

Examining physician suggests British home secretary misled Parliament in bid to release Pinochet

Richard Tyler
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According to the *Observer* newspaper, British Home Secretary Jack Straw may have misled members of Parliament when he told them that doctors had “unanimously and unequivocally” found former Chilean dictator Augusto Pinochet unfit to stand trial for torture.

Oxford University Professor Sir John Grimley Evans, one of the four medical experts appointed by Straw to examine Pinochet, told the *Observer* newspaper on Sunday that the doctors were not competent to reach such a verdict. “All we did was to list the medical facts. Whether those medical facts constitute unequivocal grounds for decreeing unfitness for trial is outside our field of competence and outside our responsibilities,” the professor said. He went on to say the claim that Pinochet was unfit to stand trial was “his [Straw's] judgement”.

Evans also said Pinochet could make a full recovery, an outcome which he described as “slim” but not impossible. “Nothing in medicine is 100 percent. You have to deal with probabilities,” he said.

This last statement adds weight to fears expressed by some human rights groups that Pinochet may be “doing an Ernest Saunders”—a reference to the former Guinness chief who was released from prison early, claiming to suffer from pre-senile dementia brought on by Alzheimer's disease. Saunders later made a full recovery, a world first, from what is generally considered an irreversible degenerative brain disease.

Last week Straw told Parliament that he was “minded” to halt extradition proceedings against Pinochet, since his poor health made him unfit to stand trial. He gave the Spanish authorities, who had instigated the proceedings, and other interested parties

seven days to lodge representations.

Any legal challenge to Straw's decision is severely limited by Straw's refusal to release the medical report prepared by the four experts who examined Pinochet.

On Friday, Spanish Judge Baltasar Garzon, who issued the original arrest warrant against Pinochet in October 1998, asked for new medical tests to be conducted. “It is requested that the Home Office allow a second medical examination, with the possibility of participation by two forensics doctors, psychiatric specialists appointed by this court,” Garzon said.

Since extradition proceedings are conducted at government-to-government level, Madrid must agree to pass on any requests made by Judge Garzon. Spanish officials have hinted they may refuse to do so if such requests do not contain any new evidence.

Spanish lawyers Joan Garces and Manuel Murillo, who have been working with Judge Garzon to prepare the extradition case, have said the withholding of the report and the failure to keep Spain informed were in breach of the 1984 convention against torture. Garces said it was necessary to establish if Pinochet was “mentally incapacitated”, since this was the only grounds in Spanish law to halt the extradition process. However the Spanish government, which like its British counterpart has been anxious to avoid Pinochet coming to trial, has indicated it will not press the matter.

Straw set a deadline of 5 p.m. January 18 for representations against his intention to halt the extradition of Pinochet. Several human rights organisations, including Amnesty International, the Redress Trust and the Medical Foundation for the Care of Victims of Torture, are challenging the home

secretary. “The procedure Jack Straw has followed in deciding on General Pinochet's extradition is totally irregular and flouts natural justice,” a spokesperson for the human rights groups said.

Describing Straw's decision as “a mockery of justice”, Amnesty International said, “The medical opinion was evaluated in secret by the Home Secretary, a political official, rather than by a court, without any opportunity for the prosecution to observe the medical examination, challenge it or obtain a second independent medical opinion.

“To offer the prosecution—and other parties—an opportunity to make representations without having access to the evidence presented raises doubts about the whole process.”

If Straw decides to quash the extradition process, he will be exercising his authority under the UK Extradition Act of 1989, which grants the home secretary the statutory power to review medical evidence at any stage of the proceedings and decide on their further course.

Chilean exiles angrily denounced Straw's claims that his decision to withhold the medical report was taken out of respect for Pinochet's right to patient confidentiality. At a January 16 news conference representatives of Pinochet's victims said, “To see this international criminal brought to justice, his innocent victims had to disclose publicly deeply personal details of their torture. This has caused further pain to them and their families. It is a gross insult that Augusto Pinochet now uses bogus claims to medical confidentiality to avoid justice.”

Speakers at the press conference argued that Pinochet's mental state might not be so poor as to prevent him taking part in court proceedings. “During the period when Jack Straw is advised there was a major deterioration in Pinochet's condition, this proven liar composed a lengthy speech in his own hand in late November which was read out at a right-wing rally in Santiago. Just weeks ago he signed and sent more than 300 Christmas cards, together with a detailed message.”

In Santiago and the Chilean embassy in London preparations are under way to speed Pinochet out of Britain. As soon as Straw announces his decision, Pinochet could be helicoptered from his present accommodation in Surrey to a medically equipped

Boeing 707 that will be standing by to fly the ex-dictator home. General Patricio Rios Ponce, the head of the Chilean Air Force and a former military attaché in London, has taken charge of the airlift.

The return journey has been planned in minute detail under the auspices of General Juan Carlos Salgado, head of Chilean military intelligence. In the flight back to Chile the jet will avoid airspace where further attempts at detaining Pinochet could be mounted. An earlier plan to fly Pinochet to Santiago on a British Airways jet was scrapped out of fear the pilot might be ordered to turn back. “We are behaving very prudently,” the Chilean ambassador said in London.



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