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Signs of ‘Lawfare’ in Uruguay as President Faces Court Inquiry

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The historically harmonious relationship between Uruguay’s three branches of government is being put to the test, strangely enough, by a minor incident involving a brief appearance by President Tabaré Vázquez at an end-of-year party in the club of the governing Frente Amplio (Broad Front, FA) coalition.

Vázquez has done his best to contain the controversy and yet finds himself at odds with Uruguay’s top court, the Suprema Corte de Justicia (SCJ), which characterized an off-the-cuff remark he made at the FA gathering as a violation of the constitutional imperative that bars current heads of state from engaging in “electoral proselytizing.”

Three months earlier, the SCJ had delivered another surprise when it ruled that the statute of limitations should apply in a case involving crimes against humanity. In doing so—by treating the case as if it were a common criminal matter—the high court ignored international human rights jurisprudence to which the country and the Vázquez administration, by extension, subscribe.

The principal beneficiary of the judicial ruling is José Gavazzo, a former army colonel implicated in hundreds of cases of abduction, disappearance, torture, and/or murder of Uruguayan and Argentine citizens in the 1970s, when both countries were run by civic-military dictatorships.

For some observers, the president’s suddenly complicated relationship with the high court mirrors developments in a number of other countries.

“Does this mean that Uruguay is experiencing its first case of the unscrupulous practice of lawfare?” journalist Leandro Grille asked. The term “lawfare” refers to abusive, politically motivated application of the law. Argentine attorney Luis Kon calls it a “modern tool” that “uses judges and prosecutors who’ve been manipulated by the powers that be and are backed by an enormous media machine to invent legal cases that can then be used to discredit and pursue opposition or grassroots leaders” ([NotiSur, Feb. 9, 2018](#)).

On Dec. 26—a month before a court in his country would uphold a corruption conviction, sentencing him to 12 years in prison—former Brazilian president Luiz Inácio Lula da Silva (2003-2011) also commented on this practice. Its victims, he said, include former Honduran leader Manuel Zelaya (2006-2009), who was deposed in 2009 ([NotiCen, July 2, 2009](#)); former Paraguayan president Fernando Lugo (2008-2012), who was ousted in 2012 ([NotiSur, July 13, 2012](#)); ex-president Cristina Fernández de Kirchner of Argentina (2007-2015), who is under investigation along with several of her ministers in dozens of legal cases; and Uruguay’s Vázquez.

“There are outside interests at work behind pretty much everything that’s happening with regards to the region’s progressive leaders,” Lula added, but without identifying who or what those interests may be.

Redefining the law

The SCJ ruling in the Gavazzo case came from a last-ditch effort by the ex-colonel to sidestep a pair of life-sentence convictions for his instrumental role in Plan Cóndor, a coordinated program of repression applied by the region's right-wing dictatorships in the 1960s and '70s ([NotiSur July 7, 2000](#), [June 19, 2009](#), and [Sept. 13, 2013](#)).

Gavazzo's lawyers argued that the first two articles of Law 18.831, which establish that there is no statute of limitations for crimes against humanity, should be considered unconstitutional. The high court agreed, and incorporated the arguments of the killer's legal team as its own, despite the fact that two lower courts had already dismissed the unconstitutionality arguments.

By including those articles in its books, Uruguay had adhered to international legal standards that contradict the SCJ. What's more, Uruguay's position on the matter actually predates Law 18.831, noted Felipe Hounie, one of two CSJ judges who voted against Gavazzo's contentions. The rules were first included in Uruguayan law, he said, shortly after World War II, in accordance with precepts drawn from the Nuremberg Trials and the Universal Declaration of Human Rights.

The Uruguayan judiciary has been delinquent in its handling of human rights cases. Of 37 proceedings initiated in 2012, all but one are still in the preliminary stage. The sole exception—the one case that was brought to a close and ended in a verdict—is the same one the CSJ recently froze by siding with Gavazzo. The high court also ruled in favor of the ex-colonel in June 2011, determining then, as now, that human rights violations committed during Uruguay's last dictatorship (1973-1985) should be treated as common crimes.

On that occasion, former CSJ prosecutor Mirtha Guianze accused Gavazzo and other human rights violators of forcibly disappearing people, something that is universally treated as a crime against humanity. Current CSJ prosecutor Jorge Díaz, for his part, says the rulings “prevent investigations from going forward into hundreds of other reports, between 300 and 400, of human rights violations.”

The media machine

It was against this backdrop that, in mid-December, President Vázquez's controversial party appearance—the episode that made journalist Leandro Grille question the possibility of “lawfare”—started making news.

On Dec. 16, Vázquez attended the wedding reception of a friend's daughter. On his way out, he passed by the FA club, where a group had gathered for an early year-end holidays celebration. He got out of his car—as he's known to do when greeting people—said hello to the group, and wished them “good look in 2019,” an obvious reference to the presidential elections scheduled for October 2019. That's when the media machine, as the Argentine lawyer Kon calls it, kicked into gear.

The opposition dailies *El País* and *El Observador*, together with a vast chain of television and radio stations, accused the president of violating the constitutional precept barring him from campaigning. On Dec. 19, during a weekly meeting in the Senate, the leader of the opposition Partido Blanco (White Party), Luis Lacalle Pou, warned that Vázquez had “entered into a dangerous grey area.” One of his counterparts in the conservative Partido Colorado (Colorado

Party) applauded Lacalle Pou's remarks, and on Dec. 20, El País was able to say "Supreme Court investigates Vázquez's actions" in a headline.

A temporary calm ensued because of the end-of-year holidays and because the five members of the CSJ take a 30-day summer break.

'Christmas with Jesus'

During that same period, El País reported on an episode that was arguably more serious and yet didn't draw any reaction from the high court. Uruguay's laws bar public figures from religious proselytizing and prohibit the use in public buildings or offices of crosses, images or other obvious symbols associated with any of the country's more than 100 officially registered churches and cults. And yet—despite being criticized for doing the same thing the year before, including by members of the FA—Vázquez again posted a Catholic Church poster on the doors of the presidential palace calling on people to celebrate "Christmas with Jesus" and urging them to do things like "share a table with a person in need or living on the streets."

The president's wife, María Auxiliadora Delgado, is a fervent Catholic and follower of the ultra-conservative Opus Dei branch. In recent years, Vázquez too has shown signs of adhering to Catholicism, which is less popular in Uruguay than in other Latin American countries and has been losing ground to Evangelical churches. Still, the El País report never really took off. The paper is aligned with the Partido Blanco, which identifies with the Catholic Church. Another major paper, El Observador, chose not to harp on the president's mistake because of its ties to Opus Dei. The public relations office of the SCJ, for its part, said only that the "case is under analysis."

From a religious point of view, Uruguay is a case apart in Latin America. There aren't any official numbers on religious preference because census takers don't ask the question. Néstor da Costa, a professor and religion expert at Uruguay's Universidad Católica, and the Pew Research Center in Washington, DC, agree, nevertheless, that about 40% of Uruguayans are Catholic; 13% to 15% follow other Christian religions; 14% are atheists or agnostics; and 24% believe in God but do not follow any specific credo.

"We have far fewer Catholics than in other countries, many more atheists, and infinitely more people who believe in God but don't have a religion," said Da Costa.

Uruguay's anticlericalism dates back to the early 1900s, when José Batlle y Ordóñez served twice as president (1903-1907 and 1911-1915). Batlle's ideas were advanced for the period and put Uruguay ahead of the curve with laws on women's rights and labor protections, for example, that didn't appear elsewhere in Latin America for decades. In 1906, he ordered the removal of crucifixes from all hospitals and abolished religious instruction in schools. In 1907, he legalized divorce. And in 1915, Batlle formally separated church and state, a line that more than a century later, current President Vázquez is crossing with his "Christmas with Jesus" posters.

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