

**Vindication at Last:
The Role of Chilean Human Rights
Organizations in the Pinochet Case**

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THE DICTATORS

by Pablo Neruda

*An odor stayed in the cane fields:
carrion, blood, and a nausea
of harrowing petals.
Between coconut palms lay the graves, a stilled
strangulation, a festering surfeit of bones.
A finical satrap conversed
with wineglasses, collars and piping.
In the palace, all flashed like a clock-dial,
precipitate laughter in gloves, a moment
spanning the passageways, meeting
the newly killed voices and the buried blue mouths. Out of sight,
lament was perpetual and fell, like a plant and its pollen,
forcing a lightless increase in the blinded, big leaves.
And bludgeon by bludgeon, on the terrible waters,
scale over scale in the bog,
the snout filled with silence and slime
and vendetta was born.¹*

LOS DICTADORES

*Ha quedado un olor entre los cañaverales:
una mezcla de sangre y cuerpo, un pentrante
pétalo nauseabundo.
Entre los cocoteros las tumbas están llenas
de huesos demolidos, de estertores callados.
El delicado sátrapa conversa
con copas, cuellos y cordones de oro.
El pequeño palacio brilla como un reloj
y las rápidas risas enguantadas
atraviesan a veces los pasillos
y se reúnen a las voces muertas
y a las bocas azules frescamente enterradas.
El llanto está escondido como una planta
cuya semilla cae sin cesar sobre el suelo
y hace crecer sin luz sus grandes hojas ciegas.
El odio se ha formado escama a escama,
golpe a golpe, en el agua terrible del pantano,
con un hocico lleno de légamo y silencio.*

¹ Translation from: Belitt, Ben. *Pablo Neruda, Five Decades: A Selection*. New York: Grove Press, 1974.

I. INTRODUCTION

The 1998 arrest of General Augusto Pinochet Ugarte, the infamous Chilean dictator, marked a permanent advance in the field of human rights. With the General's detention, the international community proclaimed its intolerance of dictatorial human rights abuses and the unacceptability of impunity for the perpetrators and orchestrators of such violations. Despite the fact that Pinochet was not convicted for his crimes, his very arrest and the enumeration of human rights violations in court gave notice to dictators worldwide that they will be called upon to account for their actions. Reed Brody, Special Counsel for Prosecutions for Human Rights Watch, described the Pinochet arrest as a "wake-up call" to tyrants everywhere, remarking, "the Pinochet case signifies the beginning of the end of their [the dictators'] impunity" (Human Rights Watch January 12, 2000). In the realm of international law, the Pinochet case helped establish that human rights crimes are subject to universal jurisdiction and can be prosecuted anywhere, which may effectively transform international human rights law.

Given the monumental significance of the Pinochet case, it is imperative to understand how it came about and who participated in the attempts to bring Pinochet to justice. While international judges and lawyers clearly played a crucial role in the attempts to hold Pinochet accountable in Spanish courts, the case would not have been possible without the work of Chilean nongovernmental organizations (NGOs), and more specifically, human rights groups. The examination of these groups poses two different, but equally interesting, questions: how did the Pinochet case impact the state of the human rights movement in Chile, and what role did human rights organizations play in the Pinochet case? Exploring the role that Chilean human rights groups played in the

case is of particular value, as there are innumerable lessons to be learned from their experience, some of which can be extrapolated and applied to other situations worldwide.

Because Spanish Judge Baltasar Garzón issued the arrest warrant for Pinochet, and British magistrate Nicholas Evans executed the order for the General's detention in London, the involvement of the international community is often emphasized as the catalyst that brought Pinochet before the courts. I will contend that although the role of the international community was vital, the case would not have been possible without the remarkable work of Chilean human rights groups during the Pinochet regime and, to a lesser extent, during the transition to democracy (1990-1998). As such, I will examine the role assumed by Chilean human rights organizations in advocating for justice in the Pinochet case from 1973 to 2000, with the aim of illustrating that the case was not a manifestation of post-colonial dependence upon foreign powers due to domestic inabilities, but rather the fruit of Chilean human rights groups' efforts. The work of these groups will thus be viewed as a necessary but not sufficient condition for Pinochet's arrest and trial.

In order to grasp how human rights groups were able to play such a pivotal role in the Pinochet case, it is vital to provide an overview of human rights groups' organization and activity during the dictatorship years (1973-1990). How did the first human rights groups organize and expand? The primary human rights groups constituting the first, second, third and fourth "generations" of organizations will thus be introduced and characterized. What then transpired during the transition to democracy? Interestingly, there is not a great deal explicitly written about Chilean groups between 1990 and 1998, so I will trace how the Chilean human rights movement evolved in democracy and in

what manners their role changed. As groups began to call for justice with increased intensity, their energies shifted from documenting and denouncing general human rights abuses to condemning and chipping away at impunity through testimony and symbolic action. The role of Chilean groups during the case itself will be carefully detailed and evaluated. Looking at the big picture, I will consider the work of Chilean human rights groups during the 1990-2000 Pinochet campaigns in relation to the achievements of key international actors.

The following study will thus frame Chilean human rights groups as central actors in seeking to bring about justice in the Pinochet case, given that their careful documentation and persistent efforts ultimately allowed for the case to unfold. After decades of tenacity and constant adaptation to ever-changing circumstances, the case against Pinochet represents the vindication of the human rights groups' call for justice.

II. THE EMERGENCE AND ORGANIZATION OF CHILEAN HUMAN RIGHTS GROUPS DURING THE DICTATORSHIP, 1973-1990

The organization, persistence and specialization of Chilean human rights groups during the years of the authoritarian regime, from 1973 to 1990, laid the groundwork for the case that would be brought against Pinochet twenty-five years after the coup d'état. Although the abundance of human rights organizations, which grew from 2 groups in 1973 to 16 groups in 1985 and then to 52 groups in 1988 (Hutchison and Orellana 2007), has been called excessive and redundant, the strength of the Chilean human rights movement actually lies in this diverse, multifaceted base. Because many groups performed specialized functions in accordance with their varying abilities and motivations, they worked diligently and persisted in the face of adversity. By focusing

on different abuses and disparate groups of victims, organizations were able to produce detailed and exhaustive records of virtually all human rights abuses, which would prove invaluable in the case against Pinochet. These domestic groups also provided information to international actors who echoed the cry for an end to human rights abuses under the military regime and later called for Pinochet's arrest and trial. The work of Chilean human rights groups during the dictatorship was thus fundamental in establishing a case against Pinochet.

Human rights groups in Chile emerged in response to the gross violations committed by General Pinochet's military authoritarian regime. Seizing institutional control of the country on September 11, 1973, the Chilean Armed Forces began a campaign of imprisonments, extrajudicial executions and forced disappearances under the guise of "restoring the institutional framework that had been broken" during the presidency of popularly elected socialist Salvador Allende (Lowden 28). Under the military junta, arbitrary state repression affected much of the population as thousands were detained and "disappeared," most notably those who the military *perceived* to be part of the "leftist conspiracy." These abuses provided the impetus for the formation of the Chilean human rights movement, resulting in a curious irony best described by Louis Bickford. Because the dictatorship directly contributed to the development of human rights groups, "the human rights movement can be considered a legacy of authoritarianism," although such a result was hardly the intention of the military rulers (Bickford 8).

A movement was thus born of need and opportunity, as citizens sought to challenge government repression and be of service to victims and their families. Patricio

Orellana has identified three central social institutions that generated four successive “waves” of human rights groups. First, the churches, whose established legitimacy afforded them unique openings as well as protection, came to the defense of human rights, spawning the four following prominent groups: *el Comité de Cooperación para la Paz en Chile* (the Committee for Cooperation for Peace in Chile, known by the acronym COPACHI), *la Fundación de Ayuda Social de las Iglesias Cristianas* (the Foundation for Social Help of the Christian Churches, FASIC), *la Vicaría de la Solidaridad* (the Vicariate of Solidarity, referred to as the *Vicaría*) and *el Servicio de Paz y Justicia* (the Justice and Peace Service, SERPAJ). The second generation of organizations grew out of the church groups but focused on family ties to victims. Family members of those affected by the military repression formed various *agrupaciones especiales*, or special associations, based on the nature of their relatives’ victimization. Although *la Agrupación de Familiares de Presos Políticos* (the Association of Family Members of Political Prisoners, AFPP) emerged early on, it was not formally organized for several years, making *la Agrupación de Familiares de Detenidos Desaparecidos* (the Association of Family Members of the Detained-Disappeared, AFDD), closely tied to the *Vicaría* and operating from the *Vicaría*’s Plaza de Armas building, the first formal association of this disposition to challenge the abusive practices of the military regime (Lowden 80). Soon to follow were *la Agrupación de Familiares de Ejecutados Políticos* (the Association of Family Members of the Executed, AFEP), *la Agrupación de Familiares de Relegados y ex-Relegados* (the Association of Family Members of the Banished, AFAREL), *el Comité Pro-retorno de Exiliados* (the Committee for the Return of the Exiled, CPRE) and *la Protección de la Infancia Dañada por los Estados de Emergencia* (the Protection of

Children Damaged by the State of Emergency, PIDEE). Orellana characterizes the third generation of human rights groups as those tied to political, rather than religious, institutions. The most notable of these include *la Comisión Chilena de Derechos Humanos* (the Chilean Commission for Human Rights, CCHDH), *la Comisión Nacional Pro Derechos Juveniles* (the National Commission for the Rights of Youth, CODEJU), *el Comité de Defensa de los Derechos del Pueblo* (the Committee for the Defense of the Rights of the People, CODEPU) and *la Comisión Nacional contra la Tortura* (the National Commission against Torture). While Orellana identifies *el Movimiento contra la Tortura “Sebastián Acevedo”* (the Movement against Torture “Sebastián Acevedo”) as the singular group constituting the fourth wave, Edward Cleary broadens the field, citing all those organizations that “address the specific questions of women’s issues, indigenous peoples’ rights, or torture” as part of the fourth wave, including the National Commission against Torture (Cleary 13). Irrespective of what groups are attributed to this fourth surge, the generational character of the human rights movement is clear, contributing to its specialization and diversity (Hutchison and Orellana 17-19).

The First Generation

Immediately following the coup d’etat, the Catholic, Evangelical Methodist, Evangelical Lutheran and Methodist Pentecostal churches, Rabbinical college and World Council of Churches founded two committees to aid those affected by state repression. The so-called “Committee 2,” intended to assist and protect Chileans, gave rise to COPACHI, which began to function in October of 1973. Because COPACHI was formed to address the dictatorship’s early, and most numerous, abuses, its primary role was to offer social assistance and serve as a resource to which the families of the

detained, tortured and executed could turn. As such, COPACHI sought to provide legal services to investigate the usually arbitrary charges brought against the accused, but such work was secondary to providing food and medical care (Hutchison and Orellana 21). Nonetheless, COPACHI began to systematize the storage and analysis of information received from the denunciations made by victims and families in 1974, establishing the essential practice of record keeping and publishing the results of its work in the Catholic publication *Mensaje*, one of the few non-censored means of communication in the country (Hutchison 94). Despite the Committee's service, rather than denunciatory, orientation, Pinochet demanded the dissolution of COPACHI in 1975, calling it "an instrument used by Marxists-Leninists to create problems directed at altering the tranquility of the citizenry" in a letter to Cardinal Raúl Silva Henríquez (Americas Watch 14).

While COPACHI disbanded in November of 1975, the groundwork of the human rights movement had been laid, geared towards social and legal aid, which led the church leaders involved in COPACHI to divide human rights activities among their various religious groups. Cardinal Silva, the Archbishop of Santiago, assumed the brunt of COPACHI's work on the back of the Catholic Church by creating *la Vicaría de la Solidaridad*. Given the respect commanded by and the authority of the Catholic Church in Chile, the protection of the Church served as a guarantee against military dissolution of the organization. The *Vicaría* began offering vital assistance in January of 1976, focusing particular attention on legal proceedings, investigating thousands of cases and filing writs of habeas corpus when possible. Because the judiciary was under the regime's control, only 23 of the 8,706 writs filed by the *Vicaría* from 1976 to 1988 were

accepted by the courts, but the utilization of legal channels served to legitimize the human rights claims (Lowden 151). Because, as Pamela Lowden notes, a key part of the human rights struggle was “the question of information, and, by extension, credibility,” the *Vicaría* presented meticulous documentation with each case brought before the courts (Lowden 42). The pertinent information from these cases of the detained-disappeared, tortured and murdered was then sent to bishops and the human rights commissions of the Organization of American States and the United Nations. Although the *Vicaría* did not originally intend to serve as a denunciatory organization due to its religious character, its filing and documentation of legal cases became a primary means of illustrating the human rights abuses taking place in Chile. The cases became decidedly political in purpose, as they were intended not merely to protect human rights, but also to denounce Pinochet and the abusive actions of his government. Consequently, the *Vicaría*'s documentation center became the best source of precise, irrefutable information tracing the development of the military regime's repression (Hutchison and Orellana 21-23).

Those Protestant churches that wanted to continue the work of COPACHI in some fashion formed FASIC in late 1975. Leaving general legal aid to the *Vicaría*, FASIC sought to help political prisoners and, from 1978 on, to provide psychological treatment programs for the formerly exiled, detained, imprisoned and tortured. Given the professional, bureaucratic nature of FASIC, records were kept of all those treated and assisted. More traditional in nature than the *Vicaría*, FASIC appealed to conservative Chilean church members and international funding agencies of a similar character (Cleary 6). FASIC and the *Vicaría* thus distinguished themselves on the basis of function and institutional disposition, creating their own niches in the human rights movement.

The last organization of note to arise in this first generation was SERPAJ,² an international organization with country affiliates that formed in 1974. The Chilean branch of SERPAJ was officially founded in August of 1979 as an ecumenical organization of Christian inspiration that emphasizes the principles of active non-violence and civil disobedience. Focusing on popular education and mobilization against the dictatorship, SERPAJ differentiated itself from the *Vicaría* by its distinctly anti-authoritarian position and institutional independence from the Catholic Church. But although SERPAJ is not church affiliated, it enjoyed the legitimacy and protection of the Catholic Church during the dictatorship, because many Church members and clergy were incorporated into SERPAJ. Such protection was of particular import in light of SERPAJ's denunciatory work, as it sought to prepare reports and presentations about the regime's human rights violations for national and international audiences (Hutchison and Orellana 104).

In this fashion, the churches emerged as the "early risers" of the human rights movement in Chile, as Cleary has noted that they were "virtually the only political actors sharing a space in the public arena dominated by the military" (Cleary 5). The groups that arose seized advantage of this opportunity to provide a variety of services without duplicating one another and assiduously documented the cases and victims to which they attended.

The Second Generation

² While Orellana considers SERPAJ as part of the first generation due to its Christian ties, Cleary includes SERPAJ as a member of the second generation on the basis of chronology.

Within the church organizations of the first generation, the family members of victims of the regime's repression formed new associations. Because many victims' relatives, the majority of which were women, were drawn together by their common experiences of anguish, frustration and anger, family affinity served as the orienting and defining factor for the groups constituting this second generation. To further emphasize this binding tie, the *agrupaciones* stressed their lay and apolitical character and focused principally on denouncing the military regime's multitudinous human rights violations and mobilizing opposition to the dictatorship. Each group that arose as a member of this generation advocated for a disparate victim group and thereby fostered a specialized, thorough approach to human rights work.

Family members of the "disappeared" organized the first and most prominent association of this sort, *la Agrupación de Familiares de Detenidos-Desaparecidos* (AFDD). The "disappearing" of persons was a new phenomenon in Chile, for although the political establishment had imprisoned and exiled its opponents in the past, it had never before engaged in the despicable practice of kidnapping or killing citizens clandestinely. Edward Cleary notes, "Under Chilean repression, disappearance meant that family or friends could never put to rest their fears or hopes for the lost person. Disappearance was like a wound that never healed" (Cleary 8). The torturously open-ended, inconclusive nature of disappearance as a human rights violation thus spurred AFDD members to relentlessly campaign for truth and justice. While some relatives of the disappeared initially joined AFDD for personal reasons, without specific knowledge of the activities or politics of their disappeared loved ones, they soon fully engaged in political battle with Pinochet's authoritarian regime. Despite the initial apolitical

orientation of the group, which allowed the Catholic Church to lend it support and protection, the integration of relatives of disappeared communists altered AFDD's objectives and fostered new types of activism. Such changes paralleled the third generation trend of organizing according to specific political goals. AFDD tirelessly devoted itself to demanding public government recognition of disappearances, because officials refused to admit detentions had occurred, strictly adhering to the language of "presumed" transgressions. In the face of such dismissal and disrespect, the organization and orchestrated actions of family members served not only to reaffirm their dignity, but also to bolster legal efforts. From the *Vicaría's* perspective, AFDD provided the labor necessary to prepare legal cases, and in situations where it was thought advantageous for the relatives to present the writs of *habeas corpus* themselves, AFDD's organization greatly facilitated the process (Lowden 80). As AFDD members grew more politically savvy, so did their campaigns and strategies, which led to actions like the chaining of group members to the gates of the Economic Commission for Latin America (CEPAL) building and the 1978 hunger strike in response the passage of that year's amnesty law (Hutchison and Orellana 96-102).

While AFDD was undoubtedly the most high-profile *agrupación* during the dictatorship and the following years, other associations of a similar nature functioned in much the same fashion. AFPP, which was formed by relatives of political prisoners, carried out sustained campaigns calling attention to and demanding the release of their loved ones from 1974 forward, particularly after the group's official founding in 1976.

CPRE, AFEP, PIDEE and AFAREL³ also denounced and mobilized opposition to human rights violations concerning the exiled, the executed, the children of adult victims and the banished (within Chile, as opposed to international exiles), respectively. Many of these groups published periodic reports or updates in which they generated and maintained lists of victims afflicted by particular violations, sometimes augmented by biographies or, in the case of executed political prisoners, the circumstances of victims' deaths (Hutchison and Orellana 28-31).

In this fashion, the *agrupaciones* complemented and expanded upon the primarily legal and social work of the church groups. By symbolically denouncing the dictatorship's human rights violations, these groups galvanized local and international opposition to Pinochet. Furthermore, at the most basic level, the early organization of family members created networks of passionately committed activists who were so personally invested in the cause that they would continue to call for justice even after the transition to democracy, rallying and supporting one another along the way.

The Third and Fourth Generations

Because the military regime severely limited and then officially outlawed political parties in 1977, center and left party members were forced to go "underground." Many of those who did so capitalized upon the communication opportunities afforded by church structures, but this space soon proved too religious and insufficiently political. Given what Edward Cleary cites as a widely accepted Chilean tradition, that "challenges to the government are best mounted when not religious," and the common sentiment that

³ *Comité Pro-retorno de Exiliados, Agrupación de Familiares de Ejecutados Políticos, Protección de la Infancia Dañada por los Estados de Emergencia, and Agrupación de Familiares de Relegados y ex-Relegados*

society as a whole, not just the churches, had an obligation to respond to the regime's egregious human rights violations, groups formed that were lay, secular and politically aligned in character (Cleary 10).

The Chilean Commission for Human Rights, or CCHDH, was undoubtedly the most significant and influential group to emerge from the third generation. Founded by Christian Democrats Jaime Castillo and Máximo Pacheco, who became the organization's president and vice-president, in late 1978, the CCHDH grew into the largest lay human rights organization in all of Latin America. By 1985, some 1,500 CCHDH members worked from branch offices in 30 different cities throughout Chile (Hutchison and Orellana 33). And not all were Christian Democrats like Castillo and Pacheco. As human rights became the most important ideological symbol for the opposition to the regime, political groups that had previously been on the fringes were incorporated into the human rights movement. Many of the CCHDH's branch directors and staff members had been affiliated with Chile's Communist Party (PC) or were of other leftist leanings. In this fashion, pluralism was truly at the heart of the CCHDH, for according to the organization's records, "all forms of ideology exist in our community, with the exception of those that are antagonistic to the philosophy of human rights"⁴ (Hutchison and Orellana 32). On the professional level, CCHDH participants were principally lawyers, in addition to a "showcase directorate" composed of prominent academicians, artists and labor leaders, who were more symbolic than functional in practice. Focusing on the legal defense of human rights and the denouncement of human rights abuses, the CCHDH was both broader in scope than the *Vicaría* or FASIC and

⁴ "todas las formas ideológicas que existen en nuestra comunidad, con excepción de aquellas que son antagonicas a la filosofía de los derechos humanos."

considerably more aggressive, given the members' largely leftist affiliations. The monthly, semiannual and yearly publications that the CCHDH released reported comprehensively on the human rights situation in Chile and regularly registered higher figures for violations than the *Vicaría*. Because this organization gathered data on human rights abuses from a variety of sources – including police reports – and not just the cases brought to the group's attention, CCHDH publications provide the most complete records of human rights violations available and were therefore instrumental in preparing the case against Pinochet.

The CCHDH also offered institutional support to other nascent groups, including CODEJU, the National Commission for the Rights of Young People, which began with the coordination of youth groups in Valparaíso in 1977 and was officially founded in 1978. The only organization to specifically advocate for the rights of the young under the military regime, CODEJU's "youthful character made it one of the primary animators of popular mobilization and its members [were] in the front lines of campaigns for human rights"⁵ (Hutchison and Orellana 34). Through its activism, CODEJU spread the doctrine of human rights to an entire generation of university and high school-aged students, who would continue to call for justice throughout the transition to democracy and beyond.

Also of note among the third generation groups were the Commission for the Defense of the Rights of the People (CODEPU) and the National Commission Against Torture (categorized by Cleary as part of the fourth generation). Members of the Popular Democratic Movement (MDP), a coalition of far left parties, grew frustrated with their

⁵ "carácter juvenil determina que sea una de las más grandes animadoras de la movilización popular y sus miembros están en primera línea en las campañas por los derechos humanos."

inability to advance more radical political agendas within the CCHDH and church groups, forming CODEPU in 1980. Focusing on grass roots organization and mobilization, CODEPU embraced the 1976 Algiers Declaration of the Rights of Peoples, which proclaims the people's right of rebellion against repressive rule (Hutchison and Orellana 105). In keeping with the prevailing denouncement practice of human rights groups, CODEPU published bulletins, torture studies and monthly reports on the status of human rights violations from 1985 forward. Ultimately, CODEPU provided some of the most important documentation and files for the Pinochet case, given the detailed information it recorded about torture cases in the late 1980s. While CODEPU's work was of great import, particularly with respect to advocating for and protecting the rights of radical leftists, it was often subject to criticism, because "the association of far leftists with human rights work gave military rulers additional opportunity for surveillance and control of all human rights groups" (Cleary 12). With the support of many of the groups mentioned thus far, the National Commission Against Torture formed in 1982 for the express purpose of abolishing torture, which had become a favored tool of military oppression, and promoting values in keeping with the goal of abolition. The Commission published a number of important documents on the prevalence of the practice in Chile, including *Así se tortura en Chile* (Here is How They Torture in Chile), "so that no one can say tomorrow, 'I didn't know'"⁶ (Hutchison and Orellana 36).

The fourth generation of human rights organizations in Chile is less well defined, as Orellana identifies the Movement Against Torture "Sebastián Acevedo" as the sole group constituting this generation, while Cleary includes the women's and indigenous groups that emerge in the early 1980s as part of this last wave of the human rights

⁶ "para que mañana nadie diga: Yo no sabía."

movement. Although the women's and indigenous organizations were of great import and brought about significant change, the Sebastián Acevedo Movement is more pertinent to the inquiry at hand. Founded in 1983, this lay, pluralist, grassroots group took its name from the construction worker who died when he set himself on fire in front of a Concepción cathedral to protest the torture of his children, who were being held by the governmental CNI (National Information Center). Sebastián Acevedo members practiced active non-violence and staged numerous protests, carrying out 27 forbidden demonstrations by June of 1985, which came at a cost. The regime responded to the public campaign by manhandling protestors, banishing two movement members and detaining and torturing 39 members (Cleary 15). Nonetheless, the Movement persisted in its actions, thereby serving as a model of courage and perseverance for the struggles to come.

The third and fourth generations thus marked a shift in the emphasis of the human rights movement, because the primary organizational activities transitioned from legal assistance and writ filing to broader mobilization efforts. Such changes were in keeping with the political nature of the groups that emerged, as the opposition grew ever more intent upon bringing about an end to Pinochet's repressive authoritarian regime. Even amidst this shift, however, the organizations (old and new) continued publishing denouncements and records of the government's human rights abuses, building upon the case against Pinochet.

From the Domestic to the Transnational

The specialized, generational nature of the Chilean human rights movement described above did not preclude coordination amongst organizations, nor the development of institutional relationships abroad. There was unity amidst the heterogeneous groups, particularly in the first five years of the dictatorship, when legal activity was the focus, and in the last few years of the regime's rule, when human rights groups consciously renewed coordination efforts. In 1980, three umbrella organizations were established for purposes of informal, ad hoc coordination, and in 1984, the Plenary Assembly of Human Rights Organizations formed a unified front for the core human rights groups (including the *Vicaría*, CCHDH, CODEPU, and SERPAJ). This assembly, executively directed by SERPAJ, facilitated quick responses to the regime's repression and evidenced the movement's growing maturity (Cleary 16).

Internal, domestic coordination abilities also manifest themselves transnationally, as relationships between individuals and organizations developed into a transnational network based on international and domestic human rights norms. Chilean human rights groups provided essential information to intergovernmental bodies like the United Nations Human Rights Commission and the Organization of American States Inter-American Commission on Human Rights, as well as to NGOs and other groups of concerned citizens worldwide. This international network, which arose in response to the Chilean coup and the subsequent human rights violations, was, in fact, the largest transnational network designed to combat human rights abuses during the 1970s. Because "a network's existence and its decision to focus on abuses in a particular country is a necessary but not sufficient condition for changing human rights practices," Chile's

transnational network was integral to bringing about an end to the military regime and its abuses (Keck and Sikkink 117).

From the start of the dictatorship, popular sentiment predisposed activists abroad to ally themselves with the cause of Chilean human rights groups. With his win in the 1970 election, Salvador Allende became the world's first popularly elected Socialist president, campaigning on promises of increased nationalization and improved efforts to house the poor. Given this distinction, Allende's government was closely scrutinized worldwide, as many watched with hope and curiosity. Not surprisingly, the United States government was not amongst the hopeful and curious, despite the fact that many American citizens studied, traveled and lived in Chile. The U.S. government responded with a hostile policy of containment, which in turn spurred concerned individuals in other countries and within the United States to form organizations in solidarity with Chileans, even before the military coup itself occurred (López 2).⁷ Thus, when the Chilean Armed Forces seized governmental control on September 11, 1973, the situation immediately evoked international sympathy and moral indignation, for the event seemed to mark the death of the dream of bringing about socialism through democratic means.

As the first and second generation Chilean human rights groups struggled to adequately respond to the regime's flagrant abuses, the need for additional support – financial and otherwise – became apparent. Taking into consideration the backdrop of international interest in and concern for the Chilean human rights crisis, many groups looked abroad for protection, legitimacy and financial assistance. In exchange for international aid, domestic organizations provided records and accounts of the military regime's oppression and violations. According to Darren Hawkins, such monitoring was

⁷ Records from Chilean embassies during this period attest to the existence of such groups.

imperative because it provided information that could be sent outside of Chile, legitimized the substance of that information and delegitimized Pinochet's regime through relationships with international actors, motivated and justified widespread international pressure and, lastly, served as a means to remain engaged with military regime officials and to call for improved behavior (Hawkins 49). The intensification and improved quality of monitoring produced a steady flow of information from Chilean groups to international organizations, as groups abroad soon began to rely upon Chilean NGO reports to "justify their human rights pressures" (Ropp and Sikkink 184). Between 1974 and 1979, COPACHI and the *Vicaría* alone sent 1,720 human rights petitions to international groups and organizations on behalf of 1,928 victims (Hawkins 56). With time, linkages thrived, thereby facilitating the transfer of information, money and ideas within the network.

Different domestic groups contributed to the formation of the transnational network at disparate junctures in myriad ways. COPACHI recognized the necessity of external backing early on, which led to an active search for financial donors capable of exerting pressure upon the military regime to alter its abusive practices. The World Council of Churches filled this role admirably, as did a host of other international church organizations. In the wake of COPACHI's dissolution, the *Vicaría* sought to establish similar relationships and initiated regular communication with Amnesty International in London. During the early years of the dictatorship, in fact, the two organizations were in touch on an almost daily basis, creating one of the most critical links in the human rights network (Ropp and Sikkink 176). The *Vicaría*'s close ties to Amnesty proved vital not only during the regime's rule, but also well after the *Vicaría* closed and throughout the

Pinochet case. For those groups unlike COPACHI and the *Vicaría*, to which the church did not extend the shelter of its protective umbrella, alliances abroad were of particular import. The CCHDH, for example, relied entirely upon its strong ties to international secular human rights organizations for purposes of legitimacy and protection (Hutchison and Orellana 103). The *agrupaciones* also took part in the transnational human rights network. Rooted in their intimately personal experiences with Pinochet's abusive regime, members of the *agrupaciones* sought to combat fear and repression through dramatic, powerful initiatives conducive to international solidarity campaigns. As such, AFDD-coordinated hunger strikes frequently began in Chile and were repeated throughout numerous countries worldwide (López 8). Pinochet himself recognized the linkages between Chilean groups and international supporters and the challenges such relationships presented to his abusive regime. In a speech to the Army Corps of Generals in 1977, Pinochet commented, "Well we know that the action of our internal adversaries is connected with important political and economic centers in the international world which complicates even further the situation just described" (Hawkins 47).

The "important political and economic centers" to which Pinochet alluded above included not only non-governmental organizations abroad, but also intergovernmental bodies such as the United Nations and Organization of American States. During the regime, the UN and the OAS's Inter-American Commission on Human Rights (IACHR) accepted the reports of Chilean groups as reliable sources, establishing the credibility of these organizations on the international stage. While the partnerships formed with other groups abroad also promoted credibility, UN and OAS acknowledgment and acceptance were incomparable. Chilean human rights groups' reports led the UN's Commission on

Human Rights to conclude in March of 1974 that “massive and manifest” human rights violations were taking place in Chile (López 6). Subsequently, both the IACHR and UN Commission on Human Rights viewed the situation in Chile as a matter of grave concern and devoted energies to examining the cases Chilean groups brought before them. This careful consideration of and reporting on Chile “represented a sharp break from the traditional practice of avoiding specific cases and opting instead for general statements in support of human rights norms,” and was, in large part, due to the persistence and diligence of Chilean NGOs (Hawkins 62). In the annual resolutions of the UN General Assembly condemning Chile for human rights violations, between eighty and ninety-five countries voted against Chile in the 1970s and 1980s, many of them specifically citing the reports of Chilean groups, particularly the *Vicaría* and CCHDH, as the basis for such votes (Ropp and Sikkink 184). The international recognition and respect accorded to domestic organizations during these years later served as the foundation of their legitimacy in providing information utilized to substantiate the Pinochet case.

Countries outside of Chile and even Latin America, as well as intergovernmental bodies, were particularly attuned to the human rights situation under Pinochet’s regime because the repression was international in nature. U.S. citizens Charles Horman and Frank Teruggi were killed by the Chilean military in the days following the coup, while Orlando Letelier, the former Chilean Minister of Exterior Relations, and his Institute for Policy Studies colleague Ronni Moffitt were killed in Washington D.C. by DINA agents in September of 1976. Chilean forces also carried out the assassination of General Carlos Prats and his wife in Argentina and attempted to assassinate Bernardo Leighton, a Democratic-Christian leader and former Chilean vice-president, in Italy. Dozens of other

Chileans were kidnapped and detained throughout Southern Cone countries during the Pinochet years, extending the repression and violence beyond domestic borders (Bouvier 7).

While inter-organizational relationships between specialized groups and intergovernmental bodies on both sides of the Atlantic were at the heart of the transnational network during the dictatorship, more was needed to galvanize groups and persons in far off countries to significant action. This added impetus came from the arrival of Chilean exiles in many – primarily European – nations. Chilean exiles, as many as 200,000 of whom left Chile between 1973 and 1986, were key to the development of a transnational network, ultimately contributing to the organization of solidarity committees in more than 80 countries (Cleary 122) (Ropp and Sikkink 176). The exiled contributed to work abroad so profoundly because, in many cases, these individuals were former members of domestic human rights groups in Chile who had been banished due to their organizational capacities and ideological or political clarity, which the military regime found subversive and intolerable. Consequently, many of these exiles were young (on average, no older than 30), highly politicized and experienced with mobilizing opposition (Vázquez 1). Given such characteristics, Chilean exiles quickly learned the languages of their host countries and became adept at integrating solidarity work into the political and artistic realms of these nations, particularly in Europe. In doing so, the exiles rapidly expanded their spheres of influence and support bases (Vázquez 1-2). Ultimately, Chilean exiles can be credited with personalizing the horrors unfolding in Chile wherever they settled, so that the dictatorship and its abuses were matters perpetually in the consciousnesses of political, social and

artistic groups. Exiles made it impossible for those they met to consider the situation in Chile some inconsequential conflict in a far-off land, garnering support and solidarity throughout England, Spain and other parts of the world. In England, for example, the Chile Solidarity Campaign formed soon after the coup and the arrivals of the first exiles, and the larger Chile Committee for Human Rights took shape several months later (Bouvier 5). Such groups established a foundation of local concern about Chile in England, which would be built upon throughout the Pinochet case. The role Andy McEntee played throughout the decades is paradigmatic of this fact, as he served as the head of the Chile Committee for Human Rights before its closure in 1991 and later became the Chairman of Amnesty International, an organization of crucial import in bringing Pinochet before the British courts (McEntee 2-3).

In this manner, a transnational solidarity network emerged that served as the basis for coordination during attempts to bring Pinochet to justice two decades later. While some who participated in this transnational movement, like lawyer and professor Carlos López Dawson, have characterized it as “spontaneous solidarity,” rather than a campaign as such, there is considerable evidence to the contrary (López 8). The network’s shift in focus during the 1980s denotes a self-aware network capable of making adjustments in order to achieve specific goals. While the transnational network continued to function as a means through which to exchange information and money, the formerly solidarity-gearred groups developed an explicitly political aim. The plebiscite of October 5, 1988 gave the opposition the opportunity to defeat Pinochet in the balloting, thereby opening the way for competitive presidential and congressional elections. Because winning the plebiscite provided the best means by which to improve Chile’s human rights situation,

human rights groups joined with labor unions, opposition media sources, political parties and international actors of all varieties in order to ensure a free, fair vote and to emerge from the plebiscite victorious (Hawkins 59). A decade later, the Pinochet case presented an analogous organizational focal point to the plebiscite, calling for the re-opening of channels of communication and the re-greasing of collaborative wheels. Thus, the formation of a transnational network under the military regime had a profound long-term impact, creating relationships that would be sustained throughout the 1990s and beyond. Unable to bring Pinochet to justice domestically, Chilean human rights groups turned to the pre-existing transnational network.

Concluding Remarks

The organization of the Chilean human rights movement during the dictatorship years derived its strength from diversity and specialization. Both bureaucratic and volunteer groups were integral to the struggle, as they incorporated individuals of professional and personal commitment, respectively, into the movement. The resultant documentation and symbolic actions called the world's attention to the abuses of the military regime, which were themselves transnational in nature, and the development of a transnational advocacy network held that attention until Pinochet relinquished control of the state. Because the problem of human rights is a universal concern, the international support lent to Chilean groups hardly bespeaks of dependence, but rather of partnerships. These relationships, in conjunction with the detailed records of human rights violations and court cases that domestic groups kept, allowed the Pinochet case to progress as far as it did during the 1998-2000 period.

III. CHILEAN HUMAN RIGHTS GROUPS IN THE TRANSITION TO DEMOCRACY, THE EARLY YEARS: 1990-1996

In the wake of the dictatorship, the mandates and campaigns of Chilean human rights groups underwent considerable change as the nation embarked upon the arduous return journey to democracy. These modifications not only redefined the organizations' functions within Chile, but they also determined to what extent the groups' actions during this period would contribute to the Pinochet case. While human rights efforts during the military government focused on documentation, writ filing and symbolic denunciation, in the early transition years, NGOs struggled to determine how to continue advocating for human rights.

Historical Context

In order to grasp the ways in which the Chilean human rights movement changed, it is imperative to understand the political, economical and social implications of the transition to democracy. The plebiscite of 1988, around which the Chile-focused transnational human rights network rallied (as the previous chapter mentioned), marked the first step in bringing about a democratic system. On October 5, 1988, Pinochet was defeated by 55 to 43 percent in a yes-or-no referendum established by the Constitution of 1980. General elections were then held in December of 1989, during which Chileans voted overwhelmingly to replace the military government with a democratic civilian administration. Patricio Aylwin, nominee of the seventeen-party center-left alliance known as the *Concertación (Concertación de Partidos por la Democracia)*, won the three-way race for the presidency with 55 percent of the vote, while the right-wing

government candidate Hernán Büchi emerged with only 29 percent and entrepreneur-turned-politician Francisco Javier Errázuriz with 15 percent (Drake and Jaksic 12-14).

But did this plebiscite and Aylwin's subsequent election really hail the arrival of democracy in Chile? The decade of the 1990s continues to be referred to as the "*transition to democracy*" because of the unfinished nature of the democratization process, which has been marred by the constitutional, institutional and political legacy of the military government. The legacy of authoritarianism manifested itself in innumerable ways throughout Aylwin's administration and that of his successor, Christian Democrat Eduardo Frei. These "enclaves of authoritarianism" posed – and continue to pose – obstacles to the establishment of democracy and included the broad jurisdiction of military courts over crimes committed by military or police forces against civilians, a lack of civilian control over military appointments and Pinochet's control in Congress (Cleary 44). The judicial situation proved an especially problematic and worrisome barrier to promoting truth and justice, integral facets of any democracy, given that the composition of the Supreme Court in 1995 had not changed since the dictatorship. Judges who regularly upheld the arbitrariness of the military government during Pinochet's regime continued to do so during the transition, resulting in impunity for almost all of the officers brought before the Court and discouraging Appellate Court judges from pursuing judicial inquiries into human rights issues. As for Pinochet, despite the end of his thirteen-year dictatorship, he continued to serve as the head of the armed forces until he assumed a seat as a lifetime senator in 1998. Beyond this personal control, Pinochet ensured the continued power and protection of the armed forces through a number of constitutional provisions and the Amnesty Law decreed by the military junta

in 1978 (Decree 2.191), which prevents prosecution of individuals implicated in certain criminal acts committed between September 1973 and March 1978 (Garretón 45-47).

“Refocusing and Retrenchment” – General Commentary

Patricio Aylwin took office on March 11, 1990, in hopes of becoming the “president of reconciliation” who would bring a definitive close to what had been, for many Chileans, an extremely painful chapter of their lives. According to a former minister in the Aylwin administration, Edgardo Boeninger, the new government understood “national reconciliation and the creation of the will among all Chileans to construct the future of the country together as its fundamental mission”⁸ (Lira and Loveman 27). As the brief context provided above evidences, however, both President Aylwin and Chilean human rights groups faced a plethora of challenges, some of which were inherited from the military dictatorship and others that the transition itself created.

Chapter III of this work clearly illustrates the way in which the Chilean human rights movement arose in *reaction to* the violations of Pinochet’s military dictatorship. So given that human rights groups organized in response to the authoritarian government, how were they to reconstitute themselves in the absence of that regime? Groups whose mandate had been obvious and straightforward just weeks before Aylwin assumed the presidency found themselves floundering with the turn in the political tide. As Lucy Taylor notes, “the dynamic of the human rights organizations could not be maintained in a context where abuses were no longer the norm and where a stronger interpretation of human rights was necessary to sustain the interest of the public” (Taylor 108). But one

⁸ “la reconciliación nacional y la creación de la voluntad de construir el futuro del país entre todos los chilenos como su misión fundamental.”

might argue, so what if these groups could not “maintain their dynamic” during the transition? Human rights advocates achieved that for which they had tirelessly fought for so long, an end to Pinochet’s dictatorship, and with that, an end to more than a decade of gratuitous human rights violations that ranged from unwarranted detention to torture and disappearance. The groups’ long-maintained call for justice, however, had yet to be met.

Ironically, such success was responsible for many of the trials the Chilean human rights movement experienced in the 1990s. Consequently, Kathryn Sikkink has accurately characterized this period as one of “refocusing and retrenchment” for human rights groups. Not only did the fact that the worst human rights violations had ceased demand that NGOs rethink their mission, but it also resulted in the perception abroad that the movement was less necessary than before. Funders in particular seemed to adopt this view towards groups in the Southern Cone during the 1990s, as the funding community ceased to consider them priorities, resulting in significant decreases in external funding between 1990 and 1995. Even church funding for NGO human rights work in Latin America declined considerably (Sikkink 70). And much of the money that did continue to flow to Chile from abroad during the transition went to the *Concertación* government. The European Union, for example, which had contributed large sums of money to various human rights groups during the dictatorship, redirected the majority of its Chilean aid moneys to the *Concertación* after 1990 (Bouvier 17).

In addition to financial losses, the transition to democracy meant personnel losses for human rights groups. Excited by the possibility of bringing their human rights convictions with them into the governmental and educational spheres, many human rights activists joined the Aylwin and Frei governments. While having these passionate,

dedicated individuals involved in the transition to democracy in official capacities was surely a sign of progress and democratization, NGOs keenly felt the absence of these individuals' expertise and devotion. For those who continued to work with human rights groups, the non-governmental to governmental shifts of their former colleagues presented a new problem. Given the close-knit, intense relationships that working in the human rights field during the dictatorship forged, many activists who stayed with NGOs during the transition were reluctant to criticize the *Concertación*, because their Pinochet-era allies and co-workers were now a part of this government (Bouvier 17). This phenomenon is evidenced by the U.S. State Department's finding that despite the UN Human Rights Commission's conclusion that torture persisted in Chile in 1995, there was little mobilization around the issue on the part of human rights organizations (U.S. Department of State 1996). Furthermore, the shortages precipitated by numerous non-governmental to governmental personnel switches were compounded by the fact that many warriors of the Chilean human rights cause felt free to pursue new professional and personal paths once Pinochet's rule came to an end. Such was the case abroad as well as domestically, negatively impacting the international network established during the dictatorship, which was based on inter-personal relationships as much as inter-organizational ones (Bouvier 18).

The dearth of both funding and personnel forced all Chilean human rights groups to reevaluate their strategies, reducing the size and range of their programs as they refocused and retrenched. In the case of several organizations, reevaluation precipitated total closure. Between 1989 and 1994, in fact, the number of human rights NGOs in Chile decreased from 52 to 45, when in the previous years those numbers had been

steadily rising (Cleary 63). The *Vicaría*, one of the most prominent and valuable organizations that operated during the dictatorship, was among the groups that closed their doors, officially shutting down on November 27, 1992. The discontinuation of the *Vicaría's Solidaridad* bulletin in May of 1990, when free, democratic press returned to Chile, foreshadowed the entire organization's later closure. Despite the *Vicaría's* institutional demise, the *Vicaría* passed the pursuit of cases related to disappearance to FASIC, while it made CODEPU responsible for continuing to defend political prisoners granted conditional liberty. Lawyers from the *Vicaría* created the Legal Assistance Corporation to handle cases of other violations, apart from disappearances, still going through the courts. And in order to safeguard the abundant records amassed during the dictatorship, perhaps the *Vicaría's* greatest legacy, the archbishop created a special Foundation for the Archives to house the documentation (Lowden 128).

In addition to the practical changes that the human rights movement underwent in terms of funding, personnel and closures, NGOs had to adjust to dealing with a government that considered human rights a matter of policy for the state. Despite their central role in bringing about an end to the dictatorship, human rights groups were not included in the governmental discussions about addressing human rights issues during the transition. Accordingly, many organizations throughout the 1990s "felt absolutely shut out from political decision-making" (Hite 4). With the transition, NGOs lost control over what had been 'their' issue, as the human rights matter was suddenly "subject to negotiation and the bargaining process and was stripped of the principalism which had been one of its key characteristics" (Taylor 115). Not only did the government and human rights groups assume different stances regarding human rights issues, but also the

various human rights groups themselves begin to splinter and lose cohesion. During the dictatorship, activists in the human rights camp had been opposed to a common enemy, but the transition to democracy reminded everyone that the disparate groups identified with the government and its proposals to varying extents. The party affiliations of the NGOs, which had faded into the background in the interest of defeating Pinochet, reemerged as integral aspects of their group identities. Because the CCHDH was involved in setting up the *Concertación*, it was most closely aligned with the government and tended to take a more conciliatory position in keeping with *Concertación* proposals. CODEPU, in contrast, was linked to the Communist party while other legal and social work groups tended to align themselves with the Socialist Party and the Party for Democracy (*Partido por la Democracia* or PPD). These affiliations made any sort of unified human rights movement extremely difficult in the absence of a common enemy, given the correlative strategies and demands. For example, the CCHDH ceased to engage in direct mobilization, focusing solely on persuasion from within, while other groups like AFDD, CODEPU and FASIC felt direct mobilization was still necessary and integral to the movement (Taylor 115-118).

These general observations concerning the nature of the human rights movement's refocusing and retrenchment already suggest, even before delving into specifics, that the work of Chilean human rights groups during the transition to democracy was of less significance to the Pinochet case than that which took place during the dictatorship. Nonetheless, the groups' determination and success in redefining their mandates and re-carving their niches ensured that the Chilean human rights movement would thrive as a domestic and international force in the struggle against impunity.

“Refocusing and Retrenchment” – Substantive Actions and Campaigns

With the context described above duly noted, the substantive actions and campaigns that human rights groups carried out during the early years of the transition to democracy can now be addressed, emphasizing those that would later have some impact upon the Pinochet case. Although NGOs were far from idle during the first half of the 1990s, this period was not marked by action, for as the former Senior Associate on Chile for the Washington Office on Latin America, Virginia Bouvier, remarks, “without a clear vision of the new relationship [between justice and reconciliation] in democracy, decisive action was lacking”⁹ (Bouvier 17). While this was most certainly the case with respect to NGO action, such indecisiveness had no impact on the search for the movement’s new mandate, which emerged as a glaring imperative from the very start of the transition. As the “president of reconciliation,” took office, the human rights movement voraciously tackled impunity. The campaign may not have been uniform or cohesive, but “never before had judicial forgetting, for crimes committed by state officials, been resisted with such passion”¹⁰ (Lira and Loveman 18).

Human rights groups directed their full energies toward exerting pressures to resist the imposition of impunity and forgetting, with the aim of inspiring rejection of such evils throughout the country. As previously stated, however, President Aylwin had declared reconciliation, and not justice, the government’s top priority. In keeping with his faith, Aylwin ascribed to a Catholic vision of reconciliation that was based on the recognition of the truth, confession, contrition and pardon. But such a conception did not incorporate punishment or penance, opening the door to impunity (Lira and Loveman

⁹ “sin una visión clara de la nueva relación en la democracia, faltaba la acción decisiva.”

¹⁰ “nunca antes el olvido jurídico, por delitos de funcionarios del estado, civiles o uniformados se había resistido con tanta pasión.”

34). Throughout the transition to democracy, reconciliation has been privileged above justice time and again, as evidenced by the proceedings of the Truth and Reconciliation Commission (referred to as the Rettig Commission in homage to its head, former high court justice Raúl Rettig) and the numerous Aylwin and Frei administration “*punto final*” proposals designed to officially end the transition to democracy. Because many of these measures assured impunity for military officials responsible for human rights violations during the dictatorship, the human rights movement responded by publicly criticizing the government for its failures, performing symbolic actions and drafting their own justice-focused plans for the country.

In keeping with his goal to act as the “president of reconciliation,” President Aylwin created the Rettig Commission not long after his inauguration to investigate and make a formal report on behalf of the government regarding the cases of human rights violations that ended in the victim’s death. Consequently, the Rettig Commission only considered the cases of the disappeared and executed, neglecting to attend to arbitrary detention, torture, exile and other human rights abuses. Furthermore, the Commission only named the victims, not the perpetrators, of the crimes (Cleary 19-20). Human rights organizations participated in this commission to the extent that several groups testified before it and shared their records with the investigators. The *Vicaría*, in fact, provided some ninety percent of the information included in the final Rettig Report, which Pamela Lowden deems its “single most important contribution to the transition as a whole” (Lowden 127). CCHDH and FASIC records were also significant to the formulation of the report. The import of the NGO documentation accumulated during the years of the military government in the Rettig Commission hearings foreshadowed how invaluable

these records would prove in the Pinochet case. Also, the opportunity for representatives of human rights groups to offer their testimony before the commission prepared the organizations for testifying in the Spanish proceedings against Pinochet. The CCHDH, reflecting its close ties to the *Concertación* government, zeroed in on the positive aspects of the Rettig Report with a “something is better than nothing” spirit. As such, the CCHDH launched a national education campaign on human rights and truth to promote awareness of the contents and consequences of the Rettig Report (Derechos Chile 2002). Otherwise, human rights groups were primarily critical of the Rettig Commission’s limitations and omissions. AFDD members testified before the commission and viewed the report as “a step in the right direction,”¹¹ but they also stressed that relatives had not garnered any information about their loved ones’ fates, nor had any semblance of justice been achieved (Lira and Loveman 88).

While the Rettig Report promoted impunity through omission, failing to identify perpetrators or plan for their “punishment and penance,” other government initiatives actively sought to enshrine impunity. As the Rettig Commission went about its work, the Constitution, Legislation and Justice Commission of the Chilean Congress proposed a so-called “*acuerdo-marco*,” or agreement, ostensibly aimed at bringing about an end to the transition by satisfying both the victims and perpetrators of human rights violations. According to this plan, Aylwin would have offered a type of blanket pardon, which would have pardoned both political prisoners or “terrorists” and human rights abusers on the same token. The issue of political prisoners who remained incarcerated after the transition to democracy was of urgent concern to the prisoners’ families and human rights groups, and President Aylwin took strides to remedy the situation upon election, ensuring

¹¹ “un paso más hacia la meta.”

that constitutional reforms were enacted to restore the president's capacity to pardon. But the *acuerdo-marco* aimed to pervert the pardon, which was reinstated in order to serve the cause of human rights, so as to further violate the human rights of victims and their families by securing the impunity of their kidnapers, torturers and murderers. AFDD and CODEPU fervently rejected the proposal in written declarations, as became their practice, and the *acuerdo-marco* died in Congress in June of 1990 (Garretón 43, Lira and Loveman 38-45). Although a general pardon was not issued, FASIC reported that by 1994, Aylwin had granted 135 pardons to those the military government deemed political prisoners during the dictatorship, so that only 12 such individuals remained imprisoned with five applications for pardon pending (Garretón 44).

As troublesome as the Rettig Report's incompleteness and the government's *acuerdo-marco* proposal were, the Amnesty Law of 1978 posed the greatest obstacle for human rights groups battling impunity. Given the biased judicial system in Chile during the early transition to democracy, under which Military Tribunals conducted all trials involving the military, virtually all accused officers enjoyed impunity because the military judges invoke the Amnesty Law across the board. Although the rights groups' demands to repeal the Law received considerable support from political leaders, the Aylwin Administration was reluctant to take concrete action. NGOs contended that the law in question was not legitimate because human rights violations cannot be amnestied under international law, but such arguments did not affect much change (Garretón 49, Lira and Loveman 28). The Aylwin government had thus far failed to live up to its promises of truth, justice and reconciliation, but there was relatively little response from the human rights groups beyond declarations and arguments. One expert notes, "the

frustrated expectations of both the general public and the human rights organizations have not been accompanied by actions, mobilizations, or pressures of similar intensity” (Garretón 50).

The proposal of further reconciliation plans that guaranteed impunity for military officials and judicial decisions that did the same, however, soon evoked stronger responses from human rights groups. Debated in Congress in August of 1993, the Aylwin law proposed amnesty and/or considerable leeway for human rights violators who testified to the whereabouts of the disappeared or who provided valuable information to this effect. FASIC and AFDD adamantly opposed the Aylwin Law, finding that this legislation merely revalidated the Amnesty Law of 1978. In response to the President’s creation and backing of such a proposition, AFDD president Sola Sierra could only comment, “in this country, there will never be justice”¹² (Lira and Loveman 114). AFDD proceeded to carry out a hunger strike for the whole of August in protest of the Aylwin Law. FASIC also condemned the proposal as deceptive to Chile, and “rejected the idea that ‘social peace’ was compatible with impunity; only justice and equality before the law could serve as the true basis of reconciliation”¹³ (Lira and Loveman 123). Human rights groups received the proposal for the Figueroa-Otero agreement in 1995 with equal ire. Under this agreement, persons involved in human rights crimes would be asked to testify about the violations they committed during the dictatorship, but these persons would not be tried nor arrested and their identities would remain confidential. In response to the proposal, yet another suggested reconciliation plan founded upon impunity, NGOs including FASIC, CODEPU, and AFDD held a

¹² “en este país no habrá justicia.”

¹³ “rechazaron la idea de que la ‘paz social’ fuera compatible con la impunidad; solo la justicia y la igualdad frente a la ley serían fundamentos verdaderos de la reconciliación.”

forty-eight-hour vigil together with politicians, intellectuals and artists in front of *La Moneda* (the presidential palace) to protest the Figueroa-Otero agreement and offer their objections in a citizens' forum in the Chilean Senate (Lira and Loveman 154-59).

Ultimately, due to strong popular objections and divisions within the *Concertación* – the PPD and Socialists refused to pass any form of the agreement – the Senate defeated the Figueroa-Otero proposal in April of 1996. AFDD went on to submit its own “Proposal for Peace and Reconciliation in Chile” in 1995, in response to Frei Administration plans condoning impunity. The government reportedly took the AFDD proposal, which argued that reconciliation does not allow for forgetting, into consideration. NGOs also monitored and reported on the status of impunity within the Chilean judicial system.

Although reforms under Aylwin made it possible to try some cases before civilian courts rather than military tribunals, FASIC circulated reports highlighting persistent judicial challenges to the human rights cause. In 1994, FASIC called attention to supposedly civilian judges who failed to summon military officials to testify in human rights cases, in large part because these judges remained under the jurisdiction of military courts. Other human rights groups joined in FASIC's criticism of the Supreme Court, which repeatedly upheld military court decisions to apply the Amnesty Law to specific cases without investigation (Garretón 44). By raising their voices against impunity through written declarations and actions like hunger strikes and vigils, human rights groups ensured that the government could not ignore the call of justice amidst reconciliation attempts.

Elizabeth Lira and Brian Loveman maintain that “the political and moral resistance of sectors of the Socialist Party, associations of victims' relatives, human rights

organizations and human rights lawyers would impede reaching a ‘political solution’ to the human rights issue”¹⁴ (Lira and Loveman 162).

In addition to combating impunity at the domestic level, Chilean human rights groups began to partake in international efforts as well. Despite international funders’ neglect of Chile and personnel losses, interest in and relationships with Chilean NGOs and their work persisted, albeit on a smaller scale. Andy McEntee, head of the Chile Committee for Human Rights in London, and a group of lawyers in the United Kingdom, who were associated with Amnesty International United Kingdom (AI-UK), began to target Pinochet’s periodic trips to England, first in 1991 and then again in 1994, 1995 and 1997 as opportunities to bring the former dictator to justice. Drawing on the precedent of *Filártiga v. Peña-Irala*, a landmark case that put universal jurisdiction into action, McEntee and the AI-UK lawyers devoted themselves to trying Pinochet outside of Chile. In order to do so, by the time Pinochet paid a visit to London in 1995, AI-UK had established active communication with human rights groups in Chile, including CODEPU and AFDD. The Chilean NGOs provided AI-UK with the testimony of torture victims and information about cases of the detained-disappeared. Responding eagerly to AI-UK’s requests for documentation, Chilean groups strengthened ties that would prove vital during Pinochet’s actual London detention in 1998 and established international dependence on Chilean resources in order to bring Pinochet to justice (McEntee 1-4).

¹⁴ “la resistencia política y moral de sectores del Partido Socialista, de las agrupaciones de familiares, de los organismos de derechos humanos y de los abogados de derechos humanos impediría una ‘solución política; al tema de derechos humanos.’”

Concluding Remarks

The end of the authoritarian period and the transition to democracy thus served to refocus the Chilean human rights movement. Groups like CODEPU, FASIC and AFDD successfully redefined their mandates and restructured, mobilizing against impunity. Doing so emphasized that “the subject of human rights is not only a problem of authoritarian regimes, but also a permanent subject in the new democracies and development models,”¹⁵ as FASIC’s post-authoritarian mission statement proclaims (FASIC 2001). Continuing to champion human rights was hardly an easy task, however, and despite the persistent work of NGOs during this period, groups found it increasingly difficult to hold the attention of the international community. Crises arose in Central America, Haiti, Peru and the former Yugoslavia that were deemed more “pressing,” which taught Chilean groups firsthand that “human rights NGOs tend by their nature to be short-staffed and overworked, and each new crisis displaces the last before one is able to work through the resolution of the earlier one” (Bouvier 18). Within Chile, human rights groups had to overcome the “apathy and *desencanto*, or disenchantment,” that characterized attitudes during the transition, in addition to the authoritarian enclaves (Hite 5). Such factors clearly constrained NGO capacities, but human rights groups managed to mount significant opposition to impunity nonetheless. The battles human rights organizations fought against impunity on a daily basis during the transition established the necessity of bringing human rights violators to justice outside of Chile. Because of these domestic experiences, Chilean groups understood the import of victim accounts and

¹⁵ “el tema de Derechos Humanos no es sólo un problema de los regímenes autoritarios, sino también un tema permanente en las nuevas democracias y modelos de desarrollo”

testimony and symbolic action, expertise that they would bring to bear upon the Pinochet case before the Spanish and British courts.

IV. REASON FOR HOPE: PINOCHET AND THE SPANISH COURTS, 1996-1998

As Chilean human rights groups waged war upon impunity at home, action to combat impunity in Chile was afoot abroad, as well. On July 4, 1996, the Spanish Union of Progressive Attorneys (*Unión Progresista de Fiscales*, or UPF) filed a complaint in a Valencia court against Augusto Pinochet Ugarte and former Junta members Jose Toribio Merino, Gustavo Leigh, Cesar Mendoza, Fernando Matthei and Rodolfo Stange for the disappearances and deaths of Spanish citizens during the military government in Chile. This motion followed a complaint presented by the UPF the month previous against the dictatorship that governed Argentina from 1976 to 1983, which Judge Baltasar Garzón admitted. In Chile's case, Miguel Miravet Hombrados filed a complaint on behalf of the UPF, charging the members of the Chilean Junta with the crimes of terrorism and genocide committed against Spaniards living in Chile during the dictatorship, as well as against Chileans and those of all other nationalities. This UPF motion was a popular action, meaning that by Spanish law, it did not require the approval of the public prosecutor's office, nor did those filing need to be direct victims of the crime in question. Because such action did not constitute an official public decision to prosecute, the Salvador Allende Foundation filed a private criminal action bringing the same charges on behalf of itself, AFDD, AFEP and CODEPU (Pérez and Gerdtzen 42). Judge Manuel García Castellón of the Central Instructing Court Number 6 of the *Audencia Nacional*

accepted the case on July 5 and declared the court competent. From these proceedings, the extradition order leading to Pinochet's detention in London resulted more than two years later (Lira and Loveman 226, Pérez and Gerdtzen 42, Rojas et al 9).

The above summary depicts a scenario largely dominated by non-Chilean actors and, in fact, the protagonists of the Pinochet case before the Spanish courts were primarily Spanish attorneys and judges. While these international figures initiated, argued and decided the case, Chilean human rights groups played an integral part in the proceedings by serving as witnesses and sharing organizational records of human rights abuses. The Spanish courts did have access to the "Terror Archive," a huge amount of information discovered in Asunción, Paraguay in 1992 that evidenced the role of Chile's secret police (DINA) in Operation Condor, "a transnational conspiracy embracing Chile, Argentina, Brazil, Bolivia, Paraguay, Uruguay and Guatemala, involving the exchange of intelligence and cooperation in the finding and execution of those deemed subversives and leftists" (Sugarman 107). Ex-members of the armed forces also testified, and the evidence gathered from both the officers and the Archive was damning. Still, the testimonials of human rights group leaders provided a different perspective and further substance to the case, insofar as these individuals offered first-hand victims' accounts of the atrocities committed during the dictatorship, Pinochet's culpability for such atrocities and the state of impunity in Chile at that time.

Case Basics

Charges of terrorism and genocide were initially brought against Pinochet and his cohorts on the basis of the disappearances and deaths of seven Spaniards: Joan Alsina

Hurtos, Félix Francisco Figueras Ubach, Antonio Llidó Mengual, Michelle Peña Herreros, Antonio Elizondo Ormaechea, Carmelo Soria Espinosa and Enrique López Olmedo. This original list then progressively increased to include relatives of Spanish citizens. Arturo Vilavella Araujo, María Cristina López Stewart, José Francisco Bordas Paz, Gastón Vidaurrázaga Manríquez, José Tohá González, Manuel Roig Berenguer, Juan José Boncompte Andreu, Ricardo García Posada and Ricardo Silva Soto were all added as victims on whose behalf the Allende Foundation filed the case (Rojas et al 37-45). Joan Garcés, a Madrid lawyer and former aide to Allende, directed the team's judicial action for the Allende Foundation. Garcés's primary objectives were to establish that the Spanish courts had competence over the case and that genocide and terrorism, for which Pinochet and the military junta were responsible, had taken place.

Garcés maintained that Spain had jurisdiction over the human rights violations committed by members of the Chilean military junta for three basic reasons. First, throughout the 1990s, impunity reigned in Chile. Second, Spaniards were among those to whom justice had been denied. Lastly, the bilateral agreements that bind Spain and Chile, as well as the multilateral treaties regarding crimes against humanity, grant competence to the *Audencia Nacional*, as does Spanish law (Lira and Loveman 227, Rojas et al 35). Testimony and evidence gathering were necessary to substantiate the first two claims, but Garcés was able to rely on the mere existence of international instruments and Spanish law to argue the last point. In terms of Spanish legislation, Spain has incorporated and ratified protections against genocide and torture into its legal code, *la Ley Orgánica del Poder Judicial* (L.O.P.J.) or the Organic Laws of Judicial Power, explicitly stating Spain's competence to hear cases of genocide or torture, even

when such crimes do not take place within Spain. According to article 23.4 of the L.O.P.J., “Spain has equal jurisdiction over incidents committed by Spaniards or foreigners outside national territory that, according to Spanish law, can be classified as any one of the following crimes: genocide, terrorism...”¹⁶ (Rojas et al 58). This article allowed victims to participate in the case against Pinochet regardless of their nationality. Furthermore, existing bilateral and multilateral agreements to which Spain and Chile are party oblige Spain, in cases of crimes against humanity, to protect the interests of all humanity through the Spanish judicial system. Garcés cited the following multilateral treaties as justification for Spanish jurisdiction: the International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Spain on November 20, 1987 and Chile on October 30, 1988 (with reservations); the International Covenant on Civil and Political Rights, ratified by Spain on July 27, 1977 and Chile on March 23, 1976, with a reservation entered by the dictatorship prohibiting sanctions for human rights violations committed before March 1990; the Vienna Convention on the Law of Treaties, to which both Spain and Chile are party; and the Convention on the Non-Applicability of Statutory Limits to War Crimes and Crimes Against Humanity, approved by the Assembly of the United Nations on November 26, 1968, but to which neither Spain nor Chile is party (OHCHR 2003, Rojas et al 45-46). The bilateral agreement grounding the case was the Extradition and Judicial Assistance Treaty between Spain and Chile, drawn up in Santiago April 14, 1992 and ratified December 20, 1994. Garcés also called upon international non-treaty declarations and

¹⁶ “igualmente sera competente la jurisdicción española para conocer de los hechos cometidos por españoles o extranjeros fuera del territorio nacional susceptibles de tipificarse, según la ley penal española, como alguno de los siguientes delitos: genocidio, terrorismo...”

principles, including the Organization of American States' Declaration on Forced Disappearance and the Nuremberg Principles (Rojas et al 47).

Judge García Castellón found that the Spanish courts did, in fact, have competence over the suit filed against the Chilean military junta. Castellón agreed with the assessment of Carlos Castresana, who participated in the presentation of the UPF case, as he maintained, "it is not Spain but rather the international community that has demanded, in definite terms, that the victims be granted the right to defense...It is not the problem, furthermore, of just Chilean citizens, because the juridical issues in conflict in the case pertain to all of the human community"¹⁷ (Lira and Loveman 401). As such, Castellón applied the principle of universal jurisdiction to the case, and the possibility of turning the tide against impunity, which had appeared an insurmountable obstacle to justice thus far, became more real.

Jurisdiction aside, Garcés had to substantiate the claims that genocide and terrorism took place. Little challenge was mounted to the charge of terrorism, as it was well documented that the dictatorship detained, kidnapped and killed citizens with the intent of producing the fear of falling victim to the same fate amidst the population (Rojas et al 54). The matter of genocide proved trickier. Although Chile has no specific genocide laws, the nation has been party to the Convention on the Prevention and Punishment of the Crime of Genocide since June of 1953. The Convention defines genocide in the following fashion:

any of the following acts committed with intent to destroy, in whole or part, a *national, ethnical, racial or religious* group, as such: killing members of the group; causing serious bodily or mental harm to members

¹⁷ "No es España sino la comunidad internacional la que ha exigido, en definitiva, que se le conceda a las víctimas tutela judicial...No es un problema, además, de los ciudadanos chilenos, porque los bienes jurídicos que aquí estaban en conflicto pertenecen a toda la comunidad internacional"

of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; forcibly transferring children of the group to another group (OHCHR 1948).¹⁸

Garcés interpreted this definition widely, contending that Pinochet conducted and oversaw genocide insofar as the state sought to systematically destroy the Chilean democratic leadership. Thus, the target group was, in fact, a subset of a larger *national* group, that of Chilean nationals. Others, however, contended that the Chilean case really concerned a *political* group, a category not contemplated by the Convention. It was on this basis that the Rettig Commission did not term the events of the dictatorship genocide, describing instead mass human rights violations (Rojas et al 52-53). Garcés adhered to his own interpretation and proceeded to gather and present proof that Pinochet’s government succeeded in destroying the leadership of the democratic party. Such proof consisted primarily of a list of the victims with their names, representative or leadership position and the date of detention/death/disappearance. Documentation and testimony of many human rights groups, which will be detailed next, along with the Rettig Report, contributed to the compilation of the list and evidenced the systematic and organized fashion in which the military junta wrought destruction. Ultimately, according to Paz Rojas, between September 1973 and March 1990, “genocide and terrorism were responsible for the destruction of the organizational structure, the leaders and their posts, of about 50% of the Chilean nation [democratic party]”¹⁹ (Rojas et al 93).

¹⁸ Emphasis added.

¹⁹ “el genocidio y el terrorismo se expresaron en la destrucción de la estructura organizada, de sus líderes y cuadros, de alrededor del 50% de la nación chilena”

The Role of Human Rights Groups

As briefly mentioned above, Chilean NGOs were invaluable to the Spanish proceedings, because they provided witnesses capable of testifying to the terror and genocide Pinochet carried out, as well as to the contemporary state of impunity in Chile. In total, some 3,000 Chileans became parties to the Allende Foundation complaint, the majority of whom domestic human rights groups coordinated and supported (Letelier 3). At long last, Chilean human rights advocates testified before non-biased courts and were able to broadcast their experiences to the court of international public opinion through media coverage.

As soon as Garcés filed the case, Chilean human rights groups issued appeals to the Spanish consulate to support the case brought against the Chilean military junta, as AFDD did on August 6, 1996. Several weeks later, the Spanish press announced that Judge García Castellón had accepted *agrupación* members to issue testimony, which was indeed true. On October 3, Berta Inés Ugarte Román and four other people representing AFEP appeared before the Spanish General Consul in Santiago in support of the Spanish denouncement “accusing the entire government of the military junta and others responsible for the hundreds of Chileans and foreigners put to death in the country”²⁰ (Rojas et al 109). Lawyer and CODEPU president Fabiola Alicia Letelier del Solar, whose brother, Orlando Letelier, was assassinated by DINA agents in Washington DC in 1976, also became part of the testimony process before the Spanish Consul General in Santiago, along with other CODEPU members (Rojas et al 107-109).

²⁰ “acusando a toda la junta Militar de Gobierno y otros responsables por los cientos de chilenos y extranjeros ejecutados en el país”

After Judge García Castellón affirmed the competency of the *Audencia Nacional* to hear the Chilean case, representatives of Chilean human rights groups traveled to Spain throughout the latter half of 1997 to testify in person. The first to do so was Dr. Paz Rojas Baeza, who would go on to become the president of CODEPU and eventually co-author *Tarde pero llega – Pinochet ante la justicia española*, an essential and frequently cited source in this work. Dr. Rojas testified as to the magnitude of the torture that took place in Chile, turning over the names of those who CODEPU had identified as being principally responsible for such atrocities (Rojas et al 110). While Rojas presented more quantitative information to the Spanish courts, other witnesses, like Congresswoman Isabel Allende (and daughter of Salvador Allende), emphasized Pinochet’s particular culpability in the state’s human rights violations. Allende cited one of Pinochet’s favorite phrases during the dictatorship: “in Chile, not a leaf of paper moves without me knowing it”²¹ (Rojas et al 111). When AFDD president Sola Sierra testified in Spain on September 24, she focused on both quantitative facts and condemnation of Pinochet. The records Sierra provided detailed cases of over 3,000 victims, exposed secret detention centers and established Pinochet’s direct responsibility for the junta’s crimes. In November, members of another *agrupación*, this time AFEP, responded to a summons by Judge García Castellón. AFEP representatives testified not only to the dictatorship’s crimes, but also to the reigning impunity in Chile given the persistence of authoritarian enclaves and Pinochet’s continued influence and power as the head of the armed forces. From this point forward, NGO spokespersons concentrated their testimony on the extensive evidence implicating Pinochet above and beyond other members of the junta as the director of the state’s campaign of terror and genocide. On December 5, 1997,

²¹ “en Chile, no se mueve una hoja sin que yo lo sepa”

Fabiola Letelier, who had already appeared before the Spanish Consul in Santiago with fellow CODEPU members, gave evidence in Spain. Letelier accused Pinochet of ordering the assassination of her brother and presented Judge García Castellón with a tape recording of Orlando Letelier in September of 1975 clarifying Pinochet's motives for and role in the 1973 coup. The judge ruled the tape admissible, so that Letelier's oral testimony could be used by Garcés to counter claims that the coup d'état was justified. Another crucial NGO witness, Bishop Helmut Frenz, co-founder of *Comité Pro Paz*, appeared before the Spanish court in February of 1998. Frenz described an audience he had been granted with Pinochet in 1974, given the Bishop's status as a religious figure and co-founder of *Comité Pro Paz*. During the audience, when Frenz denounced the disappearance of Spanish priest Antonio Llidó, Pinochet replied that "he is not a priest, he is a Marxist,"²² as if that settled matters (Rojas et al 115). Frenz continued to challenge Pinochet about the subject of the mass human rights violations with which *Comité Pro Paz* was concerned. In turn, Pinochet responded that the abuses were justified in light of the fact that "they [Marxists and communists] have to be tortured because there is no other way to make them sing"²³ (Rojas et al 115)(Rojas et al 111-115).

In sharp contrast to the Chilean NGO strategy of speaking out and participating in the Spanish proceedings, the Chilean government remained utterly silent about the case filed against Pinochet for almost an entire year. The human rights groups turned this silence to their advantage, as it created more space for the diffusion of NGO views regarding the proceedings. FASIC, CODEPU and SERPAJ even brought two Spanish

²² "ése no es una cura, es un marxista"

²³ "hay que torturarlos porque de otra manera no cantan"

human rights activists to discuss “*impunidad y sus efectos en los procesos democráticos,*” or “impunity and its effects on democratic processes” with interested citizens in December of 1996. In conjunction with the Spanish activists, members of Chilean groups shared their experiences in the battle against impunity, and *El Mercurio*, a leading Chilean newspaper, interviewed all of the speakers (Rojas et al 20). Only after former President Aylwin announced that he would not testify in Madrid on May 19, 1997, did the Frei Administration state its position. On May 29, Minister of Justice Soledad Alvear announced that the Chilean government would take no part in the case against Pinochet, for “Chile does not recognize the competency of other countries’ tribunals in judging events that take place in our territory”²⁴ (Rojas et al 21). In response to the government’s objections, Judge García Castellón reiterated the validity of Spain’s jurisdiction on the basis of the arguments presented by Joan Garcés.

Concluding Remarks

Confident that they had accumulated sufficient proof to warrant extraditing Pinochet, attorneys Joan Garcés and Manuel Murillo filed a petition for the extradition of Pinochet and 38 high officials involved in the dictatorship’s abuses for the crimes of genocide, terrorism, torture and illegal detention followed by disappearance on March 13, 1998. A week later, however, the Public Prosecutor’s office responded that it could not agree to issue the order because such crimes did not fall under the jurisdiction of the *Audencia Nacional*. On March 23, Judge García Castellón closed the investigation, sending the case to the highest organ of the *Audencia Nacional* in order to address the

²⁴ “Chile no reconoce competencia a tribunales de otros países para juzgar hechos acaecidos en nuestro territorio”

issue. After several months of examination, on July 12, *la sala de lo Penal* ordered a lower court to consider the question of whether it had jurisdiction to prosecute the Chilean junta members based on merit. In September, the lower court ruled that it did, in fact, have jurisdiction (Rojas et al 104). As García Castellón prepared to resume the case and examine the possibilities of extradition, Pinochet traveled to England in October. His arrival prompted the parties involved in the case against the Argentine military dictatorship to ask the court, presided over by Judge Baltasar Garzón, to question Pinochet about his role in Operation Condor. These parties, as well as AFDD, requested that Garzón charge Pinochet with genocide, terrorism and torture on the basis of the extensive investigation already carried out by Judge García Castellón. Judge Garzón accepted the requests and subsequently issued an international arrest warrant for Augusto Pinochet on October 16. Because the Argentine proceedings had been initiated first, Judge García Castellón closed the proceedings before him, transferring the case with which he had been dealing for twenty months to Judge Garzón, who accepted the consolidation of the two cases (Pérez and Gerdtzen 51-57).

The somewhat messy and complicated process leading up to the issuance of the arrest and extradition orders should not detract from the significance of what the Spanish lawyers and judges achieved, or from the critical role of the Chilean human rights groups in the proceedings. Because of the information amassed and the arguments constructed through joint Chilean-Spanish efforts, much of which Chilean human rights groups made possible, Judge Garzón proved that former dictator Augusto Pinochet Ugarte could not evade justice forever. The Spanish proceedings offered hope not only to the Chilean victims and families who were party to the case, but also to all Chileans, for whom

impunity remained the principle obstruction to the institutionalization of democracy. As such, the events that unfolded in Spain between 1996 and 1998 awakened profound hope in the hearts of hundreds of thousands of Chileans.

V. VINDICATION: THE PINOCHET CASE UNFOLDS IN LONDON, 1998-2000

General Augusto Pinochet traveled to London for surgery that took place October 9, 1998, never expecting that he would be arrested and detained a week later. When Judge Baltasar Garzón of Spain issued an international arrest order for the former dictator on October 16, British magistrate Nicholas Evans immediately issued a provisional warrant under section 8 of the Extradition Act of 1989, and authorities arrested Pinochet in a London clinic later that night (Chinkin704). Thus began what Chilean author Ariel Dorfman later dubbed “the incredible, unending trial of General Augusto Pinochet,” as Pinochet would spend 503 days “trapped” in London. Ultimately, Pinochet returned to Chile on March 3, 2000, without being extradited to Spain or being held legally accountable for his regime’s egregious human rights violations. In many respects, however, the case was tried in the international court of public opinion, thanks in large part to the media work of human rights groups such as the *Piquete de Londres*, where the public resoundingly found Pinochet guilty of crimes against humanity. Although many of the Chilean human rights groups detailed previously, with the exception of AFDD, played less protagonistic roles during the case itself than during earlier periods, the case against Pinochet depended upon the groups’ extensive documentation and determination to battle impunity in order proceed as far as it did.

Reactions to the Arrest

Magistrate Evans issued the October 16 warrant for Pinochet's arrest for "having participated in the murder of Spanish citizens between September 11, 1973 and December 31, 1983,"²⁵ but on October 18, Judge Garzón expanded the scope of the first arrest warrant to include genocide, terrorism and torture during different time periods throughout the dictatorship (Lira and Loveman 228). As such, magistrate Bartle issued a second detention order on October 22 that accused Pinochet of acts of torture, conspiracy to commit torture, kidnapping, conspiracy to kidnap and conspiracy to commit murder in a European Union country. The day following the arrest, the Chilean government announced its stance. Similar to Pinochet and his lawyers, the government initially maintained that British officials could not arrest Pinochet due to his diplomatic immunity, and because such an arrest represented a violation of Chilean sovereignty. Despite Chile's condemnation of the detention, Pinochet's arrest encouraged other EU nations whose citizens had been subject to the military regime's abuses to request the former dictator's extradition themselves. France, Germany, Switzerland, Norway, Italy, Luxembourg and Belgium all filed additional extradition requests, which served to legitimize the proceedings in London and diffused a criminal, "wanted" image of Pinochet worldwide (Lira and Loveman 227-230).

Chilean human rights groups responded to the news of Pinochet's arrest with disbelief and glee. Sola Sierra, the president of AFDD, was recovering from serious surgery when word spread. Suspicious that the supposed detention was a bluff, Sierra did not allow her close colleagues Mireya García and Viviana Díaz to publicly speak out

²⁵ "haber participado en el homicidio de ciudadanos españoles entre el 11 de septiembre y el 31 de diciembre de 1983."

about Pinochet's arrest until the Chilean Minister of Foreign Relations, José Miguel Insulza, confirmed the detention. At that point, Díaz and García, who acted as AFDD's public face during Sierra's illness, immediately held a press conference to express their support of the arrest and gave as many interviews as possible (Pérez and Gerdtzen 225). In general, other NGOs engaged in similar tactics, eager to affirm before the media – be it radio, print or television – their complete backing of the efforts to bring Pinochet to justice in London. Such support countered the governmental voice claiming that Chile resented the infringement upon its sovereignty. CODEPU, for example, issued written releases applauding the arrest, because “the Chilean state has permanently abdicated its duty to do justice before these crimes”²⁶ (Lira and Loveman 232). On October 25, the same day that legal arguments began in London, Chilean human rights groups took to the streets as they had not done in many years. The groups united at a rally in Santiago's *Parque O'Higgins*, where thousands of people manifest their support for Pinochet's arrest. Members of the *agrupaciones* and the Socialist Party also held vigils outside former torture centers to mark the occasion. In this fashion, both symbolically and verbally, NGOs communicated to Chile and the world that many Chileans were behind the detention and extradition proceedings, despite their government's proclamations to the contrary (Lira and Loveman 231-233).

El Piquete de Londres

Before delving into the role of Chilean human rights groups in the extensive proceedings of the Pinochet case, *El Piquete de Londres* warrants mentioning. Although the *Piquete* was not an NGO or human rights organization as such, this ad-hoc grouping

²⁶ “el estado chileno ha abdicado permanentemente de su deber de hacer justicia frente a estos crímenes.”

of Chilean exiles spearheaded and coordinated the campaign for Pinochet's extradition in London. During each of Pinochet's visits to England, the exile community mobilized to denounce the former dictator's presence in the country, forming *el Comité contra la Impunidad de Londres* (the London Committee against Impunity), better known as *el Piquete de Londres* (Vásquez 3). In doing so, *Piquete* members reactivated contacts with NGOs, as some individuals involved in the *Piquete* had been active in groups before their exile, and began letter writing campaigns and presswork. Upon Pinochet's arrest, therefore, Roberto Vásquez notes, "this group of exiles emerged as the natural force for uniting all those who sought to support Pinochet's detention and extradition"²⁷ (Vásquez 3). In order to place the military junta's victims at the center of the debate, the *Piquete* carried out a visual, symbolic campaign, the first task of which was to reinforce the public's negative perception of Pinochet. The *Piquete* hoped to communicate to the British authorities that freeing Pinochet would be tantamount to acting as his accomplice (Pérez and Gerdtzen 157-158). *Piquete* actions therefore included the following: daily demonstrations for the 503 days of Pinochet's detention, launches of white balloons with the names of the disappeared, the plantings of crosses with the names and pictures of the victims in front of Parliament, and the collection of one million signatures from around the world in support of the extradition (Alegría 42, Vásquez 3).

Chilean human rights groups depended on the *Piquete* to serve as the public face of human rights activists and victims who could not be in London on a daily basis. Because the media extensively covered the *Piquete*, the group was able to thrust the Pinochet case before the international court of public opinion. As the *Piquete* carried out

²⁷ "este grupo de exilios emerge como un colectivo natural al cual se unen todas las personas que deseaban apoyar el proceso de extradición."

its campaign, it successfully diffused the message that “in a democratic society *nobody* can be above the law,” not even a dictator as powerful as Pinochet had been (Vásquez 3).

Legal Proceedings – the Reactions and Roles of Human Rights Groups

On October 22, Pinochet’s lawyers filed a writ of *habeas corpus* and request for judicial review before the High Court of London. Just six days later, the British Divisional Court of the Queen’s Bench Division ruled that the crime cited in the first arrest warrant was inextraditable and that the second warrant carried no weight because Pinochet enjoyed diplomatic immunity. The Crown Prosecution Service (CPS), representing Judge Garzón and the Spanish government, then appealed to the House of Lords. In the meantime, the Spanish High Court, *la Sala de lo Penal*, found that Spain did in fact have jurisdiction to request Pinochet’s extradition, because more than fifty Spaniards died or were disappeared during the dictatorship. This October 30 decision came in response to an appeal questioning Spain’s competency to request the extradition. On November 3, at long last, Judge Garzón officially requested General Augusto Pinochet’s extradition (Lira and Loveman 235-236).

Because the House of Lords suspected that the Divisional Court that made the initial ruling on Pinochet’s situation did not fully understand the international legal issues involved in the case, the Lords requested that the British Attorney General appoint an *amicus curiae*, a friend of the court or neutral expert, to address significant matters of international law as they pertained to the case. Consequently, Human Rights Watch contributed an independent written submission detailing its concerns, while Amnesty International, AFDD and several other human rights groups were permitted to intervene

on behalf of the victims' interests, an unprecedented occurrence in the House of Lords (Chinkin 704). Up until this point, NGOs had remained peripheral to the proceedings, "dedicating their energies to a campaign of support and diffusion directed at public opinion, means of communication and the British government"²⁸ (Pérez and Gerdtzen 121). At this juncture, however, Amnesty International lawyers rose to the occasion to help Judge Garzón's lawyer, Alun Jones of the Crown Prosecution Services, who was an extradition expert but less well versed in international public law and issues of immunity. Furthermore, the Lords permitted the human rights groups, as so-called "*intervinientes*" or "interveners," to obtain counsel to represent the victims' interests in court. As such, prestigious international law expert Ian Brownlie became the voice of AFDD, Amnesty International, the Medical Foundation for the Care of Victims of Torture and the Redress Trust, and he and Jones would support one another throughout the case (Pérez and Gerdtzen 121-125). Both the Human Rights Watch *amicus curiae* brief and Brownlie's representation in court drew heavily upon contact with and information gained from Chilean human rights groups, particularly the *agrupaciones* (Zalaquett 52). Although the Lords did not authorize direct victim testimony, they did allow Jones to cite Judge Garzón's extensive extradition request. The request described the crimes of which Pinochet was accused in detail, much of which was based upon the victim accounts revealed through NGO testimony during the course of the investigations conducted by Judges Garcés and Garzón. Taking the *amicus curiae* views into account, the House of Lords arrived at a decision on November 25, 1998, when the Lords voted 3-2 to overturn

²⁸ "dedicando sus energías a una campaña de apoyo y difusión dirigida a la opinión pública, los medios de comunicación y el gobierno británico."

the previous ruling, finding sovereign immunity insufficient to protect Pinochet on his 83rd birthday (Pérez and Gerdtzen 127).

The Lords' verdict further encouraged and instilled hope among human rights groups. AFDD president Sola Sierra, sufficiently recovered from surgery, traveled to London to be present for the proceedings, which she attended every day with *Piquete de Londres* leader Vicente Alegría. During her several weeks stay in London, Sierra represented the members and victims constituting AFDD beyond the courtroom, as she directly appealed to Tony Blair in a hand-delivered letter requesting he allow justice to run its course, irrespective of political pressures. But Sierra and other AFDD members were also present in the courtroom when the Lords' announced their verdict, prompting these dedicated human rights warriors to jump to their feet with exclamations of joy (Pérez and Gerdtzen 129, 224-226). As news of the ruling reached the rest of the Chilean human rights community, similar reactions of elation resulted. AFDD organized a march of more than 5,000 people throughout the center of Santiago in support of the House of Lords' 3-2 ruling, during which AFDD leader Viviana Díaz remarked that through the verdict, "we achieve the justice for which we have been searching for so many years, and in these moments, our families are with us"²⁹ (Lira and Loveman 244-245). At this stage, groups again aimed to make their support for the British proceedings known in any way possible. Vindication seemed imminent as the House of Lords chipped away at dictatorial impunity.

Given the November 25 ruling, British Home Secretary Jack Straw, acting in a quasi-judicial capacity as he would throughout the case, authorized the beginning of

²⁹ "logramos la justicia que buscamos largamente por muchos años y en estos momentos nuestros familiares están con nosotros."

extradition proceedings on December 9, but on December 17, the House of Lords decided to reconsider the question of Pinochet's immunity from extradition because of claims that Lord Hoffman, who participated in the November 25 3-2 ruling, was biased as a result of his links to Amnesty International. Although Lord Hoffman was not a member of Amnesty International, he did serve as a director of Amnesty International Charitable Trust Ltd., and the case had to be reheard. Despite this setback, Chilean NGOs continued to voice their approval of Pinochet's arrest and endorsement of his extradition throughout the rehearing period. In December, FASIC issued a bulletin reflecting on the Chilean human rights groups' lengthy struggle to block impunity and bring about justice, and the positive implications of Pinochet's detention for such efforts (Lira and Loveman 249). FASIC also released declarations clarifying the organization's position on the developments in London, in which FASIC stated its support for the November 25 ruling and urged the Lords rehearing the case to uphold the earlier verdict. Like CODEPU, FASIC contended that the extradition proceedings did not violate Chile's sovereignty while arguing that the Pinochet case did, in fact, have to take place outside of Chile due to the domestic denial of justice and enshrinement of impunity. For FASIC, the charges of "moral imperialism" that Pinochet supporters directed at England were irrelevant, because the objective conditions necessary to judge Pinochet did not exist in Chile. As such, NGOs believed that the British courts were acting in the interest of all humanity rather than on the basis of some selfish imperialistic mandate (FASIC 1998). In addition to written and media advocacy, human rights groups also sought to directly communicate their demands for truth and justice to the *Concertación*. AFDD repeatedly requested an audience with President Frei, but he refused to assent until January of 1999, when he

finally received president Sola Sierra for the first time since he had taken office five years previously. In response to the concerns that Sierra expressed about impunity during their brief meeting, which lasted less than a half hour, the Chilean newspaper *La Tercera* reported that Frei told her, “you can’t complain, enough has come out on the television”³⁰ (Lira and Loveman 271). Although human rights groups disseminated their positive views about the necessity of the proceedings in London, these efforts had no impact upon the Chilean government’s stance.

The House of Lords commenced the rehearing in January of 1999 in order to consider two primary questions: “Which of the charged offenses constituted extradition offenses, and was Pinochet entitled to sovereign immunity with respect to those offenses?” (Chinkin 705). Over the course of these rehearing proceedings, Chilean journalists Mónica Pérez and Felipe Gerdtzen characterized “the brutal and crude descriptions of the serious crimes that took place in Chile and the massiveness of the methods of torture used, which included systematic violations and sodomy”³¹ as the prosecution’s greatest achievement (Pérez and Gerdtzen 171). The accounts of Chilean victims and human rights advocates, in conjunction with those of five Chilean ex-marines who were tortured under the regime, were in large part responsible for the lawyers’ abilities to provide such powerful detail. On March 24, 1999, the House of Lords decided that the previous ruling stood, meaning Pinochet was not entitled to sovereign immunity. The Lords restricted the crimes for which Pinochet could be extradited, however, on the basis of when the United Kingdom had ratified the 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

³⁰ “usted no se puede quejar, ha salido harto en la televisión.”

³¹ “la descripción brutal y cruda de los graves delitos ocurrido en Chile y la masividad de los métodos de tortura usados en Chile, que incluían violaciones sistemáticas y sodomía.”

thereby making the crime an extraterritorial offense. Because the United Kingdom ratified the Convention Against Torture on December 8, 1988, the House of Lords ruled that only acts of torture committed after this date met the requirement of double criminality³² for extradition purposes (Zalaquett 50).

British Home Secretary Jack Straw then issued a second authority to proceed with the application for extradition on April 15, given that he thought Pinochet fit to stand trial and the remaining charges sufficiently serious to warrant extradition. But as a result of the double criminality limitation, which made acts of torture committed before December of 1988 inextraditable, Garzón's lawyers were left with only one documented case of torture. At this juncture, CODEPU made its largest contribution to the Pinochet case overall by identifying 34 more documented cases of torture that took place after December 8, 1988 from amongst the organization's archives. On April 30, "lawyers for the Spanish authorities confirmed that substantial material relating to new charges of torture, allegedly committed after December 8, 1998, had been sent to the Crown Prosecution Service" (Chinkin 709). These additional incidences of torture solidified the validity of the extradition request and allowed the Crown Prosecution Services to increase the charges against Pinochet on May 24, 1999. If at any previous point the value or role of Chilean human rights organizations in the Pinochet case was doubted, this single, crucial act on the part of CODEPU struck down uncertainties. CODEPU's provision of substantive proof of the military junta's atrocities at such a key juncture bolstered the case for extradition and strengthened its chances for success (Pérez and Gerdtzen 312).

³² Under the Extradition Act of 1989, the UK defines extradition crimes as requiring double criminality, which is to say that, "the conduct committed abroad is a crime there as well as under English law" (Chinkin 706).

On September 27, 1999, formal extradition hearings began in London, and on October 8, Magistrate Bartle upheld Spain's right to extradite Pinochet for "the mental torture of the families of 1,198 'disappeared' people, conspiracy to commit torture from September 11, 1973 through March 11, 1990, and the torture of 35 persons committed between July 8, 1998 and March 11, 1990" (IPS 2). As had become practice, Chilean human rights groups responded by returning to the streets, issuing declarations of support for the ruling and doing press work to communicate the same. But in October of 1999, organizations were also upset about the international and domestic perception that impunity not only reigned but also was tolerated in Chile. In order to demonstrate that Chileans did not condone "social impunity" at least, AFPP and AFEP joined with other groups, particularly organized young people, to attempt to bring about what they deemed social justice. These human rights advocates sought to denounce persons who had participated in or collaborated with the security forces during the dictatorship and now lived "as if no crime had ever been committed,"³³ by arranging *funas*, or gatherings in front of the places where such people worked with signs and posters publicizing their crimes (Lira and Loveman 252). Thus, as the proceedings in London advanced, human rights groups in Chile were far from idle, persisting in their efforts to combat impunity in new and different ways. These actions did not directly impact the Pinochet case, but they did serve as further manifestations of the Chilean will to resist impunity, the same force that was responsible for Chilean support of the extradition measures.

As NGOs continued to condemn impunity, the Chilean government made strides towards guaranteeing impunity for Pinochet. In October of 1999, President Frei filed an official request with British Home Secretary Jack Straw to return Pinochet to Chile on

³³ "como si no hubiesen cometido crimen alguno."

“humanitarian grounds,” given the General’s health and age (he was almost 84 at the time). Consequently, official medical examinations, which were neurological and geriatric in nature, took place on January 5, 2000, in the presence of Pinochet’s lawyers but not those of the Crown Prosecution Services. Based on the medical assessment, Straw was “minded” to end the extradition proceedings against Pinochet on January 11, 2000. Because Straw refused to release the results of the exams to the four countries requesting the former dictator’s extradition, Spain, Belgium, France and Switzerland, international uproar resulted (IPS 3). Human rights activists were profoundly disappointed by the possibility of dropping charges against Pinochet as the result of a “technicality.” AFDD sent an “allegation”³⁴ to Straw demanding that no definitive resolutions be adopted that would interrupt the extradition process; that the results of the medical exam be made public; and that the independence and autonomy of Straw’s decisions be preserved (AFDD January 2000). As it began to appear that Straw might dismiss the extradition request, AFDD members urged British authorities to take matters into their own hands. A delegation of AFDD activists met with assistant police commissioner David Veness to lobby for an investigation into Pinochet under UK law on January 17. Their hope was that if Scotland Yard brought a case against Pinochet, which was a legal possibility, it would prevent the General from leaving country and returning to Chile, but authorities took no such action (The Guardian January 17, 2000). Recognizing the futility of this tact, NGOs joined forces with the Belgian government to request the judicial review of Straw’s handling of the medical exam. On January 26, Belgium, Amnesty International, Human Rights Watch, AFDD, the Medical Foundation for the Care of the Victims of Torture, the Redress Trust and Justicia filed an appeal to

³⁴ “alegación”

this effect (Pérez and Gerdtzen 285). Shortly thereafter, on January 31, British Justice Maurice Kay ruled against the appeal, but a three-member High Court appeals panel reversed Kay's decision on February 15. The appeals panel maintained that Straw's refusal to share the results of Pinochet's medical exams was unlawful and demanded that the Home Secretary immediately issue copies of the medical report to the four countries requesting the former dictator's extradition. Medical experts from Spain, Belgium, France and Switzerland promptly found fault with how the British doctors had examined Pinochet, and they requested new medical exams on February 21 (IPS 3, Pérez and Gerdtzen 290). Given the rapid nature of the developments that arose at this stage of the Pinochet case, AFDD, who had representatives in London, acted in the interests of all Chilean victims and human rights groups. AFDD attempts to rally the support of Scotland Yard and its participation in the appeal illustrated the tenacity and dedication of the Chilean activists yet again, but this time their efforts would yield little reward.

On March 2, 2000, British Home Secretary Jack Straw announced the final decision in the Pinochet case. Straw ended extradition proceedings against Pinochet on "humanitarian grounds," as a result of the General's health problems. The decision specifically cited Pinochet's memory loss, of both recent and past events; his limited ability to understand complex phrases; his deteriorated ability to express himself audibly, briefly and relevantly; and his tendency to tire easily as grounds for bringing the case to a close (Pérez and Gerdtzen 293). In Straw's final statement, the Home Secretary recognized that "the consequence of refusing to extradite Senator Pinochet is that he will probably not be tried anywhere" (The Guardian March 3, 2000). Acknowledging the

profound implications of this decision, Straw sought to offer some consolation to the human rights groups that had lived and breathed the Pinochet case for the past 503 days:

I am very conscious of the sense of injury which will be felt by those who suffered from breaches of human rights in Chile in the past, as well as their relatives. All of these are matters of great concern, and I had them very much in mind when considering the evidence about Senator Pinochet's state of health. They are among the reasons why I required the evidence of Senator Pinochet's condition to satisfy a high standard of expertise, thoroughness, objectivity and cogency before I was prepared to act on it (The Guardian March 3, 2000).

Chilean human rights groups reacted to the ruling with disappointment and frustration, but they also recognized the monumental import of the detention itself, regardless of the ultimate outcome. Viviana Díaz, who assumed the presidency of AFDD upon Sola Sierra's death, emphasized that, "the return of Pinochet is not a defeat. Even though Pinochet is returning to Chile, he is returning as the accused, we must not forget that" (The Guardian March 2, 2000). CODEPU issued a public statement communicating similar sentiments. Although CODEPU criticized Straw and the British authorities for arriving at a decision that was not purely judicial in nature, the organization reinforced the fact that Pinochet's arrest and detention was a "transcendental victory for justice and human rights"³⁵ (CODEPU March 2, 2000). In this fashion, the Chilean groups quickly reframed the ruling, which could have been viewed as a debilitating defeat, as progress in the fight against impunity.

Concluding Remarks

Pinochet returned to Chile on March 3, 2000, where his arrival was both celebrated and denounced by ardent supporters and opponents, respectively. Stacie

³⁵ "una transcendental victoria de la justicia y los derechos humanos."

Jonas, director of the Institute for Policy Studies' Bring Pinochet to Justice Campaign, records how "Chilean human rights groups greeted Pinochet in Santiago with cries of '*lo sueltan por demente, no por inocente*' – 'they're releasing him because he's crazy, not because he's innocent'" (Jonas 32). As much as NGOs criticized Jack Straw for releasing Pinochet on a non-judicial basis, the nature of this release buoyed morale amongst human rights groups and offered hope for the future. Because there was no *legal* justification for the failure to extradite Pinochet, prospects for bringing about justice and overcoming impunity in Chile seemed then, as they continue to now, promising.

During the 503 days that Pinochet was held in London, Chilean human rights groups contributed to this ultimately positive, although not ideal, outcome by supplying essential documentation of the military junta's abuses, symbolically and verbally combating impunity at home and putting Pinochet on trial in the court of public opinion through media work. AFDD's protagonistic role as an "intervening" party in the case was of particular import, as such status meant that a Chilean group was able to directly appeal the rulings of the British authorities. The combined efforts of AFDD, *el Piquete de Londres* and other NGOs were in large part responsible for the fact that Home Secretary Straw received some 70,000 emails regarding the Pinochet case during the General's detention, many of which supported the arrest and extradition proceedings (Hite 1). The public spoke. General Augusto Pinochet was guilty of crimes against humanity, even if England did not extradite him to Spain to be tried in court for these abuses. The world knew.

VI. CONCLUSION

After more than twenty-five years of calling for truth and justice, Chilean human rights groups have affected profound change at both the domestic and international levels. The role that these groups played in the Pinochet case has become even more significant in light of the case's "ripple effect." As Ellen Lutz and Kathryn Sikkink note, "in Chile, the arrest of Pinochet appears to have lifted psychological, political, and juridical barriers to justice by weakening the powerful forces blocking such trials in Chile since the return to democracy" (Lutz and Sikkink). Evidence of this phenomenon abounds, as Pinochet's arrest resulted in the reopening of a variety of "emblematic" human rights cases in Chilean courts, including the Caravan of Death case. As of 2001, there were more than 250 cases against Pinochet in Chilean courts and more than 900 open cases concerning the detained and disappeared (Jonas 37, Lira 407). Such statistics indicate a transformation of the Chilean judicial system, which several years earlier, during the transition to democracy, frequently ensured impunity for human rights violators. The opening of so many cases against Pinochet was made possible by the August 8, 2000 Chilean Supreme Court decision to strip Pinochet of senatorial immunity by a vote of 14-6, a ruling that would have been inconceivable prior to Pinochet's detention. Once Chile had stripped Pinochet of his immunity, "the action of the 'international community' could then be viewed less as a condemnation of Chile's political and judicial system than as a useful external source of pressure on the last authoritarian holdouts within that system" (Golob 22).

Whether the action of the international community in the Pinochet case is construed as condemnation, positive pressure or both, the vital importance of international actors in the struggle to bring Pinochet to justice is indisputable. International human rights groups like Amnesty International and Human Rights Watch were central to the proceedings, as were human rights lawyers and conscientious judges. Nonetheless, it has been illustrated that the Chilean human rights groups' documentation of human rights abuses during Pinochet's dictatorship and perseverance and ardor in battling impunity were necessary but not sufficient conditions in bringing about the Pinochet case and its "justice cascade." It was the human rights activists and victims, and not the governmental and political figures, who "were and continue to be the leaders in the struggle for human rights throughout the continent" (Letelier 5). As such, the success of the Pinochet case truly represents the vindication of the human rights groups' call for justice.

To claim that Chilean human rights groups have been vindicated at last is not to say that they are satisfied, or even that justice has been done. The Pinochet case is a momentous, precedent-setting step in the right direction, but Ariel Dorfman's following challenge remains.

At a time when everything has been globalized, from capital to communications to production, what about justice, what about its globalization? In an age when humanity is being redefined and unified across frontiers, who speaks in humanity's name, who judges and punishes in the name of humanity? (Dorfman 39).

The answers we choose to these questions will shape our future and the extent to which human rights are respected or violated. Let us decide wisely.

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