The Lesson of Pinochet's Arrest

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The British arrest of General Augusto Pinochet provides stunning proof of why the United States should never join the International Criminal Court (ICC). Traveling to London on a diplomatic passport to have surgery, the 83-year-old Chilean Senator Pinochet was grabbed by the British because of an extradition request by a maverick judge in Spain, Baltazar Garzon, who has a penchant for high-profile cases.

The Pinochet case is the precursor of the assaults on national sovereignty and the flouting of due process that will take place if the United States ever signs and ratifies the ICC. It would mean that Americans could be tried in a foreign country by a court of non-American judges applying laws that are not yet written.

The Clinton Administration has been promoting the ICC for five years, but after a stormy final five-week session in Rome last July, Clinton directed his representative to vote No. On July 17, 20 countries voted to adopt the ICC "Statute," 21 abstained, and Israel and five other nations joined the U.S. in voting No.

The ICC will enter into force when ratified by 60 governments, and UN chief Kofi Annan is lobbying for speedy ratification. The ICC creates an 18-member court to sit in the Hague.

The ICC will be fundamentally different from the International Court of Justice, known as the World Court, which adjudicates disputes among nations. The United States has repeatedly refused to recognize its many anti-American decisions.

The ICC, on the other hand, will try individuals for "crimes against humanity," whose definition is still evolving. The danger this poses to American troops stationed overseas is why Clinton, reluctantly, at the end refused to sign.

The Pinochet case proves that international trials of individuals are political, not legal, proceedings, and

certainly a far cry from what we in America understand as constitutional due process. The same week that Spain's headline-grabbing judge demanded that the British arrest Pinochet, Spain's Prime Minister was hosting Fidel Castro with full diplomatic honors.

Pinochet is a bete noire of the left because he overthrew the Communist regime of Salvador Allende in Chile. There's a big difference between Pinochet and Communist dictators: Pinochet voluntarily held a free election in 1990 and gave up power to a democratic government, after which the Chileans made him Senator for Life; and Chile has remained free and prosperous.

Political double standards, not equal protection of the laws, would be the rule under any international tribunal such as the ICC. Call the roll of the murderous thugs and current and former Communist dictators who stay in power by force or retire in luxury without fear of being arrested, extradited, or tried.

Uganda's Idi Amin, who is estimated to have killed 300,000 of his political opponents, is living in Saudi Arabia. Jean-Claude "Baby Doc" Duvalier of Haiti lives in a chateau in southern France.

Mikhail Gorbachev, who presided over the Gulag and the bloody invasion of Afghanistan, heads a prestigious think-tank in San Francisco and enjoys top-dollar honoraria for speeches promoting world government. Poland's last Communist boss, Wojciech Jaruzelski, who murdered anti-Communist activists, was given a lifetime pension by his country.

Yasser Arafat, Nelson Mandela, and former dictators from India, Cambodia, the Congo, and elsewhere travel freely around the world. For the United States to acquiesce in the Pinochet arrest, and/or to join the ICC, will make the world too dangerous for Western heads of state to travel.

On his next trip to London or Paris, will George Bush be arrested on an extradition request from Iraq and charged with the war crime of killing civilians during the Gulf War? Will Henry Kissinger be grabbed and tried for bombing Cambodia during the Vietnam War?

Can Argentina demand the extradition of Margaret Thatcher for sinking its ships during her war over the Falklands? How about arresting Queen Elizabeth II for past British crimes against the Irish?

Will Bill Clinton be arrested and charged with "intentionally launching an attack in the knowledge that

such attack will cause incidental loss of life or injury to civilians . . . clearly excessive in relation to the concrete and direct overall military advantage anticipated"? That's a fair description of his attack on Sudan's pharmaceutical factory last summer, and it's one of the "war crimes" listed in the ICC Statute.

All Americans are entitled to our Bill of Rights due process guarantees, such as a speedy and public trial by an impartial jury in the state and district where the crime is alleged to have been committed, the privileges against self-incrimination, double jeopardy, and ex post facto laws, and the writ of habeas corpus.

The ICC should be soundly rejected because it would dangerously interfere with the constitutional rights guaranteed to every American, and it would threaten the ability of the United States to defend our national security by military action. Meanwhile, President Clinton should denounce the outrageous action of the British in kidnapping a friendly former head of state and threatening to turn him over to an activist judge in Spain who is doing the bidding of the Marxists.