

Decision on Pinochet heightens political crisis

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British Home Secretary Jack Straw's ruling that former Chilean dictator General Augusto Pinochet must face extradition proceedings to Spain has done nothing to lessen the legal and political crisis provoked by his arrest.

Yesterday, in his first public appearance since his arrest on October 16, Pinochet arrived at the top-security Belmarsh Magistrates Court in south-east London. A large police presence of over 100 officers, as well as helicopters, dogs and horses, kept hundreds of demonstrators--both in favour and opposed to the dictator--away from the building as Pinochet entered the building. Everyone, including the press, was subject to metal detector searches.

After half an hour, during which time Pinochet refused to recognise the court's authority, Chief Metropolitan Stipendiary Magistrate Graham Parkinson adjourned proceedings until Monday, January 18.

Once the Law Lords ruled against Pinochet last month, Straw had little choice but to grant 'authority to proceed'. Throughout the recent events the Labour government has insisted that it would make no political decision on the former dictator and that Straw would act in a 'quasi-judicial' capacity. In the face of widespread demands for Pinochet to be brought to justice, to do otherwise at this stage would have been widely interpreted as open support for the general. This would have added to the embarrassment of Prime Minister Blair's party, which had already been found to have invited Pinochet to Britain on two separate occasions, and would have alienated its European allies Spain, France and Belgium who have all issued extradition requests.

In a five-page written reply to a parliamentary question, Straw made clear the weakness of Pinochet's legal arguments against extradition. Straw had four questions to answer. Had the extradition request been properly made? Were the crimes suitable for extradition? Were the charges purely politically motivated? Were there any compassionate grounds to stop the extradition?

Pinochet's arguments failed on all grounds. Straw also rejected the contention that Pinochet enjoyed 'sovereign immunity' as a former head of state and the later claim that the involvement of one of the Law Lords, Lord Hoffman, and his wife with Amnesty International could have influenced the House of Lords ruling.

Straw concluded that Pinochet was 'accused in Spain of

offences equivalent to UK offences of attempted murder, conspiracy to murder, torture, conspiracy to torture, hostage taking and conspiracy to take hostages'. Britain's duties to Spain under the European Convention on Extradition outweighed the possibility of Pinochet standing trial in Chile, he said.

Straw rejected Spain's earlier claim that genocide should be included within the extradition request, saying this did not meet British legal requirements for extradition. Although not explicitly set out, by omission it appears British law accepts the defence of 'sovereign immunity' against charges of genocide, as was argued in the House of Lords by Pinochet's lawyers. The charge of genocide was not mentioned in the second Spanish arrest warrant sent to Britain.

Euphoria greeted the decision amongst human rights organisations and the military regime's victims and their relatives. Amnesty International said it signalled 'the birth of a new era for human rights.... Jack Straw should be congratulated for not bowing to political and diplomatic pressure'.

Such understandable sentiments should not obscure the continued difficulties faced by those seeking to bring Pinochet to justice. At this point Straw's decision only means that the case against Pinochet remains a matter for the courts. It initiates a process of legal wrangling that could take years. His wife Lucia told her husband's supporters, 'Our suffering has no parallel in history'. However, during this time Pinochet will live in luxury--at the expense of the Chilean people--in a mansion on the exclusive Wentworth Estate in Surrey.

Straw has been forced to concede that current and former heads of state can be held accountable for crimes against humanity. This sets an important legal precedent. To deny this would have posed grave difficulties for the Blair government. There are certain dictators against which it is keen to use legal sanctions in pursuit of its foreign policy objectives, such as Slobodan Milosevic and Saddam Hussein. To bring such accountability into question would also undermine the recently established International War Crimes Tribunal.

The fate of Pinochet himself, however, is far more problematic. Any trial would inevitably raise potentially dangerous issues, particularly the involvement of US and British imperialism in the 1973 coup. Neither does Britain wish to sour its relations with Chile. Foreign Secretary Robin Cook wrote to Chile's Foreign Secretary, Jose Miguel Insulza, saying he wanted 'to do everything possible to maintain the high

quality of our bilateral relationship'.

Pinochet's legal team has immediately demanded an appeal to set aside the Law Lords ruling and for his claim to sovereign immunity to be upheld. This is an unprecedented move for which there is no established procedure, but the Law Lords immediately accepted the setting up of an appeals committee drawn from their number. Pinochet's lawyers are arguing that Lord Hoffman's directorship of an Amnesty International affiliate and his wife Gillian's work as an administrative assistant for the human rights group biased his judgement against the dictator.

Whatever the outcome of this manoeuvre, it could be followed by an appeal for a judicial review in the High Court; a further appeal to the Lords; a magistrate's decision on extradition; a further challenge in the High Court and the Lords. If, at the end of this process, the courts decide against extradition, Pinochet goes home. If the extradition is upheld, Straw once again has the final say. Even at that late stage, the Home Secretary could change his mind regarding 'compassionate grounds'. This process could take anywhere from months to years.

None of this, however, will bring relief from the troubles facing the Blair government. The longer the Pinochet affair continues to drag on, the more broadly the events of 1973-91, the imperialist powers' backing for Chile's military regime and its political lessons are being discussed.

This has angered the most rabid sections of the British bourgeoisie, embarrassed the US and Spanish governments and fuelled the growing social and political tensions within Chile itself.

Conservative Party leader Hague described the decision as 'cowardly'. Former Prime Minister Thatcher, a long-time ally of Pinochet, said Straw had 'ample power to put an end to this shameful and damaging episode. He has chosen instead to prolong it.... Neither he nor the Government can hide behind legal posturing. This was a political decision and it represents a failure of political leadership.'

The Spanish judge who raised the extradition warrant against Pinochet, Baltazar Garzon, immediately announced plans to request the release of US papers relating to American government involvement in Operation Condor--the rounding up and execution of left-wing activists throughout Latin America. In a 300-page document Garzon has now formally indicted Pinochet for genocide, terrorism and torture of over 3,000 victims including Spanish, Argentine, Paraguayan, Bolivian and Mexican citizens.

This will increase the pressure on the Clinton administration to come clean regarding the CIA's instrumental role in bringing Pinochet to power. Secretary of State Madeleine Albright was forced to promise that 'documents related to the Pinochet era' would be reviewed and released. But she maintained that Chile's opposition to the dictator's extradition should be given 'significant respect'. Following Straw's announcement Albright

refused to make any further remarks, saying, 'I think we have to assess what the meaning of this decision has been.... I don't want to specifically comment on the judicial aspects of this case.'

Spain's right-wing prime minister, Jose Maria Aznar, is faced with a souring of relations with its major Latin American ally and trade partner. His Popular Party, moreover, is a direct descendent of the Franco regime and has relied on an amnesty provision similar to that protecting Pinochet in Chile. On hearing Straw's verdict, Aznar asked, 'What can we do?... I hope the National Court will treat him well.'

The Chilean government reacted with anger to the decision. The Chilean ambassador to Britain, Mario Artaza, was withdrawn and Interior Minister Raul Troncoso said Straw's ruling was an infringement of Chile's sovereignty. He announced a meeting for Friday of the National Security Council, a body that includes the heads of the armed forces.

The army's reaction was more forthright still. It condemned Straw's decision as 'abusive and humiliating'. General Guillermo Garin, a former army chief vice-commander, told *El Mercurio* newspaper, 'I don't even want to imagine a coup, but, really, the situation in the barracks would be very difficult for the Commanders. If they don't liberate my general, anything could happen.' Chile's armed forces have dispatched an official delegation to London, following a meeting of all of the country's generals called by Army Commander-in-Chief General Ricardo Izurieta.

See Also:

An answer to Pinochet's defenders

[17 November 1998]

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Statement issued by the Fourth International on September 18, 1973



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