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Pinochet decision: The birth of a new era for human rights

The UK Home Secretary's decision to order the application for extradition to proceed in the case of Augusto Pinochet signals the birth of a new era for human rights, Amnesty International said today.

"On the eve of the 50th anniversary of the Universal Declaration of Human Rights, victims of human rights violations and human rights defenders the world over could not have wished for a better reaffirmation of the principles contained in the Declaration," Amnesty International said.

The Spanish government's submission of a formal request for extradition, the UK House of Lords' ruling against the former general being entitled to immunity, and this latest decision by the UK Home Secretary constitute some of the most important developments in human rights since the adoption of the Universal Declaration of Human Rights in 1948.

"Given the appalling number of human rights violations still taking place all over the world, this week's anniversary is a day of shame for many governments," the organization stressed, "so it is profoundly uplifting to witness such a major step against impunity, particularly after a quarter century of struggle by victims and their relatives in Chile."

After Jack Straw's landmark decision, the next step is for the Metropolitan Magistrate to satisfy himself that the Spanish, Swiss, Belgian or French governments have produced enough evidence to justify the extradition. Should this be the case, the Magistrate will order that the former general remains in detention, pending the decision of the Home Secretary as to whether to surrender him to the authorities of the four governments, or, if the Attorney General of England and Wales opens a criminal investigation, to keep him in the UK. It would be impermissible under English or international law for political, economic or other grounds to play any role in this decision.

"Through his self-appointed parliamentary status, the 1978 self-amnesty law and special provisions in the Chilean constitution, Augusto Pinochet has built an impenetrable legal wall around himself and others accused of human rights violations -- making a trial in Chile virtually impossible," Amnesty International said. "Today's decision takes victims and their relatives one major step closer to justice."

Background

Augusto Pinochet's arrest in London on 17 October 1998 was the result of a *commission rogatoire* (official petition to question him), filed by judge Baltazar Garzón of the Spanish National High Court (*Audiencia Nacional*). Judge Garzón had been investigating cases of human rights violations constituting crimes against humanity, committed in Chile under Augusto Pinochet's regime.

On 28 October 1998 the UK High Court declared his detention unlawful on the grounds that he enjoyed immunity from prosecution as a former head of state. Amnesty International was granted leave to appear as a third party intervenor to address the legal concerns surrounding the arrest in an appeal of the High Court judgment, which was subsequently brought before the House of Lords.

The armed forces under Augusto Pinochet's command implemented a policy based on systematic and massive human rights violations and large-scale repression, exerting absolute control over the resources of the State and using these to commit human rights violations, passing repressive laws, denying victims judicial remedies, using the judicial system to persecute opponents, placing society in a situation of total defencelessness, and generating an atmosphere of terror among the population.

These crimes against humanity committed through State terrorism activities, according to international law, are subject to the principles of universal jurisdiction. Also, the Organic Law of the Judiciary and the Spanish Penal Code contain provisions granting jurisdiction to the Spanish judges to try these crimes.

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