



observatorio

Luz Ibarburu



de seguimiento de las denuncias penales por violaciones a los derechos humanos

POLICY BRIEF

Justice without Borders

Accountability for Plan Condor Crimes in South America

Francesca Lessa, Latin American Centre, University of Oxford¹

Executive Summary

Forty years on, accountability for the transnational crimes committed in the 1970s and 1980s by the coordinated repression known as Plan Condor remains a largely unresolved matter in South America. Dealing with the crimes of the past is essential to ensure human rights protection in the future and requires concerted efforts at the regional level. This policy brief is based on a multi-year study carried out between 2013 and 2016 on accountability for Plan Condor crimes and, in particular, two knowledge exchange workshops, in which academics, lawyers, judges, prosecutors, policy experts and members of civil society from Argentina, Brazil, Chile, and Uruguay participated. The brief highlights the main challenges and obstacles that have delayed and slowed down the elucidation of past transnational atrocities in South America. It also sets out three recommendations to overcome these hindrances across the region:

- *Setting up multidisciplinary teams dedicated to investigating human rights atrocities;*
- *Establishing a regional database or repository with information on Condor crimes;*
- *Strengthening regional channels ensuring a smooth flow of evidence for use in criminal trials.*

¹ Marie Skłodowska-Curie Research Fellow, Latin American Centre, University of Oxford, and international consultant for the Observatorio Luz Ibarburu (Uruguay). The author would like to thank Diego Sánchez Ancochea, Lorena Balardini, María Florencia González, Pablo Ouviaña, Jaime Nuguer, Marcos Kotlik, Pablo Chargoña, and Raúl Olivera Alfaro for their assistance in preparing this brief.



The Leverhulme Trust



Introduction

The year 2015 marked the fortieth anniversary of the founding meeting of Plan Condor. On that occasion, it was important to reflect on the steps taken and the progress made in trying to shed light on the crimes perpetrated between 1975 and 1981 by the coordinated repression created by South America's military dictatorships. The next five to ten years, in particular, will be key in order to move forward with the criminal investigation of those very crimes. Time is of the essence.

Since May 2015, thanks to funding received from the ESRC's Impact Acceleration Account of the University of Oxford, the Leverhulme Trust, the British Academy, and the Open Society Foundations' Human Rights Initiative, a partnership was developed between the Latin American Centre of the University of Oxford, Chile's Ministry of Justice and Human Rights, and the NGO network Observatorio Luz Ibarburu of Uruguay. Subsequently, the Chilean Senate (Centro de Extension) and the Museum of Memory joined this collaboration in late 2015, while the Human Rights Secretariat of the Uruguayan central trade union, PIT-CNT, and the Montevideo Municipal Government also did so in 2016.

This partnership had three objectives:

- 1 To share and exchange experiences at the regional level on investigations into Plan Condor crimes;
- 2 To evaluate the Plan Condor Trial in Argentina and the implications of the final verdict within the region;
- 3 To develop strategies and suggest specific tools to facilitate and promote the investigation of Condor crimes in each country and at the regional level.

In order to archive those goals, two knowledge exchange events were organised, one in [Chile](#) in December 2015 and one in [Uruguay](#) in June 2016, with two sets of activities in each: a *conference* on the first day and a *closed-session workshop* on the second. The conferences, with presentations from local judges, prosecutors, lawyers and human rights activists directly involved in investigating crimes, assessed accountability efforts undertaken in Chile, Uruguay, Brazil, and Argentina in trying to clarify Condor atrocities. Moreover, two workshops also took place, involving a total of 60 participants specifically invited, encompassing academics, lawyers, judges, prosecutors, public policy experts and members of civil society. Taking as a starting point the Plan Condor trial in Buenos Aires, and similar lawsuits linked to Condor in Chile and Uruguay, the main purposes of the workshops were to (a) debate and tackle the obstacles, whether legal or factual, that delay or hinder the investigation of Condor crimes and (b) generate new strategies and tools that could be implemented at the regional level to overcome them, speeding up the elucidation of these atrocities in the near future. Summaries of the workshops' discussions are available in Spanish, English, and Portuguese on the web (workshop in [Santiago](#) and workshop in [Montevideo](#)). The following questions and topics were considered during the workshops:

- What are the major obstacles that have delayed or obstructed accountability?
- What are the challenges and difficulties for judicial operators in Chile who have to investigate a crime committed in Argentina? Or vice versa?
- What tools do judges, lawyers and prosecutors require to conduct effective and efficient investigations into wrongdoings committed outside their own country?

The workshops' discussions revolved around three key areas:

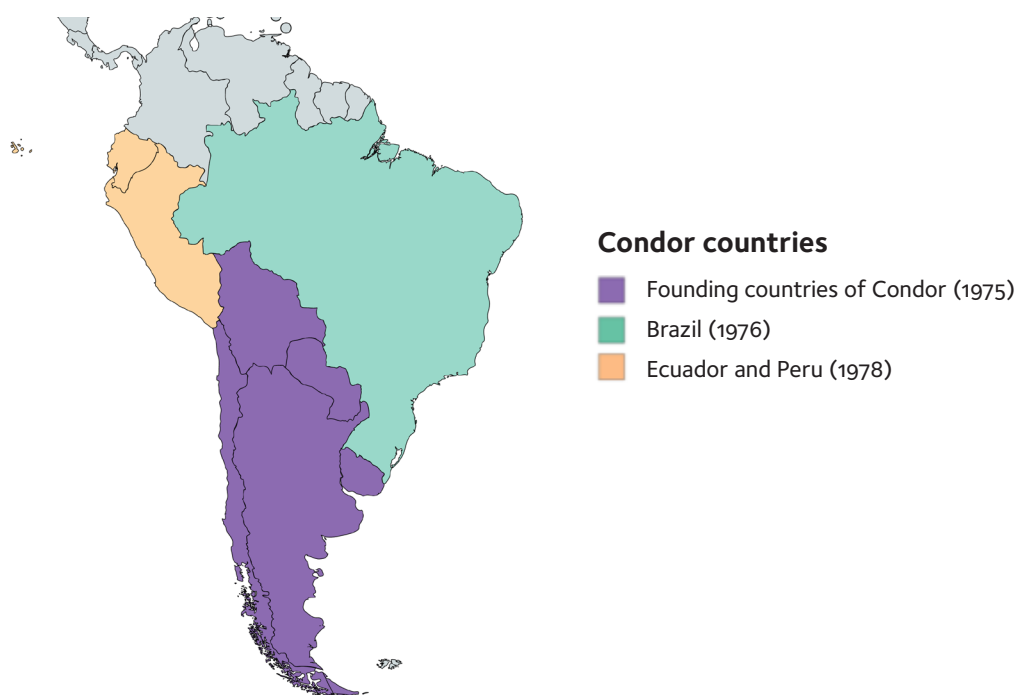
- 1 Juridical Construction of Plan Condor Transnational Crimes;
- 2 Necessary Resources to Investigate Plan Condor Transnational Crimes;
- 3 Access to Evidence and Communication among Judges, Prosecutors, Lawyers and Civil Society.

If in the 1970s the countries of the region were able to work together through Plan Condor in order to coordinate their repressive policies to jointly carry out atrocities, nowadays it is fundamental to develop public policies at a regional level in order to repair and redress those same crimes.

This report gathers the main conclusions and recommendations that emerged from this collaboration over the past few months. It has four parts. Firstly, it provides a *brief overview of Plan Condor*; secondly, it describes the progress *of criminal accountability for Condor crimes* across the region; thirdly, it sets out the *main difficulties and challenges* that have slowed down and hindered accountability for transnational crimes; and finally, it puts forward *three recommendations* that arose from this multidisciplinary network of judges, prosecutors, lawyers, activists of human rights, anthropologists and archivists, to promote and facilitate the investigation of Condor crimes.

What was Plan Condor?

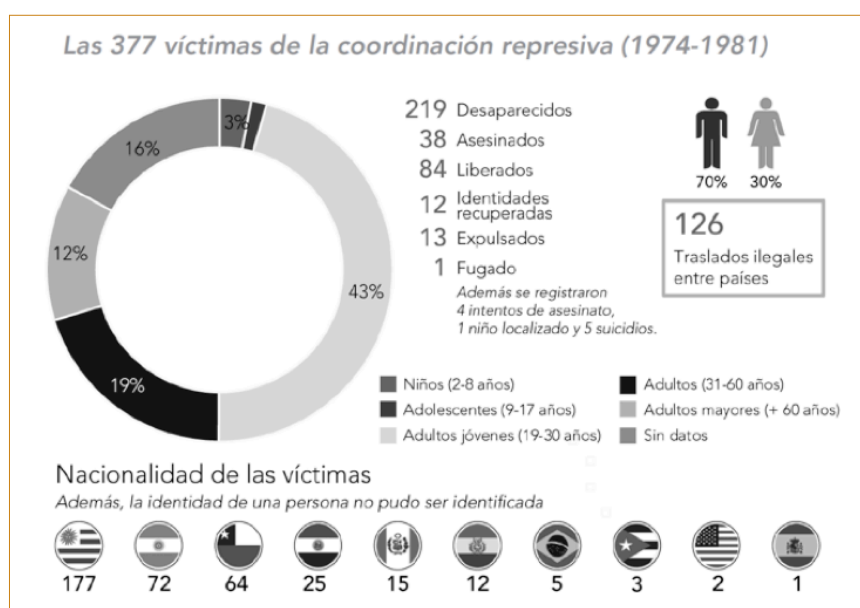
Since the mid-1950s, political violence inspired by the National Security Doctrine and the global backdrop of the Cold War, engulfed South America, with coups in Paraguay (1954), Brazil (1964), Argentina (1966, 1976), Uruguay and Chile (1973), and Bolivia (1971, 1980). These regimes systematically repressed all forms of political opposition, perpetrating countless human rights violations including torture, extrajudicial executions, enforced disappearances, illegal appropriation of children, and sexual violence. By the mid-1970s, human rights repression had also acquired an additional, and sinister, transnational dimension.



The so-called Plan or Operation Condor was a secret network of intelligence and coordinated repressive policies originally set up by the dictatorships of Argentina, Bolivia, Brazil, Chile, Paraguay and Uruguay in the mid-1970s, to illegally detain, torture, and, most often, murder political opponents all across South America, turning that region into a borderless area of terror and impunity (see map). Condor initially emerged from informal and bilateral forms of cooperation between the armed and security forces of Argentina, Paraguay, Chile, and Uruguay from as early as 1972. Condor was later officially created at a meeting of intelligence and security forces organised by the Chilean National Intelligence Directorate (DINA) and held in Santiago, Chile, between November 25 and December 1, 1975; 50 officials from across the region participated at that gathering. Later on, in 1976, Brazil formally joined Condor and, in 1978, Peru and Ecuador also did so.

Declassified US documents have allowed scholars to identify *three Plan Condor phases*: (1) **close coordination and intelligence exchange**; (2) **joint operations in South America**; and (3) **targeted assassinations outside South America**. The transnational repressive coordination completely disregarded all principles of international law on refugees and the long custom of protecting exiles in South America. Exiles, thinking that they had found safe havens, became victims of “death traps” abroad.²

Between 1975 and 1981, Plan Condor facilitated the perpetration of disappearances, kidnappings and murder of hundreds of political leaders, activists and refugees. According to a UNESCO 2016 report on Condor, **the estimated number of victims between 1974 and 1981 is 377**, including 177 Uruguayans, 72 Argentines, 64 Chileans and 25 Paraguayans.³ Most likely, the total number of victims exceeds 500.



Victims ranged from renowned politicians, such as Uruguayans Zelmar Michelini and Héctor Gutiérrez Ruiz, to political activists, guerrillas, and refugees under the mandate of the United Nations High Commissioner for Refugees. Plan Condor agents travelled beyond South America: Chilean politician Bernardo Leighton and his wife survived an assassination attempt in Rome in October 1975, while former Chilean diplomat Orlando Letelier was killed with his assistant in September 1976 in Washington DC. Operations always entailed at least agents from the interested country (usually

² Lessa, Francesca. 2015. “Justice beyond Borders: The Operation Condor Trial and Accountability for Transnational Crimes in South America”. *International Journal of Transitional Justice* 9(3): 494-506

³ *Operación Cóndor: 40 años después*. Centro Internacional para la Promoción de los Derechos Humanos. UNESCO: marzo de 2016, page 260, http://www.cipdh.gov.ar/wp-content/uploads/2015/11/Operacion_Condor.pdf

the victim's home country) and the country in which the person was located. A major location of crimes was Buenos Aires, due to the large number of political exiles living there since the 1960s. The clandestine detention centre known as *Automotores Orletti* (see photos below by Francesca Lessa), located in the capital's Floresta neighbourhood, was a key detention site from which Argentine, Chilean, and Uruguayan agents conducted Condor-related operations. *Orletti* functioned between May 11 and November 3, 1976. Around 300 people were illegally detained there: the majority were foreigners (Uruguayans, Chileans, and Cubans), many of whom were forcibly returned to their country.



Other well-known places of clandestine detention and torture associated with Plan Condor include, in Argentina, the Pozo de Banfield and Pozo de Quilmes; in Santiago de Chile, Villa Grimaldi (picture by Francesca Lessa) and Cuatro Alamos; in Uruguay, Punta Gorda House, "300 Carlos," and the building that housed the Defence Intelligence Service (SID) in Montevideo (see pictures kindly provided by Joel Richards and Mirtha Guianze); and in Paraguay, the Police Investigation Department in Asuncion.



Punta Gorda House



Villa Grimaldi



SID



Police Investigation Department

Accountability for Condor Crimes in South America

A survey of criminal investigations into Plan Condor crimes across the region conducted for this project identified a total of **23 proceedings** at different stages of the judicial process (see Table 1 for details). Of these 23 proceedings, 13 took place in Uruguay, 4 in Chile and 6 in Argentina; 11 have been finalised (one was shelved due to the death of the only defendant), 3 are at the trial stage, and 9 in the pre-trial phase. To date, **43 individuals have been sentenced, while another 77 are currently facing trial**. When looking at the victims, the cases of **247 victims have been investigated** by the region's tribunals, while the vast majority of them are still under investigation or at the trial stage (440 victims).⁴

In a historic verdict, delivered on May 27, 2016, Federal Tribunal 1 of Buenos Aires acknowledged that Plan Condor amounted to a joint criminal enterprise, condemning 15 of the 17 defendants in the case, with sentences ranging from 8 to 25 years. A section of the Condor lawsuit continues to be investigated in the pre-trial stage at Federal Criminal Tribunal 7 and Criminal Federal Prosecutor 10. This investigation encompasses approximately 193 defendants for their responsibility in the cases of 382 victims (348 being investigated for the first time and 34 already examined in previous trials). The total number of victims of Plan Condor under judicial investigation in Argentina has reached a total of 457 cases. The cases include victims from Argentina, Bolivia, Chile, Paraguay, Peru and Uruguay, and also citizens from Brazil, Germany and Spain.⁵

We have been unable to find any active criminal proceedings in Bolivia and Brazil, and only confusing information in Paraguay; we are going to try to clarify this data.



Ex dictator Jorge R. Videla, Plan Condor trial, Buenos Aires, 5 March 2013, photo courtesy: H.I.J.O.S. Capital

4 Numbers about victims used in this section of the report differ from those cited in the previous section taken from the UNESCO report. The data here was compiled through information on criminal trials as provided by these institutions: la Procuraduría de Crímenes contra la Humanidad of Argentina; the Observatorio Luz Ibarburu of Uruguay; and the Programa de Derechos Humanos del Ministerio del Interior y Seguridad Pública of Chile. On the other hand, the numbers used in the UNESCO report were constructed with data from the following institutions: la Comisión Nacional sobre la Desapariciones de Personas (Argentina), la Comisión Nacional de Verdad y Reconciliación (Chile), la Comisión de Verdad y Justicia (Paraguay), la Comissão Nacional da Verdade (Brasil), la Comisión para la Paz; y datos de la Secretaría de Derechos Humanos de la Presidencia de la República (Uruguay).

5 Data taken from the report: La Judicialización de la Operación Cóndor, Informe de la Procuraduría de Crímenes contra la Humanidad, Buenos Aires, noviembre de 2015, <http://www.fiscales.gob.ar/wp-content/uploads/2015/11/Informe-ProcuLes-a-Op-C3%B3ndor-Final.pdf>

Table 1. Judicialization of Condor in South America

	Case file name	Crime(s) and number of victim(s)	Defendant(s)	Status	Countries involved
ARG	Arancibia Clavel	Murder; joint criminal enterprise • 2	1	Verdict (2004)	CHI; ARG
ARG	Automotores Orletti I	Murder; kidnapping; torture • 65	4	Verdict (2011)	ARG; URU
ARG	Automotores Orletti II	Kidnapping; torture • 67	1	Verdict (2016)	ARG; URU; CHI; CUB
ARG	Automotores Orletti III y IV	Murder; kidnapping; torture • 9	4	Trial	URU; ARG
ARG	Plan Cóndor I, II, y III	Kidnapping; joint criminal enterprise • 107	17	Verdict (2016)	ARG; URU; CHI; PAR; BOL
ARG	Plan Cóndor IV	348		Pre-trial	ARG; URU; CHI; PAR; BOL; PER; BRA
CHI	Orlando Letelier	Homicide • 1	2	Verdict (1995)	CHI; EEUU
CHI	Carlos Prats	Murder; joint criminal enterprise • 2	9	Verdict (2010)	CHI; ARG
CHI	Operación Cóndor	Kidnapping; murder • 12	68	Trial	CHI; ARG
CHI	Operación Cóndor BIS	Kidnapping • 11		Pre-trial	CHI; ARG
URU	Anatole y Victoria Julién	Enforced disappearance; appropriation of minors • 2		Pre-trial	URU; ARG; CHI
URU	Antonio Viana	Torture • 1		Pre-trial	URU; ARG
URU	Edison Inzaurrealde y Nelson Santana	Enforced disappearance; kidnapping • 2		Archived	URU; PAR; ARG
URU	Fusilados de Soca	Murder, appropriation of minors, identity theft • 5		Pre-trial	URU; ARG
URU	Grupos de Acción Unificadora (GAU)	Murder, enforced disappearance, refolement • 37	2	Verdict (2009)	URU; ARG
URU	Héctor Giordano	Enforced disappearance • 1		Pre-trial	URU; ARG
URU	María Claudia Gelman	Appropriation of minors, enforced disappearance • 1	5	Trial	ARG; URU
URU	Montoneros	Appropriation of minors, torture, kidnapping, enforced disappearance, kidnapping, joint criminal enterprise, appropriation of minors • 22		Pre-trial	ARG; URU
URU	Orletti (“primer vuelo”)	Torture, murder, kidnapping, enforced disappearance • 25		Pre-trial	URU; ARG
URU	Orletti (Soba y otros)	Enforced disappearance, kidnapping • 28	8	Verdict (2011)	URU; ARG
URU	Universindo Rodríguez y Lilián Celiberti	Torture, kidnapping • 4		Pre-trial	URU; BRA
URU	Washington Barrios	Kidnapping • 1		Merged with Orletti (Soba and others)	URU; ARG
URU	Zelmar Michelini	Murder • 4	2	Verdict (2011)	URU; ARG

Obstacles and Challenges in Investigating Condor Crimes

The knowledge exchange workshops held in Santiago and Montevideo between 2015 and 2016 brought together a total of about 60 participants, who had been specifically invited owing to their direct and active role in the litigation and clarification of transnational crimes. They included judges, lawyers, prosecutors, human rights activists, and members of local ministries.

The debate was specifically framed around three themes: (1) *the Juridical Construction of Plan Condor Transnational Crimes*; (2) *the Necessary Resources to Investigate Plan Condor Transnational Crimes*; and (3) *Access to Evidence and Communication among Judges, Prosecutors, Lawyers and Civil Society*. The discussions during these workshops allowed us to identify **10 challenges and problems** that are currently being experienced by judicial operators and activists in the litigation and investigation of these crimes. Each is described in detail below.

Regarding the *Juridical Construction of Plan Condor Transnational Crimes*, four main difficulties were identified by the workshop participants:

1. Unsuitable procedural law and the role of victims

In Uruguay and Chile, **the criminal codes used to investigate human rights violations (whether committed within the framework of Plan Condor or not) are the same as the ones employed to probe common crimes, not systematic offences**. Therefore, the criminal codes and legal categories available to judicial operators are insufficient and inadequate to carry out comprehensive investigations of crimes that are of a complex nature. Difficulties, thus, emerge when approaching the investigation of international crimes, by applying domestic criminal categories; the latter fail to capture the magnitude of what happened and take into account all of its constitutive parts. For example, if enforced disappearances are investigated through the lens of the common crime of kidnapping and then, when the remains of the victim are identified, the investigation focuses only on murder, significant elements of the multifaceted crime of disappearance may be omitted by applying such a narrow focus. In addition, the fact of having to indict for common crimes often results in rather lenient sanctions at the sentencing stage, which do not match the gravity of the offences committed. It was also emphasised that, in Uruguay as well as in Chile, **the task of gathering and presenting proof and evidence during trials always falls upon the victims**, placing a huge burden on them, whereas the State has generally failed to assume its responsibility to actively prosecute and punish. The victims have to provide their testimony many times, which results in their revictimization and also causes problems in terms of resources and time. Victims have to play a central role in feeding evidence to criminal proceedings but, then, they cannot play an active part during the trial phase itself in Uruguay, for instance, where the figure of private prosecutor does not exist, as it does in Argentina. In addition to the invisibility of victims in the criminal process itself, **the issue of gender and gender specific violence remains invisible when looking at the crimes charged**. For example, in a case investigating the sexual violence suffered during the dictatorship by 28 women in Montevideo, the judge only charged the defendant for the crime of deprivation of liberty, failing to include torture or rape. The Prosecutor in the case has appealed against the indictment, considering that the accused also has to be prosecuted for torture.



Gathering outside the tribunals in Comodoro Py, Buenos Aires, for the Atlético-Banco-Olimpo trial, December 2009, photo: Francesca Lessa

2. The characterisation of the crimes and the issue of prescription

In Uruguay, the crimes of enforced disappearance and torture have existed within national legislation since 2006. Some prosecutors and judges have argued that these two legal categories should be used to investigate the crimes of the dictatorship and of Condor. Moreover, article 72 of the Constitution of Uruguay allows for international treaties to be applied, as if they were part of national law. Therefore, **the legal basis to apply international law in Uruguay is not the main problem, but rather, the bigger obstacle seems to be the interpretation of the law adopted by several judicial officials** when confronted with these types of crimes and investigations. Some of them have fought throughout the years to support the claim that international human rights law should be applied in the country to investigate the crimes. In spite of that, the Supreme Court of Justice (SCJ) has rejected in all instances the use of the category of forced disappearance, sentencing instead for deprivation of freedom or murder. It is a juridical battle that continues. In addition to the definition of the offence, another issue linked to international law is **the qualification of an act as a crime against humanity**. Statutes of limitations, as tools to extinguish criminal actions, are a subject of debate in Uruguay today: whether such statutes for common crimes should be applied in the case of crimes carried out during the dictatorship, or if the imprescriptibility of those crimes under international law should prevail.



Ex coronel Manuel Cordero, Plan Condor trial, Buenos Aires, 5 March 2013, photo courtesy: H.I.J.O.S. Capital

3. Need to Establish the Overall Context of Plan Condor

Several of the workshop participants stressed that it would be important to generate a common framework for understanding Plan Condor, following the model of Argentina's lawsuit 13/84, the Trial of the Military Commanders. The verdict in the Trial of the Military Commanders –handed down in December 1985– proved that, during the dictatorship from 1976 to 1983, there existed in Argentina a systematic plan of torture and enforced disappearance of persons. This legal finding in the 1985 verdict has been used ever since as a starting point for all the trials that have followed and have since tackled different aspects of human rights repression. Subsequent trials no longer had to prove the existence of such a systematic plan, but rather, they only had to deal with the atrocities committed in specific cases and the individuals directly responsible for them. **It would be useful to have a similar framework on the existence of Plan Condor, as a systematic plan within which specific crimes against victims and defendants can later be prosecuted, once the overall context of the Plan Condor's *modus operandi* has been firmly established.**



Commemorations on the 40th anniversary of the Pinochet's coup, Santiago de Chile, September 2013, foto: Francesca Lessa

4. Properly Identifying Condor Cases

In Argentina, the country that has progressed the furthest in investigating transnational crimes, all cases of foreign citizens illegally detained there were categorised and treated *prima facie* as potential victims of Plan Condor. With the passing of time, this approach has been questioned, as more evidence surfaced. Indeed, not all foreigners were victims of the repressive coordination since, in some instances, exiles and asylum seekers had joined local Argentine political groups and were eventually persecuted because of this local activism, rather than their political affiliation back in their country of origin. In Chile, on the other hand, the investigation has not been systematised and thus, there are victims of Condor being investigated in other trials, such as those relating to clandestine detention centres such as Villa Grimaldi. The participants in the knowledge exchange workshops discussed the necessity to identify clear criteria that would allow decisions to be made on whether a specific case can be categorised as Condor or not. *The key element in considering if it constitutes a Condor case seems to be that the crossing of a boundary must take place. This crossing of boundaries could take one or more of these forms:* (a) exchange of information about a victim between two countries (the victim's country of origin and the country where the victim is located); (b) the participation of foreign agents in the criminal act(s); and (c) the forceful return of the victim(s) from the country of detention to their country of origin. *When at least one of these three elements is met, it can be considered as a Condor case.*

Regarding the *Necessary Resources to Investigate Plan Condor Transnational Crimes*, the following two issues were highlighted by the participants:

5. Lack of Continuity and Communication in Investigations

This seemed to be particularly relevant and problematic, since it is often the case that different judges and judicial operators take part at different stages of the same trial process. This situation generates delays, since, for example, in many instances in both Chile and Uruguay, the arrival of a new judge means that the investigation has to start again from the beginning.

6. Establishing Multidisciplinary Teams to Investigate Atrocities

Multidisciplinary teams should be set up to support investigations into transnational crimes. These teams should encompass experts such as forensic doctors, anthropologists, lawyers, historians, psychologists, etc. Existing teams do not meet current needs, in particular the team in the Ministry

of the Interior in Uruguay. In Argentina, for example, it was necessary to establish interdisciplinary teams that were allowed to read and understand all the files and documentary evidence that composed the investigations into Plan Condor. Victims' testimony remained at the core of the evidence, yet for the prosecution, it was important to be able to incorporate the large amount of archival documents that existed about Condor in the trial. Dealing with this archival evidence was a new challenge for the public prosecution and it was successfully managed by the creation of a multidisciplinary team through a partnership with historians from the University of Buenos Aires. Another issue that emerged regarding Uruguay was the absence of a policy to accompany and psychologically support victims when they have to give testimony before the courts. This can result, on many occasions, in their revictimization. A policy of victim support should be institutionalised and this could also be partly achieved by incorporating psychologists and social workers into the proposed multidisciplinary teams.

Finally, on the question of *Access to Evidence and Communication among Judges, Prosecutors, Lawyers and Civil Society*, the participants drew attention to these four problems:

7. Problems with Accessing Archives

The inability to gain access to the entire collection of documents known as the Archives of Terror, in Paraguay, which contains key official papers about Plan Condor, was particularly emphasised, together with the difficulty of also gaining access to other archives, both military and otherwise, from across the region. Some participants remarked how some state institutions and bodies wish to retain control over the documentation that is requested and later submitted. This is something that has a clear and negative impact on the trials' progress.

8. Dispersal, Volume, and Analysis of Evidence

The existence of numerous judicial proceedings in each country and across the region means, in practice, that evidence is spread out, making access to it very difficult. In addition, as some of the Argentine participants highlighted, the challenge often lies not so much in finding evidence, but rather, in its sheer volume. This makes it hard to easily identify what could be used in a specific trial and detect new leads that may emerge from pre-existing evidence. Frequently, the evidence is not organised according to specific criteria that would make its analysis easier. The analysis of information requires States to provide resources and develop specific policies on how to work and manage existing sources of information and evidence. These could include policies on the digitalisation of documents, as well as the creation of indexes to organise and catalogue existing information, to permit a quick assessment and the incorporation of the evidence in criminal trials.

9. Delays in Official International Requests

Official international requests through Foreign Ministries are used to obtain evidence and proof of crimes committed wholly in or in part in the territory of nearby countries. These international requests, however, are extremely slow to be processed and it can take from several months to one year to receive a response. This seems to be out of sync with existing technologies, which should favour a free-flowing and smooth interchange of information among countries. These delays are unreasonable if we take into account the technology that is available today.

10. Lack of Specialisation and Training

Under this heading, two issues were highlighted, in particular regarding the case of Uruguay. On the one hand, an official of the Ministry of Foreign Affairs (MRREE) stressed **the need to train public officials who have to work on human rights issues, to sensitise them to this complex subject**. In the case of the MRREE, the transnationalisation of justice required that diplomats rise to the challenge of the task. For example, the MRREE had to play a role in the Condor trial in Italy. But the official who deals with a witness has to be sensitive and knowledgeable, not out of his/her own goodwill, but by

having been trained specifically in human rights. On the other hand, several participants highlighted how, **within the Uruguayan judiciary, there are no researchers, or special prosecutors**, but rather the same officials who deal with common crimes are the ones who have to investigate allegations of crimes against humanity. In general, **there is therefore a lack of expertise on these matter and there are no equivalent institutions**, for example, to the Office of the Attorney for Crimes against Humanity in the Public Prosecutor Office of Argentina. In October 2015, a Special Human Rights Unit was set up in Uruguay to train public prosecutors on the historical and political context of the dictatorship. Although this is an important step, it seems insufficient if it is not accompanied by the development of institutional strategies to investigate and provide further training on these crimes. In September 2016, a draft bill was put forward to Parliament to establish a Special Human Rights Prosecutor's Office to investigate the crimes of the dictatorship in Uruguay.



Workshops in Montevideo in June 2016 and Santiago de Chile in December 2015

Conclusions and Recommendations

The discussion during the two knowledge exchange workshops focused on suggesting practical tools and strategies that would facilitate and promote the investigation and prosecution of Plan Condor crimes in South America. The following three recommendations were agreed upon during those meetings:

Setting up multidisciplinary teams dedicated to investigating human rights crimes: these could be established within tribunals, public prosecutor's offices and/or other offices within the judiciary as appropriate in each country. In light of the complexities surrounding these human rights cases, these proposed teams would include, in addition to personnel from the office in which they are to be established, historians and document analysts to support the analysis of archival evidence and documents, anthropologists, forensic doctors, translators, and psychologists to accompany and provide support to victims and witnesses during the trial process as outlined below:

- **historians and document analysts**, to support the analysis of archival evidence and documents;
- **psychologists and social workers**, to manage the relationship with witnesses and victims and to accompany them through the different stages of the judicial process;
- **anthropologists and forensic doctors**, to assist with locating, searching and identifying the victims of enforced disappearance;
- **translators**, to help with documentation sent by the US and/or in Portuguese.

Establishing a database or repository at a regional level containing evidence, proof and information relating to Condor: such a database or repository would encompass information on existing trial proceedings across the region, as well as archival documents and other types of evidence that may be relevant to judicial investigations. The database would have different levels of access, with sections open to the public and others limited to judges, lawyers, and prosecutors, so that they could directly incorporate such information into trial processes and criminal investigations. In order to establish such a repository, it will be necessary to gather, compile and digitalize (where not already available) several documents and records, as well as develop and coordinate ways of accessing the information so that it can be included as part of legal proceedings, in all the countries that composed Condor (Argentina, Brazil, Bolivia, Chile, Paraguay, Uruguay, Ecuador, and Peru). Please see Annex 1 below for more details on the database and its features.

Strengthening channels to ensure a smooth flow of information, documents and evidence to be used in the criminal process: In light of the difficulties discussed above in terms of gaining access to evidence of transnational crimes, and the delays that characterise international official requests through foreign ministries, these three interrelated policy suggestions are proposed to ensure faster and easier access to relevant information:

- **Reduce the timeframe** in which requests for international legal assistance are processed and dealt with;
- **Amend the Memoranda of Understanding between the countries of the region dealing with the exchange of documentation for the clarification of grave violations to human rights**, setting a deadline of 60 days for the delivery of the documentation in digital form (for example *the Memorandum of Understanding Between the Republic of Argentina and the Republic of Chile on the Exchange of Documentation to Clarify Serious Human Rights Violations* signed on 12 May 2014). An additional extension of 30 working days may be granted under exceptional circumstances;
- **Draft new conventions on judicial cooperation to enable judges and prosecutors to directly exchange (without having to resort to international official requests) information, documents, and files to be able to incorporate these into criminal investigations on Condor.** Such conventions could be established between, for example, the Human Rights Programme of Chile's Ministry of Interior and The Public Prosecutor's Office of Argentina. The goal here is to ensure smoother and faster ways of communication and cooperation between the actors that actively investigate the crimes. These conventions would allow channels of direct communication between the bodies involved in the trial process (both prosecutors and judges), which would include the transmission of information discovered during investigations and the specific evidence, as well as its use and formal incorporation in judicial proceedings.

ANNEX 1

Plan Condor database or digital repository

By Lorena Balardini, Universidad de Buenos Aires

The proposal is to create a regional **database or repository** that will contain documents and information produced in each of the States (Argentina, Brazil, Chile, Paraguay, Uruguay, Ecuador and Peru) and which can be used in existing trial proceedings to avoid delays in processing requests for information. Following discussions at the workshops in Chile and Uruguay, and the participation of experts, the information required to support Condor lawsuits can be divided up into the following three categories:

1. Official information
 - 1.1 The Executive
 - 1.2 The Judiciary
2. Information produced by local and international civil society organisations
3. Declassified information from the US State Department

A few examples of each type of information are:

1. Official information

1.1. The Executive

- 1.1.1 Truth Commissions (CONADEP, Rettig, Valech, CNV Brazil, etc.): reports, testimony, victims' files, information on perpetrators, clandestine centres, repressive network, etc.
- 1.1.2 Ministries (defence, interior, amongst others): files on members of the armed forces and security services, the forces' strategic action plans, course and training materials.
- 1.1.3 Archives on the subject: the National Archive of Memory in Argentina, the Archives of Terror in Paraguay.

1.2 The Judiciary

- Judicial documents relating to Condor lawsuits;
- Testimony from victims/relatives and experts (on video or written);
- Certified copies of archive material or departments within the national executive power or from other countries involved in Condor.

2. Information produced by civil society organisations

- Testimony from victims or relatives of victims.
- Lists of those responsible.
- Information on clandestine detention centres, repressive networks

Database content

Equipped with this vast amount of information, the construction of the database can be thought of as having distinct stages.

The *first stage* will be to gather the most accessible materials in each country: the information produced by civil society organisations, publically available materials such as Condor victims' biographies, bibliographies and publications about Condor, and the sentences handed out in Condor lawsuits in the region and abroad that are freely accessible.

The *second stage* will consist of Condor materials that have been filed in the archives and Executive Power institutions in each country.

Finally, the *third stage* will contain materials from relevant judicial lawsuits.

Different levels of access and security

Each of the stages of the database's construction relates to the level of access that the information requires. It is important to set up permissions and users, and guarantee access without compromising any sensitive information. This is to protect the personal details of those involved in the process. The materials in stage 1, and those of the same format that can be added later, will be publically accessible. The materials in stage 2 will also be accessible to lawyers and victims who are part of the judicial proceedings. Finally, the materials in stage 3 will only be accessible by judicial operators to facilitate the processing of the lawsuits.

Technical specifications

The tool would be built using open-source software and would be accessible from anywhere with an internet connection. The idea is that it would not simply be a repository, but that documents would be indexed and classified, and it would be possible to conduct searches according to certain criteria. An essential feature of this database is a search engine that can quickly sift through large volumes of information. It is vital that the information used to populate the database has first been converted using optical character recognition (OCR) software.

Costs and administrative considerations (USD 38-40,000)

The costs of the database are focused on the following tasks:

1. *Design of the database, search engine and indexing* to organise the information. Estimated cost: USD 30,000 (one-off).
2. *Information processing* to ensure compatibility with the system (converting archived images to pdf format, checking OCR of documents). Estimated cost: USD 15,000 (one-off).
3. *Hosting service* (web server). Estimated cost: USD 300 per year (x 5 years, total cost USD 1,500).
4. *Database maintenance*. Estimated cost: USD 1,000 per year (x 5 years, total cost USD 5,000).

The costs of activities 1, 3 and 4 might be lower if the database uses the servers at the Institute of Public Policy of Human Rights (MERCOSUR) or those at the Public Prosecutor's Office in Argentina.

The following professionals will need to be involved:

- A computer expert or web designer for tasks 1, 3 and 4.
- A specialist in databases, and production and information on the topic of human rights/dictatorships in the Southern Cone for tasks 1 and 2.

Justice without Borders

Accountability for Plan Condor Crimes in South America



observatorio

Luz Ibarburu



de seguimiento de las denuncias penales por violaciones a los derechos humanos

