

## MEMOIR

# At the Edge of the World:

## Memories of a Judge Who Indicted Pinochet

By Juan Guzmán Tapia

### GAZING UP TO THE HEAVENS

The “godfather” bestowed on me at birth was a dictator — and one of the worst Latin America had ever seen. At the time, my father, Juan Guzmán Cruchaga, was the *chargé d'affaires* of the Chilean embassy in El Salvador, the Central American nation governed with an iron fist by General Maximiliano Hernández Martínez. The general’s wife, who fancied poetry, was fond of my father’s company, as my father was a wonderful poet, well-known throughout Latin America and Spain. My father also cared greatly about maintaining good diplomatic relations and encouraged the First Lady’s interest in poetry. He was therefore quite close to the presidential couple. Weeks before my birth, the General asked my father to name me Salvador, in honor of the country he ruled.

Can a diplomat refuse such a noble presidential request? As a poet and diplomat, my father knew exactly how best to proceed. He praised at length the many virtues of El Salvador, a magnificent nation, so important to Chile, in whose name he would proudly christen his son, were it not for an important obstacle: the Guzmán family tradition of passing down first names from father to son. My father’s father was Juan José Guzmán, his grandfather was Juan José Guzmán, and so it was across many generations. How could my father interrupt this lineage with any name other than Juan? He chose “Salvador” as my middle name.

I came into this world on April 22, 1939, as Juan Salvador Guzmán Tapia.

My father joined the diplomatic corps by a process of elimination. His true passions were poetry and literature. But he needed to earn a living, and the diplomatic life did come with certain advantages: travel, lodgings, and an attractive salary. The Chilean government made certain that its foreign representatives were provided for in accordance with their rank.

Juan Guzmán Cruchaga, my father, was born at the close of the 19<sup>th</sup> century in a Chile more withdrawn into itself than at any time since the War of the Pacific, fought between Chile, Peru, and Bolivia from 1879 to 1883. He was raised in the belief that maintaining one’s status was of paramount importance in a society where lineage was

the measure of the man. I noticed how he wrapped himself in a certain pride in reference to our ancestry. His paternal forefathers descended from the Núñez de Guzmán family, an illustrious line of Spanish noblemen and captains rewarded with vast land grants in Chile’s central valley for their courage in the Flemish Wars of the late 1600s.

My father was proud of this lineage, whose motto aptly expressed this primal haughtiness: “We do not come from the kings, but they, from us.”

From his mother’s side, in contrast, my father inherited a sensitive and benevolent temperament. The Cruchaga family, it was said, was unstained by original sin. My father’s character manifested this blend of origins, this alliance of opposites, of fire and water. His blood mingled the choleric rigidity of the Guzmáns with the kindness of the Cruchagas, a duality that also characterized his poetry.

Like most Chilean gentry with centuries-deep roots in the New World, ours was mixed with indigenous blood. Our family tree had its Quechua branch, as irrefutably established by the genealogical research of my uncle, Manuel Montt Lewedé. But my father refused to accept this, insisting that no drop of the blood coursing through his veins was anything but purely Spanish. The ancestral pride and arrogance shown by the sons of Spain to the mixed-blood *criollos* may help explain this obstinacy.

Steeped in colonial mentality and isolated from the world by the Pacific Ocean, the Atacama Desert, the Andes mountains, and the glaciers of Tierra del Fuego, Chile is a stratified society where every gesture outward has significance. Its once-resplendent ruling class was unwilling to accept that they were losing their grip on the reins of power.

This was reflected in my own family. Like Andean snows in springtime, financial crisis and risky investments had melted away the patrimony and estates of my paternal great-grandparents, once large landowners. By the time I was born, the Guzmán and Cruchaga clans had no other choice than to scale down to an unaccustomed minimum — circumstances they were quite reluctant to accept.

This was the rarefied world inhabited by my elderly aunts and uncles who took refuge in the magnificence of

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A Chilean diplomatic ball in 1939.  
(Photo from the Archivo General Histórico del Ministerio de Relaciones Exteriores.)



Photo courtesy of Juan Guzmán Tapia

Juan Guzmán Cruchaga in 1935.

their former lives, peeking out from behind the curtains of their reduced circumstances at the crumbs of a changing society they felt incapable of facing. Every now and again, they'd be forced to sell a prestigious work of art or a piece of furniture laden with memories and history. They moved to second-tier neighborhoods where, intent on keeping up appearances, they received guests with a mixture of pride and thin-skinned sensitivity that made these visits something akin to torture. Marginalized and dependent on the more affluent branches of the family, they grew old with unbending dignity in a world of pretexts and rigidity that smelled of chamomile tea and beeswax.

The men rarely left their homes, lacking, as they were, the means to maintain their status. With no dowry to their names, few of the young women found a match. Some years ago in my readings, I rediscovered *The Leopard* by Sicilian author Giuseppe Tomasi di Lampedusa, with its air of faded aristocracy condemned to hide behind a decorously made-up face. Like them, my aunts and uncles belonged to yesteryear. For them, the present was pitiful and the future uncertain.

Fortunately for me, my parents enjoyed a larger, more unconventional life than the Santiago of stiffly starched tablecloths. My father lived for literature and fought hard

to serve his poetic muse with true vocation. His own family stood in opposition: among the Guzmáns, unless a son took on the administration of the family estates, the only other options, upon threat of losing rank, were to study law, join the military, or take religious orders. But the family's economic nosedive set my father on a different path, forcing him to abandon his law books and poetic dreams. At the age of 19, he had to leave university to make a living.

His first job landed him in the Comptroller's Office, but he didn't last long. The day his supervisor realized that my father used his office primarily to hang out with his literary friends, he was fired on the spot. So he joined the Chilean diplomatic corps and was sent to the Mexican port of Tampico. As consul, the salary covered his basic expenses, but the living conditions were less than enviable. His next post took him to Patagonia. Río Gallegos was an Argentine outpost lost in solitude and battered by icy winds. But the climate was nothing compared to the local customs: dueling was still a common practice for settling differences, and the local sheep ranchers would stop at nothing to get rich.

In this desolation, my father married a young woman from Chile. My half-brother, Juan Fernando, and half-sister, María Eugenia, were born of this union, but my father never spoke about his first wife. All I know is that she was beautiful and had a lovely singing voice. Strangely, I never felt authorized to ask my father about this part of his life. In the bosom of the bourgeoisie, silence was second nature.

Some years later, my father met my mother aboard the *Queen of the Pacific*, a transatlantic liner returning from England. It was love at first sight on the bridge of a great ocean vessel, straight out of a novel. My father got off in the northern Chilean port of Antofagasta, where he continued by land to take up his post as Chilean Consul in Salta, Argentina. Two years later, he returned to Chile to marry my mother.

Raquel Tapia Caballero, my mother, was as resplendent as a sun, as transparent as glass, and just as delicate. In official receptions, her aura blazed like a star, the belle of the ball, throwing my father into fits of jealousy. One evening during a reception in which she had granted two dances to a Head of State, my father sided up to her discreetly, took her firmly by the arm, and whispered, full of wounded pride: "That's enough!" In most of the countries where we were posted during my childhood, my mother stood out as the most elegant wife of the diplomatic corps. Lively, engaging, cultured, and open-minded, she had a talent for the arts. In her youth, she had studied sculpture and theater. She made



Photo courtesy of Juan Guzmán Tapia

Juan Guzmán Tapia escorts his mother, Raquel Tapia Caballero, to a function in El Salvador, 1957.

our lives into a work of art, and wherever she passed, a gentle breeze seemed to follow.

Our family never stopped traveling, never stopped packing and unpacking. As an only child moving from post to post, I made only transitory friends. My true family, the one that followed us from place to place, was the world of writers, poets, artists, and actors. Juan Ramón Jiménez, Jorge Luis Borges, Saint-John Perse, Hugo Lindo, Pablo Neruda, Benjamín Subercaseaux, Angel Cruchaga, Rafael Alberti, Eduardo Zamacois, Daniel de la Vega, Hernán Díaz Arrieta (known as Alone), Gabriela Mistral, José Santos González Vera, Germán Arciniegas, Jorge Rojas, Miguel Ángel Asturias, and Salvador Salazar Arrué (known as Salarrué), among other great artists, were friends of my parents. Their spirits hovered over my cradle, their words and stories rang in my young ears.

One of the memories I will always cherish involves the Spanish poet and Nobel Prize laureate Juan Ramón Jiménez, author of *Platero y yo*, a book beloved by young readers throughout the Spanish-speaking world. Visiting my parents in Washington, D.C., he gave me a copy with the dedication: "To my little friend, from his friend Juan Ramón." I devoured the book. As the summer drew to a

close, Juan Ramón and his wife Zenobia made another visit. When I wandered out to the back yard where they were enjoying a drink with my parents, Juan Ramón asked me how I'd liked the book. I confessed to him that the death of Platero had plunged me into sorrow. And he answered, with deep sympathy: "What a pity. Had I met you before I wrote the book, the little donkey would not have died."

These men and women spoke to me about love and death, the passage of time, hope and space, and of the Chile that stretches from northern deserts to Arctic ice fields, towering Andean peaks and infinite expanses of Patagonia. They taught me to celebrate the raging seas, a tawny autumn sunset, the promise of dawn, and the power of a storm. They turned me into a dreamer. To them I owe my slow pace as I gaze up to the heavens, while so many of my contemporaries are striding ahead briskly, their eyes fixed upon their feet.

I grew up surrounded by words. They taught me the music of language — its notes, rhythms, chords, dynamics, and arpeggios. I drank in sonorities, marveled at the sparks unleashed by their union. Words brought me peace and consolation. They infused my inner world with meaning, even as it spun in constant motion. Like a constellation all my own, words lit up my life.

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Photo from Diario 7.

Prisoners being led away during the early days of the Pinochet dictatorship.

The following is a second excerpt from Judge Guzmán's memoir, covering the transformative effect of his investigation into crimes committed under the Pinochet regime.

### DARKNESS

Like most people in Chile, I knew next to nothing about the Caravan of Death until I started investigating it. Other than a few testimonies and documents pulled together by the relatives of *los desaparecidos* (the disappeared), there was only one account. This was *Los zarpazos del puma*, an investigation published in 1989 by Chilean journalist Patricia Verdugo that takes its name from the Puma helicopter that transported the death squad on its three-week, sixteen-city killing spree.

At first, I did not believe Verdugo's account. For me, it was beyond all imagining that members of our Armed Forces could have acted in the ways detailed by her investigation. I was unable to accept the existence of extrajudicial mass executions, torture, and barbarity. The Army that my family had always respected was incapable of such behavior. This inner conflict had me tied in knots, because everything I was uncovering as a judge stood in radical opposition to all that I wanted to believe.

I had to reach my own conclusions. I immersed myself in case files and briefs, partly because I needed to calm myself. I understood that my first priority was to

find the bodies of the missing. With the help of forensic pathologists, anthropologists, and detectives, I spent years on the trail of the assassins, retracing their itineraries each step of the way. We began in the places with the most victims and the greatest thirst for justice — the northern cities of La Serena, Copiapó, Antofagasta, and Calama. We excavated the Atacama Desert for any bone shards or bits of tissue that could identify the *desaparecidos*. Under leaden skies, we dug up the arid, rocky plains in search of bodies. Then we headed to the other extreme of the country, to southern Chile, where we reconstructed the executions of prisoners whose corpses had been dumped into lakes and rivers.

And at nightfall, at every site we visited, we reported on our progress to the families of the *desaparecidos* who accompanied us. As a representative of the Chilean justice system, I felt that I carried a debt to every distraught family member in their long wait to learn how their loved ones had died.

Women like Alicia Orrego, the mother of Eugenio Ruiz Tagle, an engineer, age 26, who presented himself to authorities in Antofagasta and was then tortured to death. "They didn't let me go into the morgue," she testified. "I could only view my son's body in the coffin, through a sealed window. I can't give first-hand information about

the physical torture he endured. I didn't see his body. But the lawyer and funeral home attendant who did both cried when they told me. I can only talk about his neck, face, and head. What I saw is etched forever with fire in my memory. He was missing an eye, the left one. His nose was broken, slit, swollen, and detached at the nostril. His jaw was broken in several places. His mouth was a swollen lump — you couldn't see any teeth. Across his neck, there was a long, wide, superficial cut. His right ear was swollen, cut, and ripped off from the lobe. He had signs of burns or maybe a superficial bullet wound on his right cheek and a deep slash. His forehead was covered with small cuts and bruises. His head was turned at strange angle, which made me think that his neck had been broken."

With the forensic team, I traversed Chile city by city to piece together the macabre puzzle left behind in the wake of the Puma. We found eyewitnesses, people who'd been waiting for decades for the judicial system to pay attention to what they had to say. I interrogated many retired high-

ranking military men. Our team analyzed testimonies and scrutinized accounts until the truth was established.

So began the second stage of my investigation — identifying those responsible for carrying out these atrocities. The accused began by denying everything. But as soon as face-to-face interrogations between them and the witnesses got underway, they were forced to revise their stories and start acknowledging certain facts. With their reluctant cooperation, we were able to reconstruct, step-by-step, the stops these men had taken 25 years earlier. We returned to the site of every massacre in search of the victims' remains. As the death squad members began to "recover" their memories of the events of the first weeks of the military coup, they had little choice but to start talking.

I was absolutely not prepared for what I was hearing. Day after day, I listened to testimonies, and sometimes confessions, of routine torture, humiliation, disfigurement, and mutilation that made my blood run cold. With all my years in the courtroom, I was no newcomer to evil.

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Families of the disappeared protest during the Pinochet dictatorship.



Photo by Kena Lorenzini.

## At the Edge of the World

(continued from page 29)

I had held the gaze of many a criminal since my first days on the bench in Panguipulli. But these men exhibited a Machiavellian cold-heartedness, shorn of any scruples and lacking even the slightest remorse, that was absolutely new to me. This was a facet of human nature I had never confronted. I felt something akin to vertigo in the presence of these henchmen who had misappropriated the tools of the State to commit wholesale criminality. And these “patriots” seemed truly convinced of the need to bloody their hands for the greater glory of God and the good of their country.

The testimony of one army officer, as told to Chilean journalist Jorge Escalante, describes the scene in Copiapó on October 17, 1973.

“The truck drove some 200 meters off the road and onto the pampa. All the prisoners had their heads thrust into makeshift hoods made from sleeping bags. They were pushed out of the truck in groups of three to be shot. The last group had four men. I participated in the firing squads for all four groups. We used SIG Sauer assault rifles, 7.62 mm caliber. We were three riflemen in each group, except the last group, where we were four. The shooting took place with the hooded prisoners facing the firing squad at a distance of about eight meters. The prisoners died instantly, with the first volleys. It wasn’t necessary to finish them off with a bullet to the head.... When it was over, we hauled the 13 bodies back into the truck and covered them with a tarp. I drove the truck to a lot belonging to the regiment and left the bodies there until around 8 p.m. or 9 p.m., when we drove them to the cemetery.”

I now started to feel deeply disturbed anytime I was called upon to shake hands with any of the accused. I imagined an evil wind blowing through the door of my office each time one of them entered. I discreetly improvised ways to minimize contact, maintaining a prudent distance across the room, always careful to keep a desk and chairs between us. After a time, however, I resolved to cultivate a more neutral reaction, more in keeping with my responsibilities. A magistrate is charged with establishing whether certain events contravene certain norms. The magistrate may be unable to entirely suppress or reject his or her emotions, but they must strive to constrain them within reasonable limits and act impassively. The act of applying justice demands both composure and a certain distance. Any empathy one might feel for the victims or possible hostility toward



Guzmán examines a victim's skull with forensic anthropologist Isabel Reveco.

the defendants must be erased at the moment of pressing charges or issuing a verdict.

All my normal points of reference had been up-ended by my investigation into the Caravan of Death. These soldiers, men of the political right, good Chileans all, were not so different from me. So how removed was I from their cruelty? The case sent me into the depths of darkness, the abyss of human conscience where only evil exists. I accompanied the families of the desaparecidos into the shadows where they had dwelt for 25 years, a dark world where men had wantonly kidnapped, tortured, and killed their loved ones. I was profoundly moved by what I was learning. Every morning, I awoke with a start, drenched in sweat, like after a horrible nightmare. But the crimes I was uncovering were no dream. They were real. They had absolutely taken place. Outside court, I sought in physical exhaustion a way to stay my confusion. I’d come home each evening, dive into the pool, and swim endlessly. I swam to rid myself of the toxic secrets surfacing around me, poisoning my soul, and depriving me of all peace.

On June 8, 1999, I had sufficient evidence to establish that the crime of aggravated homicide had

been committed against at least 57 individuals at the hands of the Caravan of Death. Meanwhile, families of 10 Caravan of Death victims also sought indictments against the death squad. Once again, it fell to me to interpret the scope of the 1978 Amnesty Decree, while all of Chile held its breath in suspense. I did not believe that amnesty could be used to stand in the way of establishing criminal responsibilities for crimes committed. This was the same view expressed by former President Patricio Aylwin.

But before I could make a decision, I needed to isolate myself for a few days. I headed to a coastal resort town completely deserted at this time of year. A court reporter and bodyguards were my only companions. I needed to extricate myself from the world in order to study the case with absolute calm. I had volumes of documents to read through and needed to weigh every single word. It was a minefield. My ruling had to be legally irreproachable. Amnesty, if accepted, could be applied (or not) to benefit the perpetrators of crimes only after responsibilities for the crimes had been determined. For General Sergio

Arellano Stark and his men, justice would be pursued to the end. The members of the Caravan would be accused.

On June 8, 1999, I indicted five officers with the crime of *secuestro permanente* (permanent kidnapping) in connection with the Caravan of Death, accusing General Sergio Arellano Stark, Colonel Marcelo Moren Brito, Colonel Sergio Arredondo González, Colonel Patricio Díaz Araneda, and Brigadier Pedro Espinoza Bravo as the authors of these crimes and ordered their arrests. (Espinoza Bravo was already imprisoned for his role in the 1976 assassination of Orlando Letelier.) Their lawyers immediately filed *recursos de amparo* (writs of *habeas corpus*) to halt the proceedings, first before the Court of Appeals of Santiago (which dismissed the petition) and then before the Supreme Court. To widespread surprise, on June 19, the Supreme Court ruled unanimously to uphold the charges. My central legal argument of *secuestro permanente* rested on the concept that the impact of this action extends into the present, making it an ongoing crime and not subject to amnesty. This interpretation created new jurisprudence, with promising applications for the future and consequences extending far beyond my contributions.

With these rulings, the Chilean judiciary seemed to spring back to life from its long night of cowardice, callousness, and indignity. The Supreme Court had just created a path to real justice for crimes committed by the dictatorship. The support I received from the nation’s highest judicial body exceeded my hopes. The composition of the Supreme Court, and our courts overall, had changed since the period of military rule. With Chile’s return to elected government in 1990, successive Concertación administrations had managed to cull from the judiciary some of its most notoriously *pinochetista* magistrates. I felt that something was changing and that the most difficult part was over.

Over the next two months, the number of criminal complaints to the Court of Appeals of Santiago multiplied as more plaintiffs sought indictments against the 59 military men — including General Augusto Pinochet — responsible for the Caravan of Death killings. On December 1, 1999, I began criminal proceedings against former DINA secret intelligence chief General Manuel Contreras and agents Moren Brito and Fernández Larios. They were charged with the aggravated kidnapping of David Silberman, an engineer who had presented himself to authorities in Calama on October 4, 1974, and was detained, tortured, and never seen again.

Suddenly, we started to believe that the men in uniform were no longer untouchable. Justice was creeping up on Augusto Pinochet. But the General was no longer in Chile.

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A final excerpt examines Pinochet's arrest and house imprisonment in England, his return to Chile, and the immediate aftermath.

### FIVE HUNDRED AND THREE DAYS

Some dates are seared into the collective memory. Every Chilean remembers where they were and what they were doing on October 16, 1998, when they first heard that General Pinochet had been arrested in London. On that day, a veritable earthquake shook Chile from top to bottom. The news broke around 8 p.m., but the only detail given was that the arrest had occurred shortly after Pinochet had undergone back surgery during a private visit to England. The next day's headlines heralded the news, but still no explanations were forthcoming.

I was in northern Chile that day, overseeing excavations for the remains of disappeared political prisoners. Like so many others, my first reaction was one of disbelief. All Chile had come to believe that Augusto Pinochet was untouchable. Admire him or hate him, nobody had foreseen this development. Nonetheless, charges had been filed against him in Spain. And in fact, some of his advisers had forewarned the General against traveling to Europe. The previous year, Chilean Army General Prosecutor Fernando Torres Silva had flown to Madrid to testify before Spain's Audiencia Nacional (Superior Court), unintentionally ratifying that court's jurisdiction in Chilean affairs.

International justice had burst onto the Chilean stage, and the military could neither prevent nor control it. Not all the victims of its repression were Chilean. In Spain, France, and Switzerland, judges were investigating the crimes committed in Chile by the dictatorship. Many jurists viewed their type and systematic nature as crimes against humanity. Spanish magistrate Baltasar Garzón, for one, considered them genocide. He charged Pinochet, ordered his arrest, and showed the world that a dictator could not travel freely without facing justice at the hands of every magistrate intent on upholding the principles of universal jurisdiction for crimes against humanity. The dictatorship was no longer an exclusively Chilean concern. Now the whole world was interested. The arrest of Augusto Pinochet, the prototypical Latin American military dictator, was making news everywhere. As a country, Chile's hands were no longer free. The world community had also been affected by the events of those tragic years.

Among those who had suffered from repression in Chile, an immense thirst for justice was unleashed after the decades of cries and tears. At last they had in their sights, albeit indirectly, the General who haunted their

nightmares. Pinochet would, of course, benefit from the procedural guarantees that his victims and their relatives had been denied. Pinochet would not be tortured; he would not face a death sentence. But at least, they hoped, he would be judged.

The General's admirers, on the other hand, fell into fits of indignant rage. In their view, England had just backstabbed the Chilean right, despite the fact that Pinochet had been a much-appreciated ally of Prime Minister Margaret Thatcher against Argentina in the Falklands War. For them, Pinochet's arrest was a humiliating slap in the face of Chile. Pinochetistas by the thousands staged demonstrations in Santiago's most elegant neighborhoods. Leading figures of the right made a point of being seen at these protests delivering their rather laughable testimonies of solidarity. The mayor of Santiago's upscale neighborhood Providencia, Cristián Labbé — a former DINA agent and Pinochet lackey — announced that garbage trucks would no longer collect trash from the Spanish and British embassies there. Three weeks later, Labbé declared the Spanish ambassador *persona non grata* in the district. The government had to step in and beef up security at these embassies.

From the hard-right Unión Demócrata Independiente (UDI, Independent Democratic Union), Congressman Iván Moreira launched a hunger strike. "Many of us believe we're not doing enough to salvage the dignity of Chile and bring the greatest Chilean statesman of this century back home," he proclaimed in defense of his "desperate action." Three days later, and undeterred by appearing ridiculous, he abandoned his sacrifice.

On November 25, 1998 — the day the British court rejected Pinochet's claim to diplomatic immunity (and coinciding with his 83<sup>rd</sup> birthday) — the pinochetistas had to swallow their arrogance, at least temporarily. His supporters fully understood that the new development was no incidental maneuver. This was serious. The threat of a court case against the General in Europe was becoming very real.

"Fear has switched sides," the headlines read. Opponents of Pinochet rejoiced in the ruling by the House of Lords. "Carnivals of joy" as the media called them, erupted as anti-Pinochet protesters no longer feared the police who had violently repressed so many demonstrations in the past. Now the *guanacos* (water cannons) were being deployed in fancy Santiago neighborhoods where Pinochet sympathizers gathered every afternoon to heap insults on the Spanish and British.

For my part, I had already suffered a multitude of inconveniences since the start of my investigations. I lived

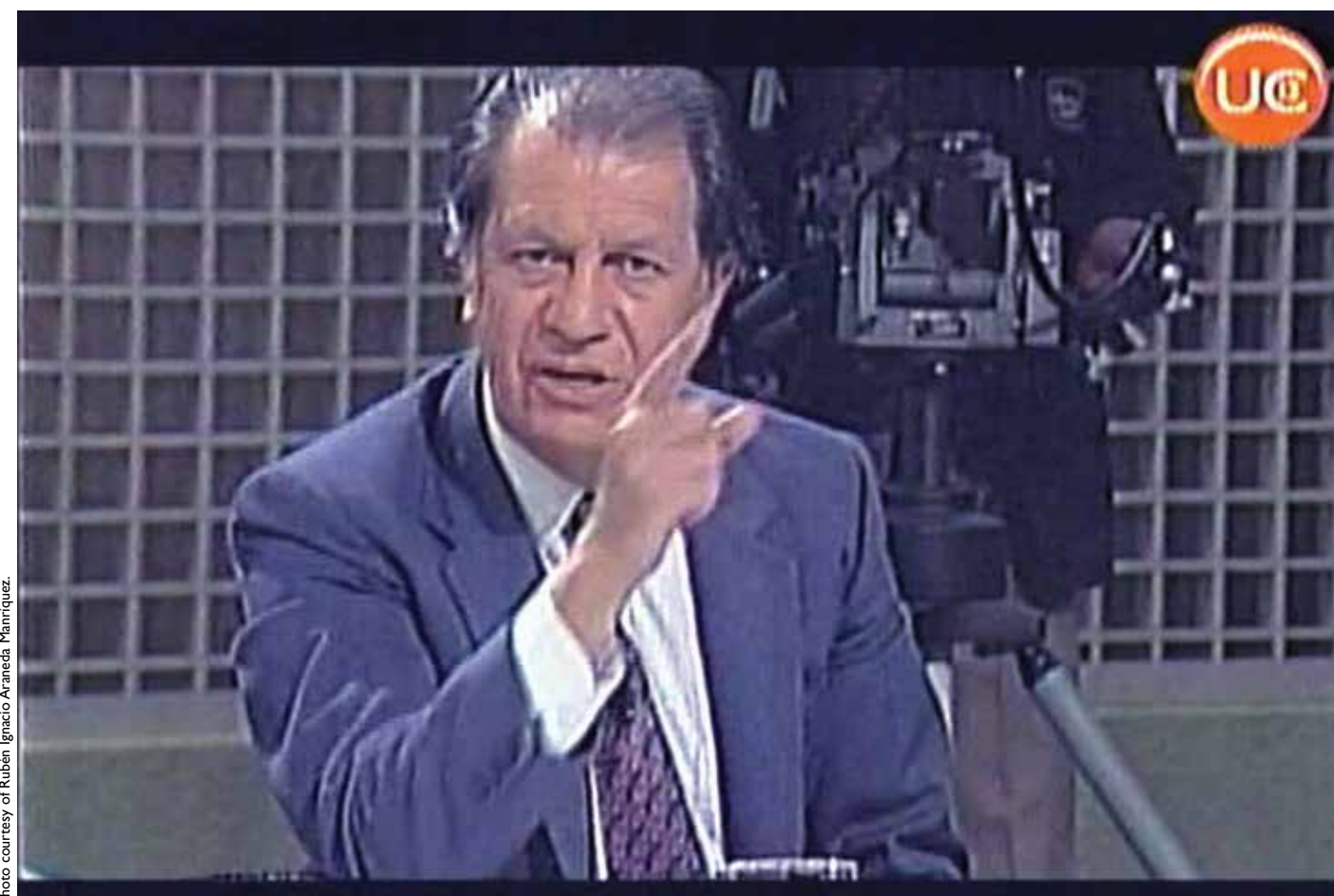


Photo courtesy of Rubén Ignacio Arancibia Manríquez.

In 1988, Ricardo Lagos, the future president of Chile, demanded that Pinochet step down during a live television broadcast.

under permanent ambush from news photographers. I was under attack from every Pinochet apologist in the media. My family was stripped of its privacy by the permanent presence of a police escort. For a while, I kept telling myself that if the Spanish and British governments wanted to take Pinochet to trial, a great weight would be lifted from my shoulders. But the feeling didn't last long. The reality emerging from my files was pointing to something different. The more I advanced, the better I could piece together the organizational structure of the Armed Forces. It was becoming clear to me that I would not be able to conclude my inquiries without questioning Augusto Pinochet. What's more, it looked very possible that he would be indicted.

Because I did not know at the time if Pinochet would ever return to Chile, I opted to send him my questions about the Caravan of Death, Calle Conferencia, Operation Condor, Paine, the mass grave at Pisagua, and other sites and events where, according to my investigations, deaths and disappearance had occurred. They were delivered to Pinochet by the Chilean Consul in London on October 21, 1999, almost a year to the day he had been arrested. The following week, I received the General's written reply. He stated that he'd been unjustly detained on the

orders of a jurisdiction he did not recognize and was therefore unable to respond to legal petitions from Chile. As regards the substantive issues I raised, he answered that he had nothing to do with the crimes attributed to him and therefore did not commit any of them.

Months passed, and the issue of General Pinochet's legal status faded into the background. After all, his arrest had not disrupted the smooth functioning of our national institutions. From Arica to Punta Arenas, life went on. In March 2000, Ricardo Lagos, who ran on the ticket of the center-left Partido por la Democracia (PPD, Party for Democracy), succeeded Eduardo Frei Ruiz-Tagle as President of Chile. This dealt a blow to Pinochet supporters, who knew the new president would not be their ally. Lagos had made a name for himself back in 1988, when in a nationally televised address he pointed directly into the camera at Pinochet and demanded that the General relinquish power.

Like my fellow citizens, I kept abreast of the multiple stratagems being played out in the British courts by Pinochet's accusers and defenders. While the saga of motions and counter-motions received ample coverage, its eventual outcome was not easy to predict. But the first months of 2000 brought news of several dramatic

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turns of event: British Home Secretary Jack Straw was reversing a prior ruling and, after submitting Pinochet to new medical exams, was citing humanitarian reasons to deny Spanish Judge Garzón's request to extradite him. On March 3, 2000, 503 days since his arrest in London, General Augusto Pinochet was allowed to return, scot-free of any legal charges, to Chile.

The General's homecoming gave rise to a scene that can only be described as curious in the extreme. A cluster of dignitaries and high-ranking officers awaited him at the Santiago airport, rejoicing in the fact that their mentor had avoided arrest by the Spanish courts and was returning safe and sound to Chile. The old man was lowered from the plane in a wheelchair. But once on the tarmac, he stood up and walked forward with a steady gait to embrace Army Commander-in-Chief General Ricardo Izurieta. Then, supported lightly by his cane, he moved on to greet his reception committee. Pinochet had just staged a mock miracle by evoking the biblical injunction to "Rise up and walk!" The gesture was aimed at his detractors in Chile and around the world, especially the European judges who had had the temerity to pursue him. In the Chilean mindset, resorting to deceit and cunning to achieve one's aims is not considered undignified. On the contrary, with this stunt, Augusto Pinochet made it clear that he thought he'd won the match. The hapless old man who'd been released for humanitarian reasons had shown himself to be, as he descended from the plane, as high-spirited as a young man.

But what Pinochet did not suspect as he set foot in Santiago was that his own country's judicial system would no longer leave him in peace. The Chile he returned to in 2000 was not the same one he'd left in 1998. For months, the wheels of justice had been advancing like a steamroller. The military could no longer count on the unconditional support of right-wing parties. Pinochet had become a divisive figure. Some of his political successors were no longer willing to be seen as supportive — at least, not on the record.

The truce that greeted the General did not last long. The very day he returned, the prosecuting attorneys in the Caravan of Death case petitioned to strip Pinochet of the congressional immunity he enjoyed as a Senator-for-Life. The taboo had been broken. One sector of society was now demanding a full reckoning, unafraid of the reaction from the barracks. Pressure was mounting daily, pushing the judicial system into a corner, forcing it to shoulder its responsibilities. A new rallying cry snapped in the air like a flag of rebellion: "*¡Ni olvido ni perdón!* Neither forget nor forgive!"

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Faces of victims of the Pinochet dictatorship at Chile's Museum of Memory and Human Rights.  
(Photo by Carlos Teixidor Cadenas.)

Three days after his return, I requested that the Court of Appeals of Santiago lift Pinochet's congressional immunity for 19 crimes of secuestro permanente committed by the Caravan of Death. On June 5, the court granted my request by 13 votes to nine, citing the existence of "well-founded suspicions" regarding the General's responsibility for these disappearances. Ten weeks passed, and the tension continued to mount. On August 8, the Supreme Court finally made its decision known and confirmed the lower court ruling by 14 votes to six. But the country's highest court did not stop there. Its resolution also stipulated that General Pinochet forfeit immunity for the 57 homicides, in the court's reckoning, where bodies had been found. With this decision, the pressure ratcheted up another notch to reach a critical threshold.

Widely criticized for its obsequiousness to the dictatorship, the Supreme Court had already given some signs of independence when it confirmed the 1995 sentencing of Manuel Contreras and Pedro Espinoza Bravo for the assassination of Orlando Letelier and Ronni Moffitt. By validating the suspension of General Pinochet's congressional immunity, the Supreme Court was taking a more significant step. Setting aside some glaring exceptions, Chile's Supreme Court had finally recovered its honor.

The day after this ruling, and after disrupting a congressional session in protest, a sizeable delegation of right-wing congressmen gathered at General Pinochet's residence in a show of support. Some criticized the Supreme Court decision as an "historic error." In the words of Pablo Longueira, president of the right-wing UDI, "it is unacceptable that the same people who destroyed Chile between 1970 and 1973 come to change history and distort the profound significance of September 11."

The atmosphere was explosive. But Chile was starting to overcome its fears and refusing to allow its old demons to reappear.

References for this article are available at [clas.berkeley.edu](http://clas.berkeley.edu).

Judge Juan Guzmán Tapia spoke for CLAS in 2005 and 2007. After retiring from the judiciary, he served as Dean of the Faculty of Legal and Social Sciences and then Director of the Institute of Human Rights at the Universidad Central de Chile (UCEN).

This memoir has been published in French as *Au Borde du Monde: Les mémoires du juge de Pinochet* (Editions des Arènes, 2003) and in Spanish as *En el borde del mundo: Memorias del juez que procesó a Pinochet* (Anagrama, 2005). The English translation by Lezak Shallat is available for publication.

Judge Juan Guzmán Tapia speaks for CLAS at UC Berkeley, May 2007.



Photo by CLAS staff.