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Argentina Shifts Human Rights Focus to Civilian Collaborators of Dictatorship

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Argentina has expanded its policy of punishing those who violated human rights during the 1976-1983 dictatorship by stepping up efforts to try civilians who facilitated the state terrorism of which the military were the visible face. Amid ongoing trials that have already sent to prison almost 300 high-ranking officials of the three branches of the military and hundreds of other military and police, dozens of cases are now in process in which the accused are judges, former judges, legislators, prosecutors, and a multitude of small, medium-sized, and above all large national and multinational businesses. Such businesses not only negotiated with the dictatorship and benefited from measures that cost the state more than US$17 billion, but they were also at the forefront of mounting the complex infrastructure that the dictatorship needed to murder thousands of opponents, cause the disappearance of 30,000 people, appropriate and change the identify of almost 600 children, and send into exile an entire generation of youth.

In this phase that favored almost the entire business class, the principal defendant is former economy minister Domingo Felipe Cavallo, a central figure in Argentine politics during the last three decades (NotiSur, Feb. 1, 2002). He, the civilians who assisted him when he was president of the Banco Central de la República Argentina (BCRA) from 1981-1983, and the large businesses that made use of an "exchange-rate insurance" should have to answer to the Argentine state for the US $17.2 billion stolen from the treasury.

This is an unprecedented shift. Until now, throughout the world as well as in Argentina, when dictatorship is mentioned, the reference is always to the military. At most, but almost as a formality, a "civilian-military regime" has been acknowledged.

Argentina, which has developed a policy recognized as a model worldwide, has had few cases of civilians tired and convicted for participating in acts of state terrorism. Although the judiciary was absolutely subservient to the military, only one judge is in prison. He is Víctor Brusa, sentenced in 2009 to 21 years in prison for being present at 38 interrogations under torture and personally torturing eight prisoners with beatings and electric shocks (NotiSur, July 1, 2011).

Although hundreds of civilians served as ministers or high officials in the dictatorship, only former economy minister José Alfredo Martínez de Hoz was tried and has been jailed since 2010. Although various cases are still in process, Martínez de Hoz went to jail for the kidnapping and disappearance of businessmen Federico and Miguel Gutheim, as well as for extorting the Gutheim families for their businesses and property.

Although even Pío Laghi, the apostolic nuncio from 1976 to 1980, is under investigation in various cases, only one member of the Catholic clergy is in prison. He is former chaplain Christian von Wernich, detained since 2003 and condemned to life in prison for 42 kidnappings, 31 cases of torture, and seven of felony murder (NotiSur, Nov. 2, 2007).
Complicit judges now held accountable

On Aug. 25, judges Otilio Romano, Luis Miret, and Martín Pereyra González were relieved of their duties. The day before, and with the complicity of another judge, Romano fled to Chile, where the administration of President Sebastián Piñera gave him political asylum. The three are being prosecuted for "unlawful imprisonment, torture, and covering up crimes against humanity," according to the charges presented on Nov. 14, when the Consejo de la Magistratura opened the trial against Romano.

From late August to mid-November, the Romano case opened the door throughout the country for initiating investigations of another 55 judges, former judges, lawmakers, and prosecutors. In recent years, denunciations of magistrates' complicity with state terrorism began to come out spontaneously in the trials of the military repressors. Romano, for example, rejected 619 habeas corpus petitions the same day they were filed without examining any of them.

"The case against Romano is shedding light on the judiciary's deficiencies in investigating crimes against humanity involving its members. There are civil servants who, although not implicated [in events of] that era, either because of laziness or ideology have not risen to the occasion and are not acting correctly. They are civil servants who, objectively, impede the progress of the trials," said Pablo Parenti, coordinator of the Unidad Fiscal de Coordinación y Seguimiento de las Causas por Violaciones a los Derechos Humanos. "It is not easy to go after the corporations, it implies breaking a barrier of invulnerabilities, of protection. At first, it was very difficult to go against the armed forces. Now, there are other barriers in going against the judges and business people; it is the corporate reaction. It's clear that self-cleansing does not exist in the corporations; it's difficult to break their almost mafioso codes."

Courts examine nationalization of private foreign debt

But what promises to have unexpected consequences began last Sept. 16, when the judiciary "invited" the Procuración del Tesoro to represent the state in the legal proceedings regarding the nationalization of Argentina's private foreign debt in 1982, when the dictatorship was entering its final phase and Cavallo decided to transfer US$17.2 billion in private business liabilities to the state. The judge said those businesses "benefitted progressively, first with the regimen of exchange-rate insurance that the Banco Central introduced in 1981 and then with the initiation of the nationalization of private debt in September 1982."

The communication presented to the Procuración points out that "it is suing the corresponding actors for damages." In other words, those who allowed the Argentine foreign debt to jump from US$7.8 billion in 1976 to US$45.1 billion in 1983 must respond with their assets.

At the top of the list were Cavallo and Martínez de Hoz. The businesses include many top-level multinationals such as automobile companies Mercedes Benz and Renault, food companies Cargill and Molinos Río de la Plata, oil firm Pérez Companc, almost all foreign banks, cement company Loma Negra (recently acquired by Brazil's Camargo Correa), and steel company Acindar. The Argentine companies implicated include Grupo Macri, owned by Mauricio Macri, head of the Buenos Aires city government.

The Fiscalía's ruling is a synthesis of the economic history of the country during the years of the dictatorship. It will not be easy to recover the money or see that those responsible pay for what they
have done with that transfer of debt that continues to impact the lives of every Argentine. "The investigation has a significance and a symbolism that transcends the particular interests of those of us who are used to the legal environment," wrote the prosecutor.

The investigation found 8,562 debtors who liquidated their liabilities, transferring them to the state, in three groups, based on the amount of their debt. The first group of 19 businesses represented 37% of the total (some US$6.4 billion); the second group of 495 companies represented 43% and transferred US$7.5 billion in debt; and the third comprised 8,048 businesses (20%) with debts of US $3.25 billion. "Private companies borrowed knowing that the Argentine state would support them and assume their millions of dollars in debts. And it did so by nationalizing private debt," said the opinion of the Fiscalía.

The Fiscalía also described the five types of fraudulent indebtedness that it detected in its investigations: 1) through financial engineering, "the state and the business shared all the debt"; 2) "self-loans" through which, "to obtain or renew a foreign loan, the businesses would have to make a fixed-term deposit in the same creditor bank" and the state was then left with that debt; 3) "loans related to investment projects that were not carried out, also guaranteed by the exchange-rate insurance"; 4) "capital contributions disguised as financial loans guaranteed by the exchange-rate insurance"; and 5) "overbilling and inflating debt."

Given the complexity of the cases already in process, and knowing that the businesses have hired the leading law firms to represent them, the Secretaría de Derechos Humanos de la Nación, the judiciary, and the Comisión Nacional de Valores (CNV) signed a cooperation and information-sharing agreement. The CNV is the state agency in charge of "ensuring transparency in the stock market and correct stock pricing, as well as protecting investors."

The CNV is also one of the plaintiffs in a case that is undoubtedly the most emblematic of civilian and business complicity with state terrorism: the appropriation of Papel Prensa, the only Argentina newsprint factory (NotiSur, Oct. 1, 2010). In that case, the two largest media groups that have a near monopoly on the dissemination of information are accused—the publishing houses of dailies Clarín and La Nación.

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