

Pinochet's lawyers seek former dictator's release on grounds of ill health

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15 September 1999

On Tuesday, the Spanish government officially rejected Chile's request for international arbitration to decide who has jurisdiction over the charges of torture and genocide against former dictator General Augusto Pinochet.

Pinochet was arrested last October 16 in London on an extradition warrant from Spanish Judge Baltazar Garzon. The warrant sought to bring charges against Pinochet for the murder or "disappearance" of more than 3,100 Chileans and foreigners during the military coup he led in 1973 and his subsequent 17-year dictatorship.

The case has become a political time bomb for the Spanish and British governments. Pinochet has been held under house arrest at his Surrey mansion for the past 11 months, as both governments have sought a legal means of enabling the general to return to Chile, whilst deflecting accusations that they are shielding a dictator.

Last March, the British judiciary restricted the possible grounds for extradition to only those cases alleged to have occurred after December 1988, the date Britain ratified the United Nations Convention against Torture. This had the effect of drastically reducing the applicable charges against him. In the last months, the Spanish and Chilean government have held talks on the latter's proposal for "friendly international arbitration" as an alternative to extradition.

Whilst Spain's National Court had officially supported Garzon's warrant, the case had opened up divisions within the Spanish judiciary and ruling political circles. Pinochet's defenders have received open backing from right-wing forces internationally, including supporters of the former Franco dictatorship in Spain and British Conservatives. Last Saturday, a representative delegation gathered at the general's home to celebrate the twenty-sixth anniversary of the coup. Amongst the gathering of 27 businessmen and politicians was Mario Rios, vice president of the Chilean Senate, who extended "the wishes of the Chilean people" to the former dictator.

Meanwhile in Santiago, on the eve of the anniversary, clashes took place in working class districts and student campuses between anti-Pinochet protesters and the police. The government had earlier ordered police to clamp down harshly on any "disorder" and had banned all but one demonstration by opponents of the 1973 coup. The same day, relatives of Chile's "disappeared", backed by the Chile Committee for Justice, submitted a formal request to London's Metropolitan Police to launch a criminal investigation into the general. The unresolved "disappearances" constituted an ongoing act of torture and a criminal offence, they argued.

The initial agreement by Spain's right-wing Popular Party government to consider Chile's arbitration request provoked popular anger. In the face of this, Foreign Minister Abel Matutes was forced to inform his Chilean counterpart that Spain "cannot accept the possibility of resolving by diplomatic means or arbitration a case that is currently being handled through the judicial process." The government had decided to "let justice run its course," he said.

However, in the same letter Matutes advised the Chilean government that under United Nations human rights accords it could still appeal Spain's decision to the International Court of Justice at The Hague. Should it decide to do so, Chile could rely upon the Spanish government's co-operation, he pledged.

Pinochet had earlier mooted that he might hand himself over to the Spanish courts prior to his next extradition hearing in London on September 27. His recently appointed Spanish defence lawyers, Fernando Escardó and José María Stampa Braun, ruled this out earlier this month. Such an action would be "absurd and suicidal", they advised. It would mean that he could face the full charges of genocide, torture and terrorism being drawn up by Garzon, rather than the reduced charges agreed in Britain.

The spotlight now falls back on the British judiciary and Labour's Home Secretary Jack Straw. The *Daily Telegraph* reported at the weekend that Foreign Secretary Robin Cook was involved in secret talks with his Spanish and Chilean counterparts, aimed at enabling Pinochet to return home. It said that the case had been discussed earlier this summer at the summit of the European Union and Latin American countries in Rio de Janeiro. The Chilean press claimed that Cook had told Matutes that he would not let Pinochet "die in Britain". Matutes is said to have responded, "I will not let him come to Spain."

The most likely pretext for manoeuvring the general's return home is on grounds of ill health. Prior to the September 27 extradition hearing, Pinochet's lawyers are expected to make a new request to Straw that he abandon the process and allow his return on these grounds. Although Straw had turned down a similar request in August, he had also indicated that he would be prepared to review his decision should further information come to light.

A member of Pinochet's UK legal team reported anonymously, "It is certainly true that we are considering raising the issue of our client's health, but no final decision has been made. The general perception is that his health has deteriorated recently, and it is in our view that it is in all parties' interests for that situation to be properly addressed."

The Chilean government had commissioned a medical report on the general's health. Signed by Pinochet's personal doctor, Helmuth Hernandez, and a local doctor, Michael Loxton. This report detailed 12 illnesses, including diabetes, heart disease, prostate problems, arthritis of the left knee and mild asthma. On Monday the General had a highly publicised brain scan at a London hospital, but no medical reasons were given for this "routine" treatment.



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