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Policy Shift Benefits Argentina’s Human Rights Violators

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The new government of Argentina, in power since December 2015 and headed by President Mauricio Macri, is revisiting the country’s much-lauded approach to human rights cases and introducing changes that benefit the presumed perpetrators of such crimes.

Judges, lawyers, and human rights organizations say that after a decade of prioritizing “memory, truth and justice,” the hallmark principles of the previous administration’s human rights policy, courts are now being pressured by the government to freeze legal proceedings against military officials, police, business people, church leaders, and others accused of planning or executing crimes against humanity during the civil-military dictatorship of 1976-1983.

There is also a push, they say, to allow people over 70 who have been convicted for right abuses to serve house arrest rather than stay in jail. In the first six months of this year, 53 people convicted of crimes ranging from kidnapping to torture, murder, forced disappearance, and stealing babies born into captivity were released from jail and allowed to return to their homes.

On its website, the Procuraduría de Crímenes contra la Humanidad, an ombudsman’s office focused on human rights and officially linked to the Supreme Court, warned of a slow-down in legal proceedings regarding dictatorship-era crimes. It noted that in the first half of the year, for example, courts handed down just nine sentences and scheduled only nine new cases to go forward. The information, presented July 26 and based on data from the country’s various federal prosecutors, notes that of the 2,436 people formally accused of human rights violations, only 43.5% are jailed. Of the rest, 16% have died, 2% are on the lam and 38.5% are free.

“The most evident consequence of these delays is the death of the parties involved, namely the victims, their family members, and the accused. They sometimes pass away over the course of a case that drags on interminably,” the ombudsman’s office said.

Getting off easy

Two legal professionals—a judge and a prosecutor who spoke to reporters on condition of anonymity—identified the secretary of justice, Santiago Otamendi, as the person responsible for pressuring the courts to offer automatic house arrest to jailed human rights offenders over 70. The whistleblowers also claim, according to the daily Página 12, that in meetings held in the country’s various judicial districts, Otamendi justified the move as a cost issue.

“An inmate costs the state US$330 per month, while an electronic bracelet only costs US$400 and lasts forever,” he reportedly said. The two basic conditions for people placed under house arrest are that they not leave their homes, and that they wear an electronic tracking device.

Economics aside, Macri has long argued that the memory, truth, and justice policy “is nothing more than a means of revenge for the people who lost the dirty war that was unleashed in the country.” When referring to Argentina’s dictatorship years, the president always uses the term “dirty war” as opposed to “state terrorism” to explain the widespread rights abuses that took place.
Among those now benefiting from house arrest are two of the people most representative of the state terrorism that took place: Eduardo Cabanillas, a former general, and Miguel Osvaldo Etchecolatz, once a high-ranking police officer. The former was responsible for a notorious detention center used as part of Operation Condor, a coordinated campaign of systematic repression by the dictatorships of the Southern Cone. Some 400 citizens of Uruguay, Chile, Brazil, Paraguay, and Bolivia were held in the detention center until their deaths of disappearances (NotiSur, July 7, 2000, July 13, 2001, and June 19, 2009). Cabanillas was convicted and sentenced to life imprisonment in April 2011. The justice system found him to be directly involved in five murders, 29 instances of unlawful detention, 60 cases of torment, 65 abductions, and an indeterminate number of disappearances and criminal appropriation of babies. After five years in a special jail, he now lives in a mansion in a gated community outside Buenos Aires, the Argentine capital.

Etchecolatz was convicted six times—and given five life sentences—for crimes against humanity (NotiSur, Sept. 29, 2006). Under his leadership, authorities operated 21 concentration camps in the province of Buenos Aires. Some 10,000 people, almost all of them murdered or disappeared, are believed to have passed though the camps. And yet, Etchecolatz also enjoys the benefit of house arrest.

**Pulling the plug**

“When Macri calls state terrorism a ‘dirty war,’ it’s not just a rhetorical thing. There’s an empirical correlation to it,” a group of prosecuting attorneys involved in human rights cases argued in a document issued Aug. 12 at the close of a national gathering of lawyers. The attorneys were referring, in this case, to controversial comments Macri made to journalist Carla Zabludovsky of the US website BuzzFeed. Besides downplaying the state’s responsibility during the tragic years of the dictatorship, he also referred in a disrespectful way to the disappeared.

“I have no idea if there were 9,000 or 30,000 [disappeared], nor of they’re the ones recorded on a wall,” he said in reference to a memorial site that was erected on the banks of La Plata River and has drawn visitors from across the world, including US President Barack Obama, who went there during a trip to Buenos Aires in March.

The attorneys also noted in their document that since Macri’s arrival to power, there has been a total or partial dismantling of various government units that had been investigating the state’s role in dictatorship-era crimes and supplying evidence for use in legal proceedings. One example, they said, is what happened to the Security Ministry’s human rights department (Dirección de Derechos Humanos), which laid off 16 of its 33 researchers and pulled the proverbial plug, as a result, on the Grupo Especial de Relevamiento y Análisis Documental, a specialized team that studied government archives and assisted prosecutors on cases regarding the involvement of state security forces in human rights crimes.

The prosecuting attorneys said that something similar took place with the so-called Truth and Justice Program implemented by the government of Macri’s predecessor, President Cristina Fernández de Kirchner (2007-2015) (NotiSur, April 18, 2014). The program was designed to coordinate executive-branch involvement in investigations of crimes committed between 1976 and 1983. The lawyers also highlighted a development in Congress, where a special bicameral committee that had been set up to investigate economic and financial complicity with the dictatorship “ceased to function because of a boycott by lawmakers allied with the government.”
Three other episodes highlight the new government’s policy shift with regards to human rights. First, the Justice Ministry closed down Infojus, a news agency covering information about legal procedures against people implicated in acts of repression. Second, the Central Bank dissolved its Subgerencia de Promoción de los Derechos Humanos, a special unit created in 2014 to investigate economic crimes committed during the dictatorship.

The third change of note was a government decision to overturn a Defense Ministry resolution that had, since 2013, barred military officials jailed for crimes against humanity from receiving treatment in the country’s select military hospitals. The resolution required them instead to use hospitals operated by the prison system. The Defense Ministry instituted the measure after a pair of former intelligence officers—Gustavo de Marchi and Jorge Olivera—took advantage of their stay in the Hospital Militar Central, one of the aforementioned military hospitals, to escape.

Tough on immigration

A separate and equally indicative sign of the country’s rapid shift to the right (NotiSur July 29, 2016) came Aug. 19, when the government announced plans to create Argentina’s first immigration jail, supposedly to “combat illegal migration.” Observers see the announcement as a clear shift toward criminalizing immigration, even though Justice Ministry statistics offer no evidence that immigrants—people coming in through the borders with Uruguay, Chile, Bolivia, Paraguay, and Brazil, or arriving from Peru, Ecuador, Colombia, or various African countries—are pushing up the country’s crime levels.

Diego Morales, an expert with the Buenos Aires-based organization Centro de Estudios Legales y Sociales, explained in an interview with Página 12 how Argentina—with legislation that was approved in 2010 and hailed worldwide as a model—had previously moved away from a “combat” approach to immigration. The law allows migrants to be detained only in specific situations, and always as a last resort—once a deportation order has been issued and after the state has given the foreigner an opportunity to get his or her papers in order. The Macri government has now reinterpreted the legislation, he explained, by expanding the list of situations under which a person can be held and deported. “These are things that aren’t included in the law,” Morales said.

In response to the decision, a group of more than 3,000 academics, social activists and migrants have signed a petition (posted on the change.org website) called “No to the creation in Argentina of detention centers for migrants.” The document argues that Argentina “has gone from a paradigm of practices centered around human rights to one based on the state’s right to expel people, one that sees migration as a problem of national security and public order.”

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