

# Chilean Supreme Court ends legal proceedings against Pinochet

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The Chilean Supreme Court excused General Augusto Pinochet from legal proceedings in a decision on July 1, which effectively means that the ageing former dictator will not face trial for any of the crimes carried out during his brutal 17-year rule.

The particular case involved Pinochet's creation of the notorious "Caravan of Death"—a roving army execution squad that killed 57 political opponents and "disappeared" another 18 following the US-backed military coup in 1973. But the fact that the court found Pinochet was too ill to stand trial all but rules out further steps in another 250 legal suits against him involving the murder of thousands of political opponents.

The ruling also undermines an Argentine investigation into Pinochet's involvement in a terrorist bombing in Buenos Aires in 1974 that resulted in the death of Chilean General Carlos Prats and his wife Sofia Cuthbert. Prats had served in the cabinet of Socialist Party President Salvador Allende, who was murdered by Pinochet in the course of the coup.

The four of the five Supreme Court justices found that Pinochet suffered from a mild form of degenerative dementia, an "irreversible condition preventing the accused from defending himself in court." In making their decision, the same four judges threw out a prosecution challenge to an earlier lower court ruling in July 2001 that ordered a temporary stay in the "Caravan of Death" case on similar grounds.

The prosecution had argued that the July 2001 ruling had breached the law because Pinochet was neither diagnosed as insane nor demented—the only grounds for avoiding legal proceedings under Chilean statutes. Prosecutors also questioned the court's refusal to allow them to conduct their own independent medical tests on Pinochet. The only medical reports admitted into court were those supplied by a military-run hospital.

The family and friends of Pinochet's victims have expressed their anger and disappointment at the injustice of the decision. "Now there is nothing else to do," said Carmen Hertz, a human rights lawyer whose husband was one of the "disappeared". At least 3,200 people were killed by army death squads under Pinochet, including 1,200 whose bodies remain unaccounted for.

The fact that the corpses had not been found in a number of

cases was used by Judge Juan Guzman Tapia in 1998 to sidestep an amnesty granted to the military. Guzman argued that the amnesty for murders prior to 1978 did not apply to cases of kidnapping. On that basis, he began legal proceedings against Pinochet and other senior military figures over the "Caravan of Death".

Sections of the military top brass along with the rightwing political parties have been pressing the courts to ensure that the Pinochet case was dropped. If Pinochet, who presided over the dictatorship, were put on trial, it would undermine their political position and establish the basis for other trials. Moreover, there was always the danger that new information would come to light in the course of the trial, implicating wider layers of the ruling elite in the crimes of the military.

After the Supreme Court decision, however, they joined the ruling Concertacion coalition in calling for Pinochet to resign from his "lifetime" seat in the Senate, making the obvious point that a person with "dementia" could not hold an official post. With the end of legal proceedings, those who were closely associated with Pinochet are trying to distance themselves from him by getting the former dictator off the political stage.

Pinochet officially resigned from the Senate on July 10. In a letter he arrogantly declared that he did so with a "clean conscience," adding that history would honor his "soldierly sacrifice" during his period of rule from 1973 to 1990. He called for a blanket amnesty for all of the military's crimes. He leaves the Senate with his parliamentary privileges intact, including his status as a former head of state and a substantial monthly stipend of \$5,000.

In the course of the debate over Pinochet's resignation, the session was suspended briefly because of protests from a number of Socialist Party deputies. Fidel Espinoza raised a placard, saying "Pinochet killed my father" and others shouted "Murderer, Murderer" and waved lists of names of those killed by the military. These empty protests, however, are to cover the fact that the Socialist Party has played the key role in ensuring that Pinochet got off scot free.

**The Socialist Party's role**

When Pinochet was detained in Britain in 1998, the Socialist Party joined the Chilean military and the rightwing to insist that he be returned to Chile rather than be extradited to Spain, France, Belgium or Switzerland to face charges for crimes against their nationals. José Miguel Insulza and Juan Gabriel Valdés, both Socialist Party ministers in the Concertacion coalition government headed by President Eduardo Frei, worked feverishly to secure Pinochet's return.

Frei issued a number of statements declaring that Pinochet enjoyed "diplomatic immunity" and that Chile's sovereignty was being trampled on by Pinochet's continued house arrest. The Chilean president also argued that Pinochet would face justice in Chile, despite the fact that its judicial system was notorious for terminating hundreds of cases of human rights violations involving the military.

The British Labour government of Prime Minister Tony Blair was just as keen to get Pinochet off the hook. Blair met privately with Frei as legal proceedings dragged out in the UK. Finally, after 500 days of house arrest, it was the British Home Secretary Jack Straw, who decided that Pinochet could return to Chile, as he was too frail to stand trial.

In March 2000, as Pinochet was returning to Chile, Ricardo Lagos replaced the Christian Democrat Frei as the president, the first Socialist Party leader since Allende to hold the post. The Lagos administration was brought in to quell the signs of growing unrest over the failure to prosecute Pinochet or the military as well as over the country's deteriorating economic and social conditions.

Initially, under Lagos, the ruling Concertacion coalition promised to change the country's constitution, drawn up under Pinochet in 1980, which enshrined extensive powers for the military. These included virtual autonomy for the military, including a veto of civilian government decisions, four seats for military appointees in the Senate and a guaranteed 10 percent slice of copper earnings, over and above any budgetary allocations for the military.

As far as Pinochet was concerned, Lagos pledged that the courts would be allowed to proceed with any cases free from "government and military interference." In actual fact, this guarantee was simply designed to allow Lagos to wash his hands of any responsibility, while, behind the scenes, the military and Pinochet's other supporters could exert pressure on the military to drop any charges.

Even then the result was not clear cut. There were sections of the ruling elite who argued that the only way to finally rule a line under the Pinochet years was to let some trials proceed. The political danger was that widespread anger over the dictatorship would remain a festering sore that would continue to undermine the state apparatus, the military in particular, in any future period of unrest.

In August 2000, the Supreme Court stripped Pinochet of his immunity from prosecution as a member of the Senate and, at the end of that year, Guzman ordered his arrest. Both of these

moves provoked angry opposition and veiled threats from the military top brass prompting the Concertacion government to find a means for undermining the case.

Lagos convened the powerful National Security Council—a military-dominated body which can constitutionally veto civilian rule in times of national emergency—to discuss the Pinochet case. Shortly after, the military produced a document that claimed to provide information on the whereabouts of the bodies of some 200 detainees who had simply "disappeared".

The document, which included 17 of the 18 names in the key "Caravan of Death" case, was a cynical ploy. If the military could demonstrate that it had murdered the 18, rather than simply kidnapped them, then the amnesty would apply and the case against Pinochet would collapse. Nevertheless, Lagos stepped in to praise the military hierarchy for possessing "a strength and courage that deserves both the country and my acknowledgment."

In the end, however, it was the British solution that prevailed—Pinochet was to be let off because he was too frail to stand trial. Intense pressure was placed on Guzman to comply. At one point Guzman told the French newspaper, *Le Monde*, that "diverse sectors, including members of the government" had coerced him into demanding that medical tests be conducted on Pinochet.

Throughout the last two years, Socialist Party leaders have repeatedly appealed to those outraged by the lack of justice for Pinochet to drop their demands in the interests of "reconciliation" and "national unity." They have been told to "put the past behind". Recently Lagos declared that Pinochet was now "a figure from the past," suggesting that with his departure from politics, no more questions should be asked about dictatorship.

The willingness of Lagos and the Socialist Party to collaborate with the military and the rightwing to end the attempts to bring Pinochet to justice is a sharp warning. In the future they will work with the same apparatus to suppress the opposition of the working class to the country's deepening economic and social crisis.



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