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Ex-Chilean Dictator Pinochet Must Stay in England For Extradition Process

by LADB Staff

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Britain's Home Secretary Jack Straw ruled on April 15 that Spanish authorities can continue seeking the extradition of former Chilean dictator Gen. Augusto Pinochet (see NotiSur, 1987-10-23). The decision has already set a precedent that bodes ill for other former military rulers around the world. Pinochet, who was arrested in London last October, remains under armed guard at a mansion outside London. He now faces months or years of legal battles in British courts to block Spain's attempt to try him for allegedly torturing opponents while in power.

Specifically, Pinochet is charged with conspiracy to torture political adversaries, including Spanish citizens, during his 17-year dictatorship. This first major prosecution under the 1984 International Convention Against Torture will become crucial in future international human rights cases. Since the groundbreaking case had no precedent in British law, it was passed to Britain's highest court, the Law Lords, for judgement. Lawyers for General Pinochet have consistently argued he enjoyed sovereign immunity from prosecution for any crimes committed as head of state.

Last December, the panel of five Law Lords ruled 3-2 that Pinochet did not enjoy immunity, and Straw issued an Authority to Proceed in legal action to extradite the general. In March, however, the Law Lords reduced the charges that can be considered against Pinochet to incidents occurring after 1988 when Britain signed the UN Convention Against Torture (see NotiSur, 1998-12-11, 1999-03-26). The general's lawyers then filed an appeal in the High Court, attacking Straw's decision allowing the extradition process to go forward. The court granted Straw's request to reconsider the case, giving him until April 15 to decide.

Straw ruled that the remaining charges were serious enough to warrant proceeding with the hearings. He said the remaining allegations satisfied the European Convention on Extradition and obliged Britain to allow the Spanish petition to go before British courts. Straw said the Spanish request was legally well-founded and properly drawn up, the alleged offenses were not "of a political character," no statutes of limitations had run out, and it would not be "unjust or oppressive" to expose the general to the charges now.

A hearing was set for April 30. One case left in by the Law Lords involves Marcos Quezada Yanez, 17, who was arrested in Chile on June 24, 1989. A few hours later he was dead. Chilean police said Quezada was detained on suspicion of robbery and killed himself in his cell. But Chile's National Commission on Truth and Reconciliation concluded Quezada died from "torture applied by government agents in violation of his human rights."

The truth commission said Quezada had been active in a pro-democracy political party when he was arrested in the town of Curacautin. Legal experts said they expect prosecutors to prepare a

new arrest warrant based on the reduced charges and could include some new cases of torture and torture conspiracy that Spanish Judge Baltasar Garzon has added to bolster the case. Pinochet's friends appeal for his release Garzon had no immediate comment on Straw's ruling. But lawyers involved in the case hailed the ruling as a blow to conservative elements in Britain, the US, and Chile exerting political pressure for London to free the general.

Before Straw announced his decision, several prominent US political figures, including former president George Bush, former secretary of state Henry Kissinger, and Sen. Jesse Helms (R-NC) asked the Home Secretary to free Pinochet. In a letter to Straw, Helms argued it was up to the Chileans to decide Pinochet's fate. "I have visited Chile a number of times and have many friends there who assure me that a majority of Chileans believe that Gen. Pinochet rescued their country from ruinous anarchy," wrote Helms.

Hernan Briones, head of the Pinochet Foundation, condemned Straw's decision and called on the government to act more energetically to bring Pinochet back to his homeland. "We protest once again most emphatically this new transgression against the legal sovereignty of the country," Briones said. "Given the circumstances, we must insist once again that Chile's government clearly denounce this trampling on the sovereignty of the country and protest it internationally."

Fernando Barros, coordinator of the pro-Pinochet Chilean Reconciliation Movement, said the ruling undermined justice in Britain. "Mr. Straw has not listened to the claims of the democratic government in Chile," said Barros. "He's decided to rely on Baltasar Garzon who is pushing a politically motivated case."

Brendan Paddy of Amnesty International, which has long campaigned for Pinochet's extradition, welcomed Straw's decision. "We are extremely pleased Jack Straw has recognized that even one case of torture is one too many, and constitutes a crime for which Gen. Pinochet must be put on trial," he said. "This is a day that Pinochet victims have been waiting for 25 years," said Reed Brody of Human Rights Watch. "Sending him back to Chile would have guaranteed his impunity."

Standing in the way of legal action against Pinochet in Chile is a 1978 amnesty law, the former dictator's immunity as lifetime senator, and the strong influence by the military, which still wields considerable power, in the Chilean justice system. The day following Straw's ruling, Gen. Ricardo Izurieta, who replaced Pinochet as head of the Chilean army, traveled to London to express his support for Pinochet. His trip, the first visit by a high-ranking military official in the six months since the former dictator's arrest, set off a controversy in Chile within the governing Concertacion coalition. Both the Partido Socialista (PS) and the Partido Social Demócrata (PSD) expressed concern that the military was again involving itself in politics.

Fear of domino effect

If the extradition demand is finally upheld, the precedent will make it possible for any country to bring other heads of state before the courts to answer for crimes they committed in office. And many governments would prefer that not happen. Garzon, whose pursuit of Pinochet has brought him world renown, is also compiling evidence about other former Latin American military leaders accused of crimes against humanity. Many cases are tied to Operation Condor, the coordinated

repression of the left by the military regimes in Argentina, Bolivia, Chile, Paraguay, and Uruguay in the 1970s.

On April 14, Martin Almada, a Paraguayan jurist and victim of torture during the 1954-89 dictatorship in his country, provided Garzon with documents that substantiate the existence of Operation Condor (see NotiSur, 1998-10-30, 1999-03-19). Almada and Spanish lawyer Carlos Slepoy told the press in Madrid that some documents they gave Garzon support the legality of extraditing former Paraguayan dictator Alfredo Stroessner, former Argentine de facto military leader Jorge Videla, Pinochet, and their accomplices. Slepoy said even if the former military leaders were tried in their own countries and convicted on charges of kidnapping and murder, extradition requests could still be submitted by Spain, where they could stand trial "for crimes against humanity and murder."

One document that Almada gave Garzon describes a working group comprising Paraguayan, Argentine, and Uruguayan military officers set up in the 1970s. The report says the group "thoroughly" interrogated a number of detainees, and that "redeeming information" was obtained from the interrogation of Uruguayan citizen Gustavo Edison Insaurralde Meliar. Later, abductions were carried out based on that information.

Other documents show that Paraguay handed over Jorge Isaac Fuentes Alarcon, a Chilean national, to his country. He is now among the "disappeared." Meanwhile, Foreign Minister Jose Miguel Insulza outlined what could be Chile's legal argument to block the handover of Pinochet to Spain. Insulza told the Santiago daily El Mercurio that the International Convention against Torture states that torture crimes should be prosecuted either in the country where they were committed or where the accused is. That would give Chile and Britain precedence over Spain to try Pinochet. [Sources: CNN, 04/12/99; Associated Press, 03/30/99; 04/15/99; Agence France-Presse, BBC, 04/15/99; The Miami Herald, 04/14/99, 04/16/99; Reuters, 03/25/99, 04/12/99, 04/15/99, 04/19/99; El Nuevo Herald (Miami), 04/07/99, 04/19/99; Inter Press Service, 04/14/99, 04/15/99, 04/21/99; Spanish news service EFE, 04/15/99, 04/19/99, 04/21/99; The New York Times, 04/16/99]

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