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Supreme Court Justice Recommends Immediate Release of French Citizen Florence Cassez

by Carlos Navarro

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A Mexican Supreme Court justice issued an official opinion in early March that could have some bearing on elections in France and, to a smaller extent, in Mexico. Justice Arturo Zaldívar Lelo de Larrea, charged with reviewing the kidnapping charges against French citizen Florence Cassez, ruled there were enough irregularities in the case to merit her immediate release. If a five-member panel of the Suprema Corte de Justicia de la Nación (SCJN) accepts the recommendation, Cassez would leave prison after completing a fraction of her 60-year sentence. The move could benefit French President Nicolas Sarkozy, who is facing stiff competition from rival François Hollande. Last year, Sarkozy unsuccessfully pushed for Cassez to finish her term in France ([SourceMex, Feb. 16, 2011](#)).

Cassez was convicted in 2006 of participating in at least three kidnappings and sentenced to 60 years in prison, which in Mexico is the equivalent of a life sentence. She was linked to a violent kidnapping organization known as Los Zodiacos, led by Cassez's then boyfriend Israel Vallarta Cisneros. The gang's victims included women and children, and at least one victim accused her abductors of sexual assault ([SourceMex, April 1, 2009](#)).

Cassez claims that she was merely an innocent bystander while Los Zodiacos carried out the kidnappings and subsequent torture of victims. But her arguments did not persuade the Mexican courts, which gave Cassez the long prison sentence.

Arrest violated suspect's rights

In his decision, Zaldívar agreed with defense lawyers that authorities violated Cassez's right to a fair trial and consular assistance. And the circumstances surrounding Cassez's arrest did raise some eyebrows. On the day after she was detained near a ranch outside Mexico City, police re-enacted the arrest in front of the cameras in a staged media event.

"Zaldívar's proposal for an immediate release was surprising, but it nevertheless demonstrates the mistakes made during [Cassez's] arrest," columnist Francisco Garfias wrote in the Mexico City daily newspaper *Excelsior*.

The SCJN panel, which includes Zaldívar, must still debate and vote on the recommendation, but no date has been set for a decision. Cassez's attorney, Agustín Acosta, believes the SCJN panel might reach a decision on March 21, the next scheduled date for the justices to meet.

Some experts who have been following the current SCJN believe there are some divisions among the five members who will consider the recommendation. Zaldívar and Justice Olga Sánchez Cordero are among those expected to favor the proposal, while Justice Jorge Mario Pardo Rebolledo will probably oppose the recommendation. "The vote of [Justice Guillermo] Ortiz Mayagoita is harder to predict, but sources tell me that they would place their bets on a no vote for Zaldívar's proposal," columnist Carlos Puig wrote in *Milenio.com*.

"The harder question is which stance Justice José Ramón Cossío will take," added Puig. "He could be the fifth and decisive vote."

The Cassez case creates a dilemma for President Felipe Calderón's administration, which is trying hard to promote its strong anti-crime efforts, including an intense campaign against kidnapping ([SourceMex, Jan. 7 2009](#), and [April 21, 2010](#)). But, if the courts uphold Cassez's sentence, it would reinforce the image of Mexico as a country where the rights of individuals are not respected.

Some sources said the high court set a precedent in a 2009 decision that ordered the immediate release of 20 people accused of participating in the massacre in Acteal, Chiapas, in December 1997 ([SourceMex, Jan. 14, 1998](#)). The court said the defendants were denied the right of due process.

"The administration knows that if the court is consistent with its criteria established in August 2009...then the recommendation from Arturo Zaldívar would obtain the necessary votes," said the Mexico City daily newspaper La Jornada.

Divided opinions

Opinions are divided in Mexico on whether the government should release Cassez. The case has basically pitted those who believe that Cassez's rights have been violated against those who argue that the victims' rights should not be ignored. Anti-kidnapping advocate Isabel Miranda de Wallace, who will represent the governing Partido Acción Nacional (PAN) in the Mexico City mayoral election in July, is leading the opposition to Cassez's release. "The rights of three people who were kidnap victims at the hands of Florence Cassez are being breached in a significant way," said Miranda de Wallace, who heads the nongovernmental organization Alto al Secuestro.

Raúl Plascencia Villanueva, president of the semi-independent Comisión Nacional de Derechos Humanos (CNDH), agreed with Wallace that the victims' rights should take precedence, although he acknowledged that violations of Cassez's rights should not be ignored. "There were some flaws in the detention and the improper exhibition of Ms. Cassez to the media, but there are also statements by the victims that say she was responsible for committing a crime," said the CNDH official.

The Procuraduría General de la República (PGR) and some members of Congress have proposed an alternative to Zaldívar's recommendation, suggesting that, instead of granting Cassez immediate release, she should be given a new trial.

But some human-rights advocates and political observers suggest that Zaldívar's opinion is correct and that the rule of law must be followed.

Syndicated columnist Denise Dresser points out that the manner in which the arrest was conducted violated a fundamental right that should be protected. "The spectacle that was created with the reenactment of the arrest violated [Cassez's] right to the presumption of innocence," said Dresser, who teaches political science at the Instituto Tecnológico Autónomo de México (ITAM).

In a column published in mid-March, Dresser listed 21 other reasons why Cassez deserves to be set free, including sworn testimony from her former boyfriend Israel Vallarta that she was not involved in the kidnappings. She also said there is some doubt from the kidnap victims, who initially said they did not recognize Cassez. One victim, Cristina Ríos, changed her mind when a member of the federal investigations agency (Agencia Federal de Investigación, AFI) told her that Cassez had participated in the kidnapping.

Luis González Plascencia, president of the semi-independent human rights commission for Mexico City (Comisión de Derechos Humanos del Distrito Federal, CDHDF), said he agreed with Zaldívar's opinion that Cassez should be released immediately. His position differs slightly from that of the director of the organization's federal counterpart, the CNDH, which focused more on the victims' rights rather than on whether the arrest was appropriate.

"Our commission does not pretend to take a position on whether Ms. Cassez is innocent or guilty," said González Plascencia. "Our stance has more to do with the manner in which the arrest was conducted and whether it was valid. Because of this, we support Justice Zaldívar's recommendation."

Some Mexican legislators concurred with this position. "Independent of the actual trial and the verdict, it is important to ensure that impunity does not occur," said Sen. Francisco Labastida, a member of the opposition Partido Revolucionario Institucional (PRI).

But Labastida and others expressed indignation at Public Safety Secretary Genaro García Luna, who has acknowledged staging the media event reenacting Cassez's arrest. "The secretary has to answer for his decision to use public force to gain publicity," said Labastida. He raised the possibility that García Luna could have to answer for his transgression in international courts.

Political ramifications in France and Mexico

The Cassez case could affect the PAN's fortunes in the upcoming presidential election. García Luna's action has certainly damaged the prestige of the Calderón administration and the PAN candidate, Josefina Vázquez Mota, ahead of the election. But the political fallout is limited by public perceptions that Cassez is guilty of the kidnappings. A public-opinion poll by Gabinete de Comunicación Estratégica found that nearly 60% of respondents considered Cassez guilty and 10% not guilty. The rest either had not heard of the case or had no opinion. Still, many respondents agreed that García Luna is at fault for the dilemma facing the Mexican government.

Political observers suggest that the release could help Sarkozy, who is facing a tight re-election campaign in the upcoming French elections on April 22. A runoff, which appears very likely, would be held on May 6. In one recent poll, Sarkozy of the center-right Union for a Popular Movement was trailing Hollande of the Socialist Party by about four or five percentage points. Another poll showed the incumbent slightly ahead.

Marine Le Pen of the ultraright National Front party and Jean-Luc Mélenchon of the Left Party are expected to erode support for the two candidates, but neither is likely to make it to a runoff.

Still, Le Pen has not been shy about suggesting that Sarkozy might be using the Cassez situation for political gain. Le Pen described Zaldívar's recommendation as "a happy coincidence" that came "a few days before our elections."

"Zaldívar's decision no doubt animated Sarkozy," said Ana Paula Ordorica, a columnist for *Excelsior*, who noted that the candidate has started offering a more positive message alongside his strong criticisms of the European Union (EU).

Sarkozy came under severe criticism in the French media a year ago for his inability to use diplomacy to return Cassez to France. So, in the aftermath of Zaldívar's decision, Sarkozy described the development as "the first good news in five years." He said in a radio interview that he recently spoke by phone to Cassez and urged her to "hang on."

"Sarkozy is surely dreaming of a triumphant return of Cassez to France," said Ordorica. "Preferably before the elections."

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