

3-2-2005

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Recommended Citation

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Supreme Court Rules Ex-President Echeverria Cannot be Tried for Genocide

by LADB Staff

Category/Department: Mexico

Published: 2005-03-02

Mexico's highest court (Suprema Corte de Justicia de la Nacion, SCJN) has torpedoed the government's efforts to bring former President Luis Echeverria Alvarez (1970-1976) to justice for his role in the violent repression of dozens of students in a 1971 demonstration in Mexico City. Echeverria is accused of ordering an elite force known as the Halcones to violently repress students in Mexico City who were protesting a government plan to privatize higher education in Nuevo Leon state. The incident, known as Jueves de Corpus, occurred on Thursday, June 10, 1971, coinciding with the Roman Catholic feast of Corpus Christi (see SourceMex, 2002-06-19).

The SCJN's decision, reached by a panel of five justices, essentially upheld a ruling from a lower court that the Mexican Constitution's 30-year statute of limitations precluded the government from prosecuting Echeverria, former interior secretary Mario Moya Palencia, and 10 other government officials in the Jueves de Corpus case.

Constitution trumps international treaties

Special prosecutor Ignacio Carrillo Prieto has accused Echeverria and the other former government officials of genocide. In its deliberations, the court considered whether Carrillo could claim that genocide is a crime with no statute of limitations. Carrillo had argued that Mexico, by signing the UN Convention on the Non-Applicability of War Crimes and Crimes Against Humanity in 2002, had cancelled time limits for prosecuting genocide and other crimes against humanity.

Only one of the five members of the SCJN panel, Justice Juan Silva Meza, supported Carrillo's argument. Silva said genocide was unacceptable "no matter the date when it was committed." However, Justices Jose de Jesus Gudino Pelayo, Sergio Valls, Jose Ramon Cossio, and Olga Sanchez Cordero ruled that Mexico's participation in the treaty only affects cases in 2002 and later and that the Mexican Constitution should apply in any cases before that time.

Echeverria's attorney Juan Velasquez welcomed the verdict. "This decision by the court is extremely important because it underscores the guarantees spelled out in Article 14 of the Constitution regarding the statute of limitations," said Velasquez. "It does not provide for any exceptions." If the high court had overturned the lower-court ruling, there was still no guarantee that Echeverria would have gone to trial.

The case would have been returned to the lower court to decide whether sufficient evidence existed to issue arrest warrants. The ruling was a major disappointment to human rights advocates and relatives of victims. "This is a very strong shock, a negative blow," said Jesus Martin del Campo, whose brother was among the victims of the crackdown in 1971.

Prosecutor says Echeverria not off the hook

The Fiscalía Especial sobre Movimientos Sociales y Políticos del Pasado (FEMOSPP) tried to put an optimistic spin on the SCJN verdict. "The case is not over. It's not closed. This was just one legal issue," FEMOSPP spokesman Eduardo Maldonado said immediately after the SCJN verdict was announced. The FEMOSPP had expressed strong optimism about bringing Echeverria to justice last year when the SCJN decided to review the lower court's ruling regarding the statute of limitations (see SourceMex, 2004-10-20).

Carrillo told reporters in February he was disappointed that the high court decided to uphold the lower-court ruling, but he said his office would explore other avenues to bring Echeverria to justice. The prosecutor is considering a number of technicalities under which charges could again be brought against Echeverria in the Jueves de Corpus case.

Another option, he said, would be to bring charges against the former president for the violent repression of students in the infamous 1968 Tlatelolco massacre. At that time, Echeverria was interior secretary in the administration of former President Gustavo Diaz Ordaz (see SourceMex, 1964-1970). "[The ruling] is not the last word on genocide nor on the statute of limitations," said Carrillo.

While the statute of limitations would also apply to the 1968 massacre, the SCJN has taken some interest in ensuring that the incident does not become buried in history. In 2002, a SCJN committee ordered the Procuraduria General de la Republica (PGR) to proceed with an investigation of the Tlatelolco massacre (see SourceMex, 2002-02-06).

Carrillo raised concerns about inconsistencies in the way Mexico interprets its obligations under international human rights treaties. "Mexico has signed on to [international] agreements and treaties that can be applied retroactively," Carrillo told the Mexico City daily newspaper El Universal, lamenting that the court had decided to apply the statute of limitations in this particular case. "This is a contradiction that we are trying to resolve."

Human rights advocates also questioned what they viewed as a conservative approach taken by the courts, especially given the large number of complaints related to the Jueves de Corpus case. Edgar Cortez, a spokesperson for the Red Todos los Derechos para Todos, said Mexico is going against a trend in Latin America, where perpetrators of human rights violations are being brought to justice. He said the SCJN is giving the rest of the world a signal that "impunity is the true symbol of our country."

Political analyst Denise Dresser, who once served on the FEMOSPP advisory committee, agreed that the courts are too inflexible in interpreting the law. "Miles of documents unearthed by the special prosecutor's office mean nothing to judges who abide by the strict letter of the law and the statute of limitations it upholds," Dresser said in a column published in the Los Angeles Times. "In Mexico, the law is being used to hang up curtains instead of opening up windows."

Critics accuse Fox of hampering prosecutor's work

Some critics suggest the FEMOSPP is a paper tiger because Carrillo has not received the financial and physical support needed for his tasks from President Vicente Fox's administration. Carrillo has initiated action against 11 individuals accused of crimes related to the dirty war against leftists in the 1960s and 1970s, but only three of these suspects have been arrested. One of those arrested is Miguel Nazar Haro, the former chief of Mexico's secret police agency (see SourceMex, 2004-02-25).

Dresser goes even further, accusing President Fox of complicity with the former governing Partido Revolucionario Institucional (PRI), which has staunchly defended Echeverria. "Prosecuting Echeverria would mean dismantling the old regime, and Fox would rather appease it," said Dresser, who teaches at the Instituto Tecnológico Autónomo de México (ITAM). "So, instead, he keeps sending the special prosecutor on a mission where he has been set up to fail."

Similar sentiments were expressed by Rosario Ibarra de Piedra of the Comité Eureka, an organization formed to follow up on cases of activists who disappeared at the hands of federal judicial or secret police agencies. Ibarra's son, Jesus Piedra Ibarra, was allegedly kidnapped and murdered by members of the secret police in 1975. "The continued complicity among authorities the executive, the Supreme Court, and the armed forces is evident [in the Echeverria ruling]," said Ibarra. "This is causing a lot of pain to the Mexican people. For once, we hoped that justice would be served."

The Senate was less critical of the SCJN ruling, with members of all three major parties supporting the right of the high court to uphold the Mexican Constitution. "The court was merely interpreting the Constitution," said Sen. Demetrio Sodi de la Tijera, a member of the center-left Partido de la Revolución Democrática (PRD). "They have the last word, and there is nothing else to discuss." Sodi was echoing comments by fellow Sens. Enrique Jackson Ramirez of the PRI and Jorge Zermeno Infante, a member of the governing Partido Acción Nacional (PAN). [Sources: Agencia de noticias Proceso, Reuters, 02/22/05, 02/23/05; Notimex, Associated Press, Knight Ridder Newspapers, 02/23/05; El Financiero, The Washington Post, 02/24/05; El Universal, 02/23-25/05; La Crisis, La Cronica de Hoy, La Jornada, 02/24/05, 02/25/05; Los Angeles Times, 02/24/05, 02/27/05]

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