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Uruguay to Hold Plebiscite on Impunity Law, Expatriate Vote

by LADB Staff

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Since the end of a bloody military dictatorship in 1985, Uruguayans have resolved essential aspects of the institutional life of the country through popular consultations. Along with presidential elections in October 2009, voters will say Yes or No on at least two critical issues.

A third plebiscite is on the way to being dropped, after President Tabare Vazquez halted a signature-collecting campaign through which a group of citizens were hoping to put on the ballot a constitutional amendment allowing for presidential re-election. The two issues that Uruguay's 2.5 million eligible voters will decide are establishing the right of Uruguayans residing outside the country to vote and annulling an amnesty law that conferred impunity on members of the military accused of crimes against humanity during the 1973-1985 dictatorship.

The Uruguayan Constitution provides two ways by which a law can be subject to a plebiscite: either by collecting the signatures of at least 10% of eligible voters (250,000) or through legislation approved by at least two-fifths of lawmakers.

All seven plebiscites carried out since the end of the dictatorship were convoked through the signature-gathering process. This time, the consultation on annulling the impunity law, technically called the Ley de Caducidad de la Pretension Punitiva del Estado (Law Nullifying the State's Claim to Punish Certain Crimes), will be convoked in the same way. However, for the issue of the right of Uruguayans living outside the country to vote, the governing Frente Amplio (FA) will avail itself of its parliamentary majority to call for the referendum through a two-fifths vote in the legislature.

In both cases, the proponents of a Yes vote are the parties of the FA coalition and the social organizations that back them unions and their only federation, the Plenario Intersindical de Trabajadores-Convencion Nacional Trabajadores (PIT-CNT), the high school and university students federations, the union of cooperatives, human rights organizations, neighborhood associations, and dozens of groups of Uruguayan citizens living abroad. Those backing a No vote are the four opposition parties: the Partido Blanco (PB or Nacional), the Partido Colorado (PC), and the tiny Partido Independiente (PI) and Union Civica del Uruguay (UCU).

The Catholic Church, not a heavy hitter in a country that established separation of church and state in the 19th century, and the dozens of evangelical and Pentecostal churches, which have seen accelerated growth in recent years, have not taken public positions so far. However, pastors of the historic Protestant churches mostly Methodists and Waldensians have generally advocated for a Yes vote in both consultations.

Cause of citizens abroad on ballot

In August 2005, four months after being elected to head the first progressive government in the history of the country, President Vazquez sent Congress a bill to establish voting by mail a longtime cause of the Uruguayan left through a system similar to that in effect in Italy and Spain and countries with a long democratic tradition, like France.

The bill died without even being debated. To approve it would have required support of two-thirds of lawmakers, meaning that six opposition deputies would have had to vote with the governing party and against their own parties. Both Blancos and Colorados contend that those who left the country have no right to elect its leaders because, as presidential precandidates Jorge Larranaga (Blanco) and Pedro Bordaberry (Colorado) said, the political or economic exiles who have not been able to return to the country "would not suffer the consequences of whatever the government that they helped elect did. They come and go, but we stay here and end up being the ones to pay."

For supporters of the right of those living abroad to vote, other criteria are more important. Secretary-general of the Partido Socialista del Uruguay (PSU) Eduardo Fernandez said that in modern democracies this right is clearly enshrined. In Italy, he said, since the 2006 elections, residents in the exterior and their children can not only vote for a party but can elect deputies and senators who represent them. In Rio de la Plata, he said, the Italians, their children, and grandchildren can vote for legislators who take to Congress the mandate of residents in both countries.

For FA Deputy Edgardo Ortuno, the only black in the Uruguayan Congress, the vote promotes "the full integration of those who had to leave and today send their remittances here so that their families can live in dignity." And he asked, "Are political and economic exiles good enough to send money home but not good enough to elect those who govern the country?" According to Fernandez and Ortuno, preventing exiles from voting would be equivalent to punishing them again. "They had to leave, the first punishment, and now we condemn them anew by preventing them from voting," said Ortuno.

Denying them the vote seems absurd, they say, especially considering that Article 78 of the Constitution even guarantees that right to foreigners who have resided in the country for 15 years. Blancos and Colorados believe that the immense majority of Uruguayan exiles the "patria peregrina [migrant country]," are FA supporters. And they are not mistaken. In 2004, Vazquez was elected thanks to the votes of 30,000 Uruguayan residents in Argentina who crossed the Rio de la Plata to support the progressive candidate. They are convinced that, if vote-by-mail or consular vote (ballots mailed in or deposited in urns in embassies and consulates) is approved, the FA will continue winning elections.

Two surveys taken in the exterior one by the German Konrad Adenauer Foundation and the other quoted by the daily La Republica from the British publication The Economist put Uruguay, together with Costa Rica, among the countries that make up the world's advanced democracies. And Uruguayan Ministry of Foreign Relations figures indicate that 700,000 nationals reside in the exterior, a startling number because it is almost 21% of the 3.5 million people who live within the

borders. In some way, the fear of the Blancos and Colorados is well-founded because the great majority of people living abroad are exiles and their families. It is estimated that some 330,000 Uruguayans live along Argentina's border with Uruguay, while another 40,000 live in Australia. Those are the two largest colonies of Uruguayans in the exterior.

Ending impunity

The consultation regarding the impunity law has the same opponents. The vote is on annulment, not repeal, because, legally, annulling a law means that it never existed and repealing it simply means that it is no longer in effect. While the FA supports the proposal, it does not do so enthusiastically because President Vazquez opposes it. The president believes that the amnesty law allows legal action in some cases. The text was approved in 1986 as a result of a compromise between the Partido Colorado and the military when the country was still under dictatorship.

Besides granting impunity to those who imposed state terrorism and were the authors of the worst crimes against humanity, it established an intolerable interference of the executive power in the affairs of the judicial branch. Breaking with the principle of independence of the branches of government, the law says that the president must determine which cases benefit from the law and which not. Thus, Vazquez has designated various cases as outside the benefit of the law, and, in the last two years, about twenty military officers were tried, and 11 were extradited to Chile and Argentina.

In addition, former dictators Juan Maria Bordaberry and Gregorio Alvarez are in prison. The law was approved in 1986 after the military refused to appear to testify in the legal investigations. This led legislators to formulate the compromise assumed by the Partido Colorado before the country returned to constitutional rule. On that occasion, FA deputies and senators opposed the law, as did the same organizations that today are promoting its annulment, and they gathered the necessary signatures to call a plebiscite on whether to keep the law.

The consultation took place in 1989, amid a campaign in which the Blancos and Colorados repeatedly told the public that, if the No won, the military would carry out a new coup. The Yes won, and the law stayed in effect. There is still no clear awareness among the general population of the extent of human rights violations committed during the 12 years of de facto government. Today, in jailing and extraditing so many military, the judiciary has proved that the defenders of the dictatorship no longer have the power that they once had.

Moreover, new evidence has emerged of assassinations, disappearances of people thrown into the sea or buried in military installations, newborn babies stolen, state-terrorism practices coordinated with the regimes in power at the time in Argentina, Brazil, Chile, and Paraguay. Citizens were unaware of much of this when the law was ratified in that first plebiscite in the post-dictatorship period. Various polls say that now, with these new elements on the table, Uruguayans are ready to annul the law.

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