

# UN urges Britain to prosecute Pinochet

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On Thursday, November 19 the United Nations Committee against Torture in Geneva said if Britain decides not to extradite former Chilean dictator General Augusto Pinochet, the case should be referred to Britain's public prosecutor. This would be 'with a view to examining the feasibility of, and if appropriate initiating, criminal proceedings in England'.

If this option was not considered, Britain could be in violation of the anti-torture pact and the Vienna Convention on the Law of Treaties. The committee is made up of 10 independent legal experts who monitor compliance with the 1987 international convention against torture. They made their warning less than a week before the Law Lords, Britain's highest court, is due to make a ruling on an appeal against the finding by the High Court in London that Pinochet has 'sovereign immunity' from arrest, as a former head of state. The ruling is due to be made on Wednesday, November 25.

The stand taken by the UN body was a welcome one for the victims of Pinochet's regime and civil rights organisations, whose attempts to mount a private prosecution in Britain were rejected on Monday, November 16. John Morris, Britain's attorney general, ruled that there was 'insufficient admissible evidence' on which to bring charges against Pinochet. This thwarted the third attempt so far to secure his prosecution in Britain in the event of the failure of Spain's extradition warrant.

Morris's decision was widely seen as a signal from the British establishment of its desire to see Pinochet go free. If the Law Lords uphold his claim of immunity, then a private prosecution in Britain would be the only remaining possibility of preventing the dictator from flying home to Chile. Even if the Law Lords rule that Pinochet should be deported, there are fears that the Labour government's Home Secretary Jack Straw will use his power to overturn the verdict. The courts have

ruled that Straw must make any such decision by December 2. Straw's position would only be relevant if the House of Lords grants the appeal by the Crown Prosecution Service, on behalf of the Spanish authorities, against last month's High Court ruling, and not if it is rejected.

Amongst those who have written to Straw urging him to honour Spain's extradition request are Amnesty International's director general, Pierre Sane, and Human Right Watch. The latter organisation sent a letter to Straw on November 16 which states, 'We understand that the Extradition Act grants you discretion to decline extradition, for example where extradition would, having regard to all the circumstances, be 'unjust or oppressive.' The reasonable exercise of your discretion requires that you take into account the gravity of General Pinochet's offences, the impunity which General Pinochet would continue to enjoy on returning to Chile, and the United Kingdom's obligations under international law....'

'Britain is also under an international obligation to try or extradite persons accused of the horrible crimes at issue here. This obligation is set forth, *inter alia*, in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which the United Kingdom is a party. Torture is one of the charges on which General Pinochet's extradition is sought. As a party to the European Convention on Human Rights, the United Kingdom also has an obligation to ensure access to justice for the victims of General Pinochet's crimes. Several European countries have sent the unequivocal message that they believe General Pinochet should stand trial. Spain, France and Switzerland have all requested his extradition. Returning the general to Chile would deprive his victims in these countries of their right to a remedy.'

Earlier this week the Federal Court of Justice in Karlsruhe, ordered German prosecutors to determine

whether they could also charge Pinochet with human rights abuses, in response to criminal complaints by three people claiming wrongful imprisonment and torture in Chile during his rule. The German court said it doubted that Pinochet could claim immunity from prosecution as a former head of state, as the High Court in Britain ruled, but refused to issue a ruling itself. The buck was passed to a lower court in Duesseldorf, which will further delay any position being taken by the German authorities.

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