# Chilean court ends Pinochet's trial

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With the Chilean government of President Ricardo Lagos pressing for a halt to the prosecution of former military dictator Augusto Pinochet, the Santiago Appeals Court all but ended his trial this week by suspending the case indefinitely on the pretext of Pinochet's ill health.

Three judges voted 2-1 on Monday to accept Pinochet's petition for a stay of proceedings, citing earlier medical tests showing that he suffered from "mild to moderate senile dementia". His condition, the court ruled, would deny him due process.

Now that the case has been suspended for medical reasons, it is unlikely ever to be reopened, even though the court revoked an earlier Supreme Court decision that the trial should be completed and a sentence imposed before considering whether to suspend the case and apply an amnesty. No appeal is possible against the latest decision, except on the narrow grounds of legal or technical error.

Pinochet, 85, was charged with masterminding 57 homicides and 18 kidnappings by the "Caravan of Death"—a military squad that he created to summarily execute labour leaders and supporters of the reformist government of Salvador Allende, who was deposed in Pinochet's US-backed 1973 military coup. His victory is likely to block nearly 250 other prosecutions launched against him for the crimes carried out by his regime, which murdered at least 3,000 people.

In March, appeals judges already moved to wind back the proceedings against Pinochet by reducing the charges against him to being an accessory. They adopted the extraordinary reasoning that the dictator—who once boasted of knowing everything that occurred in Chile—only later found out about the summary executions carried out by the death squad that he had personally established.

It has taken the Chilean authorities—the courts, government and military—less than 18 months to excuse Pinochet on the same basis as Britain's Labour government. In March 2000, British Home Secretary Jack Straw released Pinochet from arrest, citing humanitarian concerns that he was too frail to stand trial, blocking extradition requests from Spain, France, Belgium and Switzerland.

The judges this week used what they called a "modern" interpretation of the term dementia, effectively overturning the rule that, under Chilean law, a criminal defendant can only escape trial if diagnosed as insane or senile.

Prosecution lawyer Eduardo Contreras commented that Pinochet had not been diagnosed with "dementia in the sense that it is established in our laws". Medical tests carried out earlier in the year concluded that the general suffered from impaired motor functions resulting in slight memory loss and occasional disorientation—common problems associated with advanced age.

Contreras observed that the criteria used to suspend Pinochet's case "would effectively set free a huge number of prisoners. If we are going to apply this rule, then apply it to everyone. If not, then it can only be concluded that there was a shameless attempt to pass a judgement to suit Pinochet."

An estimated 1,000 people took to the streets on Monday evening to protest against the politically motivated ruling. The demonstrators, many of them relatives of Pinochet's victims, hurled abuse and stones at the court before being dispersed by police using water cannon and tear gas. Four protestors were arrested.

Viviana Diaz, a spokesperson for the families of the disappeared, accused the courts of defending the military's crimes. "They are as responsible for what happened to our families. They did nothing to save them when they were being held in secret detention centres, and today they demonstrated that they continue to side with the criminals."

Hugo Gutierrez, a plaintiff lawyer, charged that "the courts were being pressured by the government, the military and others who wanted the case to fade away". Indeed, there is ample evidence of collusion between the government and the military chiefs to end Pinochet's trial.

The *Washington Post*'s Chilean correspondent reported on July 10: "Yet as the case moved toward a trial, Pinochet's supporters in the Chilean right wing found an unlikely ally. Judges involved in the case have said that Chile's center-left government, headed by President Ricardo Lagos, a Socialist and former Pinochet-era dissident, was also pressuring to get the case closed on health reasons, because it was hurting the government's relations with the military.

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"On Saturday, while the case was being deliberated, Lagos met with the armed forces chiefs. Sources said the main topics were Pinochet's legal situation and Lagos's request that that the presidency get power to retire military chiefs, something it still does not enjoy."

Far from being an "unlikely ally," the Lagos government has been working closely with the military commanders ever since Pinochet was first detained in Britain in late 1998. Saturday's meeting was just the latest of no less than a dozen involving Lagos and the armed forces chiefs to quell concerns that their mentor would be charged and sentenced.

Lagos may have been a dissident under Pinochet but the Socialist Party has long cooperated with the former junta leader, granting him immunity from prosecution and Senator-for-Life status in return for the restoration of civilian rule in 1990.

When the court's verdict was announced, Lagos held a joint media conference with the armed forces chief, General Ricardo Izurieta, to appeal for calm and acceptance of the ruling. While Izurieta admitted that the military was "very happy " with the outcome, Lagos said he respected the verdict.

"Obviously, human rights violations have to be investigated," he said, "but, in reference to one person there are circumstances, health reasons, that make it difficult to continue with a trial. This is established in the Penal Code."

While Lagos presented the decision as one made on Pinochet's individual medical circumstances, there are already suggestions that retired generals Manuel Contreras, Carlos Forestier, Sergio Arellano and Marcelo Moren Brito (all over 70) and others will use the same law to have their cases "temporarily" suspended.

Nevertheless, some international human rights advocates continue to maintain that Pinochet's prosecution marked a new era of international justice. Responding to Monday's ruling, Reed Brody, advocacy director for the Washington-based Human Rights Watch, said: "The case signifies the beginning of the end of impunity to dictators around the world. It has inspired victims all around the world to seek justice where it has been denied."

In reality, the halting of the proceedings against Pinochet—after three years of international efforts to place him on trial—demonstrates how ludicrous and politically selective these claims are. A striking contrast exists with the decision, just a week earlier, to transfer ousted Yugoslav president Slobodan Milosevic to a war crimes tribunal in The Hague.

In Milosevic's case, the United States and other major powers demanded that he be handed over by the Serbian authorities, in clear breach of Yugoslav law, in return for a $1 billion aid package. Initially a protégé of the West, Milosevic came into conflict with the US and European powers over their plans to dismember the former Yugoslavia and is now being used as a convenient scapegoat to deflect attention from their own crimes in the Balkans.

Yet when Pinochet was detained in Britain in 1998, the Clinton administration made it clear from the outset that it wanted him to go free, with Secretary of State Madeline Albright calling for Pinochet's return to Chile. The administration refused requests by Spanish magistrate Baltasar Garzon for the release of secret CIA and FBI files on the 1973 Chilean coup.

There is an obvious reason for the protection of Pinochet. His trial might unearth further evidence of how the US government supported his coup and ensuing reign of terror. Indeed, key US officials, including former Secretary of State Henry Kissinger, are currently being pursued by prosecutors in France, Belgium and Latin America in connection with the Chilean events.

On July 4, just five days before the Santiago court ruling, Chilean Judge Juan Guzman sent a list of questions to Chile's Supreme Court, seeking its approval to demand answers from Kissinger over the death of Charles Horman, an American journalist killed by the junta's secret police after the military coup. Predictably, the Bush administration is refusing to cooperate with the investigations against Kissinger.

Taken together, these developments provide an instructive lesson in how the human rights banner is cynically used as a political weapon by the US and other Western powers in order to pursue definite strategic and commercial interests—whether it be in the Balkans or Latin America—while protecting favoured tyrants and covering their own tracks.

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