education system (Notisur, July 22, 2011). Massive student-led protests occurred on a regular basis, particularly in Santiago, where oftentimes events culminated in clashes between Carabineros (uniformed police) and encapuchados (hooded demonstrators).

The Ley de Fortalecimiento del Orden Público, as the initiative was officially named, stipulated stiff penalties for anyone using force against police or other public-security agents. It also promised jail sentences for anyone found guilty of impeding the normal operation of public services, of damaging public or private property, or of blocking roads and bridges. The bill took particular aim at encapuchados, making it a crime for any protest participant to wear headgear that might prevent authorities from determining his or her identity.

The Piñera administration plugged the new rules as a way to make demonstrations more orderly and peaceful. "We’ve seen too much violence, too much lack of respect toward Chileans who just want to have a normal life, too much senseless destruction, too much irrational aggression, too much hate," Hinzpeter said at the time.

Many on the left, however, saw the initiative as overtly repressive, a throwback to the dark days of the dictatorship of Gen. Augusto Pinochet (1973-1990), when the government refused to tolerate any type of street-level opposition. Student activists warned that the bill’s wide-reaching proposals—tailor-made to outlaw exactly the kinds of tactics their influential movement had so successfully employed—would give Chile’s already heavy-handed Carabineros license to squash all but the most benign demonstrations.

The initiative "makes all of the types of protest carried out in 2011 punishable with three-year jail sentences," student leader Camila Vallejo—now a deputy-elect in the Cámara de Diputados—explained during an early 2012 meeting in Switzerland with representatives from the UN’s Office of the High Commissioner for Human Rights (OHCHR). "That includes sit-ins at public-service facilities, stopping traffic, and other kinds of peaceful occupations. And [the bill] isn’t just aimed at the people who carry out those actions. It also targets the organizers."

No regrets?

The bill’s demise (the Cámara voted 51-43 against it) added insult to injury for Piñera’s conservative Alianza coalition, whose faint hopes of retaining the presidency had been dashed less than 48 hours
earlier by the dismal Election Day performance of its candidate, Evelyn Matthei of the hard-right Unión Demócrata Independiente (UDI). Matthei, Piñera’s labor minister, earned less than 38% of the vote in the Dec. 15 runoff (NotiSur, Dec. 20, 2013), nowhere close to enough to beat her popular opposition challenger, former President Michelle Bachelet (2006-2010). Bachelet’s landslide victory swings control of the Chilean presidency back to the center-left, which had enjoyed a 20-year run in power prior to Piñera’s inauguration in 2010.

"The anti-encapuchados law was meant to strengthen freedom of expression and the right of people to express themselves and demonstrate, but without violence. Encapuchados take advantage of these marches to commit criminal acts," Piñera, whose term expires in March, told reporters on Dec. 18. "I hope the next government doesn’t regret rejecting a bill that would have given it better instruments to fight crime and protect innocent people."

For the bill’s many critics, the only regrettable thing about the whole affair was that Congress did not bury the Ley Hinzpeter sooner. The result was particularly satisfying for activist groups like Amnesty International (AI) and Greenpeace, which had lobbied hard against the bill since its inception more than two years earlier. "Ley Hinzpeter's end is a clear triumph for the citizens, and we congratulate the Congress for listening this time and acting accordingly," said Greenpeace’s national director in Chile, Matías Asún.

"To me it was a kidnapping"

Rights groups complain that Chilean police—even without the extra powers proposed by the Hinzpeter initiative—are too often abusive in their handling of protestors. The story of Santiago teenager César Reyes is a case in point. Reyes, a fourth-year high school student at the time, was waiting for a bus last May when plainclothes members of the Policía de Investigaciones (PDI), Chile’s detective force, seized him and forced him into an unmarked car. The men told onlookers that Reyes had stolen a laptop computer. His real "crime," however, was having just participated in a nearby student protest.

Reyes claims he was then transferred to another car, where he was handcuffed and forced to ride with his head between his legs while PDI personnel punched and elbowed him, chipping one of his teeth. The men drove across Santiago, eventually dragging Reyes into an interrogation room, where he was forced to divulge his Facebook password so that detectives could inquire about friends who may also have participated in the day’s student demonstration. The PDI officers continued to abuse the teenager, ordering him at one point to remove his clothes. He was released several hours later when family members came to pick him up.

Of the dozen or so PDI officers he encountered that day, Reyes was only able to identify one: Flavio Torres. "Torres threatened me personally, saying he would follow me the rest of my life, that if I so much as dropped a piece of paper in the street he’d be on me," the teenager told the organization Oficina de Prensa para América Latina (OPAL). "They say it was an arrest. But to me it was a kidnapping."

With the help of human rights attorney Rodrigo Román, Reyes filed a case against officer Torres. Reyes and his lawyer are also demanding that authorities release the names of the other PDI officials involved in the alleged incident. The Ministerio de Interior has so far denied that request. The case against Torres, however, is moving forward. Earlier this month, a Santiago judge formally charged Torres with apremios ilegítimos (unlawful coercion)—the closest thing Chile’s criminal
code has to the crime of torture—and ordered that the PDI official be jailed for 90 days pending further investigation into Reyes’ claims.

"In Chile, torture has never been listed as an actual crime. What we have is article 150-A, 'unlawful coercion by a public employee,' which is understood as torture, but the crime itself is coercion. On top of that, the punishment is light. The maximum sentence is five years," Juan Pablo Delgado, a human rights observer with the Universidad Diego Portales, told the online news site El Mostrador.

**Brutality complaints pile up**

Rights groups are applauding the judge, Daniel Urrutia, for his handling of the case but say the pressure being brought against Officer Torres is an exception, that police are usually accorded impunity in such cases. What’s not an exception, they say, was the incident itself.

In its annual report—released just six days before the Cámara de Diputados voted to bury the Hinzpeter bill—the government’s Instituto Nacional de Derechos Humanos (INDH) noted that approximately 100 "unlawful coercion" cases were opened in just the first nine months of 2013. The previous year, according to the INDH, citizens filed nearly 1,800 formal complaints regarding "unnecessary violence" by police personnel.

The report echoes claims made by other groups, such as the Instituto Igualdad, which in late 2011 presented the Inter-American Commission on Human Rights (IACHR) in Washington, DC, with a report citing numerous instances of police brutality and unlawful arrest (NotiSur, Nov. 11, 2011). One case involved a student demonstrator who said police forced him to endure a type of "waterboarding" (simulated drowning) experience.

"This is clearly a remnant not just of the dictatorship but of other times when punishment was accompanied by physical torment," INDH Director Lorena Fries explained while presenting the institute’s 2013 annual report. "This [violence] is still present is those places where the state keeps people in custody."

-- End --