

Carl Schmitt to justify the Hitler dictatorship of February 1933 and the Pinochet dictatorship of Sept. 11, 1973. In both the Hitler and Pinochet cases, Schmitt was “on the scene.” As the leading German jurist of the 1920s and ’30s, Schmitt wrote the legal opinion justifying Hitler’s Reichstag Fire coup. Schmitt argued that the “charismatic leader” derives unbridled power from “the people” in time of crisis, and that any form of government, based on a system of checks and balances, consensus, and separation of power, is illegitimate, because it stands in the way of the absolute ruler’s responsibility to “protect the people.”

In the case of the Pinochet coup in Chile, Schmitt’s stu-

dent-protégé Jaime Guzman, argued that the government had to use violence to impose order. Guzman was the sole source of legal justification for the Pinochet coup and dictatorship, and he insisted that violence was a precondition for success. In effect, Schmitt acolyte Guzman ran fascist Chile—in the name of the same doctrine of “unitary executive” power that Schmitt had earlier codified in the *Führerprinzip*. It is the same doctrine that Cheney et al. seek to impose today on the U.S.A.

This is fascism—pure and simple—and it must be crushed, now, if the United States is to survive as a constitutional republic.

The Schmittlerians Were Also Behind Pinochet’s Fascist Coup

by Cynthia R. Rush

In 2006, former Chilean dictator Gen. Augusto Pinochet Ugarte (ret.) may finally go to trial for the Nazi-style atrocities committed during his 17-year rule, from the time of the bloody Sept. 11, 1973 coup that overthrew President Salvador Allende Gossens, until he left power in 1990. Although to date Pinochet’s legal team has successfully kept him from going to trial, recent court rulings stripping him of his immunity as a former head of state, and sending him to the police station for mug shots and fingerprinting, suggest that a trial isn’t far off.

Although the 90-year-old Pinochet is likely to be tried initially for the murders and disappearances of leftist militants in the 1970s “Operation Colombo,” as well as for the illicit financial activities that helped him stash an unexplained \$30 million fortune in foreign bank accounts, prosecutors’ ultimate goal is to try the former dictator for his direct role in the fascist murder and torture apparatus known as Operation Condor.

Pinochet is guilty of these crimes and should be prosecuted. But that’s not the whole story. The highest level of responsibility for Operation Condor lies with Henry Kissinger and allied Synarchist bankers grouped around George Shultz, the architect of much of the George W. Bush Administration’s criminal policies today. Operation Condor’s coordination with the intelligence agencies, security forces, and paramilitary death squads of the Southern Cone dictatorships to detain, torture, and “disappear” thousands of opponents, enforced the imposition of the University of Chicago’s fascist economic policies, which turned Chile into the Schachtian “economic miracle” so admired by Synarchist financiers worldwide.

It’s no surprise that the Pinochet dictatorship was a copy of Hitler’s Nazi regime. Because it had its own Crown Jurist, Jaime Guzmán Erázuriz, who was a direct follower of the Crown Jurist for Hitler’s regime, Carl Schmitt. Guzman used Schmitt’s Hobbesian legal doctrine to justify both the coup and the destruction of constitutional government that followed it. The elements that converged to give the Pinochet dictatorship this Hitlerian character are the same ones standing behind the Cheney “Children of Satan” apparatus today.

Like Cheney, they hate the U.S. Constitution. The “Portada Group” of Catholic corporatists to which Guzmán belonged in the early 1970s, loudly proclaimed that the rights of man are not “inalienable in the corporatist state.” They can be restricted “to the benefit of the common good.” Guzmán asserted that in times of “emergency or exception,” human and civil rights were not absolute or unlimited.

Wielding Schmitt’s argument for unbridled executive power to face the Marxist threat that Allende allegedly represented—just as Cheney defends the President’s right to torture prisoners and ignore the Constitution today—Guzmán demanded that the junta use “harshness and energy” to wipe out any opponents. “Any complex [about this] or vacillation in this area will be disastrous,” he wrote in a memo to Pinochet just a few days after Sept. 11, 1973. “To transform the dictatorship into a ‘soft’ one would be a mistake of incalculable consequences,” he warned.

In the early 1970s, Guzmán belonged to the paramilitary Fatherland and Freedom group, which later included Michael Townley, the assassin of former Chilean Foreign Minister Orlando Letelier in 1976.

Rohatyn, Pinochet, And the 'Unitary Executive'

Three giant steps transformed ITT from the obscure operator of a telephone system in Puerto Rico, into a world conglomerate: 1) A contract to run the whole Spanish telephone system for then-fascist dictator of Spain, Primo de Rivera, in 1923; 2) Lucrative business in German war industry, after ITT founder Sosthenes Behn became the first American businessman to meet dictator Hitler in 1933; and, 3) The wild merger spree run by Lazard Frères and Felix Rohatyn from 1961 into the 1970s.

Rohatyn held the top post of Lazard Frères representative on ITT's board throughout its role in planning and executing Pinochet's coup. Other officials, from ITT's Chairman on down, have by now admitted their frequent top-level meetings on the subject in Washington and elsewhere, their offers of millions of dollars, and some of their large expenditures for political destabilization and a coup in Chile. Rohatyn was in charge of knowing everything about ITT for Lazard; was he the only one in the dark? And would they have dared to undertake such a scheme without consulting him in advance? No. A glance at the history of the bank makes it clear that it was Rohatyn and Lazard which instigated the conspiracy, along with the lower-level pro-fascist ITT Director John McCone, rather than Harold Geneen.

But in the meanwhile, the release of the Nixon tapes and the record of the Church Committee hearings of 1975, have clarified Rohatyn's and ITT's relationship to a drift towards fascist-like dictatorship here in the United States. For now we know that it was that drift, in reality, not the Watergate burglary, which convinced U.S. institutions that

it was imperative that Richard Nixon be removed from the Presidency.

ITT's 1970-71 merger with the Hartford Fire Insurance Company was opposed by the Justice Department's Anti-Trust Division under Richard McLaren. Somehow, opposition collapsed after Rohatyn went over their head and began meeting with Deputy Attorney General Richard Kleindienst. An ITT internal memo leaked through Jack Anderson implied that ITT had won approval by pledging \$400,000 to the Republican Convention, plus unspecified "services." It was this Hartford affair that gave Rohatyn his nickname, "Felix the Fixer."

But unknown at the time were Nixon's telephone calls. The day before his meeting with Rohatyn, the President telephoned Kleindienst, to say that he would no longer tolerate any antitrust action against ITT. "If [that's] not understood, McLaren's ass is to be out of there in one hour. The ITT thing—stay the hell out of it. Is that clear? That's an order."

Kleindienst tried to stall. He told the President how difficult it would be to interfere so late in the game.

The President became enraged. "The order is to leave the goddamned thing alone. . . . I do not want McLaren to run around prosecuting people, raising hell about conglomerates, stirring things up at this point. . . ."

Kleindienst tried again to explain how difficult it was to stifle such an appeal now. "You son of a bitch. Don't you understand the English language? Drop the goddamned thing. Is that clear?" (See Judith Ramsey Ehrlich and Barry J. Rehfeld, *The New Crowd* [Little, Brown: New York, 1989, p. 99]).

It was also unknown at the time that ITT (and Lazard client RCA) were giving tapes of all their international message traffic to the NSA, so that FBI and Justice could monitor Nixon's enemies.

—Tony Papert

Who Was Jaime Guzmán?

Two days after the 1973 coup, the 27-year-old Jaime Guzmán walked into the Pinochet military junta as a legal advisor, and quickly became indispensable, writing speeches for Pinochet and having major input into political and economic policy. He was chosen to participate in the Ortúzar Commission, charged with writing a new Constitution, to provide legitimacy to the Pinochet regime. When the commission produced a draft Constitution some six years later, Guzmán was recognized as its chief architect.

Canadian academic Renato Cristi, who has written extensively about Guzmán, noted in his essay "The Metaphysics of Constituent Power: Schmitt and the Genesis of Chile's 1980 Constitution," that "to refer to him [Guzmán] as Pino-

chet's *Kronjurist* would not do justice to the role he played. When it came to constitutional matters, Guzmán wore the crown."

How did he win it?

Guzmán was no novice to fascism. Born in 1946 to a devout middle-class Catholic family, he became a precocious student who at an early age carefully studied the writings of the key ideologue of Spain's Franco dictatorship, José Antonio Primo de Rivera, as well as Franco's own writings, and those of Spanish jurist and Schmitt follower Gonzalo Fernández de la Mora. Catholic priest Osvaldo Lira, who had lived in Spain in the 1940s and fiercely defended Franco's corporatist policies, also had a profound influence on Guzmán's life.



Gen. Augusto Pinochet (second from right) with other officials of his military junta. His job was to impose fascist economic policies on Chile, at the behest of the Synarchist financiers.

But it was at the Catholic University Law School in Chile, a hotbed of “Schmittlerian” legal doctrine, where he firmly embraced Carl Schmitt, and deepened his commitment to the free market and economic liberalism, despite the fact that these clashed with the Social Doctrine of the Church he purportedly defended. At the same time that he was studying law, the University of Chicago was setting up the Catholic University’s Economics School as a recruitment and training center for the free-market economists who would later serve the military junta in large numbers. In 1978 and 1981, Guzmán met with the University of Chicago economist Friedrich von Hayek, whose fascist economic theories he wove into his religious philosophy.

In addition to studying Schmitt’s own writings in his law studies, Guzmán became familiar with Schmitt’s Spanish apostles Luis Sánchez Agesta, Alvaro d’Ors, and Gonzalo Fernández de Mora. These jurists used Schmitt’s concept of a “constituting (constitution-making) power*” to justify Franco’s 1936 takeover in Spain and subsequent destruction of that country’s 1931 Constitution. After declaring Chile’s 1925 constitution “dead” shortly after the 1973 coup, Guzmán incorporated the same notion of “originative constituting power” into the junta’s Declaration of Principles, issued on March 11, 1974, the document he wrote that became the guideline for the 1980 Constitution. What “constituting power” meant in reality was that all pre-existing juridical norms or institutional order ceased to exist. Citing “exceptional” circumstance, the Pinochet regime was free to do as it pleased, and enforce its decisions with violence, torture, and murder. Guzmán never had any qualms about denying the junta’s victims access to the courts in defense of their civil rights. Only the President should determine their fate,

he stated.

The operative principle in “constituting power” was described in a 1970 Portada Group editorial in language echoing Thomas Hobbes’s *Leviathan*. The President is someone who stands above parties, classes, and interests, and is invested with broad powers, which allow him to be an impartial arbiter in social conflict. A 1972 article underscored that the ruler is responsible only to God. Legitimacy is therefore based on the community’s handing over all sovereignty to the sovereign. The separation of powers is an impediment to freedom. Nothing can be allowed to interfere in the Executive’s functioning. Sound familiar?

As a group of Catholic University analysts would note in a later study of Portada’s philosophy, the group’s thinking is “the exact opposite of the ideas presented in *The Federalist Papers*, the documents that inspired democracy in the United States.”

*Confusingly termed “constituent power” in technical literature.

Kissinger Offers A Job to Schmitt

After World War II, Carl Schmitt was prohibited from teaching in Germany because he had refused to sign the de-Nazification pledge. Then, in 1953, a letter arrived from a graduate student at Harvard:

I am writing to you at the suggestion of Hans Egon Holthusen to explore the possibility of your collaboration with *Confluence*, a quarterly designed to give European and American intellectuals an opportunity to exchange views on contemporary problems in politics, philosophy and the humanities. . . .¹

(Signed)

Henry A. Kissinger

Schmitt’s reply, if any, has not yet been uncovered.

Twenty years later, when he was virtual co-President with Nixon, the same Kissinger steered the Pinochet coup, and launched the genocide of “Operation Condor” which followed.

1. *Eclectica*, Vol. 19, nos. 79-80, Brussels, 1990, cited in Paul Noack, *Carl Schmitt, eine Biographie* (Frankfurt and Berlin: Ullstein, 1993; paperback, 1996).