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Human rights cases to be shelved under judicial reform

PP's bill to limit universal justice is aimed at appeasing Beijing Socialists first clipped judiciary's wings in 2009

El País In English (27.01.2014) - The ruling Popular Party (PP) has filed a bill in Congress aimed at further limiting the Spanish judiciary's reach in prosecuting foreigners for human rights crimes which — if passed — could result in an avalanche of dismissals of ongoing investigations, including the high-profile prosecution of top Chinese officials for rights violations in Tibet, legal experts said.

The bill, which was filed last Monday and marked as urgent, is mainly aimed at appeasing Beijing, which has shown great concern at the Spanish High Court's current inquiry into [leading Chinese Communist Party officials in the Tibet case](#).

But other cases, such as the ongoing investigation into the April 8, 2003 [alleged murder of Telecinco cameraman José Couso by US soldiers in Iraq](#), will also be shelved under the changes to the judiciary code, say legal experts.

According to the reform, judges will only be able to open investigations against a suspected human rights violator if the defendant "is Spanish or a foreigner who frequently resides in Spain," or who is currently in the country and Spanish authorities have refused to allow their extradition.

Other cases that could be dropped if the reform is passed include the investigations into the 1989 murders of Spanish Jesuit priests and their workers during the Salvadoran civil war; the clandestine CIA flights from Spanish air bases and over Spain's air space to transport Al Qaeda suspects to Guantánamo following the September 11, 2001 terrorist attacks; and the genocide against indigenous communities in Guatemala in the 1980s.

Under diplomatic pressure, the then-Socialist government of Prime Minister José Luis Rodríguez Zapatero clipped the judiciary's wings in 2009 by introducing three separate requirements for prosecution under universal jurisdiction.

Currently, the defendants presumably responsible for the crimes must be present on Spanish territory. The other requirements state that the victims must be Spanish nationals, or there must be a relevant connection with Spain.

In the case of Couso, High Court Judge Santiago Pedraz has named three US soldiers as responsible parties for his murder. Couso was shot dead when US artillery hit the Palestine Hotel in Baghdad where he and many other journalists were staying while they were covering the Iraq War.

In the Central American cases, the defendants named in the investigations are former military officers in both the Guatemalan and Salvadoran armies. But those investigations involved Spanish nationals, including the Jesuit priests, as victims. In the CIA flights, no Spanish national is thought to have been involved.
