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## **British Court Ruling Allows Extradition of Chilean Gen. Augusto Pinochet**

by LADB Staff

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Former Chilean dictator Augusto Pinochet (1973-1990) suffered another defeat Oct. 8 when British Magistrate Ronald Bartle ruled that the general could be extradited to Spain to stand trial for human rights abuses. The ruling is expected to be appealed by Pinochet's lawyers, and the Chilean government says it will take the case to the International Court at The Hague. Meanwhile, Chile has requested that Pinochet be freed on humanitarian grounds. In March, Britain's highest court, the House of Lords, upheld Pinochet's October 1998 arrest, although it limited the charges that could be brought against him to events after December 1988, when Britain ratified an international torture convention (see NotiSur, 1999-03-26).

Spanish Judge Baltasar Garzon, who first requested extradition, then added more post-1988 charges, but Pinochet's lawyers argued that all but two were invalid because they did not appear in the original charges against him at the time of his arrest. Pinochet denied the accusations, saying he is Britain's only political prisoner. In his decision, Bartle ruled that, although no Spanish victims were involved, Pinochet could be extradited on all 35 charges one count of conspiracy to torture and 34 incidents of torture against Chileans and that Spain has jurisdiction to try him.

At the hearing in London's Bow Street Magistrates Court, Bartle read his 20-page ruling substantiating torture as a crime of universal jurisdiction. He stressed that his ruling focused on whether the extradition papers were in order and the charges were for offenses extraditable under British law, not on Pinochet's guilt.

The decision also said that disappearances in the 1970s would be relevant if it could be shown that they were meant to inflict "mental torture" on relatives and survivors torture that continued beyond 1988. "The magistrate's ruling will allow the Spanish prosecutors to show that Pinochet created a repressive state apparatus that relied on torture, that he was fully aware that torture was being practiced systematically, and that he never once punished anyone who committed torture," said Reed Brody of Human Rights Watch/Americas (HRW).

### ***Transfer to Spain still not imminent***

Pinochet will not go to Spain soon, however. His lawyers have 15 days to appeal the ruling to the High Court. If it rules against Pinochet, another appeal to the House of Lords is possible before the case ultimately returns to Home Secretary Jack Straw who initially ruled the extradition case could go forward. The legal battle could take many months, with Pinochet remaining under house arrest in London.

Chilean Foreign Minister Juan Gabriel Valdes said on Oct. 14 that the government has appealed to Britain's Home Office to return Pinochet to Chile on humanitarian grounds. He said Chile's

position is that, because of his deteriorating health, Pinochet is in no condition to endure either lengthy appeals processes in London or a trial in Spain. Straw had refused to consider humanitarian grounds for releasing Pinochet until judicial proceedings ended. He can block extradition cases on humanitarian grounds.

Viviana Diaz, president of the Agrupacion de Familiares de Detenidos Desaparecidos (AFDD), condemned the request. "We find it shameful that the government argues humanitarian reasons to ask for the return of Pinochet," she said, adding that Pinochet's victims had no recourse to humanitarian clemency. The Chilean government of President Eduardo Frei has carried out a legal, diplomatic, and political offensive to return Pinochet to Chile, including pressuring the government of Spanish President Jose Maria Aznar to submit to international arbitration, which it refused to do (see NotiSur, 1999-09-24).

Chilean authorities are expected to bring the case before the International Court of Justice in The Hague in November, although that will not interfere with proceedings in London. "The Spanish have no right over events that occurred in Chile," said Chile's Ambassador to Britain Pablo Cabrera. "The victims are Chilean, and the person who is assumed responsible is also Chilean."

### *Decision receives praise and condemnation*

Relatives of victims of the dictatorship in London, Madrid, and Santiago greeted the magistrate's ruling with shouts of joy and tears of relief, while supporters of the general denounced the process. Amnesty International (AI), the AFDD, and other human rights groups were encouraged that the ruling accepted the legal argument that the forced disappearances in Chile are crimes with no statute of limitations.

UN High Commissioner for Refugees Mary Robinson welcomed the decision. "The message of a year of proceedings in the Pinochet case and of today's historic ruling is clear," Robinson said. "Those who commit, order, or tolerate torture can no longer be sure of a peaceful retirement."

Peruvian author Mario Vargas Llosa said the decision should be a warning to other dictators. He said what has happened to Pinochet is a step in the "globalization of justice," as it will no longer be possible for "major political criminals to enjoy impunity when they leave power by passing laws granting them amnesty beforehand." But Pinochet and his supporters said the decision was a result of foreign pressure.

"It has long been clear that my extradition is politically motivated and being pursued clearly for political reasons," Pinochet said in a statement read to the court by his lawyer, Clive Nicholls. "Spain has not produced a single piece of evidence that shows that I am guilty. Not only that, I believe that Spain has not properly investigated any of these crimes, and Spain does not even have jurisdiction to try me. It acts in violation of the sovereignty of Chile. The events in Chile have nothing whatsoever to do with Spain."

### *Extremists in Chile step up threats*

On Oct. 11, Deputy Juan Bustos denounced the resurgence of the extremist group Frente Nacionalista Patria y Libertad (FNPL) and said the group was a serious threat to the security and

well-being of Chileans. Iain Hardy, Britain's honorary consul in the Chilean port city of Valparaiso, resigned Oct. 13 after receiving death threats in connection with the Pinochet case. Deputy Interior Minister Guillermo Pickering said the government would clamp down on any violence from the FNPL or other violent groups. Patria y Libertad has threatened protests across Chile on the anniversary of Pinochet's arrest, targeting the British and Spanish Embassies in Santiago and businesses with links to London and Madrid. Pinochet's arrest could further Chile's democracy

Many in Chile believe that the case has helped the nation confront its dark past. In August, an unprecedented dialogue began between human rights lawyers and members of the armed forces to uncover what happened to those disappeared whose bodies have never been found. Without Pinochet's arrest, this dialogue might never have happened (see NotiSur, 1999-08-27).

Others view the proceedings as a threat to Chilean democracy and say it has increased polarization. The two principal presidential candidates Ricardo Lagos of the governing Concertacion and Joaquin Lavin of the rightist coalition had opposing reactions. "With this decision, Judge Bartle confirms what the Chilean people and international public opinion know Pinochet and his regime are responsible for serious, massive, and systematic violations of human rights," said Lagos.

Lavin criticized the decision and said the general should be allowed to spend his last years in his own country. "I never expected anything from international justice, because I believe that it represents large countries against small countries," said Lavin. "I think the only solution is the humanitarian way." [Sources: Inter Press Service, 10/07/99, 10/08/99; Associated Press, BBC, 10/08/99; CNN, 10/08/99, 10/09/99; The New York Times, 10/09/99; Clarin (Argentina), 10/11/99; Spanish news service EFE, 10/08/99, 10/11/99, 10/14/99; Reuters, 10/08/99, 10/13-15/99]

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