

Chilean court moves to overturn acquittal of Carabineros officer who blinded Gustavo Gatica

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On June 25, the Santiago Court of Appeals declared admissible the petitions filed by Gustavo Gatica, the Public Prosecutor's Office, the National Human Rights Institute (INDH) and the State Defense Council (CDE) against the January acquittal of former Carabineros Lt. Col. Claudio Crespo. The ruling does not yet overturn the acquittal. It means the appeals court will now hear oral arguments before deciding whether to uphold the verdict or declare the trial null and order a new one from scratch, with new judges.

The decision represents a significant development in one of the most emblematic cases of state violence to emerge from the 2019 social explosion and a direct challenge to the legal architecture of impunity constructed over the last seven years by successive governments, from Sebastián Piñera through Gabriel Boric to José Antonio Kast.

"We are at war"

On November 8, 2019, Gustavo Gatica, a 21-year-old psychology student at the Universidad Academia de Humanismo Cristiano, was documenting protests near Plaza Baquedano when Carabineros special forces opened fire on hundreds of youth standing behind makeshift barricades. Gatica was struck in both eyes by rubber-coated lead pellets fired from a riot shotgun. He lost his sight entirely.

"It's difficult to lose your sight," Gatica later said. "I had to learn to eat, to walk, and to do everything again."

The shooting did not occur in a vacuum. It was the product of a deliberate, state-directed campaign of terror unleashed by billionaire President Sebastián Piñera, who on October 19, 2019, declared a State of Constitutional Emergency and deployed the military against the population for the first time since the Pinochet dictatorship. "We are at war," Piñera broadcast on live television. "We are at war with a powerful, ruthless enemy, who respects nothing and no one."

The enemy, as Piñera made clear, was the working class.

The results were catastrophic. By November 26, 2019, the National Human Rights Institute (INDH) had documented at least five deaths at the hands of security forces, more than 2,300 injured, of whom over 1,400 were wounded by firearms, and 220 cases of severe eye trauma. The Public Prosecutor's Office recorded more than 1,100 complaints of torture and cruel, inhuman or degrading treatment, as well as over 70 crimes of a sexual nature committed by Carabineros. Amnesty International documented the practice of police and soldiers running over or attempting to run over protesters on at least nine occasions across multiple cities.

By March 2020, the INDH reported that 3,838 men, women and children had been hospitalized due to bullet wounds, tear gas canister impacts and beatings. Of these, 460 suffered eye wounds. The INDH recorded 11,389 detentions, of whom 2,146 reported human rights violations: 257 cases of sexual violence, 617 of torture and other cruel treatment, and 1,272 of excessive use of force. The INDH acknowledged that these figures represented only "a sample of cases observed or confirmed."

The most recent Amnesty International figures, published in its 2025/26 Annual Report, reveal the scale of subsequent impunity: the Public Prosecutor's Office decided not to proceed with 1,509 human rights violation cases arising from the 2019 anti-capitalist mobilizations, and among those still active, fewer than 2 percent had resulted in a conviction. Since the uprising, at least six victims of human rights violations have died by suicide.

The Gatica case: Proven facts, no consequences

The investigation into Gatica's blinding, led by prosecutor Ximena Chong, established that in the space of four hours on November 8, three high-ranking riot police officers—Colonel Santiago Saldivia, Lt. Col. Claudio Crespo and Lt. Col. Andrés Graves—fired 420 cartridges, releasing a total of 5,040 pellets against protesters. Crespo alone fired 170 cartridges.

Leaked evidence published by Amnesty International and investigative organizations revealed Crespo's identity. He was removed from Carabineros in 2020, officially sanctioned for a "grave breach of protocols" after it emerged he had downloaded footage from his personal body camera onto his own computer before submitting it to internal auditors. In April 2025, CIPER published six bodycam videos in which Crespo, between November 14 and December 6, 2019, is heard threatening protesters: "We're going to take your eyes out," "Let the bastard burn," "We have to kill all these bastards." His response to the publication was: "I don't regret anything" and "I couldn't care less."

The trial before Santiago's Fourth Oral Criminal Court began on November 4, 2024, with Crespo charged as author of unlawful coercion resulting in grievous bodily harm.

The ruling was staggering in its contradictions. The court established as proven fact that Crespo was the officer who fired the shot that blinded Gatica. The written ruling, dispatched in May 2026, concluded that of the three officers present with riot shotguns at the intersection of Carabineros de Chile and Vicuña Mackenna at the moment of the attack, Crespo was

the only one who fired at the precise instant when Gatica was hit. And yet the court acquitted him.

The legal mechanism was the Naín-Retamal Law, enacted in April 2023, more than three years after the events of November 2019. The court applied the law's "privileged self-defense" provision retroactively, exploiting the *pro reo* principle that permits retroactive application of norms benefiting a defendant. The court characterized Crespo's actions as a "necessary response to potentially lethal aggression" by protesters, even though the prosecution had established that officers were protected behind barricades and metal structures, had the ability to retreat, and had less harmful means available.

The publication *El Porteño* observed in its analysis of the ruling: "The court acknowledged the essential facts and yet still ruled out any criminal consequences. This reveals the true political and legal scope of the Naín-Retamal Law."

The Naín-Retamal Law: A license to kill

The Naín-Retamal Law, formally Law 21,560, was rammed through the Chilean Congress in April 2023 under the pseudo-left government of Gabriel Boric. As the WSWS explained in the article "Chile's pseudo-left government rams through laws giving police, military license to kill," the legislation was part of a package of 15 repressive bills passed in record time with the support of all parties in Boric's governing coalition, including the Frente Amplio and the Stalinist Communist Party.

The law has two central components. The first is punitive: it drastically increases penalties for civilians accused of endangering the life or physical integrity of Carabineros, the Investigative Police (PDI), the Gendarmerie and the Armed Forces. This is a mechanism of intimidation aimed at criminalizing social protest.

The second is the provision of "privileged self-defense" for state agents. The law establishes that police officers or military personnel who "make use of service weapons, less lethal weaponry or non-lethal elements, to repel any violence or overcome resistance against the authority, may not be separated from their duties or see their remuneration affected, as long as the respective administrative investigation is not concluded."

Most critically, the law inverts the burden of proof. "It shall be legally presumed" that exemption from prosecution is met when law enforcement and the military perform public order functions. "In such cases, it shall be understood that there is a rational use of the means employed if, by reason of his position or on the occasion of the fulfillment of public order and internal public security functions, (the State agent) repels or prevents an aggression that may seriously affect his physical integrity or his life or that of a third party."

The law further mandates that in investigations initiated by the Public Prosecutor's Office, Carabineros, the PDI, the Gendarmerie and the armed forces "shall be considered as victims or witnesses ... for all legal purposes, unless the proceedings allow attributing them punishable participation."

Even when it is demonstrated that there was no rational need to use lethal or less-lethal weaponry, the court "shall consider this circumstance as a mitigating circumstance and reduce the sentence by one, two or three degrees."

In sum, as the WSWS stated: "legitimate self-defense will be automatically presumed for state agents, while victims of state violence and repression will have to prove their innocence."

The pseudo-left parties that publicly declared they would challenge the law before the Constitutional Court dropped their opposition within minutes of Boric enacting it, pledging instead to "support the government

in the fight against crime." The Communist Party, which now poses as an opponent of the law, having introduced a bill in June 2026 to repeal the privileged self-defense provision, was instrumental in its passage. This is the same party that ran Gustavo Gatica as an independent candidate on its parliamentary list in 2025, helping elect him as the top vote-getter in District 8.

The Kast government is now moving to expand the law's provisions. In June 2026, the Public Safety Committee of the Chamber of Deputies approved in principle a bill sponsored by the National Renewal (RN) caucus, dubbed Naín-Retamal 2.0, which seeks to increase penalties for those who insult, mistreat or assault police officers, and to extend "privileged self-defense" to off-duty officers who intervene in crimes.

National Renewal Deputy Diego Schalper, a leading proponent, declared that "no public safety policy can succeed without an empowered and respected police force." Deputy Francisco Orrego (RN) added: "The Carabineros will no longer accept insults and disparagement under the guise of a misguided notion of freedom of expression."

Kast's Security Minister, Martín Arrau, announced on June 15 that the government would fast-track the legislation. The legal implications are grave. As Myrna Villegas, a professor at the University of Chile School of Law, has warned, an off-duty police officer is no longer performing public duties but is acting like any other citizen, and already has access to traditional self-defense provisions. Extending privileged self-defense to off-duty officers "ultimately creates a system in which there are first-class citizens and second-class citizens. This is difficult to reconcile with the constitutional principle of equality before the law."

The push for Naín-Retamal 2.0 forms part of a broader security agenda under Kast that includes a Registry of Vandals and Incivility—a blacklist that would strip those accused of protest-related offenses of social benefits including free education, the universal guaranteed pension and rental subsidies—the deployment of police task forces into 50 working-class neighborhoods, and the construction of border trenches and walls under the "Border Shield Plan."

The Gatica case cannot be understood in isolation. It is embedded in a dense network of institutional, political and commercial relationships that connect the repressive apparatus of the state to the parties of the right and the far right.

Claudio Crespo's post-Carabineros career illustrates the pattern. Since 2015, Crespo has been married to Giovanna Cúneo, owner of the cleaning company Fullclean S.A. In November 2020, the company expanded into security services, with Crespo heading the new division. Investigative outlet *Interferencia* revealed that Fullclean accumulated over 13 billion Chilean pesos (US\$14.1 million) in state contracts across a decade, with clients including the Carabineros Hospital, the Military Academy, the Municipality of Providencia and the Municipality of Lo Barnechea.

Crespo also served as security policy coordinator for Antonella Pecchenino, the Republican candidate for the Viña del Mar mayoralty in 2024—despite, or perhaps because of, the fact that he was still under formal accusation.

The revolving door between the repressive forces and right-wing politics has accelerated dramatically under Kast. Enrique Bassaletti, a former Carabineros general who directed operations in the Eastern Metropolitan Zone and was forced into retirement over his role in the 2019 protests, now sits as a Republican Party deputy on the Permanent Commission on Human Rights and Indigenous Peoples—a grotesque irony. Press reports indicate Bassaletti intervened to protect Crespo during internal proceedings after the Gatica shooting. Sebastián Zamora, the former Carabineros corporal acquitted of throwing a 16-year-old protester off the Pío Nono Bridge into the Mapocho River, is also a Republican deputy. Cristián Vial, a retired Army general who commanded the Santiago Garrison, is now a Republican senator.

Within the Kast executive, the Ministry of Defense is led by a civilian,

but both undersecretaries are former officers. The National Intelligence Agency (ANI) is headed by a retired vice admiral. A retired vice admiral serves as Commissioner for the Northern Macrozone. Retired Gen. Eduardo Quijada of Carabineros heads the police oversight division within the Security Ministry.

As the newspaper *El Siglo* observed in April 2026, officials who had barely left the armed forces moved quickly into the Republican Party, the National Libertarian Party (PNL), the (UDI) and RN. This represents an ideological current that has predominated within the Armed Forces and uniformed police for decades—a current that now finds direct political expression in the Kast government.

The political stakes

The June 25 admissibility ruling is a “small step in the search for justice,” as Gatica himself described it. The appeals argue that the trial court failed to properly evaluate 22 items of evidence presented during the trial, in some cases not even mentioning them in the ruling, and that the application of the Naín-Retamal Law as the basis for acquittal was legally incorrect. If the Court of Appeals accepts these arguments, a new trial could begin toward the end of 2026.

But the case transcends the fate of one victim and one perpetrator. What is being contested is the entire legal and political framework that has been constructed since 2019 to shield the forces of state repression from accountability. The trajectory is clear: Piñera declared war on the population and unleashed the military; Boric consolidated the police state and provided it with a legal architecture of impunity through the Naín-Retamal Law; and now Kast is expanding that architecture while staffing the state with the very officers who carried out the repression.



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