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Region Continues Facing Up To Its Past

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Brazil, Chile, and Uruguay, three South American countries that have been reluctant to investigate and try perpetrators of crimes against humanity committed during their respective military dictatorships, began the 2011 judicial year with auspicious rulings that finally envision the possibility of knowing the truth of what happened and having those who kidnapped, tortured, killed, and disappeared people pay for their crimes.

While a team of anthropologists and geophysicists began the search for the remains of guerrillas buried in 1966 in a São Paulo, Brazil, cemetery under a sign reading "NN" (nomen nescio, name unknown), President Dilma Rousseff instructed the ample legislative majority that she enjoys to vote to create a truth commission (comissão da verdade), which would gather information making it possible to disclose the participation of the Brazilian military in Plan Condor, the coordinated repression of dissidents by Southern Cone military regimes (NotiSur, July 7, 2000), (June 1, 2001), and (June 19, 2009).

In Chile, it is the Corte Suprema de Justicia (CSJ) that has assigned a judge to investigate 726 crimes occurring between 1973 and 1990, among them the death of former President Salvador Allende, who died in the Palacio de La Moneda, the government palace, on Sept. 11, 1973, during the coup that toppled his Unidad Popular government.

On Feb. 7, in Uruguay, 20 Army officers accused in the kidnapping and disappearance of a municipal legislator and union leader began their court appearances.

As backdrop, Argentina continues leading by example in matters of human rights policies. In 2010 alone, 107 repressors were sentenced, most to life in prison or 25 years.

After two decades, Brazil agrees to examine crimes

"The Brazilian state has to recover its dignity regarding the disappearances and deaths, but as [President Rousseff] said, it is not a matter of vengeance. Creating the Comissão da Verdade does not imply a vengeful attitude; we are promoting it convinced that, at present, no institution in the country is against democracy. Today the armed forces are part of the consolidation of democracy," the new Brazilian Minister of Human Rights Maria do Rosário told the daily Tiempo Argentino on Jan. 4.

Brazil is the only country in the region where, after the military planned its exit from power—including by enacting an amnesty law—none of those responsible for crimes against humanity was ever tried. Although only partial data is available, estimates are that 400 people were murdered or disappeared in the 21 years of military rule (1964-1985).

The questionable law by which the military "pardoned" itself was ratified in 2010 by the Supremo Tribunal Militar (STM), which then President Luiz Inácio Lula da Silva interpreted to mean "the amnesty was total and unconditional." That interpretation went against a 2009 Inter-American
Commission on Human Rights (IACHR) ruling that condemned Brazil on the grounds that supporting the law violated international humanitarian treaties.

In December 2009, the armed forces high command had threatened to resign en masse and unleash institutional chaos if a law was passed that could lead to opening investigations into their actions. Following do Rosário's recent announcement, the military made no threats.

Days later, on Feb. 14, in an interview with Italian news agency ANSA, do Rosário said that the state would investigate the role the military played in Plan Condor, a repressive agreement signed in 1975 by the dictatorships of Argentina, Brazil, Chile, Paraguay, and Uruguay.

"It is essential to clarify the circumstances of the multistate terrorist plan and make public the connections among the South American dictatorships in the macabre program of detentions, tortures, assassinations, and disappearances of people. The joint actions of the Southern Cone de facto regimes must become known to Brazilians, Argentines, Chileans, Paraguayans, and Uruguayans. The entire continent should act together and in solidarity in building democracy and seeking truth and justice," said the minister.

In the ANSA interview, do Rosário said that "all countries should emulate Argentina's human rights policy," and that, during Rousseff’s visit to Buenos Aires, both countries agreed to collaborate to investigate two central incidents in the coordinated repression: the 1974 disappearance in Brazil of Argentine Ernesto Gurría, which happened before Plan Condor was implemented, and the 1976 murder in Argentina of former Brazilian President João Goulart (1961-1964). Do Rosário said the agreement was an example of democracies coordinating.

Chilean judiciary takes the lead

In Chile, two decades after dictator Gen. Augusto Pinochet (1973-1990) turned the government over to civilians, the judiciary, on its own initiative, filed 726 complaints for crimes against humanity between 1973 and 1990. The action seeks to open court cases in all instances in which, despite the time elapsed, no legal investigation has been carried out.

The measure, adopted amid mounting criticism of President Sebastián Piñera's human rights policies, was promoted by the CSJ and includes just one-fourth of the assassinations or disappearances registered during the 17-year dictatorship.

The denunciations by victims' relatives also tarnish the four successive Concertación Democrática presidents (Patricio Alywin, 1990-1994; Eduardo Frei Ruiz-Tagle 1994-2000; Ricardo Lagos, 2000-2006; and Michelle Bachelet, 2006-2010), who at no time made decisions indicating a search for truth and justice.

In late 2010, victims' relatives complained that the Piñera government was holding up at least 60 complaints against human rights violators. "This is, in the end, a fundamental moment; after 20 years the judiciary is setting an example in contrast with decisions by Piñera, who is destroying the scant institutionality constructed in the area of human rights," said Lorena Pizarro, president of the Agrupación de Familiares de Detenidos Desaparecidos (AFDD).

Pizarro, daughter of a militant socialist who disappeared in 1973, said that, in mid-January, Piñera had quit calling for the imprisonment of the four murderers of singer Víctor Jara, who was shot 44
times. So far, the only person held responsible for killing the emblematic composer and singer is a former conscript.

Pizarro said that, besides halting and impeding the legal actions, in December 2010 the president fired all the lawyers in the office that handles cases "especially illustrative of military barbarity."

The Ministerio del Interior's Programa de Derechos Humanos says that, in Chile, where some 3,000 people were murdered or disappeared during the dictatorship, only a few who participated in the repression are in prison. Of the 100 former military and police found guilty in the past three years, only 22 are in jail. The rest were convicted but never served their sentences, after their lawyers asked for the charges to be dismissed. When the court's decision to open the 726 cases that included the Allende's death was made public, the government made no official comment.

 Uruguay's impunity law found unconstitutional

In Uruguay, all the cases for human rights violations during the 1973-1985 dictatorship continue at an impasse because of a law commonly known as the impunity law, which covers the military but not the civilians who served that regime. Under that law, military personnel can only be tried if their crimes were committed outside the country. And for cases involving civilians, a prior express authorization from the president is required.

Because the law violates all international humanitarian agreements, the IACHR suggested that Uruguay annul it. The Corte Suprema de Justicia (CSJ) declared it unconstitutional because it allows the executive to intervene in an area reserved for the judiciary. But the unconstitutionality applies to each case submitted to the high court for consideration.

One such case is the disappearance and assassination of laborer Horacio Gelós Bonilla, for which the 20 responsible officers from a military base on the outskirts of the exclusive Atlantic resort city of Punta del Este have begun to appear before a judge. The Gelós Bonilla case is the third in which the court has proceeded in that way.

While the Senate is rushing to resume debate on annulling the law—the lower house has already done so—and a team of anthropologists is excavating in search of disappeared on a military base in the capital Montevideo, the court has received three other motions of unconstitutionality. The road ahead appears to lead, finally, to the annulment of a law that violates the independence of the branches of government and international law.

While Brazil, Chile, and Uruguay are on the road to a definitive search for the truth, in Argentina—where more than 300 repressors are already in jail, including members of the military juntas—evidence is being gathered in 24 megacases involving nearly 600 former military and police, including one that is fundamental for Southern Cone countries. That case is the extermination camp known as Automotores Orletti, the Argentine center of Plan Condor, where political militants from the three countries as well as Paraguayans and Bolivians were detained before being disappeared.

On Jan. 13, the court had ordered 49 naval officers returned to jail after having been illegally released in the port city of Bahía Blanca. In this instance, a judge who served during the years of the dictatorship will, for the first time, be fired by the Consejo de la Magistratura. Moreover, journalist Joaquín Morales Solá, the leading columnist for the influential conservative daily La Nación, was called to testify as an accused, for allegedly having acted as an informant to incriminate colleagues during the dictatorship.
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