Chilean court revokes Pinochet's legal immunity

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Chile's Court of Appeal formally announced on Tuesday that it had voted 13 to 9 to strip former dictator General Augusto Pinochet of the legal immunity he enjoys as a lifetime senator. The court decision opens the way for Pinochet to be prosecuted for some of the thousands of murders, torture and disappearances that occurred under his 17-year military dictatorship.

Since the beginning of 1998, some of the military junta's victims and their families have filed 109 criminal lawsuits against Pinochet, who came to power with the backing of the United States in 1973 by toppling the Popular Unity government headed by Socialist Party President Salvador Allende.

The judges based their decision on the first and most publicised of the cases against Pinochet, known as the "Caravan of Death". It concerns an army squad created on Pinochet's orders to speed up the execution of political prisoners—72 in total. Investigating Judge Juan Guzman Tapia and eight human rights lawyers presented the case to the appeals judges last April.

The "Caravan of Death" case has already led to the detention of several high and middle ranking officers who were involved in the death squad. The detentions were facilitated by a re-interpretation of an amnesty law that has served to protect the military over the past decade. Under the new interpretation dozens of military officers have been charged with kidnapping "disappeared" political prisoners.

Pinochet's team of lawyers is likely to contest the latest ruling in the Supreme Court, arguing that he is too frail to stand trial. The British government used the same arguments to free the former dictator earlier this year after he had been held under house arrest for over a year pending a decision on his extradition to face charges in Spain.

As soon as the appeals court decision was leaked to the press late last month, it provoked a hostile reaction from the military and extreme rightwing parties closely linked to the Pinochet dictatorship. More than 100 retired generals immediately visited Pinochet at his home to give him support.

The military also held several meetings to deal with concerns among high and middle ranking officers that others will be charged for the crimes under the junta. *QuePasa* magazine reported that besides Pinochet "more than 70 uniformed men, retired and active, are currently facing prosecution".

The ultra-nationalist Independent Democratic Union (UDI) and National Revonation (RN) parties also met with Pinochet to show their support, and accused the courts of issuing a politicised verdict. These parties are demanding an immediate end to all current criminal cases against the military. UDI president Pablo Longueira accused the Concertacion coalition government, headed by Socialist Party President Ricardo Lagos, of increasing the "level of polarisation."

But just as the court decision was split so there appear to be divisions within ruling circles as a whole, including within the military and rightwing parties.

The army's commander-in-chief Ricardo Izurieta repeatedly assured those facing charges of his support. But at the same time he has pointed to the need for the military to work out a deal with the Lagos government.

On May 25, just a day after the appeals court decision was leaked, Izurieta said: "I would dare to say that the army is concerned. It has to be understood that the army cares immensely for general Pinochet..." He then added: "I have spoken with the President [Lagos] on various occasions and he has told me that he understands our situation, and he has affirmed that we

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are behind him, which is true. And because we are behind him, I know that he will collaborate in our problems."

Right-wing political leader Joaquin Lavin, Lagos' chief opponent in last year's presidential elections, has also adopted a conciliatory stance. Rather than denouncing the judgment, he called on everyone "to respect the decision of the courts, which have to act freely and independently".

For his part Lagos, the first Socialist Party president since Allende, has made clear that he has no intention of pursuing Pinochet and the military but will leave the matter to the courts. He has called for reconciliation between the military, the rightwing and those whom they persecuted.

The decision to revoke Pinochet's immunity reflects a sentiment in sections of the ruling class not to bring Pinochet and his henchmen to justice but rather to deal with the crimes of the dictatorship, at least cosmetically, so that the entire historical chapter can be closed. Otherwise, as was seen during the Pinochet's detention in Britain, the issue threatens to erupt again, opening up divisions at home and damaging Chile's interests abroad.

A series of statements by Socialist Party officials indicate that they understand their task. Interior Minister and Socialist Party leader, Jose Miguel Insulza said: "I believe that national and foreign economic agents are sensitive to the stability and calmness of our country. In (Pinochet's prosecution) what investors will look at is whether we are capable of confronting this with calm..."

Pamela Pereira, a Socialist Party lawyer involved in the "Caravan of Death", commented: "The Right has completely retrogressed. There are many people in the Right who I recognise as having intellectual and political capacity... They know about law. They are familiar with the international (demands) and know that if Chile doesn't democratise, we will never develop."

In interviews in the rightwing *El Mercurio* newspaper, other Socialist Party figures have made clear that they have no interest in seeing justice meted out to Pinochet and his generals. Isabel Allende, daughter of the late Salvador Allende, explained that the party's demand was not "that Pinochet has to go to jail, we are saying we want equality before the law. We are only looking to demonstrate that in Chile there exists the rule of law and so, the immunity ends."

Socialist Party senator Jose Antonio Viera Gallo was even more specific: "The people have to understand when things are from the past and when they are from the present. I am absolutely indifferent (about the Pinochet case). It has been 26 years that I have been talking about general Pinochet every day of my life. Whether he is stripped of his immunity or not neither takes nor adds anything to the opinions that people already have... If I were a judge I would not put him in jail."

But the Socialist Party is involved in a delicate balancing act. At the same time as it is trying to work out a deal with the military and the rightwing to bury the Pinochet case, it faces considerable pressure from broad layers of people who want to see the old dictator put on trial. The contradiction was seen most graphically during the inauguration of Lagos earlier this year. While Lagos tried to preach to his supporters about the need for reconciliation, he was drowned out with chants demanding justice against Pinochet.

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