Denied Immunity for Augusto Pinochet is a Victory for Human Rights, Says UD Political Science Professor
DENIED IMMUNITY FOR AUGUSTO PINOCHET IS A VICTORY FOR HUMAN RIGHTS, SAYS UD POLITICAL SCIENCE PROFESSOR

Dayton, Ohio — The ruling by Britain’s highest court that former Chilean dictator Augusto Pinochet does not have immunity from arrest is an “absolute victory” for human rights organizations all over the world, says Mark Ensalaco, a University of Dayton associate professor of political science and author of the soon-to-be-released book The Policies of Human Rights in Chile (1973-1995).

“It’s a very moving moment,” says Ensalaco, director of UD’s international studies program. “I’ve talked with the family members of many of Pinochet’s victims — who obviously are themselves victims — and we see this as clearing the first hurdle in seeking justice for the death of thousands of innocent lives.”

The House of Lord’s 3-2 ruling on Wednesday, Nov. 25, means that Pinochet must remain in custody while Spain seeks his extradition. Pinochet’s regime is allegedly responsible for the torture, disappearance and murder of nearly 4,000 Chilean citizens during the 1970s and ’80s, offenses for which those involved were granted immunity in their country.

“I’m thrilled that the House of Lords came to its senses and determined that, as a matter of international law, people who have been accused of crimes against humanity are not immune from prosecution because they are supposedly ‘sovereign,’” he says.

Pinochet, who was arrested Oct. 16 in London while vacationing, is being pursued by a Spanish judge seeking the military ruler’s blame in the torture and murder of Spanish citizens during his 17-year reign. The Spanish government had appealed the Oct. 28 High Court judgment. Pinochet must now appear before Bow Street Magistrate’s Court Dec. 2, at which time it will be decided whether he is to be freed or face extradition proceedings.

Ensalaco says he remains baffled by the Oct. 28 ruling that Pinochet’s arrest was illegal because he had immunity under English law for actions taken as a foreign former head of state.

“The implication would be that had Adolph Hitler turned up today in southern England, he too would have been immune from prosecution,” Ensalaco says.
While Ensalaco and fellow human rights advocates throughout the world remain optimistic that Pinochet will be tried for his regime’s alleged crimes, he is equally adamant that the former dictator not be convicted (or released) based on a legal technicality.

“What the human rights movement attempts to do is see the gradual evolution of a law which would state that sovereignty doesn’t guarantee immunity from crimes against humanity,” Ensalaco says.

“The international community can never lose sight that, for 17 and a half years, the country was ruled by a man who, as a matter of policy, deliberately murdered his own citizens, whom he perceived to be political enemies,” says Ensalaco, executive director of the Inter-American Forum on Human Rights, a nonprofit, nongovernmental organization dedicated to human rights in South America.

“Here’s a man who led a military coup in violation of the country’s constitution, presided over a bloody regime and who operated completely outside the rule of law,” Ensalaco explains. “And the truth is, he may not be brought to justice over a legal technicality. But the efforts against him are not persecution under the law but prosecution under the law. He should be tried as a war criminal.”

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