

Move to reform international law on commercial disputes

Apratim Mukarji
New Delhi, November 24

INTERNATIONAL LAW is being strengthened to stop nation-states from hiding behind their jurisdictional immunity in commercial disputes with the private sector.

In a ^{25/11} ~~drafted~~ move to rework international law, constituents of a federal state will also be prevented from exploiting the jurisdictional immunity in disputes over commercial transactions with the private sector unless their identity is clearly defined in accordance with the draft law being debated.

Both developments will have significant impact on the Indian Government and the private sector, the definition of and criteria for commercial transactions between states and private enterprises and the definition, criteria and procedure for constituent

units of federal states in commercial transactions.

Both issues in essence deal with the jurisdictional immunity of nation-states and determine its role in the commercial transactions with the private sector.

Right now, the United Nations General Assembly (UNGA) is seized of both matters based on a draft agreement prepared by the International Law Commission. If there is adequate understanding among the member-states, Jurisdictional Immunities of States and Their Property may be subjected for the first time to clearly defined law before long, benefiting international trade and economic relations significantly.

Since India is both a federal state and one, which is deeply involved in industrialising the country through joint ventures with private entities, indigenous and foreign,

the new laws in the offing will be of enormous importance to it. There will be similar consequences for the Indian corporate sector, which is moving into joint ventures.

Secretary General of the Asian African Legal Consultative Committee (AALCC), which is playing a major role in enriching international law, Ambassador Dr Wafik L. Kamil told *The Hindustan Times*, "Once these become laws, the states will no longer be able to hide behind their jurisdictional immunity over disputes concerning their commercial transactions with the private sector."

Similarly, once the constituents of a federal state (such as Rajasthan) are clearly defined, the criteria for doing so are established and the relevant procedure laid down, any future dispute between such a constituent and a private party can be settled under international law.

THE HINDUSTAN TIMES

THE HINDUSTAN TIMES

25 NOV 2000

Pakistan
vs
India
TOP-13

India & Pak. before the ICJ

By B. P. Jeevan Reddy

A FEW days after the Kargil war, a Pakistani air force plane, an Al-lanque, was shot down by Indian forces on the border in the Kutch region. Pakistan claimed that it was shot down while flying within its own territory. India said it was shot down when it intruded into Indian airspace. Pakistan made a claim of \$60.2 million against India for wrongfully shooting down the plane and for the loss of the lives of 15 naval trainees said to be on the plane. When India denied its liability, Pakistan filed an application before the International Court of Justice (ICJ) at the Hague. India raised a preliminary objection as to the jurisdiction of the ICJ to entertain the dispute on the ground that while filing a declaration under Article 36 of the Statute of the ICJ on September 13, 1974, it had specifically made a reservation whereunder any dispute with any other country which was, or had been, a member of the Commonwealth shall not be within the jurisdiction of the ICJ. Both the parties agreed that this objection shall be heard as a preliminary issue.

According to paragraph 3 of Article 31 of the Statute of the ICJ, "if the Court includes upon the Bench no judge of the nationality of the parties, each of these parties may proceed to choose a judge as provided in paragraph 2 of this Article". Under this Article, Pakistan nominated Mr. Sharifuddin Perzadah and India nominated me. Pakistan's case was that (a) the reservation made by India (while filing its declaration of acceptance of compulsory jurisdiction of the ICJ under paragraph two of Article 36 of the Statute) was void being outside the "conditions" permitted by paragraph 3 of Article 36. Para 3 permits a country accepting the compulsory jurisdiction of the ICJ to attach "conditions" of only two types, namely, reciprocity and duration. Since the reservation made by India (commonly referred to as the 'Commonwealth Reservation') did not fall within any of those conditions, Pakistan submitted, it was void. Pakistan also submitted that the said reservation, being directed exclusively against it, was discriminatory, abu-

sive and arbitrary; (b) in 1928, the League of Nations had brought about a treaty known as the General Act (Pacific Settlement of Disputes). The Act provided for conciliation, arbitration and judicial termination of disputes arising between member-nations by the then Permanent Court of International Justice (PCIJ). In 1931, British-India had filed a declaration acceding to the General Act but with a reservation that any dispute between members of the Commonwealth shall not be within the purview of the PCIJ. Pakistan submitted that since it and India were

or governed by paragraph 3 of Article 36, it pointed out that the jurisdiction of the ICJ depended upon the consent of the states and that while expressing their consent (by filing declarations under Article 36), it was open to the country to attach such reservations as it thought appropriate. In particular, India relied upon a recent decision of the ICJ in the case of Spain versus Canada rendered in 1998. With reference to (b), India disputed Pakistan's assertion that it was a successor to British-India or that on that ground it became a part to General Act of

categorised as discriminatory or abusive; (b) in view of the fact that India has denounced the General Act of 1928 in its communication dated September 13, 1974, as contemplated by Article 45 of the General Act, India was no longer bound by the General Act. In this view of the matter, the Court did not express any opinion on the other submissions raised by Pakistan under this head; (c) the Court held that neither the U.N. Charter nor the Shimla Agreement nor the customary international law can be said to confer jurisdiction upon the Court to entertain Pakistan's Application. Accordingly, the Court concluded that the ICJ had no jurisdiction to entertain the application filed by Pakistan.

The Court then said that the fact that the ICJ had no jurisdiction to entertain or adjudicate upon the said dispute did not mean that the parties were not under an obligation to settle their dispute peacefully as required by the U.N. Charter (Article 33 read with Article 2). The Court also referred to the Shimla Agreement whereunder both the countries had undertaken to resolve all their disputes by holding bilateral discussions or by such other peaceful methods as may be agreed upon by them. The Court also referred to the Lahore Declaration affirming the Shimla Agreement. The Court accordingly reminded both the parties of the obligation undertaken by them to settle their disputes, and in particular the dispute in question, by peaceful means.

In my separate opinion, I referred to a recital in the Lahore Declaration whereunder both parties had reiterated their determination to fight the menace of terrorism by all means and observed that the said recital was not without a purpose. Both the countries, I observed, should create an atmosphere in which meaningful negotiations can take place for resolution of outstanding disputes between them. The element of 'good faith' referred to in Article 2 of the U.N. Charter was also stressed by me.

(The writer is Chairman, Law Commission of India).

The International Court of Justice has reminded India and Pakistan of the obligation undertaken by them to settle disputes by peaceful means.

1928. It also disputed the proposition that the Commonwealth Reservation had become obsolete and outdated. In particular, India relied upon its denunciation of the General Act made by it on September 13, 1974. With respect to (c), India denied that the ICJ had the jurisdiction to entertain Pakistan's application either under the U.N. Charter or under the customary international law.

After the conclusion of the arguments, all the Judges decided that they shall meet and deliberate upon the matter for two days, April 17 and 18, 2000. According to the practice of the ICJ, the judgment is read by the President and not by the members of the drafting committee. Separate opinions and dissenting opinions are not even read or pronounced in Court. Of course, these are also made available immediately along with the Court judgment on the same day. They are also put on the internet.

The final judgment was pronounced on June 21, 2000. The Court held (a) that the right to append reservations outside the purview of paragraph 3 of Article 36 was well-accepted and well-established and therefore the Commonwealth Reservation contained in India's declaration made on September 13, 1974, was not invalid. The said reservation cannot also be

successor-states to British-India, they were bound by the said declaration, which though made in favour of the PCIJ endures to the benefit of the ICJ by virtue of Article 37 of the Statute of the ICJ. At the same, it submitted that the Commonwealth Reservation contained in the 1931 declaration had become obsolete and outdated. It submitted that the said reservation was made in the light of the then prevailing opinion that disputes between the Commonwealth nations should be resolved within the Commonwealth, by creating an appropriate dispute resolution mechanism. No such mechanism was created and hence the reservation fails; (c) even apart from the reservation filed by India under Article 36 of the Statute in 1974 and the declaration filed by British-India in 1931, the ICJ had jurisdiction to decide the disputes arising between the member-countries by virtue of the several Articles in the U.N. Charter read with the Shimla Agreement and also under the customary international law.

India disputed the validity of all these. With respect to (a), India pointed out with reference a catena of decisions of PCIJ/ICJ that the power of a country filing a declaration of acceptance of compulsory jurisdiction under Article 36 of the Statute to append reservations was not restricted

THE HINDU

4 AUG 2000

Annan letter to Gaddafi sparks controversy

REUTERS

UNHQ, Aug. 26. — The UN Secretary General, Mr Kofi Annan, has released a letter written to the Libyan leader, Mr Muammar Gaddafi in February last year assuring him that the Lockerbie trial would not be used to undermine his government, angering families of the victims of the plane crash.

The letter, which was not made public at the time, says: "No attempt will be made to undermine the Libyan regime" based on the information obtained from the two suspects.

The letter dated 17 February was made public by British and US officials yesterday after the defence team for the two Libyans, on trial in the Netherlands since 3 May, sought its release as it detailed terms of a trial under Scottish law.

The letter led to Libya handing over the two suspects for trial by Scottish judges in the 1988 bombing of a Pan Am 103 flight which crashed over Lockerbie, Scotland.

It has made the victims' relatives angry, who claimed that the letter offered a cosy deal to Libya as it limited investigation to the two suspects.

UN officials yesterday explained that the UN had merely acted as a mediator between the parties concerned.

THE STATESMAN

27 AUG 200

Pinochet ruling ignites sparks in Chile

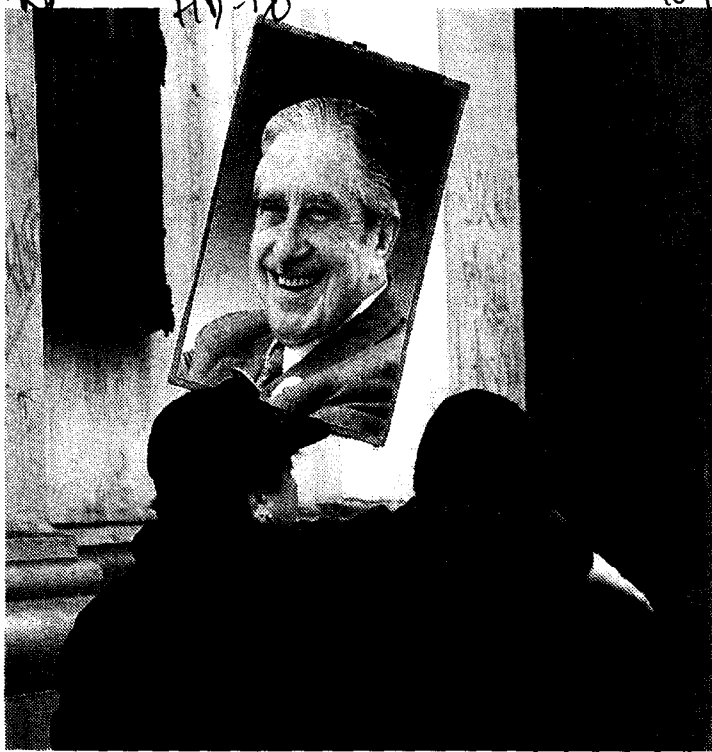
SANTIAGO (CHILE), AUG. 9. The Chilean Supreme Court issued its ruling on Tuesday to divest Gen. Augusto Pinochet of his senatorial immunity, removing a giant legal hurdle to charging the former dictator with involvement in the kidnapping, torture and murder of thousands of people during his 17-year rule.

The announcement, widely expected, was greeted here with the uncorking of bottles of champagne by hundreds of cheering demonstrators, who waved black-and-white photographs of their dead or missing loved ones. It also provoked some thinly veiled sniping between the President, Mr. Ricardo Lagos — the first Socialist to govern Chile since the Pinochet coup overthrew the President, Mr. Salvador Allende, in 1973 — and the army commander, who strongly defended the former dictator's place in history.

Gen. Pinochet is still a long way from serving time in prison, or even being tried. Conservative lawmakers said they would introduce legislation exempting him from facing a trial because of his health. He has diabetes and circulatory problems and has had three recent strokes. His family also takes the position that he should not stand trial because of these illnesses. The family said on Tuesday that it would fight a legal battle to prevent Gen. Pinochet (84), from being examined to determine whether he is mentally fit to stand trial, which the family considers humiliating.

Because of his status as a retired general, Pinochet has the right to choose the location of his interrogation by prosecutors. That privilege could allow him to specify that his questioning take place within a military building in an attempt to pit the armed forces against the government.

Nevertheless, Tuesday's decision was more than symbolic in



Supporters of Gen. Augusto Pinochet carry his poster and comfort each other as they leave the Supreme Court building in Santiago, Chile on Tuesday. — AP

importance because it would likely lead to the prosecution of dozens of other retired military and police officers for the executions and disappearances of more than 3,000 people.

The decision not only stripped Gen. Pinochet of his immunity but it also ratified a new legal doctrine that considers anyone who disappeared during the dictatorship and has not been found to be a kidnapping victim. Since the kidnapping would be considered still in progress, as the new legal interpretation goes, it could not be covered by an amnesty decreed while Gen. Pinochet was still in power. The amnesty granted immunity for political crimes committed during the early years

of his government.

The judge, Mr. Juan Guzman, who is serving as the prosecutor, has based his case against Gen. Pinochet on the workings of a death squad led by aides close to him in the first months after the 1973 coup. The death squad has been held responsible for the disappearance of scores of people, 19 of whom are still missing and therefore are considered kidnapping victims.

Tuesday's decision provoked a bitter polemic between Mr. Lagos and Gen. Ricardo Izurieta. Since he replaced Gen. Pinochet as commander in chief of the army in early 1998, Gen. Izurieta has attempted both to coexist with two civilian Presidents and to keep

right-wing elements at bay.

Gen. Izurieta visited Gen. Pinochet at his home on the outskirts of Santiago shortly after the decision was announced on Tuesday, saying, "The Chilean army wanted to express its support at this difficult time." When asked if his visit had the government's approval, he shot back, "As commander-in-chief, I do what I have to do." Without mentioning Gen. Izurieta by name or criticising his visit, Mr. Lagos went on television and clearly responded to the General's remarks, saying, "The command of our country rests on what I decide."

In recent days, top military commanders had warned that a ruling against Gen. Pinochet could inhibit military officials from coming forward with information about those who had disappeared — something the military pledged earlier this year that it would do. But on Tuesday, Gen. Izurieta said the armed forces would comply with its promise.

Gen. Pinochet's lawyers and other supporters contended that the court decision was totally political because, they said, everyone knew that the people who had disappeared were dead and that many could not ever be found because their bodies had been dumped into the ocean.

"It's an absurd decision based on a falsehood," said Sen. Jorge Martinez Bush, a conservative ally of the former dictator. "This is a judicial fiction that will freeze the relationship between the civilian leadership and the military." The 14-6 Supreme Court vote upholding a lower court ruling was more one-sided than the tally was reported to be a week ago, when the outcome of the secret deliberations of the country's highest court was reported in some detail in the local press. — *New York Times*

1018

10 AUG 2000

Out of Court

By accepting the Indian plea in the case of the Pakistani Atlantique aircraft which was shot down last year by the IAF, the International Court of Justice at the Hague has unequivocally ruled that it had no jurisdiction in the matter. Fourteen out of 16 judges, voted for the verdict; the Pakistani and Jordanian judges dissented. The judgment shows that the Indian plea was valid and that Pakistan was ill-advised to move the court. Without giving a judgment on the merits of the case, whether the shooting down of the aircraft was justified, the ICJ has made it amply clear that it cannot entertain such litigation. When India accepted the compulsory jurisdiction of the court, it had entered a caveat that it was excluding from the court's jurisdiction all disputes with the states which were members of the Commonwealth. The charter of the ICJ permits nations to specify the category of cases in respect of which they submit themselves to its jurisdiction. A nation can also withdraw from the jurisdiction of the court. The US did so, following an adverse verdict in respect of the alleged mining of the Nicaraguan coastal waters by the CIA. The present verdict shows that Pakistan made a serious mistake in taking the case to the ICJ without doing adequate homework on the subject of the court's jurisdiction. This is typical of Islamabad's misplaced confidence in its ability to obfuscate issues. Perhaps this arrogance arises from the ease with which the Muslim League secured partition and of the initial support Pakistan got from western powers on the Kashmir dispute which India had taken to the UN by India for peaceful adjudication.

While conceding the fundamental distinction between the acceptance by a state of the court's jurisdiction and the compatibility of particular acts with international law, the ICJ has emphasised the obligation of states to settle their disputes by peaceful means. Strangely enough, Pakistan cited the Shimla pact and the Lahore declaration — which emphasise the imperative of peaceful settlement of disputes — to invoke the ICJ's jurisdiction in the Atlantique case. This was highly cynical, as the present ruling establishment in Pakistan has been deriding both these documents. In fact, the Kargil invasion was a blatant violation of both the Shimla pact and Lahore declaration. Flying the Atlantique surveillance aircraft within the 10 km belt of the international border was a grave provocation and a clear violation of the confidence building measures agreed to between the two countries. Having started with the basic untruth of denying its role in the Kargil invasion, Pakistan cannot tell the truth to its own people even now, though Mr Nawaz Sharif has started spilling the beans. Islamabad's permissiveness with regard to cross-border terrorism has been internationally recognised; the US president has warned Pakistan of international isolation if it did not mend its ways. The ICJ verdict should make the people of Pakistan question the wisdom and sagacity of their rulers. While the court verdict is not a legal and diplomatic victory for India — as some sections of our media have suggested — the technical judgment exposes the lack of Pakistani understanding of international law as applicable to the ICJ.

THE TIMES OF INDIA

23 JUN 2001

Hague throws out Pak plea on Atlantique

HT Correspondent
New Delhi, June 21

9 hour
HFI

22/6

THE INTERNATIONAL Court of Justice (ICJ), Hague, today upheld India's submission that it had no jurisdiction to adjudicate the dispute raised by Pakistan with India over the shooting down of a Pakistani Navy Atlantique aircraft in the Kutch region on August 10 last year. Fourteen of the 16 judges voted in India's favour while two others, a Jordanian and a Pakistani, dissented.

The Court's president, Mr Gilbert Guillaume of France, found the ICJ could not entertain the application filed by Pakistan on September 21. He summed up that lack of jurisdiction however does not relieve the two countries of their duty to settle their disputes by peaceful means.

"As regards India and Pakistan that obligation was restated more particularly in the Shimla Accord of July 1972 and the Lahore Declaration of February 1999."

India has welcomed the ruling, saying it "vindicated" her stand. The spokesman of the ministry of External Affairs said India had sought to address all outstanding disputes through peaceful, bilateral discussions through the composite dialogue process. "India calls on Pakistan to create the proper envi-

The story so far

- **Aug. 10, 1999:** Atlantique aircraft of Pakistan Navy shot down in Kutch area.
- **Sept. 11:** Pakistan files case in ICJ.
- **Nov. 2:** India files objection.
- **Nov. 10:** Court agrees to determine the question of jurisdiction before proceeding on merits of case
- **April 3-6, 2000:** Hearings conducted
- **June 21:** Judgement in India's favour rules ICJ has no jurisdiction.

ronment for such a dialogue through cessation of cross border terrorism and the abandonment of hostile propaganda".

The ICJ opened the case on April 3 and its hearings, which lasted a week, addressed exclusively the issue of its jurisdiction to deal with the dispute. There was no comment on the merits of the cases of either party.

While Pakistan contended that the Atlantique aircraft was on a routine training mission within its air space, India countered it was on a military mission and had intruded into Indian territory. After repeated signals from IAF aircraft urging it to land on a des-

ignated airstrip, it was shot down with air-to-air missiles resulting in the death of 16 personnel.

Judge Al-Khasawneh of Jordan and ad hoc judge Syed Prizada of Pakistan gave dissenting judgements. Judges Shigeur Oda of Japan, Abdul Koroma of Sierra Leone and ad hoc judge B.P.Jeevan Reddy of India appended separate opinions backing the judgement.

The ICJ is the UN's principal judicial organ. Its verdict is final, without appeal and should one of the parties fail to comply with it, the other can have recourse to the UN Security Council.

But this option is not available for Pakistan now as the case was not admitted. Also irrelevant now is the Pakistani claim for damages totalling \$ 60.2 million. The announcement has proved a damper for the heavy media build up in Pakistan on the eve of the judgement.

Attorney General Soli Sorabjee, who fought the case, said he was happy over the verdict. "The court has accepted all our contentions. The Pakistani contention was based on various other provisions like the General Act, the Simla Agreement and the fact that India has accepted the compulsory jurisdiction of WTO and Law of the Sea convention, thereby negating the Court's jurisdiction".

THE HINDUSTAN TIMES

22 JUN 2000

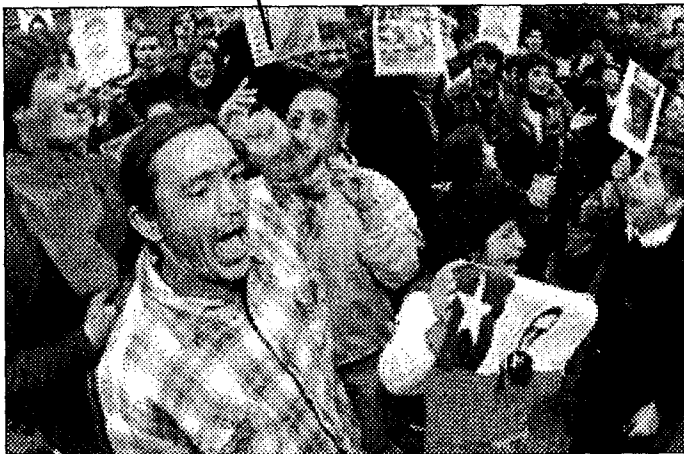
Chilean court strips Pinochet of immunity from prosecution

AGENCE FRANCE PRESSE
SANTIAGO, JUNE 6

A CHILEAN appeals court stripped Augusto Pinochet of his parliamentary immunity on Monday in a victory for Chileans seeking to put him on trial for crimes against humanity. Some 3,000 Chileans disappeared or were murdered during Pinochet's iron-fisted 17-year dictatorship from September 1973.

Efforts to call him to account for the deaths and disappearances have so far failed and Pinochet has denied any wrongdoing. "The lifting of his immunity was decided by a vote of 13 to nine," Ruben Ballesteros, chief judge of the appellate court, told reporters at the Palace of Justice. Lawyers for Pinochet have said they intend to appeal to the Supreme Court which could take until mid-July to rule.

Chileans opposed to Pinochet were seen dancing in the streets here when the decision was announced, shouting "to prison, to prison." In New York, human right group Human Rights Watch said the "wall of immunity" protecting Pinochet had been torn down. The ruling was welcomed by those who had opposed the dictator or lost loved ones during the Pinochet years. "The ruling lifting his immu-



People celebrate after a Chilean appellate court stripped former dictator Pinochet of his immunity from prosecution on Monday in Santiago - AFP

nity is historic," said Viviani Diaz, president of a foundation representing families of missing or detained persons blamed on the Pinochet regime.

Pinochet, 84, had enjoyed parliamentary immunity since March 1998 when he stepped down as commander-in-chief of the military and became a senator for life, a post affording immunity under Chile's Constitution.

The appeals judges were ruling on a petition filed in March by Chilean judge Juan Guzman Tapia, who is investigating the allegations against Pinochet. He petitioned the court in connection with

one specific case concerning a military unit dubbed the "Caravan of Death."

The "caravan" is blamed for the extra-judicial murders of 74 political prisoners who were removed from jails across the country in October 1973, one month after Pinochet took power.

Guzman says he has clear evidence linking Pinochet to the disappearance of 19 of the death squad victims. Lawyers for Pinochet argue that no such evidence exist and contend that their client is guilty of no wrongdoing. The lawyers also insist that Pinochet is too ill to stand trial.

INDIAN EXPRESS

INDIAN EXPRESS

7 JUN 9 1998

Lockerbie trial to begin

AGENCE FRANCE-PRESSE

SR9 115
LONDON, April 30. — After more than 11 years of grief, anger and tangled diplomacy, two Libyans face trial this week for the bombing of Pan Am Flight 103 above Lockerbie, the worst mass murder in British legal history.

It was early in the evening of 21 December, 1988, when the Boeing 747, en route from London to New York, was ripped apart by a mid-air explosion. The 259 passengers and crew were killed as well as 11 more people on the ground as the blast sent down a rain of debris on the small

Scottish town of Lockerbie.

On Wednesday, Abdel-Basset Ali Al-Megrahi and Al-Amin Khalifa Fahima will go to court, charged with planting the device in a radio cassette recorder that brought down the plane.

Uniquely, the court is in neutral territory. Camp Zeist, a former military base in the Netherlands, will be under Scottish sovereignty for the duration of the trial, which will follow the Scottish law. Three Scottish judges, headed by Lord Ranald Sutherland, will oversee the case — there is no jury — and if the two men are convicted, they will be in Scottish jail.

THE STATESMAN

1 MAY 2000

Lockerbie defendants plead innocent

CAMP ZEIST (Netherlands), May 3. — Two alleged Libyan intelligence agents pleaded innocent at the opening of their trial today on charges of blowing up Pan Am Flight 103 over Lockerbie, Scotland, in 1988, claiming Palestinian terrorists were responsible. *9/10*

The defence alleged that other terrorist organisations, including a Syrian-based Palestinian group, set the bomb that killed 270 people in the world's worst act of air terrorism. *57-9*

The plea came minutes after Scottish High Court judge, Lord Ranald Sutherland, opened the proceedings against defendants Abdel Basset Ali al-Megrahi and Lamem Khalifa Fhimah, who surrendered for trial last year after nearly a decade of sanctions against Libya. *415*

If convicted of murder or endangering the safety of a commercial aircraft, al-Megrahi and Fhimah face a mandatory life sentence in prison.

The defence statement named Mohd Abu Talb, a Palestinian lifer in Sweden for earlier bombings in Denmark and the Netherlands, as one of 10 other alleged conspirators.

The defence also said the Popular Front for the Liberation of Palestine was behind the Lockerbie bombing. — AP

THE STATESMAN

- 4 MAY 2006

- 4 MAY 2006

India-U.A.E. extradition treaty comes into effect

DUBAI: The extradition treaty signed between India and the United Arab Emirates (UAE) came into force on Monday with the exchange of the instrument of ratification between the two countries.

The exchange took place at the U.A.E. ministry of foreign affairs. The "process verbale" for the exchange were signed by Saif Saeed Saed, under secretary in the U.A.E. ministry of foreign affairs, and K.C. Singh, Indian ambassador to the U.A.E.

The two sides also exchanged instruments ratifying two other accords signed between the two countries—treaty on mutual legal assistance in criminal matters and treaty on juridical and judicial cooperation in civil and commercial matters, an Indian embassy spokesman said.

The three agreements were signed between the two countries in New Delhi on October 25 last year during U.A.E. minister for justice, Islamic affairs and awqaf Minister Mohammed Nakhira Al Dhahiri's visit to India.

The extradition treaty provides a legal framework for seeking extradition of terrorists, economic offenders and other criminals from the U.A.E. With its coming into force, the treaty is expected to pave the way for expeditious disposal of a number of pending cases between the two countries.

Under its provisions, the two countries shall extradite any person found in their respective countries, accused or convicted of an extraditable offence.

It will also have retrospective effect and the extradition will be possible irrespective of whether the crime was committed before or after the entry into force of the treaty. (UNI)

THE TIMES OF INDIA

30 MAY 2000

19-12

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20/9

FISHERMEN'S TRAVAILS

THE PROLONGED AGONY which the 19 Tamil Nadu fishermen have suffered for 14 months before they were happily brought home highlight the hazards to which this intrepid sea-faring breed is very often exposed and about which very little is known to the rest of the country. While this is not the first time that fishermen had drifted far away from their shores because of turbulent weather, one could not recall an earlier occasion when they were held captive and subjected to ill-treatment as in the present case in another country like Iran. It is, however, comforting to know that Pakistan extended humanitarian treatment to the fishermen soon after they were released on to the Pakistani shores.

The narration by the fishermen of the events they had run into soon after they left Saudi Arabia — where they had gone in search of "greener pastures" — should, among other things, throw some light upon the heartlessness which those in the lower rungs of bureaucracy resort to while handling situations of helplessness in which a group of people from another country find themselves for no fault of theirs as in the present case. The fishermen whose boats were washed up by the current into Iran's territorial waters must have lived through a nightmare when they were herded into a cell already having more than 240 prisoners and without standing space. This would remain burnt into their memory. Incidentally, the prevalence of such a state of affairs in which there could be such a dreadful packing of such a large number of prisoners more than two centuries after the horror of the Black Hole of Calcutta is a chilling commentary on how unregenerate officialdom still remains in a few countries. The fishermen were, therefore, not exaggerating when they called their homecoming a "resurrection" since

it was like getting another lease of life after a harrowing 14 months.

Among the issues highlighted by the fishermen's ordeal is the one hinging upon whether international maritime agreements should not provide for the quick rescue of seafarers when they are driven adrift by choppy winds on the seas. If they are stranded at sea, they can count upon the Indian Navy to rush to their rescue. The 19 Tamil Nadu fishermen were not so lucky as they were driven to the shores of Iran far away from India. The tendency of the petty officials to resort to harsh treatment seems to manifest itself more quickly when they find that those who find themselves in the kind of predicament like the fishermen whom they should have looked after were poor and their own Government did not come to their relief as quickly as it should have. There have been many instances of fishermen — mostly from the developing countries — getting lost in the sea during stormy weather. Their Governments should respond immediately when their fishermen run into such bad luck. There is absolutely no excuse for the Government in India to have remained so very inactive for as long as 14 months.

In the present case, the fishermen did not perhaps anticipate that their boats would run into rough weather. This hardy breed is, however, known to have often ignored warnings from the Meteorological Department against sailing during turbulent weather presumably because the fishermen depend very heavily on the sea for their livelihood. The fishing fraternity is making a big contribution to the country's economy with its marine catch very often with their seemingly frail but sturdy catamarans. Such daredevilry, however romantic it may seem, should, however, be firmly resisted when bad weather makes it dangerously foolhardy.

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26 APR 2000

UN made secret Lockerbie deal with Libya'

51-9
985

DEUTSCHE PRESSE AGENTUR

LONDON, May 7. — Families of American crash victims have been told that the UN has struck a secret deal with Colonel Moymar Gaddafi, guaranteeing that his regime will not be harmed by the Lockerbie trial, said a British report today.

Secretary-General Mr Kofi Annan has written to the leader, promising that "the conduct of the trial shall not undermine the Libyan government," the *Sunday Telegraph* reported.

The paper cited relatives who were read extracts by US officials last year.

The families have since been denied copies of the letter, or of an annexe believed to have been written by the American and British governments, on the grounds that they are now classified as secret.

A similar request by Congress was rejected and the UN has also refused to release the documents.

Relatives told the paper it is inconceivable that if the two accused are guilty of planting the bomb that destroyed Pan Am flight 103, they did so without higher

approval.

But they fear that the agreement with Mr Gaddafi, which persuaded him to send the suspects for trial in a Scottish court, precludes investigation and questioning which might implicate more senior Libyan officials.

Mrs Stephanie Bernstein, a leading member of the group Justice for Pan Am 103 and whose husband Michael was killed, told a Senate hearing last week: "Prosecutors have told family members it is unlikely that any evidence which could be used to pursue those higher up the chain of command will come out at the trial."

Some families think that Washington wants to reopen relations with Libya — which it believes is beginning to turn its back on terrorism — in an attempt to ensure that US oil companies do not lose out.

Suspensions of a deal with Libya were heightened last week when Mr Gaddafi said in a television interview: "By and large, the responsibility as far as this matter is concerned is an individual one."

The court is sitting to judge them, not whether they are Libyan agents."

THE STATESIDE

APR 2000

British minister urged to release medical records of former Chilean dictator

Court deals Pinochet blow to Straw

FROM MARA D. BELLABY

London, Feb. 15 (AP) - The High Court today ordered the release of a medical report that found former Chilean dictator Gen. Augusto Pinochet mentally unfit to stand trial, ruling that Britain's top law enforcement official erred in blocking it.

A three-judge panel said home secretary Jack Straw should disclose the contents of the report "under conditions of strict confidentiality" to the four countries seeking the 84-year-old general's extradition.

Straw has said the report — the result of an independent medical examination performed last month — leaves him inclined to allow Pinochet to return home, rather than ordering the general extradited to Spain to face trial on human rights charges.

In addition to Spain, Belgium, France and Switzerland are seeking Pinochet's extradition, but only Belgium was involved in the legal fight to view the report.

The High Court rejected Straw's argument that disclosing the medical results would violate Pinochet's rights to patient confidentiality. "The governing interest is the public interest in operating a procedure which would be perceived and accepted by the great majority to be fair," Lord Justice Simon Brown said. "That is the imperative, and in my judgment it outweighs any contrary private interest."

Straw's attorney, Jonathan Sumption, said the report would be given to the four countries immediately. He said they would have until February 22 to file comments on it, whereupon Straw would rule in short order.

Pinochet is accused of using torture to silence and intimidate Left-wing opponents during his 17-year rule. An official Chilean government report says 3,197 people died or disappeared after he toppled elected Marxist President Salvador Allende in a 1973 coup.

The general, who has diabetes and suffered two small strokes last autumn, was arrested in October 1998 on a Spanish warrant while recuperating from back surgery in London. He remains under police guard at a rented mansion west of the city.

A Chilean plane is waiting outside London to take him home, but even Straw's final extradition ruling can be appealed by the parties to the case.

Spain has reiterated it would not contest any decision to release Pinochet, but the other countries — and six human rights groups

who also petitioned for the parties involved to see the medical report — had not yet indicated what they would do.

Ireland initiative

The British and Irish Prime Ministers will meet this week in hopes of preparing a new joint initiative for restoring self-government to Northern Ireland, their offices announced today.

Tomorrow's planned meeting in London between Ireland's Bertie Ahern and Britain's Tony Blair was revealed as their senior deputies discussed the prevailing crisis in Belfast. Irish foreign minister Brian Cowen said he wanted Britain to restore authority to the province's suspended administration by this weekend, and Britain's Northern Ireland Secretary, Peter Mandelson, said he shared that sense of urgency.



Pinochet: Hard times

Belgium's lawyers had argued the country was entitled to view the findings because it has requested Pinochet's extradition on behalf of citizens who say their relatives were jailed or killed in Chile.

Health cloud over Pinochet

Madrid, Feb. 16 (AP): Augusto Pinochet is suffering brain damage that affects his memory and comprehension, making him mentally unfit to stand trial, two Spanish newspapers reported today, claiming they had obtained copies of the British medical report on the former Chilean dictator.

The *ABC* and *El Mundo* dailies said report showed Pinochet suffers from a condition known as peripheral diabetic neuropathy as well as a recent and progressive cerebrovascular damage.

According to the two Spanish papers, the British doctors declare Pinochet physically fit to stand trial. But his brain has continued to deteriorate even though he has been undergoing treatment, and both his physical and mental condition is likely to worsen. *El Mundo* quoted the report as saying Pinochet's condition seriously deteriorated last September and October.

According to *ABC*, the report, said to have been signed by doctors John Grimley Evans, Michael J. Denham and Andrew J. Lees on January 6, gives four reasons as to why Pinochet is mentally unfit to stand trial.

- Memory deficiency for events in both the recent and distant past.
- Limited capacity to comprehend complex sentences and questions, owing to the loss of memory, and as a result, inability to process verbal information adequately.
- A decrease in his ability to express himself in an audible, concise and relevant way.
- Bouts of fatigue.

The papers published what they said were translations of excerpts of the text a day after England's High Court ordered British home secretary Jack Straw to hand over the medical report to Spain and three other countries seeking Pinochet's extradition.

Straw has said that on the basis of this report, compiled after a medical exam conducted last month by British doctors, he is inclined to send Pinochet home to Chile rather than to Spain for trial on human rights abuses.

Straw had rejected all calls to disclose the report, citing patient confidentiality.

In Santiago, a spokeswoman for the Pinochet Foundation, a group of the former dictator's supporters and former aides, said it was "horrible" that the report had been made public.

"This shows once again a lack of responsibility from those who received it, a lack of ethics and respect," Monica Wehrhahn said. The Spanish dailies did not say how they obtained copies of the report. But a source close to the Spanish judge seeking Pinochet's extradition claimed to have been told that both the Chilean and Spanish governments had leaked the report because it appeared to

favour both governments' argument that Pinochet should be released.

A Chilean newspaper, *La Tercera*, said on its Web site that the Chilean government had provided it with excerpts of the doctors' report. But in its printed edition, *La Tercera* omitted any mention of having received the report from the government, and cited only the Spanish newspapers.

Pinochet, 84, is appealing an extradition request issued by Spanish Judge Baltasar Garzon, who wants him to stand trial for human rights abuses committed during the general's 1973-1990 dictatorship.

An official Chilean government report says 3,197 people died or disappeared after Pinochet ousted elected Marxist president Salvador Allende.

Pinochet was arrested in October 1998 on a Spanish warrant while recuperating from back surgery in a London hospital.

Pinochet in labyrinth

LIBERALS ALL over the world will feel a glow of grim satisfaction at the predicament that Chile's Augusto Pinochet now finds himself in. In the years following his 1973 coup, the General inflicted untold misery on thousands of hapless dissidents and human rights activists. Torture was an everyday affair. Death squads would pick up people in the middle of the night, take them to an undisclosed location and shoot them. Enemies of the regime who lived in exile — such as the eminent economist Orlando Letelier who was in America — were hunted down and murdered. Chile's greatest folk singer Victor Jara was brutally done to death by the General's troops. Those who protested had electric shocks administered to their genitals. And so on.

The General ceded power, and after a new government was installed, visited the United Kingdom. While there, he was arrested on the basis of a Spanish warrant in a case involving the murder of a Spanish citizen in Chile during the General's regime. Since then, his supporters have waged a battle to prevent the UK from extraditing him to Spain to face trial. Under the law, the UK has no real right to refuse to extradite him, so the General is hoping the courts will rule that he is medically unfit to stand trial. Till that happens, he cannot leave the UK and lives in expensive exile from his own country in a large country house. Many of his supporters say that the UK is being unfair to him. He was, they say, Mrs Thatcher's ally during the Falklands conflict. Who cares if he tortured and murdered thousands of his own people? That is not Britain's problem.

The obvious answer to the General's supporters is that murder is everybody's problem. Would the UK have had any hesitation in deporting Pol Pot? Or, for that matter, Adolf Hitler? Each year, Nazi-hunters uncover one or two elderly war criminals who are hiding in European countries. They are routinely extradited to face trial. So why should a South American mass murderer be treated any differently? As tempting as this response is, it poses many problems. Nobody seriously disputes that General Pinochet treated human rights as though they were a tiresome irrelevance. But what of those cases where the facts are less clear? Suppose a South American country were to arrest Margaret Thatcher for the human rights abuses that went on in Northern Ireland during her term in office? Suppose some Pakistani-backed Kashmiri outfit tried to get Farooq Abdullah arrested while he was in London? Or worse still, suppose it wanted Dr Abdullah extradited to Pakistan to face trial for the death of a Pakistani citizen in Kashmir? How would we react in those cases? These are legitimate fears and serious questions to which there are no easy answers. But the arrest and continuing incarceration of General Pinochet have at least served one purpose in that they have led to a debate on these issues.

THE HINDUSTAN TIMES

19 FEB 2000

Govt gives 3 ultras, gets hostages

■ Jaswant reaches Kandahar with 3 hardcore militants ■ Hostages leave for home on special flight

PRESS TRUST OF INDIA
NEW DELHI, DEC 31

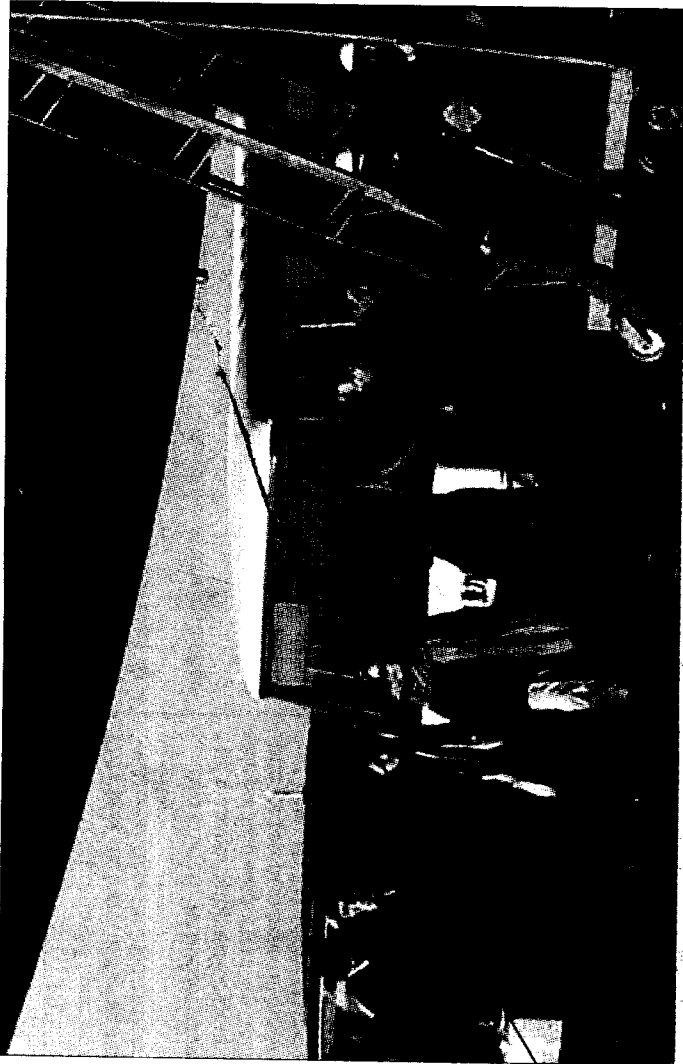
INDIA on Friday flew the Pakistani cleric Maulana Masood Azhar and two other Kashmiri militants to Kandahar in exchange for the release of 155 passengers and crew held hostage on the hijacked Indian Airlines aircraft for eight days following an agreement with the hijackers.

Announcing this, Brajesh Mishra, principal secretary to the Prime Minister, told reporters here that the hijackers had agreed to release all the hostages in exchange for the three militants who include besides Azhar, Mushtaq Ahmed Zargar and Ahmed Omar Sayed Sheikh, both hardcore militants.

The three militants in a dramatic development, were flown along with External Affairs Minister Jaswant Singh in a special aircraft to Kandahar with official sources saying some attendants would be on board.

Mishra said, "We hope by 2100 hours IST (9 pm) all the hostages would be in Delhi," ending the week-long terrifying hijack ordeal during which the plane first stopped at Amritsar and then at Lahore and at a military air base in Dubai before finally landing in Kandahar where protracted negotiations were carried out. "There has been an agreement to release all the hostages in exchange for the three militants," Mishra said.

Following the agreement Azhar, who was arrested in 1994, was brought in from Jammu Kot Balwal jail, while Zargar was flown in from Central Jail in Srinagar



Freed passengers of the IA aircraft prepare to board a minibus at Kandahar airport on Saturday — Reuters

and Sheikh was taken out of Tihar jail here. About the hijackers, who are guilty of internationally recognised crime, Mishra said, "Taliban will deal with them."

He parried a question whether Taliban authorities would give them political asylum.

Initial reports said the hijackers, who commandeered the aircraft on December 24 while it was on a flight from Kathmandu to New Delhi, wanted the release of Azhar and three other militants.

However, once formal negotiations began they stepped up their demand saying they wanted release of 35 hardcore militants besides Azhar, 200 million US dollars in ransom money and the body of

government saying these were delicately poised.

Hopes soared with the External Affairs Minister announcing this morning after a two-hour cabinet committee meeting on security at the Prime Minister's residence that he was rushing to Kandahar.

Soon after his scheduled departure Mishra confirmed the terms of the deal struck with the hijackers, who had earlier killed a passenger Rupen Katyal and set free 27 others at Dubai and another hostage at Kandahar. Meanwhile, passengers of the hijacked Indian Airlines jet have begun disembarking the aircraft after five masked hijackers got down and drove away from the airport.

10 hrs to leave
■ **KANDAHAR: HIJACKERS** of the Indian Airlines jet will not be given asylum in Afghanistan and have been given 10 hours to leave the country, External Affairs Minister Jaswant Singh said here.

a killed militant Sajjad Afghani buried in India.

They later gave up the demand for the ransom money and the body which was described by Taliban as un-Islamic but were adamant on the release of the militants. Negotiations almost broke down at 2 AM on Thursday but were resumed later in the day with

THE PRICE INDIA PAID

Mushfaq Ahmad Zargar

33-year-old Zargar, better known as Mushfaq Larami, is the fourth chief of the now defunct Al-Umar outfit. One of the five founders of the terrorist movement in Kashmir, he later parted ways to form his own group. He was involved in scores of killings, including two BSF men.



Mohammed Masood Azhar

He had come to India through Bangladesh in February 1994 on a Portuguese passport when he was apprehended. He was the "first secretary-general" of Harkat-ul-Azmat. An intelligence source for Indian intelligence, he was in a Jammu jail for the past five years.



Ahmad Omar Sayed Sheikh

A 28-year-old Harkat-ul-Ansar topgun, he is a British national of Pakistani origin. He was sent to Delhi to kidnap foreigners to secure the release of senior jailed Harkat leaders. Sheikh was arrested in October 1994 and was lodged at Tihar Jail. He was trained in Pakistan and Afghanistan.

The trade-off was endorsed this evening by the Union Cabinet which, as it buried last night's differences, seemed to have a collective sigh of relief.

(A freed hostage, Mr GK Bhatt, however opposed the release of the terrorists saying: "We would have preferred to die for the sake of the country," adds UNI.)

allows the group to seek asylum at any consulate in Kandahar — only Pakistan has a functioning consulate in the city — and if they are refused, "they have ten hours to leave Afghanistan", adds AFP quot-

ing the Taliban foreign minister from Kandahar. Mr Muttawakil said his government had sent an official with the group to ensure it left Afghan soil. ("I don't think anyone will

give them shelter or asylum in Kandahar in a consulate." (Afghanistan has borders with six countries: Pakistan, Iran, China, Tajikistan, Uzbekistan and Turkmenistan. AFP also quoted a diplomat as saying

the Taliban plans to drive the hijackers to a neighbouring country, most likely Pakistan. (But Pakistani military spokesman, Brig. Rashid Qureshi, said he doubted this — and anyway the border

authorities "should be able to stop them", adds Reuters from Islamabad.)

In Delhi, the government scrambled to defend its decision

■ See **HOSTAGES**, page 6
HOSTAGES:

(Continued from page 1)

to release the three terrorists as the Congress and Left attacked it for mishandling the crisis.

The Prime Minister, in his New Year's Eve address, cited how the government got the hijackers — who had earlier asked that 36 militants be released — to scale down their demand. He promised the battle against terrorism would continue.

His parliamentary affairs minister, Mr Pramod Mahajan, denied reports that more than three terrorists were freed, and asserted that no money had changed hands.

Both said New Delhi had from the beginning been guided by two concerns: the hostages' safety and the country's long-term overall interests. Both had been achieved in what is clearly the best deal under the circumstances, Mr Mahajan argued.

Hijackers killed comrade

REUTERS

KANDAHAR, Dec. 31. — Rupin Katyal wasn't the only one to die on IC-814 during the week-long hijack drama. The hijackers also killed one of their comrades — whose body was found lying in the cockpit — diplomats quoted freed passengers as saying today.

Why he was killed and when, however, remain unknown.

The Taliban foreign minister, Mr Abdul Wakil Muttawakil, said he had heard of the account but couldn't confirm it.

By the time the news spread, passengers who witnessed the killing had already left Kandahar after India released three Kashmiri militants to buy back their freedom.

In reply to another question, Mr Mahajan said the deal didn't include granting recognition to the Taliban regime — that has no connection with the hostage crisis.

The principal secretary to the Prime Minister, Mr Brajesh Mishra, told Doordarshan there were no hidden concessions.

It was Mr Mishra who announced the deal around 3 p.m. as Mr Jaswant Singh was boarding the flight to Kandahar.

It set off a rush to the city airport by relieved relatives, while the government moved in senior officials and large police and medical teams there.

After his return, Mr Jaswant Singh thanked the Taliban for their "constructive cooperation throughout the trying period".

He said the government had achieved its main purpose: the safe return of the hostages. It would continue its fight against terrorists.

He would take no questions but is expected to address a press conference tomorrow afternoon.

Meanwhile, a third Indian plane still stands on the Kandahar tarmac. It's being checked, officials said. Four members of the relief team have stayed back for the purpose.

Hijackers, freed trio in Taliban hands

Kandahar, December 31

THE EIGHT-day-old hijack crisis, the longest in Indian civil aviation history, ended around 5 pm here when the five hijackers left the aircraft shortly after the plane carrying External Affairs Minister Jaswant Singh and three militants landed. The hijackers and the three freed militants were driven away to an undisclosed destination by the Taliban with heavily armed vehicles in tow.

Shortly after the hijackers left, the passengers also got off the plane and were driven to the A-320 relief aircraft which had taken the 57-member Indian delegation to Kandahar.

United Nations Envoy Erik de Mul, who was involved in the efforts to secure the release of the passengers, confirmed that under

the agreement the hijackers and the three militants were handed to the Taliban authorities. He said the Taliban will deal with the militants. But Taliban officials would not say what would they do with them.

Major international television networks brought the momentous seconds almost live as they showed five armed hijackers leaving the aircraft to walk up to the car.

The sudden dash of the hijackers was followed by a suspenseful lull, as the hostages did not immediately get off the plane, giving anxious moments to Indian and Taliban

authorities.

But, as Indian, Taliban and Red Cross personnel rushed into the aircraft, the traumatised hostages, some barely able to walk, began trickling out.

Soon after Jaswant Singh got out of the aircraft with the three militants taken from Delhi, the hijackers came near the minister's car apparently to satisfy themselves about the release of the militants they had demanded.

Earlier in the de Mul expressed optimism that "the whole thing will be before dark."

He said the Taliban, the group

that rules most of Afghanistan, would make an announcement later on the hijackers and the militants.

Earlier in the day, Maulana Masood Azhar, and Mushtaq Ahmad Zargar, the three men swapped for the hostages — were flown to Delhi this afternoon.

The two militants were flown to Delhi in a special aircraft of RAW — the Indian foreign intelligence agency, this afternoon. The RAW chief A S Dullat had reached Jammu last evening. Eyewitnesses said that faces of both, rated as top militants, were covered when they boarded the special aircraft from the technical area this afternoon.

The third militant, who was lodged in Tihar jail joined the duo in Delhi before being flown to Kandahar.

(Agencies)

Hijacker killed?

HIJACKERS OF the Indian Airlines plane have killed one of their colleagues during the eight-day crisis, diplomats in Kandahar said, quoting freed passengers who witnessed the slaying. It was not immediately clear under what circumstances the hijacker was killed.

Kyodo, Kandahar

about the release of the militants they had demanded.

Earlier in the de Mul expressed optimism that "the whole thing will be before dark."

Trade-off ends hostage nation's agony

Security fears on militants' release

FROM PRANAY SHARMA

New Delhi, Dec. 31: After eight days in blindfolded captivity and three hours to go for the new millennium, the Airbus hostages today returned to India and freedom after the government yielded to the hijackers and released three of the most dreaded Kashmir terrorists, triggering fears that it had frittered away national security and dented the country's image.

The passengers' terrifying odyssey across four countries that began on Christmas eve ended this evening as the five hijackers leapt out of the plane and sped off in waiting vehicles, taking with them the three terrorists who were brought to Kandahar by foreign minister Jaswant Singh.

The hijackers killed one of their colleagues during the standoff, diplomats said quoting freed passengers who witnessed the murder. The hijacked plane will remain in Kandahar until it is certified "airworthy".

The passengers took off from Taliban land in two batches and touched down at Indira Gandhi airport just before 9 pm. As they emerged waving, a crowd applauded and cheered as the police whisked them away. "You can't understand what I have been through," said Ashok Chawla. "The hijackers were inhuman and kept on frightening us."

Some of the passengers and their relatives carried the plane's commander, D. Sharan, on their shoulders. "I knew I will do it. I did it. I did it. I did it," he said.

The dazed passengers smiled and then broke down as flowers rained on them. While some spewed venom on the "inept" government, others appeared to sympathise with their captors. Gushed Pooja Kataria, a 27-year-

old honeymooner: "I was given a shawl on the 27th. It was my birthday. The hijackers attached a note which said: 'To my true sister.'"

For a week, a traumatised nation, an anxious administration and a host of jittery relatives lived in virtual darkness waiting for the deadlock to end.

The final decision was taken at a meeting of the Cabinet Committee on Security: the foreign minister was asked to fly to Kandahar with the three terrorists — Masood Azhar, Mushtaq Ahmed Zargar and Ahmed Omar Sheikh. Britain tonight said Ahmed Omar is a UK citizen.

The Taliban, perhaps the real victor in the hijack drama, assured Singh the air pirates would not be granted asylum in Afghanistan and had been given 10 hours to go "wherever they wanted". The three militants will be in temporary Taliban custody before they are handed over to a "third country".

A released passenger indicated that the Taliban may have been hand-in-glove with the hijackers as they got more weapons in Kandahar.

The Taliban has extracted its price for playing the role of an "honest broker".

THE EXCHANGE: 160 INNOCENTS FOR TERROR TRIO

By appearing to talk tough with the hijackers, the militia regime has bought its passport out of the pariah nation status. It has also wangled from the Indians an assurance of a more meaningful relationship in the future.

Prime Minister Atal Behari Vajpayee justified the government's decision by making it clear that "the safety of the passengers" was the principal concern. "India shall not spare any effort to fight the menace of terrorism," he said. "The time has come for the world to fight terrorism and crush it. Let this be our first resolution for the new century."

But Vajpayee's address to the nation could not hide the fact that India's image as a strong country has taken a beating. The Opposition has begun baying for the government's blood, charging it with "compromising national security". An all-party meeting convened by Vajpayee turned out to be a damp squib with only the Congress and the BSP attending it.

That the government is not too upbeat became apparent in parliamentary affairs minister Pramod Mah-

jan's comments after a Cabinet meeting. "No one is happy to free militants. But it was a bargain against the lives of 160 innocent passengers," he said.

Left with few options, it is unclear what else the government could have done to end the crisis. That the government was seriously considering releasing some of the 36 militants, as denuded by the hijackers, became clear yesterday after the Taliban surrounded the Indian Airlines aircraft with armoured vehicles and rocket launchers. This ruled out any possibility of a strike by Indian commandos.

Foreign minister Jaswant Singh got in touch with his counterparts from western powers, especially the Americans.

Indications are that the final decision to release the militants was taken after a conversation between the foreign minister and US ambassador Richard Celeste.

It was agreed that Delhi should show "good sense and moderation" without conceding "triumph of terrorism" through the militants' release.

Singh, architect of the negotiations, was perhaps seeped on the insistence of the Taliban. He may have thanked the Taliban leader for ensuring that no passenger was harmed. His meeting with Taliban foreign minister W.A. Muttawakil indicates a tilt in Delhi's Afghan policy from Burhanuddin Rabbani towards the Taliban.

north, a two-day journey beyond Kabul and Herat may carry them to Central Asian republics which have shied away from this crisis. It is east where lies refugee friends and Pakistan.

If the hijackers have to beat the 10-hour deadline Qetta is the only destination. So believe they on south-eastern Pakistan. The nearest town to Kandahar is across the Pakistan border in Baluchistan. Before dawn breaks on the new millennium, this is the only place where they can celebrate their victory.

Foreign minister Jaswant Singh said in Kandahar that the Taliban administration had given the hijackers a car and 10 hours to leave the country. The Taliban obviously had the security of the air pirates in mind when it made the arrangements.

To the west of Kandahar a journey of almost a day across the mountains terrain can take them to the Shia territory of Iran where they are unwelcome. To the

east, the militants are arriving in their country. So will the Taliban which will announce to the world that all it knows is that the hijackers and militants had left the Afghan soil.

The seven-member team of Indian officials, some of whom have pursued terrorists through their careers, were perhaps the most crestfallen to see their captives leaving Kandahar airport.

FROM CHANDAN NANDY

New Delhi, Dec. 31: The hijackers are headed towards Pakistan with their booty — the three released militants.

The blue Land Rover gifted to them by the Taliban was a giveaway of their probable destination. The nearest town to Kandahar is across the Pakistan border in Baluchistan. Before dawn breaks on the new millennium, this is the only place where they can celebrate their victory.

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To east lies refuge and Pak

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QUOTE

I am happy to be back
A RELEASED PASSENGER

U.S. for prosecution of those involved in hijack

By Sridhar Krishnaswami

WASHINGTON, JAN. 1. The Clinton administration not only said it is gratified that the hijacking has been resolved without further loss of life, but has also made it clear that all those party to "the relevant international conventions on aircraft hijacking are obliged to prosecute or extradite those who committed this hijacking and the murder of Mr. (Rupin) Katyal... This should be our highest priority in the days ahead." This assurance came in the form of a statement from the Deputy Spokesperson of the State Department, Mr. James Foley.

"The release of the hostages is not the end of the matter. We will work with other Governments to see that those responsible are brought to justice..." Mr. Foley said.

The State Department once again reiterated its condemnation of the "horrific and inhuman act" but went on to make the point that the United States was gratified that the hijacking came to a close without additional loss of life. "Our sympathy goes out to the family of Mr. Katyal, the Indian national who was killed during the hijacking," the State Department has said.

The Clinton administration has also acknowledged the important role played by the United Nations and the International Committee of the Red Cross which provided "valuable humanitarian support to alleviate the plight of the hostages during this ordeal". The U.S., according to the State Department, was in close touch with the Government of India during this hijacking incident.

Impressed with Vajpayee

Saying it was impressed by the

"tireless efforts" of the Indian Prime Minister and Foreign Minister, the State Department said, "We will continue to work with India and others to strengthen our cooperation to combat international terrorism. As the Prime Minister, Mr. A. B. Vajpayee, said in his address on New Year's Eve, the battle against terrorism can be won by all nations acting together."

If the Clinton administration really means business, it will be addressing the issue of the hijackers being prosecuted or extradited in all seriousness. Media reports speak of the hijackers "slipping" into Pakistan. There has been one view that these people — including the released terrorists — would be finding their way back into Kashmir for fomenting more trouble.

The Taliban representative in New York, Mr. Abdul Hakeem, had made it clear in a conversation with *The Hindu* that at no time was there any agreement on the hijackers being allowed to stay on in Afghanistan or that they would face the local laws for the acts committed. Mr. Mujahid had made it known that the hijackers would have to "get out" of Afghanistan; there was no question of asylum.

That the hijackers' options were limited in terms of countries where they could go was obvious from the very beginning.

Diplomats and analysts point out that the BJP-led Government cannot get away from the post-mortem process which is going to be politically painful. In the first place, the monumental bungling of letting the hijacked plane leave Amritsar has not gone unnoticed overseas.

THE HINDU
- 2 JAN 2000

Monkey caps, black caps

By Harish Khare

From the airfield of Kandahar to the cricket arena of Sydney, we surrender to the rivals because we no longer seem able to summon the requisite blend of guts and gumption at the right moment and in the right proportion.

W E MAY have been constrained to bite the dust at Kandahar but we have certainly slain the enemy back home. Mr. L. K. Advani's much-touted National Security Guards may have failed to deliver at Amritsar, but the resident RSS Minister, Mr. Ananth Kumar's under-valued under-secretary has single-handedly won the battle of the Indira Gandhi Trust. Mrs. Sonia Gandhi has been ejected from the strategic heights of the chairpersonship of the Trust. A great victory has been achieved; thank god someone in this Government has his priorities right and was keeping his powder dry for use against enemies, known and suspected. The hijackers may have their monkey caps; we also have our black caps and khaki shorts, which we don, as was done the other day at the RSS *sthibir* in Gujarat.

From the airfield of Kandahar to the cricket arena of Sydney, we surrender to the rivals because we no longer seem able to summon the requisite blend of guts and gumption at the right moment and in the right proportion. This is not exactly because of a lack of institutional resourcefulness; the reason is that we are acquiring a knack for reserving the very best of our ingenuity and off-creativity for petty battles at home, and obviously are no match to rivals on neutral or hostile playing fields. We rig our own rules to fix the outcome of internal battles, and cry foul when others get the better of us in slightly less than friendly conditions; we can find an umpire who helps Anil Kumble re-write record books; we can find a political judge to put political rivals in jail; but, we feel resentful when the outside world refuses to be impressed with Mr. Advani's "evidence" against Pakistan. It can be argued that these habits of rigging ourselves were inculcated in the Congress era, but there is no justification for nursing them even when we have a self-assertively genuine non-Congress regime.

It is perhaps tempting to argue that given the poor managerial record of the Vajpayee regime the outcome of the hostage crisis could not have been any different. But it was rather uncharitable of the RSS boss, Mr. H. V. Seshadri, to blame the media,

electronic and print, for putting pressure on the Government on behalf of the hostages' relatives. This is a view shared by almost everyone in the Vajpayee dispensation. After all it was the same set of the presumably professional story-tellers who came in handy at the time of the Kargil conflict and the general elections afterwards. The cast of characters has not changed; it is the same gullibility, the same ignorance, same excitability, same elegant vacancy that proved such an asset when it was time to sell the story of martyrdom in the inhospitable Kargil terrain.

For all their presumed clarity of thought the RSS leadership has yet to realise that what was done in the times of war and martyrdom in Kargil was done earlier in the times of the epic battle for the World Cup and was later repeated in the times of the hijacking. Mass cranking up of emotions — be it cricket, Kargil or Kandahar — is the secret tradecraft of the advertiser and his co-conspirators, the allegedly fiercely independent editor and the professionally autonomous anchorman.

The process of self-inflicted corrosion is unchangeable and boringly familiar. For example, first we make "stars" of our cricketers; then invite them to become salesmen for cars, tyres, beverages, and other useful gadgets; on the basis of this acquired stardom we expect them to perform miracles in the middle of cricket arena. Our stars dazzle in the commercial "ad", and fizzle out on the field. What is worse, when our chosen heroes fail to satisfy we do not even summon indignation. It is this particular curse of commerce that every modern society has to put up with.

What is rather enigmatic is that instead of spurring talented individuals on to new ideas, competitiveness and a sense of pride, the opportunity to indulge in greed,

national purpose beyond the narrow pursuit of the CII theology. The problem with the CII agenda is that it does not dream of national glory in the finest sense of the term; there is no place for a civilisational pride; instead, the CII and the rest of the corporate voices are preoccupied with getting policy breaks for this or that doubtful "entrepreneur".

The principal side-effects of this celebration of the corner-cutting entrepreneur is the accent on survival in office at any cost; confronted with any kind of determined purposefulness — be it of a Jehadi variety or of an American supercop type — the pragmatist is invariably prone to bend at the knees. But it matters little; every act of compromise, concession and cowardice gets marketed as an act of pragmatic statesmanship. It has probably never occurred to the RSS leadership to ponder why it is that we seem to be getting rather good at producing "miss world" beauties, who bring so much satisfaction, joy and cheer in our living rooms, while Pakistan and Afghanistan are adept at producing the dare-devil "terrorists".

It is where the RSS leadership has squandered away its historic opportunity. For all its spartan pretensions and for all the rhetoric of the Swadeshi Jagran Manch, the sangh parivar has not been able to insist on honest enterprise; instead, it has allowed itself to be overwhelmed by the meretriciousness of a commercial civilisation. Perhaps the paraplegic RSS brass finds its faith in its "ideology" to be unmatched by the *jugaibandi* between the Vajpayee regime and corporate India.

The great danger in the aftermath of the Kandahar humiliation is that the frustrated sangh parivar and its managers in the Government may make up for their spiritual and political failures by trying to impart an anti-Pakistani content to Indian nationalism. This temptation comes easily to the parivar's very narrow and sectarian minds; a gullible and eager electronic media is there to lend a helping hand. But while this may garner political dividends at home, it will not help the desperately-needed definition of our collective national purpose, without which it will be difficult to win the war against terrorism.

advertisers' fees, sponsorships and other money-making tricks is producing a peculiar kind of softness and mediocrity. Cumulatively this becomes a national handicap, as became so painfully obvious in the first few hours of the hijacking. In this age of globalisation this creeping malady can have serious ramifications for the capacity of the Indian state to become the final and effective custodian of national interests and public welfare.

STATECRAFT

In this context, the RSS indictment of "Hindu cowardice" is both misplaced and misconstrued. It is plainly and absurdly misconstrued because of its racial overtones. The Kandahar standoff was not a show-down between the "Hindu" and the "Islamic" personalities; rather it was a clash between motivation, preparedness and organisational resourcefulness of a certain kind, and bureaucratic laden-footedness of another kind. What happened at Amritsar/Kandahar is a direct outcome of the impulses that have been encouraged in the last two years. The IAS/IPS *biradari* can either cowardly indulge the political masters — the Parkash Singh Badals and the Keshubhai Patels — in their petty pursuits, or engage the adversary effaciously; those who allow themselves to be trained in the art of anticipating the whims of political masters can hardly be expected to retain that extra edge needed to anticipate the terrorist's next move. This advantage is exploited every week in Jammu and Kashmir, yet we merrily keep singing the hymn of "able" leadership.

The "Hindu cowardice" indictment is also misplaced because it fails to diagnose the need for a collective — enlightened and wholesome — purpose in a nation's scheme of things. The greatest failure of the RSS leadership in the last two years has been its unwillingness to nudge the Vajpayee dispensation towards a redefinition of our

Pinochet may be allowed to return home

By Thomas Abraham

LONDON, JAN. 12. The former Chilean dictator, Gen. Augusto Pinochet, may be allowed to return to Chile due to health reasons, the British Government has announced. This will effectively end the 15-month long legal battle that Gen. Pinochet has been waging to avoid facing trial in Spain for acts of torture committed during his period in power in Chile.

The decision came after a panel of doctors examined the 84-year-old General and concluded that he was "at present unfit to stand trial, and that no change to that position can be expected." The British Home Secretary, Mr. Jack Straw, said based on the medical report, he was "minded" not to extradite Gen. Pinochet. He said before taking a final decision to release Gen. Pinochet, he would give a week for the Spanish judge, Mr. Balthazar Garzon and human rights groups such as Amnesty International, to make any representations against letting the former dictator go.

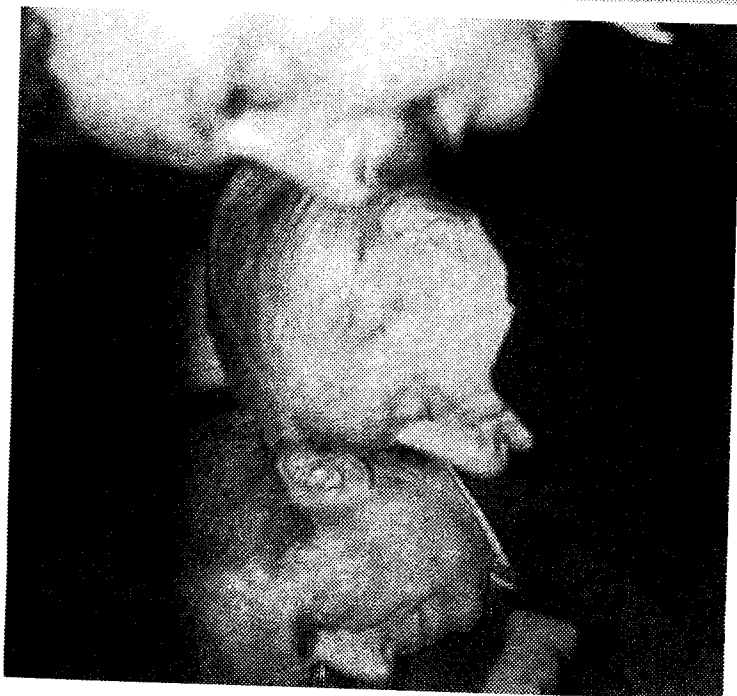
The extradition case has broken new legal ground since it is the first time that action has been taken against a former dictator. The International Convention on Torture, which allows third countries to take action against suspected torturers. While the Chilean Government, which has been campaigning for Gen. Pinochet's release, welcomed the news, human rights groups reacted angrily and demanded a judicial review of the Home Secretary's decision. "Any decision by Mr. Jack Straw to release Gen. Pinochet on health grounds should be subject to immediate

judicial review," said Ms. Helen Banber, director of the Medical Foundation for the Care of Victims of Torture.

Amnesty International said it was examining the possibility of getting Gen. Pinochet tried in Britain under the International Convention against Torture. Many Labour M.P.s, who have been campaigning to bring Gen. Pinochet to trial, also expressed their dismay. "This is monstrous. There will be a lot of concern among the public about this," said Ms. Diane Abbott, M.P. for Hackney. Another M.P. who has been a vocal opponent of Gen. Pinochet, Mr. Jeremy Corbyn, said the former leader's age should be important. "I don't think that age should be important. Nazi war criminals have been tried no matter how old they are — why not Gen. Pinochet?" He said it was likely that the Home Secretary's decision would face a legal challenge.

The Conservative party, which has supported Gen. Pinochet, welcomed the decision. Lord Lamont, a prominent member of the campaign to release the general, said "It has never been in the interests of justice that Gen. Pinochet should be tried in Europe — this has always been a matter for Chile." Mr. Gerald Howarth, another Pinochet supporter, said it had been a "despicable act" for Britain to have taken Gen. Pinochet into custody. The whole affair had been "an extraordinary fiasco from start to finish," he said.

Gen. Pinochet was arrested in London in October 1998, while on a private visit to this country. The arrest was based on an extradition order from the Spanish magist-



The former Chilean dictator, Gen. Augusto Pinochet, is flanked by aides as he leaves the Northwick Park Hospital in London last week. The British Government has found Gen. Pinochet unfit to stand trial. At right, the Home Secretary, Mr. Jack Straw, who announced the decision on Gen. Pinochet, arriving for work on Wednesday. — AP/Reuters

rate, Mr. Balthazar Garzon, who had been compiling evidence of torture, murder and illegal imprisonment during Gen. Pinochet's right-wing dictatorship in Chile. Gen. Pinochet appealed to the House of Lords twice against the extradition order but lost. A magistrate's court which heard the case ruled that Gen. Pinochet could be legally extradited.

The British Home Secretary,

who has the final authority in extradition cases, then ordered a medical examination of Gen. Pinochet, following representations from the Chilean Government that he was unfit to stand trial. The examination by a panel of independent experts, found that his physical condition had deteriorated over the last few months and ruled that he was unfit to stand trial. Gen. Pinochet has been un-

der house arrest in a mansion in Surrey, an upmarket suburb south-west of London, for most of his period in Britain.

The British Government, which saw a deterioration in its relations with Chile, would clearly like to see Gen. Pinochet leave the country. Britain will, above all, not want to have the ailing General die in this country.

Fake note traced to Pak official

HT Correspondent
New Delhi, January 13

A FAKE 500-rupee-note was detected in the fees deposited by a Pakistan High Commission official for his son's education at a South Delhi school today.

While the Anand Niketan's Mount Carmel School authorities have referred the matter to the Delhi Police along with the fake note, officials at the High Commission claimed that the note originated from the Parliament Street branch of the State Bank of India (SBI) from where the High Commission employees' salary money is obtained.

Pakistan has otherwise been identified by Indian intelligence agencies as a major source of fake Indian currency, particularly of the Rs 500 denomination. Fake Rs 500 rupee notes have also been seized by the police and other security forces in the country during the arrest of various subversives in the

country in the past.

According to the school's Vice-Principal, Mrs. Meena Williams, the official, Mr. Muzaffar Ali Khan, came to the school in the morning to deposit his son's school fees.

His son has been a student at the school for the past two years. At present, he is studying at the kindergarten level.

"We have made it a practice to scribble the name of the student on every Rs 500 note if it is paid by his or her parents as part of the school fees. Therefore, when the money reached our bank (State Bank of Patiala, Anand Niketan branch), they informed us that the note was fake. It advised us not to exchange the note but to report it to the police or destroy it," said Mrs. Williams.

The Vice-Principal, however, said that before taking any decision on the matter, she decided to call the boy's father and inform him. "He reached the school with

another man," said Mrs. Williams. "Whatever questions I posed to him, this man used to reply. I had to tell him that I wanted to speak with Mr. Khan who then informed me that the money must have come from the State Bank of India from where he got his monthly salary. He said that he would be able to prove it and that I was free to notify the police on the matter. I did so accordingly."

The High Commission's spokesperson, while reiterating the claim that the fake note has come from SBI, said: "The entire matter is a farcical attempt and is a part of a concerted campaign to malign Pakistan in the aftermath of the hijacking."

According to Joint Commissioner of Police (Southern Range) Amod Kanth, a case has been registered at the R K Puram police station under the "relevant sections of the Indian Penal Code (IPC) concerning the use of fake currency."

THE HINDUSTAN TIMES
14 JAN 2000

Lawyers run out of ammunition against Pinochet

JOANNA BALE
THE TIMES, LONDON

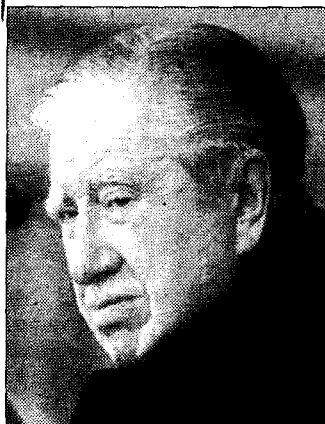
LONDON, Jan. 13. — Lawyers involved in the battle to extradite General Pinochet to Spain don't think further legal challenges to Mr Jack Straw's decision would work.

Mr Geoffrey Bindman, who represents Amnesty International, said an application for a judicial review of the home secretary's conclusions was the most likely step, but a precedent had been set that would make it unlikely to succeed.

As Mr Baltasar Garzon, the Spanish investigating judge, and other anti-Pinochet groups continue to examine their options today, Mr Bindman explained: "Last year, when Mr Straw was considering whether to authorise the beginning of the extradition process, we applied for a judicial review to stop him releasing Pinochet."

"The court dismissed the application on two grounds that it was premature, in that there had been no decision, and that the home secretary's discretion was so wide that it was really a matter for him. It is likely that the same point of view would be taken again."

Lawyers could also argue that Mr Jack Straw should have waited for the legal process to finish before intervening. General Pinochet's latest appeal, a writ of habeas corpus,



General Pinochet: homeward bound?

had been scheduled for March.

However, the chances of this succeeding are also said to be slim.

Another legal challenge could come in the form of the extradition requests lodged by France, Switzerland and Belgium, but it is likely that Mr Straw would reject these on the same grounds as the Spanish request.

The third avenue open to lawyers is prosecuting General Pinochet in Britain. Mr Bindman explained: "The attorney-general's approval would have to be obtained first and this has been refused on a number of occasions because he says there is not enough admissible evidence."

Mr Bindman added there was still hope that Mr Straw might be persuaded that the medical

evidence should not remain secret.

Spanish reaction: Spanish lawyers who have masterminded the case against General Augusto Pinochet declared yesterday that the medical report ordered by Mr Jack Straw was suspect and demanded to see it, Giles Tremlett adds from Madrid.

They claimed General Pinochet could easily have changed his own state of health in the hours and days before the check-up and demanded a second, surprise check-up be carried out and the results made public.

"There are signs that his state of health could have been altered for the medical check up," Mr Enrique Santiago, a prosecution lawyer from Spain's United Left political party, claimed.

"I imagine if you know that someone has to take neurological tests you feed him amphetamines and make sure he does not sleep for a couple of days so that the neurological report is catastrophic."

Angry anti-Pinochet demonstrators gathered yesterday at Madrid's central Puerta del Sol Square to demand that the medical report was made public.

Only a diagnosis of Alzheimer's, the lawyers suggested, would be sufficient reason to end the extradition process.

THE STATESMAN
14 JAN 2000

US to put pressure on Pak to extradite hijackers

JYOTI MALHOTRA
NEW DELHI, JAN 22

THE US is believed to have assured India that it will put pressure on Islamabad to either extradite or prosecute the hijackers of IC-814, even as Washington continued to mount efforts to arrange a "technical halt" for President Bill Clinton in Pakistan as part of his visit to South Asia.

The US assurance on the hijackers comes in the wake of the talks this week in London between External Affairs Minister Jaswant Singh and his American interlocutor, Strobe Talbott, and is aimed at assuaging some of the grief in New Delhi that Washing-

ton is "not doing enough" on the terrorism question.

But in the face of persistent efforts by Washington to give Pakistan a democratic makeover, New Delhi is now beginning to say that a Clinton trip to Pakistan might make the difference between a good and a great visit to India.

"It is not a Clinton visit, but a visit of the US President to India, the first in 23 years," the sources pointed out, adding, "But if he insists on going to Pakistan, his trip to India could become an ordinary one."

The jargon of a seven-eight hour "technical halt" for Clinton in Pakistan, possibly in a city other

than the capital, Islamabad, is now doing the rounds here. Washington, meanwhile, well aware of India's predilections on being treated on par with Islamabad, seems, nevertheless intent on persuading New Delhi that it is ready to do joint business on fighting terrorism.

In Pakistan over the last two days, US pointperson in the State Department Rick Inderfurth and his chief colleague dealing with counter-terrorism Michael Sheehan, are said to have spent significant time in asking Pakistan to deal with "religious militancy", apart from negotiating the conditions under which a possible Clinton visit could take place.

Specifically, the Americans are believed to have assured India that both Inderfurth and Sheehan will "lean on Pakistan" to give up the hijackers of IC-814.

The priority would be to extradite the hijackers to India, or failing that, to prosecute them at home under the international anti-hijacking conventions Pakistan is party to.

Islamabad will also be told to crack down on terrorist groups infiltrating into India, while Washington is also believed to have promised have a relook at the evidence of these groups involved in terrorist activities back home.

Sheehan's presence in the US delegation to Pakistan has reas-

sured New Delhi, not only because he flew directly to Islamabad after the talks in London — of which a major part was on terrorism — but because he is the only one in the US establishment who has openly named Pakistan as giving "material support" to the anti-Indian terrorist groups.

Inderfurth's Pakistan visit has, however, chiefly focussed on a possible Clinton visit there. Reports from Islamabad on Friday said three possible conditions for the visit were, a signature on the CTBT, a public commitment on the return to democracy and bringing Osama bin Laden to trial, perhaps in a third, neutral country.