

# The Situation and Reasons of Chile's Violations of International Law from a Cultural Tradition Perspective

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**Abstract.** Chile is a small country in both territorial and political perspective. Like other countries in Latin America, most people in the world place less emphasis on it. At the same time, penalties under international law are hard to enforce like under domestic law. Therefore, its violations of international law were neglected frequently. In this essay, its violations of international human rights law from the Pinochet era to the present are revealed. I will also explain why the violations always happened without being criticized too much by the Chileans from the view of cultural traditions. Moreover, these ethnic characteristics are not unique to Chile. Latin American countries have relatively similar cultural characteristics. Therefore, I will also analyze the attitudes and behaviors of other Latin American countries towards international law. Finally, for these countries, I will give my advice on what measures they should take to develop and what kind of attitude they should have towards the international community as some marginal force.

**Keywords:** International law, Chile, culture, human rights.

## 1. Introduction

International law has always been seen as a less important part of international relations. International law is a set of norms, rules and standards which are widely recognized by many states. It is legally binding. However, in practice, it is hard to make sure that all countries can follow it because there is no universally accepted authority in the international system enforcing every state to execute it. Because of the anarchy of the international system, many countries violate national law at will. Latin America is a region that often neglected, and its violation of human rights laws is neglected as well.

This paper takes Chile as an example and analyzes why there are so many violations of international human rights law in Latin America. It further examines this question from the perspective of culture and history by explaining Chile's neglect of international human rights law. Finally, the paper provides some recommendations for the Latin America to find a way to abide by international human rights law in their suitable way.

Every state can be the violator of international law. From the perspective of power, super powers are more flexible to violate international law without being punished. For example, the United States always infringe the sovereignty of other country acting the role of global policeman. For interests, some countries can ignore the environmental protection law, like Japan who is planning to charge the radioactive wastewater to the ocean and Brazil keeps the illegal logging of the Amazon Forest for financial interests. In addition, traditional culture is one of the reasons why some countries do not abide by the law. Chile is among them.

## 2. The Violation of International Laws in Chile

Before discussing why Chile treat with the international law with indifference, it needs to be clarified what kinds of law they have violate the most. There are the laws they were accused frequently: article 2 of the International Covenant on Civil and Political Rights, article 1 of the American Convention on Human Rights, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, etc. [1, 2]. Thus, the commonality of violation is human rights. Some scholars argue that Chile is one of the most respectable countries in Latin America for human

rights and the cases about violating the international law of human rights happened seriously during the period of Pinochet, which is a special period for Chile. Then, the question is that from the military government to the democratic government, is human rights international law gaining wider attention in Chile? The answer is no.

There is no doubt that there were many horrible cases about human rights after Pinochet overthrew the state of Allende and started his dictatorship. Unfortunately, when he finally no longer being the head of the government, an amnesty law which was designed and prepared in 1978 was utilized for legitimizing the former dictator's human rights abuses and helping the government escaping the performance of the obligation of international law. In recent years, Chile has transitioned to a very democratic society, and similar things happened again in the 2019. The following parts elaborate on how the human rights international law was violated in the three periods.

For many Chileans on the left, the ruling period of Pinochet is the darkest time. There are many evidences manifest that there were many extrajudicial executions, "disappearances" and torture happened. The most notorious one is "caravan of death", which brings Pinochet's persecution of his opponents to the surface. It is the name of one Chilean army death squad and its duty is carry out execution secretly. The members of "caravan of death" killed at least 75 persons using the helicopter under Pinochet's direct orders [3]. The victims were thrown into the sea, rivers and lakes in Chile by them from the flying helicopter. According to some prosecuted military officers, the victims were political activists. They were taken from the jail cell and tortured to death [3].

Pinochet finished his ruling after one plebiscite in 1988, in which his support rate is about 42%, lower than the disapproval rate [4]. Pinochet determined to keep his promise. In 1980, he proposed one plebiscite about his ruling period that the result is Pinochet will remain Chile's supreme leader until another referendum in 1988, when he would step down if his support rate fell short of the disapproval rate. His retire from the head of the state marked the end of Chile's 17 years military government period and the transition of Chile from dictatorship to democracy. It was similar to the situation in Spain after the death of Franco that the country was given back to the royal household. Unfortunately, although Chile had a democratic reform like Spain, the issue of human rights is a neglected problem in Chile as the 1978 amnesty law played a role with lasting influence.

The Amnesty Law, which was passed by the military administration in 1978, has been one of the most difficult challenges for Chile's human rights development. Investigations into crimes against human rights committed in the most repressive years of the regime are effectively impeded by this law. All those who participated in crimes motivated by politics between 1973 and 1978, when the state of siege was in effect, are granted amnesty under the law. This rule effectively gives the courts a justification to wrap up inquiries into fatalities and "disappearances". This rule served a clear purpose for the Pinochet administration, and it is still used today to prevent prosecution of current and past military personnel.

Obviously, there was one incompatibility between the Amnesty law and the international law. As this Amnesty law impeded the perpetrators of human rights violations from being brought to trial, judged and punished, which is an obligation that the state being imposed by international human rights law. It can lead to some impunity and undermine the reestablishment of respecting human rights and international law. In fact, some people have lost the chance to embrace justice because of it. One famous case is about Carmelo Luis Soria Espinoza, who is an official of the United Nations Latin American Centre of Demography (CELADE). He was abducted and found dead on 1976. Despite adequate investigation evidenced that his death had close connection with the state's execution, the case was defined as a normal murder because of the 1978 amnesty law. The case was subsequently declared closed and the human rights perpetrators did not get sufficient punishment that they deserved.

In the wake of the death of Pinochet and Chile's economic miracle, human rights issues in Chile have been overlooked. But in 2019, this issue came back and attracted the attention of the international community, especially human rights organizations. According to the Amnesty international report

2022/23, the impunity of human rights violations committed during the mass protest of 2019 is persisted [5, 6].

Chile is one of the most developed countries of Latin America. However, it also has one of the widest gaps between rich and poor in Latin America. The civilians had been unsatisfied with the inequality for a very long time. In addition to the huge inequality, the government had problems about corruption, privatization and university graduate unemployment, etc. The trigger of the protest in 2019 was the president's announcement of the raising of the subway tickets' price, which is one policy of the unsatisfactory new constitution which would forthcoming.

The protest originated in Santiago, the capital of Chile, and soon different levels of it broke up in all regions of Chile. Their behaviors include spontaneous takeovers of train stations, destruction of city's infrastructure, confrontations with the national police force. As the force of the demonstration was growing, the Piñera government took actions. It was the first time Chile government declared a state of emergency, sent in the military and stated "we are at war" after the dictatorship of Pinochet. To response the statement of authority, the police violently suppressed the peaceful and violent protesters. With policemen beating, torturing, and even blinding participants (from pellets fired into protesters' faces), the police brutality was terrible.

Obviously, this shows, on the one hand, how the police were poorly trained to act with restraint, and on the other hand, the government's empty commitment to protect human rights and preserve democratic principles more generally [7]. This kind of human rights violations was told by human rights activists to international organizations and are widely regarded as contrary to international law.

### **3. Reasons for the Violation of International Law**

Then, the question is why Chile has the fertile soil for the state rulers to violate human rights international laws without getting worried from the perspective of traditional culture. They are submissiveness and exclusiveness.

#### **3.1. Submissiveness**

Submissiveness mainly because of its colonized history. Two centuries of being oppressed by Spanish colonizer taught Chile a new political system and a new religion, which both influenced the society of Chile a lot.

Columbus's discovery of the new world in 1492 marked the beginning of Spain's transformation from a Muslim colony for seven centuries into a Catholic colonial power. Perhaps because Catholicism had been reestablished and needed to be consolidated, or perhaps because there was no Protestant Reformation yet, Catholicism had a very high status in Spain. Lord Thomas Babington Macaulay is the first man who proposed that the key reason for the backward of Latin America is the great Catholic revival. The British arrived in North America as late colonists, bringing with the new land post-Reformation Protestantism.

In today's view, the North American continent has a more productive and more prosperous society. There is less political corruption and more democratic environment in the North American continent than in the Latin America. It cannot be said that the native and Iberian mestizos of Latin America are genetically inferior, and that the peoples mainly composed of English and Irish are superior. Thus, religious differences that lead to these differences may be a closer answer to the truth.

Under the ruling of the Catholic Kings, Spain developed into a centralized monarchy. The former parliamentary monarchy was abolished and the powers of parliament were greatly reduced. The autonomy of communities was restricted. Even the church, which had great power, was surrendered to the crown. The Catholic Kings gained control of the Church in Spain by acquiring the right of appointment from the Pope. Then they set up the Inquisition, using the charge of "heresy" to suppress the people and political opponents.

The kings' desire for control was not limited to Spain itself, and the overseas colonies lived under imperial centralization as well. The Latin American colonies inherited Spanish bureaucracy. The

governors and all other important offices in Latin America were white Spanish appointed directly by Spain. The hierarchy is extremely rigid and there was a clear hierarchy between white who were born in Spain, white who were born in Latin America, natives, black slaves and mixed races. Not only were the people in the colonies oppressed, but the colonies also had very little power. The colonies were not allowed to trade with other countries except their host country, and the goods they traded with were severely restricted. All this limited early business in Latin America. Centralization is also evident in religion. The indigenous peoples of Latin America originally had their own gods, such as the Quetzalcoatl of the Aztecs and Kukulcan of Maya. But when Spanish settlers arrived, the natives were forced to convert to Catholicism.

Bates, vice president of the Royal Geographical Society in the United Kingdom, has expressed his views on the problems of Mexican society. He believed that the reason why Mexico did not have a truly stable society and democratic politics, like the United States and Canada, was that Mexico was used to being a political apprentice to Spain, obeying all the orders of the sovereign state, and the people did not understand what self-government was. But when Mexico became independent, it was suddenly called upon to become a responsible democracy and the results were inevitably devastating [8].

As a result, most Latin American countries alter between dictatorship and democracy. In this continent, democratic societies tend to be unstable, with competing parties and military strongmen leading to dictatorships. The same was true in Chile, in the later years of Allende's democratically elected government, for the discontent over high inflation and unemployment, the society became chaotic. Pinochet took the opportunity to overthrow the government and seize power. The way he cracked down on his opponents was widely seen by the international community as a violation of international law. But for ordinary Chileans, whose family members stayed away from politics, Pinochet was arguably the perfect monarch. Pinochet's rule brought what all Latin Americans dreamed of: a thriving economy.

In countries like the United States or France, which were deeply influenced by Enlightenment ideas, there is a strong thirst for freedom and democracy. For them, human rights are even more important than life. Many people often think that the worship of freedom and human rights in the United States is extreme, but in Latin America, it is the other extreme, the extreme disregard for freedom and human rights.

In 1989, as Pinochet was coming to the end of his rule, Chile's Centre for Public Studies conducted a random survey of three issues that the next government should focus on most [9]. Seventeen years of dictatorship had just ended, and a host of human rights issues remained unresolved. Many people thought that human rights would be one of the most topical issues, but it has not been. Health, education, wages, employment and poverty were the top concerns, while human rights were seen as an important issue by only 17% of people [9]. This is enough to show that the Chilean people do not attach importance to human rights issues. When the same question was asked in 2002, only 4% of people said human rights were a priority [9]. When news of Pinochet's arrest in Britain for violating national law and his extradition to Spain reached Chile, the victims and their relatives believed that Pinochet had finally paid the price for what he had done. However, many Pinochet supporters still support him, they believe that Pinochet made a lot of contributions despite his mistakes. Many of them also believe that the justification for violating international human rights law is untenable, since Chileans themselves do not see it as a problem. At the same time, they do not believe that foreign countries have the right to interfere in this matter.

### 3.2. Exclusiveness

Another cultural character of Latin Americans for the violation of law is the exclusiveness. Ellen L. Lutz and Kathryn Sikkink had an article about international human rights law in Latin America, in which stated the Latin America's leaders' attitude toward international human rights law [10]. These military leaders, who routinely violate human rights, declared that international scrutiny was a violation of sovereignty and international law was the pretext, which was a form of moral imperialism.

However, this can be a transfer of contradiction. These dictators turn the conflict between themselves and their people into a conflict between foreign countries and their own countries. They described the international criticism as a violation and disrespect to the country, which is a cover-up for their own violations of international law. Unfortunately, Latin Americans often believe in the dictators' excuses, as Latin America has always been a fertile ground for nationalism and even populism.

Apart from Spain, the former colonizer, the United States is their most emotionally complex country for Latin Americans. To some extent, the development of Latin America after independence is closely related to the United States. Many Latin American scholars and writers have long regarded the United States as the greatest country of freedom, equality, and fraternity. They have never hesitated to sing its praises.

However, there are also many Latin Americans who defend the dignity of Latin America. Rodó is one of them. In his book *Ariel*, he explained why the United States represent barbarism and Latin America represent civilization [8]. He urged Latin Americans not to admire the United States, but to see the good in Latin America. Eduardo Galeano is a perhaps more radical writer whose open veins of Latin America have attracted much attention around the world. In this book, he explains the root causes of Latin America's backwardness: Latin America is too far from God and too close to the United States [8]. Although Eduardo said many years later that he was too young when he wrote the article, much of the content did not stand up. But there is no doubt that anti-Americanism is deeply ingrained in many Latin Americans.

Those extreme nationalists claim that they want to completely eradicate the United States' control and influence over them [11]. Those international laws were also made by countries led by the United States and Europe. Those politicians often argue that these human rights laws do not apply to Latin American countries and that they should maintain their own sovereignty.

In fact, there is no obvious trend in Chile of the exclusiveness and anti-Americanism. Perhaps the most striking example is Venezuela under Hugo Chavez. During his term in office, Chavez pursued a strong anti-American policy and implemented a centralized government. He once presented Eduardo's famous open veins of Latin America to President Obama at a summit, which showed his toughness. However, Chavez has been widely accused of violating international human rights law and intimidating and persecuting those with different political views during his tenure. In response to the United States' questions about human rights in Venezuela, Chavez responded with a very strong attitude. Chavez even made personal attacks on George W. Bush and Barack Obama. To Venezuelans, Latin Americans and the rest of the world who hated the United States, Chavez was a hero. He dared to criticize the hypocrisy and hegemony of the United States, which is truly existed.

However, from another perspective, is this really beneficial to the development of human rights in Venezuela? The answer is no. In Latin America today, exclusiveness and anti-Americanism have almost become mainstream, and even evolved into a cultural trait. It must be emphasized that what the United States supports is not necessarily right; But equally, what the United States opposes is not necessarily wrong. In the control of extreme nationalism, Latin America will move further and further away from international law.

#### 4. Conclusion

Radically, Latin America's violation of international law stems from their rejection of international order, which is a harmful order according to their dependency theory. These countries are too eager to change their marginal and backward status in the international system, forgetting that national development is a long-term thing. Most politicians, whether on the left or the right, are too eager for speed, leading to the failure of the national economy time and time again. Finally, in such an environment, Latin Americans are accustomed to prioritizing national development over human rights and to hating US-led power, which cause the neglect of international law.

However, in this age of globalization, extreme nationalism and protectionism are foolish. Latin American countries should actively embrace the international community, both economically and politically. At the same time, the idea of human rights should rightly be disseminated from the top down in Latin America. In this way, the submissiveness and exclusiveness in the blood of Latin Americans will gradually disappear.

## References

- [1] A.I. and the I.C. of J. (2021) Chile: Legal brief on the incompatibility of Chilean decree law no.2191 of 1978 with international law, Amnesty International. Available at: <https://www.amnesty.org/en/documents/AMR22/002/2001/en/> (Accessed: 12 August 2023).
- [2] Bradley, C.A. and Goldsmith, J.L. (1999) 'Pinochet and International Human Rights Litigation', *Michigan Law Review*, 97 (7), p. 2129. doi:10.2307/1290183.
- [3] Evans, R. (2006) 'Pinochet in London--pinochet in Chile: International and domestic politics in human rights policy', *Human Rights Quarterly*, 28 (1), pp. 207–244. doi:10.1353/hrq.2006.0003.
- [4] Gillis, A. (1970) When support for pinochet has not 'Desaparecido', Wellesley College Digital Repository. Available at: <https://repository.wellesley.edu/object/ir1011> (Accessed: 20 August 2023).
- [5] Snyder, E.C. (1995) *The Dirty Legal War: Human Rights and the Rule of Law in Chile 1973-1995*, TU Law Digital Commons. Available at: <https://digitalcommons.law.utulsa.edu/tjcil/vol2/iss2/5/> (Accessed: 13 August 2023).
- [6] AMNESTYUSA (2023) Amnesty International Annual Report 2022/23: The state of the world's human rights, Amnesty International USA. Available at: <https://www.amnestyusa.org/amnesty-international-annual-report-2022-23-the-state-of-the-worlds-human-rights/> (Accessed: 23 August 2023).
- [7] Chacón, J.C.I. (2020) The 2019-2020 Chilean protests, Praxis. Available at: <https://sites.tufts.edu/praxis/2020/02/06/the-2019-2020-chilean-protests/> (Accessed: 15 August 2023).
- [8] Edwards, S. (2012) '2', in *Left behind: Latin America and the false promise of populism*. Chicago, the United States of America: Univ. of Chicago Press.
- [9] Klein, M. (2003) 'The human rights violations of the pinochet regime and their legacy', *European Review of Latin American and Caribbean Studies*, *Revista Europea de Estudios Latinoamericanos y del Caribe*, 0 (74), p. 107. doi:10.18352/erlacs.9708.
- [10] Lutz, E.L. and Sikkink, K. (2000) 'International human rights law and practice in Latin America', *International Organization*, 54 (3), pp. 633–659. doi:10.1162/002081800551235.
- [11] McPherson, A.L. (2008) *Anti-americanism in Latin America and the Caribbean*. New York, USA: Berghahn Books.