

British Lords issue ruling on Pinochet appeal--stage set for further litigation in extradition case

Chris Marsden
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The panel of seven Law Lords decided by a majority vote of 6-1 to overturn the earlier decision by the High Court that former Chilean dictator General Augusto Pinochet enjoyed immunity from arrest and extradition as a former head of state.

When the verdict came through jubilation broke out amongst the hundreds of anti-Pinochet protesters gathered outside Parliament. Amidst placards and banners asking what had become of their disappeared loved ones, the crowd chanted: "Justice, justice--now we want justice", and "the only solution is extradition".

One Chilean, Jose Barra, told the *World Socialist Web Site*, "I am very optimistic. It has become clear that big capital and their representatives such as Lamont and Thatcher are not interested in the lives of human beings. We also believe this is a victory, not only for Chilean people, but for everyone in Latin America and everywhere. People in every country must fight against such brutality, not from a nationalist point of view but as human beings."

Sylvia Velesquez said, "We have won! We are very happy. We have been fighting for this for five months, day and night. In the last three weeks we have stood outside where Pinochet lives, between 9 a.m. and 9 p.m. every day. For us, each thing is a step towards victory. If they send him to Spain it is a victory for the victims, the families and humanity. This is the end of one stage and we have to start the next. But this is a defeat for the Pinochetistas who think they can go to another country, kill people and get immunity."

The Law Lords ruling was far from clear-cut, however, and gives Pinochet what amounts to a get-out clause. As was predicted, the majority also ruled that Pinochet cannot be extradited for tortures committed in

Chile before September 1988. This is the date when the Criminal Justice Act 1988 made torture an "extraterritorial" crime under British law, after Britain signed the International Convention against Torture. Before 1988 no one could be extradited on a torture charge from Britain, except to the country where the offence was committed

Prosecution lawyers had argued that even before Britain signed the International Convention against Torture, crimes against humanity like those perpetrated by Pinochet were punishable by any government under international law. The Chilean government recognises that 3,197 people were killed or disappeared at the hands of Pinochet's secret police between 1973 and 1990, and the actual figure is even higher. But the Law Lords have upheld the principle that English law takes precedence over international law.

The BBC's Legal Affairs Correspondent Joshua Rozenberg described this as a "substantial victory for General Pinochet". The ruling narrows the charges facing Pinochet, as most of the allegations making up Spain's extradition warrant for his arrest relate to his first months in power after the 1973 coup against the government of President Salvador Allende. The Law Lords have effectively wiped out all but three of 30 charges submitted by the Spanish government, including one direct charge concerning the torture of a teenage girl.

Delivering the ruling, the chairman of the Law Lords, Lord Browne-Wilkinson, also made an explicit call for the case to be reconsidered by Straw in light of this. "We have decided as a matter of law the proceedings for the extradition of Senator Pinochet can proceed if the Secretary of State thought it appropriate. We have

also said that in view of the very substantial reduction in the number of extraditable charges, this matter will require to be reconsidered by the Secretary of State."

Pinochet must nevertheless stay in Britain to fight extradition to Spain. These proceedings could still result in a rejection of the Spanish extradition warrant due to it having been undermined by the reduced number of charges against the general. Pinochet's lawyers immediately asked for a judicial review of the decision by Home Secretary Jack Straw last December 9, issuing an authority to proceed with Spain's extradition request. A hearing has been arranged at 1600 GMT next Monday. Straw's decision could be overturned, paving the way for Pinochet to return to Chile.

If Straw's earlier decision is upheld, a long drawn-out process of appeals begins that will create further political difficulties for the Blair government. Formal committal proceedings would take place at Bow Street court, probably in April. If extradition is granted, then the decision returns once more to Straw. This could be appealed once more in the High Court by applying for a writ of habeas corpus, after which the case could return to the House of Lords once again, before yet another decision from Straw, which could also be subject to judicial review.

Straw refused to respond immediately to the Lords' judgement, saying that it remained a matter for the courts, but said he would consider the ruling.



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