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Violating Human Rights to Support Human Rights: A Final Legacy of Pinochet?

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Abstract. This article analyzes the human rights implications of the recent legal decision that General Augusto Pinochet can be extradited to Spain to stand trial on torture and conspiracy charges.

The Bow Street Magistrates Court in London, the United Kingdom (UK), has recently ruled that General Augusto Pinochet, the former leader of Chile, can be extradited to Spain to stand trial on torture and conspiracy charges. This decision is the latest in a series of decisions in response to a case initiated by a Spanish judge against General Pinochet--a case that resulted in Pinochet's arrest in London on October 16, 1999 for charges including kidnapping, murder, and genocide involving more than 3,000 "disappearances."

One decision from this series of decisions--made by the Law Lords of the House of Lords in March 1999--stipulated that Pinochet could only be extraditable for certain crimes committed after December 1988, when the UK adopted an international convention making torture abroad punishable in the UK. Only 2 charges then survived from the initial extradition request, and 33 new cases were added in the recent Bow Street Magistrates Court decision. The Law Lords decision also stipulated that some crimes allegedly committed in the 1970s could still be counted in the extradition request if the crimes were meant to commit "mental torture" on relatives and survivors--torture that continued beyond 1988. As well, the Law Lords gave prosecutors the right to introduce evidence of events before the 1988 date to show that Pinochet was guilty of a long-running conspiracy to torture that continued after 1988.

While hailed by many human rights advocates and analogous to recent jurisprudence in Chile related to its 1978 amnesty law, the decision that an act committed before a law was established can be grounds for prosecution if that act's psychological consequences continue to exist after that law was established presents its own human rights dilemma. Specifically, the decision provides an additional rationale for human rights violators throughout the world to arrest, adjudicate, and punish their real and imagined opponents for acts committed before a law proscribing those acts is established because the psychological consequences of these acts continue after the law is established. The same is the case for acts committed before a law is established that are allowed to "count" to help establish a violation of that law after that law is established.

Before human rights supporters revel in the sight of a presumed human rights violator--viz., Pinochet--moving ever closer to just deserts, they might consider that the means to this end may actually facilitate future violations. Not only may the means not justify the ends, but the means may be leading to a converse of such ends. On both deontological and consequentialist grounds, such means are suspect. While Pinochet may suffer, his contemporaries and heirs may rest easy. Is this an appropriate human rights legacy? (See Davenport, C. (1999). Human rights and the democratic proposition. *Journal of Conflict Resolution*, 43, 92-116; Doise, W., Spini, D., & Clemence, A. (1999). Human rights studied as social representations in a cross-national context. *European Journal of Social Psychology*, 29, 1-29; Hoge, W. (October 9, 1999). British court rules Pinochet extraditable for trial in Spain. *The New York Times*, <http://www.nytimes.com>; Jennings, Todd E. (1996). The developmental dialectic of international human-rights advocacy. *Political Psychology*, 17, 77-95; Staerkle, C., Clemence, A., & Doise, W. (1998).

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Representation of human rights across different national contexts: The role of democratic and non-democratic populations and governments. *European Journal of Social Psychology*, 28, 207-226.)
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