

As military pressure mounts

# Chilean court overturns Pinochet arrest order

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Ten days after a Chilean judge ordered the arrest of Augusto Pinochet in connection with death squad murders carried out in the aftermath of the CIA-backed military coup 27 years ago, an appeals court panel overturned the order. The judicial reverse came under conditions of mounting military pressure to halt the prosecution of the former dictator.

Judge Juan Guzman Tapia had issued the surprise order for Pinochet's arrest December 1, charging him with his involvement in more than 70 "disappearances" and murders carried out in October 1973 by a military squad known as the "Caravan of Death." The ex-general was stripped of his parliamentary immunity in August due to these same charges.

Gen. Pinochet returned to Chile in March from Britain, where he spent 503 days under house arrest after a Spanish judge sought his extradition to face trial for the murder and torture of Spanish citizens in Chile. The British government ultimately decided to return him to Chile on "humanitarian" grounds, with the Blair Labour government ruling that he was too old and sick to be tried.

Judge Guzman carried out a nearly three-year investigation into the "Caravan of Death," interviewing both military officers involved in its bloody work and the families of its victims. Formed in the weeks following the military's seizure of power, the death squad was personally dispatched by Pinochet with a hit list of opponents of his regime. Traveling by helicopter, it concentrated its activities in the north of the country, abducting and murdering approximately 75 targeted individuals, many of them miners' union leaders.

While the evidence of the crimes and Pinochet's involvement in them is abundant and irrefutable, the appeals court overturned the arrest order on the technical grounds that Guzman had failed to question the ex-dictator before ordering his detention. Guzman maintained that he had already fulfilled this legal requirement by sending Pinochet a list of questions while

he was under house arrest in Britain. The general failed to respond.

Since his return, the Chilean military, with the assistance of the Socialist Party-led government of President Ricardo Lagos, has attempted to forestall his prosecution and to halt the myriad lawsuits brought by relatives of the "disappeared" against other active and retired military officials. Not long before Guzman issued his arrest order, President Lagos, who has worked consistently during his eight months in office to accommodate Pinochet's supporters in the armed forces, told a group of Chilean businessmen that the former dictator's case would end "soon and well."

One day after the arrest order was issued, the senior military commanders demanded the convening of the National Security Council, an institution enshrined in the constitution that Pinochet imposed on Chile 20 years ago. The council consists of the army, navy, air force and military police chiefs together with the president, as well as the heads of the Chilean legislature and judiciary, and the country's attorney general. With each member having one vote, the council, which according to Pinochet's constitution is to be convened only in the face of "grave threats" to national security and the institutional order, gives the military equal power to the civilian government.

When the arrest order was first announced, Lagos was in Mexico attending the inauguration of Vicente Fox. His Interior Minister, Jose Miguel Insulza, declared in his absence that there was no reason to convene the National Security Council. Upon his return, Lagos reiterated this position, stating that to call the council into session in response to a judicial action would violate even the existing constitution.

Within days, however, the Socialist Party president changed his tune in the face of persistent military protests and threats by the generals to convene the council on their own. One senior general, Alejandro Cartoni, who commands the Osorno military garrison about 500 miles

south of the capital, went on the radio to denounce the arrest order. “While they try military men for restoring the country to tranquillity,” he said, “the terrorists and extremists are pardoned.”

Unrest within the high command had already been growing over the prosecution of Gen. Hernan Ramirez, chief of the army’s Military Industry and Engineering Command. Ramirez, a former military intelligence chief, was charged in connection with the assassination of trade union leader Tucapel Jimenez in February 1982. Sixteen others, most of them members of the military, are also being tried for this political murder.

“As I have said on many occasions,” Lagos declared several days after his return, “[the council] is an institution that doesn’t seem appropriate to me. Nonetheless, it is an existing institution and as such, I must respect it while it exists.” The meeting would mark the first time that the council has been called into session since Lagos took office last April.

The president insisted that he would convene the council only after the appeals court had issued its ruling, an action that he portrayed as protecting the independence of the judiciary. At least one of the human rights lawyers who brought the case against Pinochet viewed the matter quite differently. Lagos “sent a signal to the members of the court,” said Eduardo Contreras Mella, who filed the first criminal complaint against Pinochet in 1998. “If you rule in favor of Pinochet, fine; but if you rule against him, watch out, because the council will meet. It’s like having the judges rule with a tank at the door to the Palace of Justice.”

There are also charges that the appeals court decision was fixed from the beginning. One of the three judges on the panel absented himself, declaring that he was sick. Not too sick, apparently, to be seen dining out in Santiago the same night. Another judge who is considered a firm supporter of Pinochet replaced him.

While Lagos has denied that the National Security Council will deal with the case against Pinochet, it is expected that the armed forces commanders will demand that the government accept the imposition of a new law halting further human rights trials of present and former military officials. In return, the generals are expected to offer greater cooperation by the military in revealing the fate of the thousands who “disappeared” under the dictatorship, providing bodies in the relatively few cases where they can be found, and in others the places and dates of their executions.

The case against the former dictator is rich in grim

ironies. The habeas corpus motion filed by Pinochet’s nine-member defense team is the same legal remedy invoked by relatives of the “disappeared” and invariably denied by Pinochet’s dictatorship, which ruled the country from 1973 to 1990. The military would routinely deny either custody or any knowledge of the workers, students, intellectuals and other perceived opponents of the regime who were rounded up and summarily executed. This policy provided the military cover for its crimes, and served to sow terror throughout the population.

While Pinochet had assured himself and his accomplices immunity through an amnesty law covering the years 1973-78—the years when over 80 percent of the political killings and illegal detentions took place—the “disappeared” have come back to haunt him. He was stripped of his parliamentary immunity and charged criminally because the victims that the dictatorship refused to account for are still considered “kidnapped,” constituting an ongoing crime that has continued after the years covered under the amnesty. To prove his “innocence,” Pinochet would have to establish that he had ordered them not merely abducted, but killed, recovering their ravaged corpses from the ocean and the unmarked graves into which they were dumped.

It is widely anticipated that Pinochet’s attorneys will try to drag the proceedings out, with the hope that the 85-year-old ex-dictator will die before ever being brought to trial. They intend to argue that he is too sick to defend himself, while denying that he is mentally incompetent or insane.

There is no doubt that this legal strategy enjoys firm support in Washington, where current and former officials of the US military, the CIA and the State Department are anxious to avoid any trial that could further expose the US role in sponsoring the coup in 1973 and aiding the bloody repression that followed.



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