

ARGENTINA: Juvenile life sentences breached human rights standards

Summary

Five Argentinian teenagers were sentenced to life in prison, despite not having attained the age of majority at the time of their crimes. All five suffered grievous ill-treatment and were incarcerated for years before their cases were heard by the Inter-American Court of Human Rights, which ruled that life imprisonment should never be imposed on children.

Background

César, Claudio, Lucas, Saúl and Ricardo had a few things in common before their cases came to the Inter-American Court of Human Rights. All five boys had difficult family lives, were raised in poor neighbourhoods and dropped out of education before completing secondary school. Charged with crimes ranging from murder to aggravated burglary, all five were prosecuted for crimes they committed [between the ages of 16 and 18](#), with most of them having come into contact with the criminal justice system before. Despite their age, all of the boys were eventually sentenced to either life imprisonment or the similar punishment of 'reclusion for life'.

César Alberto Mendoza, born 17 October 1978, lived in a deprived neighbourhood and was abandoned by his father at four, with his mother also leaving the family some time later. César was first arrested for attempted robbery at 12, detained in a juvenile institution and later convicted for involvement in a string of armed robberies and a murder. He was tried for crimes committed on 28 July 1996, crimes carried out before he turned 18, and sentenced to life imprisonment when he was 21.

Claudio David Núñez, born on 20 August 1979, moved to Buenos Aires with his family at age nine and began working in a bakery to help support them. Documents shown to court staff showed that Claudio entered the juvenile justice system at 14 and was institutionalised from then onwards. He was later arrested after he was implicated in the murder of his own father, who regularly beat members of his family and was known to have raped Claudio's sister.

Lucas Matías Mendoza was born on 24 September 1980 and raised by his mother and grandmother in poverty after his father left them. He never completed secondary school and claimed that in his neighbourhood it was a daily event “that someone died”. Lucas was convicted of two counts of aggravated homicide, aggravated armed robbery, illegal possession of a weapon of war and unlawful association in the same trial as Claudio.

Saúl Cristian Roldan Cajal, was born on 10 February 1981, and spent most of his childhood in one of the city of Mendoza’s most underprivileged neighborhoods. A member of a family with 12 children, Saúl begged on the streets from a young age and his father died during his childhood. After his father’s death Saúl spent time with a number of different families until he was arrested and charged with aggravated homicide and aggravated robbery.

Ricardo David Videla Fernández was born on 17 September 1984, and lived on the outskirts of Mendoza. His parents worked long hours, and at 14 Ricardo began to work as well. When he was 15 his mother realised that he was using drugs and at 16 he was arrested for the first time, before being kept in a series of juvenile institutions. Ricardo was convicted of a raft of crimes, including two counts of aggravated homicide, possession of weapons of war, and aggravated robbery, and was sentenced to life imprisonment.

Domestic challenges and the Inter-American Commission

All five of the boys applied to have their sentences reexamined or changed early on in their time in prison. The first application on behalf of César, asking the courts to look at his sentence again, was dismissed within two weeks. His next attempt was quashed months later. A string of challenges were made on behalf of Claudio and Lucas, asking the courts to reexamine their sentences and the constitutionality of the law that saw them incarcerated, but all of them were thrown out within a year. Saúl’s appeals ran out in 2002 and the last of Ricardo’s attempts were rejected in April 2003.

Several of the boys claimed they [were not notified by their attorneys](#) when their cases were decided, causing them to miss further opportunities to appeal. Claudio and Lucas also complained that their appeals were denied for procedural reasons, despite the severity of their sentences. Eventually, three of the five cases ended up on the desk of Juan Facundo Hernández and Clarisa Adem, lawyers working for [Colectivo de Derechos de Infancia de la Argentina](#), while the other two were handled by the country’s Public Defender’s office.

Hernández explained that the teenagers were treated harshly by the courts on purpose. He said: “It wasn’t confusion or error; rather, a strategy thought up by lawmakers and judges in response to demands for a tougher penal system”. He noted that in Buenos Aires in particular, one governor had made comments suggesting that juveniles should be shot for breaking the law. He added: “Probably the most shocking result of this phrase is that no life imprisonment cases were from Buenos Aires province. Many believe it’s because those teenagers never got to be convicted, because they died at the hands of ‘trigger happy’ police officers, that is, in extrajudicial executions.

“In life imprisonment cases, different judges considered that, in accordance with the type of offence, the criminal record of the adolescent, the outcome of detention, and the impression that the juvenile gives, not only warranted punishment, but that the punishment should be the most severe in our legal system: life imprisonment.”

Working in partnership with the public defender’s office, all five cases were sent to the Inter-American Commission on Human Rights, with the petitions being sent between June 2002 and December 2003. The Commission responded, notifying the petitioners in April 2004 that all five cases would be joined together, as they related to similar rights violations for relatively similar petitioners. On several occasions representatives of the State met with both Stella Maris Martínez, the public defender, and Hernández to try to reach a friendly settlement. No progress was made in these meetings but the State did not respond to the allegations of fact regarding the boys’ convictions, nor did it dispute the admissibility of the petition to the Inter-American system.

Hernández added that due to the nature of their conviction the teenagers were discriminated against in prison, making it hard for them to work, study, or take part in activities that might help rehabilitate them in the eyes of judges. He declared: “The sentences themselves symbolised the failure of a system.”

Abuse, neglect and death in prison

The failure of the prison system to accommodate juveniles in these cases was near-total. When Ricardo was imprisoned at 16 he was thrown in with adult prisoners, and transferred to an adult medical facility after he was shot in the stomach during an escape attempt. Later transferred to a ‘young adult’ offenders centre Ricardo was confined to his cell for more than 20 hours per day, with no toilet, mattress or blankets and kept in conditions which the national prison monitoring commission labelled “truly inhuman”.

In June 2005 the State reported that Ricardo had killed himself in his cell in Mendoza Penitentiary. He was found with a belt around his neck, attached to the bars of his cell’s window. Prison staff interviewed in the wake of his death told contradictory stories about whether or not Ricardo had spoken about contemplating suicide and a forensic investigation suggested that another scenario was possible.

Police examining the scene noted that the cause of death was not typical of a suicide, as Ricardo was still touching the ground, despite his apparent death by hanging, suggesting that another person might have suffocated him. Importantly, investigators also noted that the belt which had been used [“was not consistent with the clothing that \[Ricardo David Videla Fernández\] was wearing at the time”](#).

The negotiations between the State and the public defender’s office over the application of the other boys’ sentences ground on for months before it emerged in November 2005 that Lucas was suffering serious problems with his left eye, the legacy of having been hit in the face by a ball while in prison. Medical staff at several hospitals examined Lucas’ eye and confirmed the previous diagnosis of a detached retina and another condition in his right eye

he had suffered from since birth. The doctors agreed that he would need care and advice throughout his life. By 2007 it had been established that Lucas had become blind in one eye, and later medical reports showed the extra damage that his treatment in prison had caused.

In December 2007, Hernández was contacted about injuries Lucas and Claudio had received in a violent incident inside the prison. While both boys initially reported the injuries to the authorities as the result of a fight with other inmates, they later explained that they had lied, for fear of reprisals. Both reported to their lawyers that they were taken to a holding cell by a group of prison guards, then punched, kicked and beaten with a broom until the handle snapped. Both had injuries all over their bodies and bruises on either the tops or the soles of their feet, consistent with a method of torture known as *'falanga'*. Lucas, as court documents stressed, was already blind at this stage.

Hernández filed a complaint of physical violence before the Federal Criminal and Correctional Court, requesting a hearing with the judge, to report the abuses suffered by his clients. Both were moved to a different prison in January 2008, but the cases were archived, as the prosecutors could not identify the perpetrators and because there were no accurate eyewitness accounts given.

The boys stated in interviews that they felt a sense of hopelessness due to their indefinite detention. César was quoted in court documents as saying that he felt like “he was part of the living dead [... that his] life was over”, Saúl recounted how “those sentenced to life imprisonment [were] scum; they [were] condemned to the worst suffering” and Lucas said he “would rather die than suffer life imprisonment”.

Before the Inter-American judgment

In March 2008 the Inter-American Commission on Human Rights declared the case admissible, paving the way for the petitioners to access the Inter-American Court of Human Rights. After five meetings between the boys' lawyers and the State no friendly settlement was agreed, and the case moved to the Inter-American Court. The petitioners alleged violations of their right to liberty, to humane treatment, to a fair trial and of the State's duty to respect the specific rights and protections afforded to them as children when it gave them life sentences for crimes committed before they turned 18.

The court began considering the joint case in 2011. While the court deliberated Argentina's official public defender filed a series of appeals, asking for reviews of the judgments that sentenced all four surviving boys, in light of the failings of their representatives in previous cases. In September 2011, around 12 years after the boys were sentenced, the Mendoza Supreme Court decided to admit Saúl's appeal for a review of the judgment convicting him. In March 2012 the Second Chamber of the Mendoza Supreme Court of Justice decided to set aside the judgment sentencing him to life imprisonment and, based on evidence heard at the Inter-American Commission, decided to impose 15 years' imprisonment on him instead. Despite having spent more than a decade in prison Saúl was told that he would not be eligible for release as he had committed another offence.

A week before their hearing at the Inter-American Court, a federal court annulled the judgment against Claudio, Lucas and César, and declared that article 80 of the Criminal Code “as regards the punishment of life imprisonment established for children and adolescents” was unconstitutional. The court also allowed several appeals which had previously been denied, ordering new hearings at the Oral Juvenile Court to establish the appropriate punishment for the three of them. Despite what seemed like a victory, their hopes were dashed as the Prosecutor General quickly filed a special appeal against the juvenile court’s decision to resentence them, keeping them effectively in limbo to this day.

Outcome

When the IACHR judgment came, it noted that the sentencing judges “did not consider the application of the principles contained in the international laws on the rights of the child”. In a decision that represented a first for a regional human rights court, the judges ruled that the life sentences imposed when the young men were children amounted to arbitrary imprisonment, and were so disproportionate that they amounted to cruel and inhuman treatment. The court also ruled that the State had sentenced the boys to detention that was not aimed at reform or social readaptation, and found that Argentina’s juvenile justice mechanisms failed to comply with the special parameters for the application of criminal sanctions to children.

The judgment also noted the outcome of a 2005 Argentinian Supreme Court judgment which Colectivo de Derechos de Infancia prepared an *amicus curiae* for. The 2005 ruling, known as the Maldonado case, described the Argentinian system as having “a reluctance [to abide by] basic and fundamental [human rights] principles”, when dealing with children and found that children could not be imprisoned for life, as no such penalty for under-18s existed in law. Argentina acknowledged that there had also been a “judicial error” in dealing with the victims in the Mendoza case on the basis, but disputed that sentencing the boys to life in prison constituted cruel, inhuman and degrading treatment.

Crucially, the judgment made no attempt to contest the criminal responsibility of César, Claudio, Lucas, Saúl or Ricardo, only dealing with the handing down of life imprisonment and reclusion for life sentences on children, a punishment which saw them treated the same way as adults. Hernández had made this part of their strategy from the start, trying to drive the narrative away from the victims of the boys’ crimes and towards the humane treatment of young prisoners in the State’s care. The media had focused on the victims at the start of the case and shining the spotlight on the boys’ upbringing or living conditions would have had no effect on the court’s ruling on the legality of life imprisonment for children.

The judgment ordered Argentina to provide immediate medical and psychological treatment for the Lucas, Claudio, César and Saúl, explicitly requiring specialised ophthalmological, surgical, and/or therapeutic treatment to help alleviate Lucas’ blindness. The State was also told to offer the four living victims formal education or training of their choice, either through the prison system or through public institutions if they were released. The court required the

State to properly investigate the circumstances surrounding Ricardo's death, and the acts of torture suffered by Claudio and Lucas to determine the eventual criminal responsibilities.

Argentina was also told to implement mandatory courses on the protection of human rights and the rights of the child, including those related to personal integrity and torture, as part of the training of prison staff at the federal level and specifically in the province of Mendoza. Finally, the State was ordered to change the law to ensure that sentences of life imprisonment and reclusion for life could no longer be handed to children, and that all those who had received such sentences should be permitted a meaningful review of their sentence.

Impact

Hernández said that the decision called for the changes they sought, and that it quickly had a wide impact on the imposition of life sentences across the country. However, he noted that despite the Inter-American Court explicitly calling for the law allowing life sentences for juveniles to be amended the State has failed to take action, making Argentina the only country in the continent to still have a criminal justice law for juveniles enacted before the creation of the Convention on the Rights of the Child.

The strength of the decision has led to it being referenced in cases throughout the Americas, most notably in an [amicus brief](#) related to the United States Supreme Court case of Miller v Alabama, which saw mandatory life without parole sentences for children in the US [deemed unconstitutional](#), and acted as a stepping stone to retroactively declaring all mandatory life without parole sentences for children as void.

As the Argentinian government has still not repealed Law 22,278, dealing with juvenile justice in Argentina, [it remains unclear](#) what the longest possible sentence for children is. While there was a positive outcome for others after the conclusion of the case, several of the survivors from the Mendoza case remain in prison to this day. The four who survived the ordeals described in the judgment of the Inter-American Court are now well past 18, having spent the majority of their life in a prison which denied them education, and treated them without regard for their inherent human dignity.

Each of the petitioners was [awarded \\$25,000](#) as a measure of compensation, but it remains to be seen how much improvement will come to the country's prisons as a result of the case. Just last year the Inter-American Commission had to shine a light on Argentina again, calling for an improvement in prison conditions in light of "extreme overcrowding, poor hygiene conditions, lack of natural light, risk of electrocution, 24-hour confinement, and the alleged use of torture" [documented in Buenos Aires](#).

Stella Maris Martínez, the public defender at the time of the case, spoke to a conference about the impact of the case just last year. [She concluded](#): "We have achieved something, but we need much more. Until we make a profound change, such as having specialised and interdisciplinary juvenile courts and judges who are not harder than judges in adults cases, it will be difficult to change things."

Further information

- Read CRIN's case summary of [Mendoza et al v. Argentina](#).
 - Find out more about [strategic litigation](#).
 - See CRIN's [country page on Argentina](#).
 - Read CRIN's report on [access to justice for children in Argentina](#).
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