

International outcry rejects U.S. Supreme Court tyranny

by Leo F. Scanlon

Political leaders and legal scholars throughout the world are registering their shock and protest at the Nazi-like decision of the U.S. Supreme Court on June 15 to legalize international kidnaping by U.S. officials. The decision involves the case of Dr. Humberto Alvarez Machaín, a Mexican citizen, who was abducted from Mexico and brought to the United States to stand trial on charges that he conspired in the murder of U.S. Drug Enforcement Administration agent Enrique Camarena. The Supreme Court's ruling renders null and void over 100 extradition treaties between the United States and other nations.

Beneath the official governmental denunciations of the decision, which are often muted in deference to American sensibilities and out of fear of Bush administration retaliation, there is a profound recognition, especially in Ibero-America, of the deeply irrational and violent nature of U.S. policy circles today. Many of those who entertained more favorable views of the Bush regime have been convinced by the Alvarez Machaín decision that the invasion of Panama was not an isolated or unique event, and are questioning the basis for any political or military or even economic collaboration with a regime which has rejected all premises of international law.

Defense of 'the snatch job'

The State Department underlined the lawless outlook of the administration, in a statement drawn directly from the legal argument presented to the Supreme Court in justification of the kidnaping of Alvarez Machaín: "It is important to isolate the question of whether domestic legal authority exists from the separate question of whether the President will in fact authorize use of that authority. In any given case, the President must weigh his constitutional responsibilities for formulating and implementing both foreign policy and law enforcement policy." It then emphasized that "an interagency process exists to ensure that the President takes into account the full range of foreign policy and international law considerations as well as domestic law enforcement issues raised by any specific case. There will be no arrests abroad that have not been considered through that interagency process."

Secretary of State James Baker put the matter more crudely

ly on an ABC News show, when he told David Brinkley, "This snatch job was pulled before certain procedures were set up in the Executive. . . . You're not going to see this as routine." He added assurances that the government will always weigh the "tradeoffs of equities" between authorizing an extraterritorial legal action, and the serious foreign policy considerations that would arise from it. But this balancing act involves political considerations which exclude international law, and which ignore fundamental questions of national sovereignty.

What, in a word, would the Bush administration have to say if the Mexican government attempted to apply such a policy toward United States citizens?

The issues involved were posed within hours of the Supreme Court ruling, when U.S. agents kidnaped a Mexican citizen in Sonora, Mexico. Then on June 16, American soldiers participated in a raid on the house of Panamanian Congressman Gerardo González, supposedly in pursuit of the individuals responsible for the killing of a U.S. soldier right before Bush's visit to his Panamanian "colony." The uproar in Panama at this brazen violation of the Panama Canal treaties and of Panamanian sovereignty forced even U.S. Ambassador Dean Hinton to recognize the objections of Foreign Minister Julio Linares, and to apologize to the government. The sour taste in the mouths of even the most ardent partisans of the U.S. role in Panama was illustrated by a statement issued by congressman Arnulfo Escalona, who said that the U.S. policy is a "judicial outrage which is based solely upon might, and 'might makes right' is the law of the beast."

'A flagrant violation'

In Mexico, the pro-Bush government of President Carlos Salinas de Gortari backed down from its initial decision to suspend all activity of the Drug Enforcement Administration (DEA) inside its borders, but the Mexican Congress passed a unanimous resolution on June 16, calling the Alvarez Machaín decision "a flagrant violation of the [U.S.-Mexican] extradition treaty" which was to be "absolutely condemned." The newspaper *El Financiero*, representing the contempt for the Salinas government which is widespread in the wake of the ruling, noted that "by this time Mr. Salinas should have

understood that the U.S.—as a state, as a culture, as a sum of interests—doesn't want an equal partnership, but a relationship of subordination."

José Angel Conchello, a leader of the dissident faction within the PAN party, wrote a bitter denunciation of the new U.S. doctrine: "They too have a new concept of sovereignty, utterly humiliating, utterly insulting, that justifies the right of those charged with dealing with crime to commit crimes in Mexico that are severely punished in the United States. They may have strength; we must have dignity."

The Colombian government of President César Gaviria is another case of a Bush yes-man caught between a rock and a hard place. The Colombian Foreign Ministry said that the U.S. Supreme Court decision "is a grave precedent whose effects violate fundamental principles of international law. This attitude makes vulnerable precious precepts of harmonious international living together, such as equality, territorial integrity, sovereignty, self-determination, non-interference in the internal affairs of other states."

Both houses of the Colombian Congress have issued statements denouncing the ruling. The Senate statement charges that with this ruling, the United States is creating the "unacceptable doctrine of extraterritoriality of arbitrary proceedings, to the extreme of threatening use of the atrocious crime of kidnaping for such ends." The House describes the ruling as "a return to the most archaic of imperialisms, negating the right of self-determination of peoples; it is a return to domination of the strongest, economically and militarily, over the majority of the world's nations."

The Colombian Supreme Court took notice of the ruling as well, noting on June 19 that the U.S. policy "could be interpreted as the creation of illegal means, or as a material power trampling on the weak, or, in the area of international law, prompting a return to its initial and most rudimentary historical eras, which have been superseded," and went on to request that the state resort to "valid juridical means in international law" to reject the ruling of the U.S. Supreme Court. The Colombian court added that there is no authorization for "the decisions or actions by foreign judicial authorities, which constitute an intervention on Colombian territory."

An editorial in the Colombian newspaper *El Espectador* called for action in response by the Organization of American States. "If it is good for anything, the OAS had better bring to trial those with political responsibility in the United States who are carrying a big stick and threatening the national sovereignty of other countries. . . . The U.S. has re-emerged as a menacing power, with the policy of the big stick, manifest destiny, the teachings of Mahan and the haughty behavior of Theodore Roosevelt in the matter of Panama. But today it isn't the politicians, not the militaries . . . but the Supreme Court itself" which disgraces the Americas.

Peruvian Justice Minister Fernando Vega emphasized similar sentiments, but wishfully expressed the illusion that

the decision is an "independent" action with "no legal standing." The former head of the Peruvian College of Lawyers, Fernando Vidal Ramírez, charged that the ruling "completely ignores international norms regarding extradition, and attempts to encourage the violation of the territorial sovereignty of states." Vidal also demanded that the OAS denounce the ruling.

Costa Rican President Rafael Calderón emphasized this last point in remarks made at a press conference in Buenos Aires with Argentine President Carlos Menem, when he called for the matter to be taken up by the Ibero-American summit scheduled for July in Spain. Menem called the ruling "not an error, but a horror."

Brazilian officials emphasized the practical reality posed by the Supreme Court decision, identifying it, in the words of Hermes Marcelo Huck of the University of São Paulo, as a "virtual declaration of war."

'Violation of human dignity'

The most powerful European response was registered in Spain, where the daily *El País* devoted one page to reactions headlined "Gloom and Rejection in the Magistracy in Response to the North American Judicial Decision." Tomás Iglesias, spokesman for the 2,200-member Federation of Associations of Progressive Jurists, called the ruling "miserable" and a "violation of international law, the sovereignty of nations, and above all, human dignity."

Magistrate Angel Calderón Cerezo, spokesman for the Professional Association of the Magistracy, the largest Spanish conservative judicial grouping, found the ruling "surprising and strange," adding that "we know no precedent for it. It goes against international law, and undermines coexistence."

Juan Lena, director of the Office of Diplomatic Information of the Spanish Ministry of Foreign Affairs, called the ruling a "worrying decision" which will be taken up by the government in international fora.

Press and government responses paralleling those identified here were registered in Canada, Switzerland, Sweden, Egypt, Algeria, and Tunisia. Even the City of London's mouthpiece, the *Economist*, was compelled to condemn the Bush administration for adopting the "legal" arguments put forward by Israel to justify foreign abductions, and noted that "America gives a bad name to freedom of action under the law. . . . It need not wonder why its reputation in some quarters as a free-firing bully has proved so difficult to lose."

The last word, perhaps, is registered by Israel's Isser Harel, who was castigated internationally for kidnaping Adolf Eichmann from Argentina. Acutely aware that ultimately Argentina did accept the Israeli action, and also aware that even the Nazis were forced to return a Jewish journalist they had kidnaped from Switzerland in the 1930s, Harel wryly noted that "this is a revolutionary decision for U.S. needs. It shows that when they need it, everything is kosher, but if others need it, it's illegal."