

Pinochet loses immunity but Chile's government moves to protect him

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After a tense week-long delay, Chile's Supreme Court judges announced on Tuesday that they had voted 14 to 6 to strip General Augusto Pinochet of his Senatorial immunity. The ruling fell short of requesting medical examinations to establish whether the former military dictator will stand trial.

It is highly unlikely that Pinochet will ever be prosecuted on the 157 charges he faces, which are just a small part of his regime's murder of 3,000 known victims, the disappearance of at least 1,200 others and the torture of another 400,000 people between 1973 and 1990.

President Ricardo Lagos called on Chile's people to "accept the verdict of the courts" but his Socialist Party-led coalition government is moving to protect Pinochet and other army officers under a recently-adopted multi-party accord with the military. The purpose of the accord, signed in June, is to overcome the legal loophole that has led to the charges against Pinochet.

When Pinochet's junta handed government to civilian politicians in 1990, the generals were protected by a 1978 amnesty law covering their criminal acts between 1973 and 1978. The Supreme Court ruled in July 1999, however, that this amnesty did not extend to kidnappings and other disappearances. Under that ruling, "aggravated kidnappings" were ongoing offences until the victim was located.

Because of leaks from within the Supreme Court, it was known last week that the judges had voted to lift Pinochet's separate immunity as a Senator-for-Life under the civilian constitution. But such were the political conflicts provoked by the case that the court refused to release its verdict until all the judges had personally signed the decision.

As the court finally issued its announcement thousands of people, many relatives of the disappeared, stood outside the courthouse in downtown Santiago, chanting "justice and punishment". Pinochet's supporters

congregated outside his home, where they shouted insults. They also burned bones, which they said represented the remains of the disappeared.

The larger than expected margin in the Supreme Court ruling—14 to 6—revealed that some of Pinochet's own supporters on the court had voted against him. Three of the 20 judges were Pinochet appointees, while the remaining 17 were ratified by a Senate controlled by pro-Pinochet groups. Nine judges were considered to be firm conservatives. The result thus indicates differing views within the right-wing military and political establishment over how to proceed.

The current military high command issued a customary statement expressing solidarity with Pinochet. Armed forces chief General Izurieta visited Pinochet and hailed Pinochet's "many and valiant efforts for the Fatherland". Nevertheless, he reaffirmed his pledge to abide by the Congressional accord arranged by the Lagos government.

In Congress, right-wing opposition legislators boycotted the day's session, while deputies from the ruling centre-left coalition sang the national anthem and cheered the Supreme Court decision. A Socialist Party (PS) member Viviana Diaz declared that the verdict proved that "Pinochet is no longer above the law". Another PS legislator, Isabel Allende, whose father Salvador Allende, was overthrown and killed in Pinochet's coup, stated: "We are proud that for the first time in Chile impunity has ended and the doors to justice have opened."

Such comments, however, are made with the knowledge that Pinochet can still shield behind many legal and political privileges.

One obvious issue is his age. Chilean law requires mental tests on all defendants over the age of 70. For the 84-year old dictator, apparently suffering from multiple cerebral illnesses, these tests could prove essential to avoiding prosecution. His doctors claim that he has suffered at least two strokes that have caused "irreversible

brain damage”.

In addition, physical health considerations, which the Blair government in Britain used as its pretext to refuse to extradite Pinochet to stand trial in Spain, may also save him from facing trial, even though Pinochet's lawyers unsuccessfully argued this defence during the earlier, procedural part of the hearing.

Nor is Pinochet compelled under the law to comply with an order to undergo medical tests. His family and legal advisors have made it clear that he will refuse to do so. Moreover, as a retired general, Pinochet is entitled to be interrogated in writing, rather than verbally, in any preliminary proceedings. This would be an elaborate, lengthy process.

More importantly, Pinochet stands to benefit from the accord on the disappeared, which covers the charges against him, including the notorious “Caravan of Death” cases. Acting under Pinochet's direct instructions, military commanders toured parts of the country in helicopters in the months after the 1973 coup, assassinating 76 prisoners. The remains of 19 of the executed have never been recovered, giving rise to the charges of “aggravated kidnappings”.

Only last week, as part of the accord with the military, a Methodist clergyman turned over documents from a retired air force officer showing that military death squads slit open the corpses of their victims, injected them with chemicals to attract flesh-eating fish and dumped the bodies from aircraft flying over the Pacific.

Once this evidence is accepted by a court—purportedly in the name of discovering the fate of some of the disappeared—the perpetrators will be entitled to the 1978 amnesty.

Pinochet's indictment has become a cynical gesture, designed to rehabilitate the judicial and political system in the eyes of the Chilean people. One human rights lawyer, Roberto Garreton, who was a member of the “roundtable” that negotiated this year's accord with the military, said as much when he hailed the Supreme Court vote. “Chileans will begin to believe that the courts serve us,” he said. “And in a democracy that is very important.”

Garreton explained that this was critical for the Supreme Court, which has remained tainted by its immediate support for, and legal endorsement of, Pinochet's 1973 coup. But the quest for legitimacy has been just as pressing for Chile's politicians, particularly those of the Socialist Party, who are politically responsible for upholding the amnesty handed to the military.

Accordingly the Chilean media welcomed the Supreme

Court decision with comments such as “the ruling reaffirmed the strength of Chile's democracy”.

Erich Schnake, an ageing member of the “renovated Socialist” grouping, and a former associate of the slain president, Salvador Allende, issued a revealing plea. He urged people to accept the fact that Pinochet would remain untouched.

“We achieved what was possible,” he argued. “Pinochet left power not because he was weak, but because he had been poorly advised... One of the conditions that was never stated in the deal was that Pinochet was not to be touched... And we accepted. Leaving him untouched and taking him away from the courts because of his age is one way of keeping the deal.”

Some 80 Pinochet-era officers have been indicted in recent years, including former CNI (secret police) agents who were given life sentences last week for political murders committed in 1986.

But these convictions are also token gestures. The vested interests, both in Chile and internationally, that organised and benefitted from Pinochet's coup still hold economic and political power. Perhaps the most contemptible statement on the Pinochet verdict came from Washington, where a State Department spokesman, Richard Boucher, told a news briefing that the ruling was “significant for Chile, for the rule of law and the promotion and protection of human rights”.

The decision, he continued, “affirms the fundamental principle that no one stands above the law. We certainly hope that it will contribute to the resolution of long-standing human rights issues and further advance the process of justice and reconciliation in Chile.”

Not only did the United States back Pinochet's coup, but its Central Intelligence Agency was closely involved in all the preparations leading up to it and the criminal conduct that ensued. Moreover, the Clinton administration has continued to refuse to open up the CIA's files to disclose the full extent of that involvement.



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