

Payout for Pinochet Victims Shines in Dark Times for Human Rights

By Saul Landau and Sarah Anderson | March 3, 2005

On February 25, Riggs Bank agreed to pay \$9 million into a fund for victims of Augusto Pinochet to settle a case over the bank's role in hiding the former Chilean dictator's ill-gotten gains. This latest development in the decades-long fight to hold Pinochet accountable for his crimes stands in stark contrast to the twisted human rights rhetoric—and record—of the U.S. government.

Yes, Saddam Hussein, like his fellow former dictator Pinochet, may face prosecution for human rights violations. But at every turn in the war on Iraq and in the broader war on terrorism, the Bush administration has trampled on human rights laws when they became inconvenient, creating dangerous precedents for the rest of the world.

President George W. Bush boasts of his allegiance to human rights at the same time that he dismisses criticism of the illegality of the Iraq invasion and occupation and of the U.S. involvement in extra-judicial assassinations and illegal detainment of terrorism suspects.

Indeed, in the most chilling statement in his 2003 State of the Union address, Bush claimed that “more than 3,000 suspected terrorists have been arrested in many countries. And many others have met a different fate. Let’s put it this way: They are no longer a problem to the United States and our friends and allies.” Bush’s euphemisms don’t disguise the assault on the basic right of habeas corpus, the legal principle established in the Magna Carta in 1215 that prevents a government from picking up a person and holding him indefinitely without charge—even if he is a terrorism suspect.

By respecting laws that suit them and thumbing their noses at laws that don’t, Bush administration officials have undermined internationally accepted treaties and made a parody of human rights. In doing so, they have increased the likelihood that other governments will do the same. How long before U.S. soldiers or other citizens suffer at the hands of foreign governments that claim they are only following the Bush administration’s example?

By contrast, the legal actions against Pinochet constitute part of a genuine fight for human rights, one that has set a very different precedent in the use of international law. The \$9 million settlement with Riggs grew out of a Spanish investigation launched in the mid-1990s into violations by Pinochet of international laws on torture, geno-

cide, and terrorism. These include his role in the September 21, 1976 assassination of Orlando Letelier in Washington, DC.

Letelier had served as Allende’s U.S. ambassador and later as Defense Minister. The FBI traced the car bombing plot that also killed Ronni Moffitt, Letelier’s young U.S. colleague at the Institute for Policy Studies, to the highest reaches of the Chilean government. The indictment named the head of Chile’s intelligence service, but not Pinochet. Later, FBI agents and the former U.S. prosecutor publicly linked Pinochet to the crime.

Pinochet came into power in 1973 through a U.S.-backed bloody coup against the elected government of Dr. Salvador Allende. He ruled Chile until 1990, when Chileans voted in a referendum for civilian government. Pinochet stayed on as head of the army and became a “Senator for Life,” under terms he had negotiated before handing over power.

A Chilean government commission later ascertained that Pinochet’s regime had assassinated almost 3,200 people, tortured tens of thousands, and forced hundreds of thousands into exile. However, in Chile, Pinochet and his fellow former officers enjoyed self-delivered immunity from prosecution, making it highly unlikely that Chilean courts could reach them.

So, in 1996, a group of Spanish lawyers, working on behalf of thousands of victims of the Pinochet dictatorship, convinced a Spanish judge to accept jurisdiction over the Pinochet case. A Spanish court then opened an investigation that led to Pinochet’s arrest in London in 1998. Believing he was protected by his immunity and his hidden fortune, Pinochet made no secret of his visit. Indeed, he strode up the VIP red carpet into the airport, had tea with his old friend former Prime Minister Margaret Thatcher, went shopping at Harrod’s, and dining at London’s fanciest restaurants. But the military bully’s



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famed smug smile disappeared when a British policeman arrested him on a request from the Spanish judge.

Although Pinochet escaped trial in Spain when the British government accepted a phony medical pretext (too mentally and physically sick to stand trial), the House of Lords nevertheless decided a crucial point of law. By dismissing the argument of Pinochet's lawyers that the Spanish court's arrest order had no validity on the grounds that Pinochet, as a former head of state, enjoyed sovereign immunity, the distinguished legal body affirmed the idea that heads of state cannot escape prosecution by claiming immunity; nor can they appeal to the "exigencies" of rule to commit criminal acts. The British judicial authorities drew a clear line between political needs and criminal acts.

The international attention caused by the Spanish case also bolstered efforts within Chile to strip Pinochet of his immunity and put him on trial in his home country. These efforts are ongoing. Chilean judge Juan Guzman has indicted Pinochet for a series of executions and "disappearances," while still other judges consider further charges.

The Spanish case also made possible the action against Riggs, since it hinged on Riggs' violation of a Spanish judge's order to freeze all of the dictator's financial assets. A U.S. Senate investigation into illegal activities at Riggs uncovered Pinochet's disguised accounts. The Justice Department launched a criminal investigation into possible money-laundering at the bank.

Under the settlement, Riggs will contribute \$8 million to a Spanish foundation named for the fallen Chilean President Salvador Allende and established by Juan Garcés, the lawyer who has represented the victims in the case. Joseph L. Allbritton, a former Riggs CEO and its

controlling shareholder, and his son, current Riggs CEO Robert L. Allbritton, will deposit an additional \$1 million in the fund. After legal costs, the foundation will have \$8 million for a pension fund that will make annual payments to victims or family members of victims of the Pinochet regime, which number in the tens of thousands.

The families of the dead or tortured victims of Pinochet's crimes will not grow rich from the money they receive. But the symbolic value of punishing Pinochet and the bank that aided him has larger political implications. Other bankers will now think twice before coming to the aid of a disgraced dictator. And criminals in state power will sleep less easily.

The victories in the Pinochet case represent a real step forward for human rights.

The victories in the Pinochet case should elate all human rights advocates. Victims of human rights violations can hope to apply the lessons from this case to their own fights for justice. The precedents set also afford additional legal protection at a time when the Bush administration has undermined global standards. The president may claim to have noble intentions, but let's not forget that Pinochet claimed to have noble intentions too. Bravo to the clever lawyers and those they represented in the Pinochet case for stripping away the empty rhetoric and holding a human rights abuser accountable under the law. They have much to teach the world.

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p. 2

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