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Pinochet case: The Chilean government is making a mockery of its duties to its citizens and to international law

By asserting an outdated and flawed defence of national sovereignty, the government of Chile is continuing to block the efforts to let a court of law decide on the guilt or innocence of Senator Augusto Pinochet, Amnesty International said today.

On 16 October 1998, after 25 years of struggle, victims of human rights violations in Chile were afforded a first glance at justice: Augusto Pinochet had been arrested. The former general's legal and public relations machinery moved quickly to claim immunity for him, and the matter is again before the United Kingdom's Law Lords.

"This week, Augusto Pinochet's efforts to avoid a trial are being further supported by the intervention before the Law Lords of the Chilean government -- which instead of taking the side of the victims, has sided with the promotion of impunity," Amnesty International said.

The charges brought by the Government of Spain against Augusto Pinochet relate to well-known crimes, but more than a quarter century after they took place they still make very disturbing reading. Among other things, the former commander of the armed forces is charged with having -- jointly with others and in purported performance of official duties -- intentionally inflicted severe pain or suffering on:

- Marta Lidia Ugarte Roman, by suspending her from a pole in a pit; pulling out her finger nails and toe nails, and burning her;
- Meduardo Paredes Barrientos, by systematically breaking his wrists, pelvis, ribs and skull; burning him with a blowtorch or flamethrower;
- Adriana Luz Pino Vidal, a pregnant woman, by applying electric shocks to her vagina, ears, hands, feet and mouth, and stubbing out cigarettes on her stomach;
- Antonio Llido Mengual, a priest born in Valencia, Spain, by applying electric current to his genitals and repeatedly beating his whole body;

Some forms of torture included the employment of a man with visible open syphilitic sores on his body, to rape female captives and to use on them a dog trained in sexual practices with human beings.

In addition to Spain, the former general is also being sought by Switzerland, France and Belgium which have requested his extradition from the UK. Also, investigations have

been initiated or legal complaints have been filed in Denmark, Germany, Italy, Luxemburg and Norway.

The argument that the current legal proceedings are an interference in Chile's internal affairs is contrary to long-settled rules of international law. Not only has Chile accepted as legally binding principles of international law that grant universal jurisdiction for certain crimes by ratifying the Convention against Torture, but it was precisely the inability of the relatives to get redress in their own country that led them to pursue legal proceedings in Spain.

Chilean human rights organizations have strongly condemned the stance taken by the Chilean government. On 19 January, organizations representing relatives of some of the victims filed a writ for protection ("*recurso de protección*") against President Frei, on the grounds that the decision to defend the argument that Augusto Pinochet should have immunity from prosecution "constitutes a violation of national and international law."

The record of impunity in Chile is staggering. Although several cases of human rights violations have been brought to the courts, the majority of cases have been closed by the application of the 1978 Amnesty Law. The most famous case -- often cited as an example of justice being done in Chile -- is the conviction of General Manuel Contreras and Brigadier Pedro Espinoza (Executive Director and Chief of Operations respectively of the National Intelligence Directorate, DINA) for the murder of former Foreign Minister Orlando Letelier and US citizen Ronnie Moffit. This case, however, was specifically excluded from the amnesty law after pressure from the United States and other international pressure.

Impunity remains virtually total in Chile. The DINA is believed to have been implicated in around 2,000 cases of serious human rights violations. Since 1973, a total of approximately 5,000 judicial complaints of human rights violations have been presented in Chile, yet only 12 cases have led to prosecution (with 19 former members of the security forces and armed forces having been found guilty as a result).

Over the years, intergovernmental organizations have recommended that Chile takes measures to redress this situation, to no avail. Repeated calls by the UN Commission on Human Rights to the Chilean government to prosecute and punish those responsible for torture, "disappearances" and other human rights violations have remained ignored. So have recommendations made over many years by the Inter-American Commission on Human Rights.

"The Chilean government is at pains to stress that it is not defending Augusto Pinochet's human rights record. However, its current stance risk ensuring that such record would not be scrutinized in an independent and impartial tribunal," Amnesty International said.

Despite statements to the effect that Augusto Pinochet should be tried in Chile, the Chilean government has shown no intention of removing obstacles that make such trial currently impossible -- foremost among them the 1978 Amnesty Law.

“Chile’s current efforts before the Law Lords are in shameful contradiction with the country’s expressed commitment to protect and promote human rights,” Amnesty International concluded.

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