Spain Moves to Curb Legal Convention Allowing Trials of Foreign Rights Abuses

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Spain's MPs voted on Tuesday to push forward with a bill that limits the power of Spanish judges to pursue criminal cases outside the country, a move that human rights organisations said would end Spain's leading role as an enforcer of international justice.

Last month, the ruling People's party (PP) tabled a fast-track legal change to curb the use of universal jurisdiction, a provision in international law that allows judges to try cases of human rights abuses committed in other countries. Since being adopted into Spanish law nearly two decades ago, the doctrine has allowed Spanish judges to reach beyond their borders and investigate serious human rights abuses in countries such as Argentina, Rwanda and Guatemala.

Its use put the Spanish justice system into the headlines at times – most famously for the 1998 arrest of the Chilean dictator [Augusto Pinochet](http://www.theguardian.com/world/pinochet) in London.

"This reform makes it even harder to probe into severe human rights abuses," said Ignacio Jovtis, of Amnesty International [Spain](http://www.theguardian.com/world/spain). "It's a step backwards for human rights and justice."

Nearly two dozen international human rights groups have spoken out against the change, calling it political interference in the justice system and urging the government to abandon the reform.

MPs voted to push ahead with the move a day after a court in Spain ordered Interpol to issue arrest warrants for the former Chinese president Jiang Zemin, as well as four senior Chinese officials, over alleged human rights abuses in [Tibet](http://www.theguardian.com/world/tibet) decades ago.

The arrest orders come just as Spain is seeking to lift its sagging economy by deepening trade relations with the Asian superpower.

China issued a sharp rebuke, leaving little question that the issue had strained ties between the two countries. "China is strongly dissatisfied and firmly opposed to the erroneous acts taken by the Spanish agencies in disregard of China's position," said a foreign ministry spokeswoman, Hua Chunying, at a daily briefing.

While she declined to comment on how Spain should deal with the issue, she added: "But I believe this incident concerns the sound development of bilateral relations, so we hope that the Spanish government can properly deal with this matter and tell right from wrong."

Reed Brody, of Human Rights Watch, said China's comments added to a growing awareness of double standards in international justice. "It's OK to use international justice for El Salvador, Chile and Chad," he said, "but when it comes to US or China or Russia, there's no justice. That really threatens to undermine the entire architecture of international justice."

Spain is thought of as the "temple of international justice", said Brody, who has written extensively on the country's use of universal jurisdiction. Spanish courts were trailblazers in embracing the doctrine, he said, and "triggered a revolution in holding abusive leaders accountable for their crimes".

The proposed change would not only be an about-face for Spain, said Brody, but would actually make Spain a laggard when it came to international justice. Perpetrators of a crime would now only be prosecuted if their country had sought their extradition, he said. "Spain is going from a place that is more protective than international law requires, to a place that actually violates its [international] obligations."

The PP has defended the change. Alfonso Alonso, a party spokesman, called universal jurisdiction "inefficient". He said: "It promises a lot but leads to nothing more than diplomatic conflicts."

Tuesday's vote marks the second time the doctrine has been modified in recent years. Five years ago, facing mounting pressure from the US over cases relating to the prison at Guantánamo Bay and from Israel for an inquiry into a 2002 Israeli bomb attack on Gaza, Spanish politicians argued that Spain should not be the judicial police force of the world. They reined in the provisions, allowing cases to be heard only if they had a relevant connection to Spain and if no other national court would take on the case.

The change approved by MPs, said legal experts, would virtually do away with the idea of universal jurisdiction in Spain. The doctrine would only be applied when the defendant was Spanish or a resident of Spain, and only public prosecutors and victims would be able to bring cases forward, with interest groups barred.

Once the proposal is passed by parliament, the politically sensitive rulings regarding China's former leaders would disappear. The bill would also end the dozen or so cases being heard by Spanish judges, including the 1989 murders of Spanish Jesuit priests and their workers during El Salvador's civil war, the alleged torture of prisoners at the US military jail at Guantánamo Bay in Cuba, and the persecution of Falun Gong members in China.

The move has been sharply criticised by Spanish judges, including Baltasar Garzón, the judge who pursued Pinochet in one of the most widely known examples of universal jurisdiction. While Pinochet was eventually returned from London to Chile on medical grounds, Garzón's actions were credited with paving the way for Pinochet to be stripped of immunity and prosecuted in Chile.

"With this initiative, the People's party has outdone themselves and turned us into exemplary guardians of an oasis of impunity," Garzón wrote recently in an editorial in El País. Garzón has used universal jurisdiction extensively, including pursuing expatriate Rwandans after the 1994 genocide and Chad's former dictator, Hissène Habré.

"Never mind that universal jurisdiction tries to protect the victims of mass crimes or that Spain was a pioneer in using it, because the absence of economic value makes it something to be broken down," added Garzón. "Unlike France or Argentina, who have reinforced this sacred space for the rights of the victims of international crimes, Spain has decided, at the hand of the People's party, to consolidate impunity for the sake of a good response from the markets."