

ACTION WHA-00

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 FM AMEMBASSY MEXICO
 TO SECSTATE WASHDC 4310
 INFO ALL US CONSULATES IN MEXICO COLLECTIVE

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E.O. 12958: N/A
 TAGS: PHUM, PREL, PGOV, MX
 SUBJECT: MEXICO: COURT RULES FORMER PRESIDENT ECHEVERRIA
 MAY BE PROSECUTED FOR GENOCIDE

REF: MEXICO 294 AND PREVIOUS

1. On its third try dealing with the issue, the Mexican Supreme Court ruled in a 3-2 vote June 15 that the 30-year statute of limitations was still running for former President Luis Echeverria and his Secretary of Government Mario Moya, charged with genocide for their role in 1971 student murders. Since both these officials enjoyed immunity from prosecution until 1976, the Court determined that the statute of limitations should be calculated from that date rather than the date of the events themselves. The Court ruled that the statute of limitations had run out for 11 other officials charged with involvement in the crime. They referred to a lower court the issue of whether or not the 1971 killings did in fact constitute genocide, and what role Echeverria may have played.

2. Special Prosecutor Ignacio Carrillo Prieto applauded the ruling, which he stated also opens the door to charges against Echeverria for his role in 1968 killings as well (although it also closes the door to prosecutions against anyone who didn't benefit from immunity at the time). He would press for arrest warrants as soon as possible, he told press. Family members of those killed in 1971 expressed regret that lower-ranking officials would be spared prosecution. PRI leaders claimed the decision was politically timed to tarnish the party's image weeks before July 3 state elections in Mexico and Nayarit (the PRI leads

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both contests). Legal experts expressed doubt that Carrillo Prieto can convince a lower court that either of the two incidents constitute genocide (reftel). A second constraint is that the statute of limitations will run out for the two accused at the end of 2006 -- a challenge for Mexico's slow moving judicial system.

3. Comment: The ruling undeniably gives a strong boost to the years-long effort to elucidate the crimes in Mexico's past. Prosecution on charges of genocide would be unprecedented for the crimes under review, and the issue of whether or not genocide took place may well go back to the Supreme Court, since Carrillo Prieto is certain to appeal a negative finding by a lower court. Mexican law reportedly prohibits preventive detention of anyone over 70 -- Echeverria is 86. He won't go behind bars unless and until he is found guilty, and the clock may run out first.

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