Argentine judge frees military officers facing extradition

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26 September 2003

An Argentine judge has freed 39 military officers and one civilian facing extradition to Spain. Federal judge Rodolfo Canicoba Corral told reporters, “I have placed them at immediate liberty unless another court orders their detention. The case has been shelved.”

Human Rights Watch official Olivier Bercault criticised the decision saying, “The concept of universal justice is now under threat from governments.”

The principle of universal justice means those who have committed human rights abuses in one country, regardless of where they were carried out, can be prosecuted in another country. It has been a preoccupation of the United States government with its colonialist ambitions to prevent the establishment of universal justice. Spain harbours its own colonialist ambitions and has tried to thwart the extradition drafted by Spanish public prosecutor Baltasar Garzon.

Garzon became famous for his attempted extradition of former Chilean president Augusto Pinochet in London in 1998. Garzon has just finished his investigations pending a possible trial into one Argentine officer, Ricardo Miguel Cavallo, whom he extradited to Spain from Mexico. Garzon complained that though the Argentine officers might face trial in Argentina, it would be “a very grave act of imprudence” not to pursue the charges.

The charges relate to the period of the 1976-1983 Argentine military dictatorship known as the “Dirty War,” when as many as 30,000 people died. Thousands were buried in unmarked graves or thrown into the sea from helicopters.

Amongst those freed by Corral is the notorious Captain Alfredo Astiz, called the “Blond Angel of Death” for his activities at the Naval Mechanics School (Escuela de Mecanica de la Armada, ESMA) where 4,000 detainees were executed. Astiz is still wanted in France where he has been sentenced to life imprisonment for the murder of two French nuns, Leonie Duquet and Alice Domon. Within days of his release, Astiz and eight other former officers were re-arrested in connection with a new investigation into the ESMA. However, federal judge Alcindo Alvarez Canale rejected a request for Astiz to be extradited to France.

Corral freed the detainees after the Spanish government dropped its support for the extradition. Spanish deputy prime minister Mariano Rajoy said, “We believe in the firm commitment of the Argentine government to pursue the prosecution of these people as the president has said numerous times.”

Argentine president Nestor Kirchner has declared several times his intention to stop “the culture of impunity” surrounding the Dirty War. However, as one businessman made clear, “Much [of Kirchner’s] rhetoric was just tactics. He must win voter support to have a power base and negotiate with institutions like the International Monetary Fund [IMF]”.

The government signed a Letter of Intent earlier this year agreeing to the “deepening and broadening of structural reforms” demanded by the IMF. In late 2001, Argentina defaulted after years of earlier IMF reforms with debts of $90 billion—the largest default in world history. Argentina’s workers and peasants rebelled in an Argentinazo that left 27 people dead and ousted Kirchner’s predecessor, Fernando De La Rúa.

With half the population living on $30 a month and official unemployment standing at 18 percent, Kirchner’s Peronist government was elected on May 25 of this year on a populist programme critical of the IMF and the social catastrophe. Kirchner claims he is not working just for “the economic powers-that-be or

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for the IMF," and that workers will not suffer as a result of the spending cuts needed to pay back the debts.

Although he received only 22 percent of the vote, Kirchner's popularity reached 80 percent approval largely because of his human rights policies. Since his election, Kirchner has forced more than half of the admirals and generals in the armed forces to retire. He repealed a law passed by De La Rúa in 2001 preventing extradition that led to the arrest of the 39 military officers.

On August 21, the Argentine Congress and Senate repealed the amnesty laws passed in the 1980s pardoning the crimes by the military in the Dirty War. Kirchner's wife Cristina, who is also a senator, claimed, "Today, we are carrying out an act of moral and institutional reparation and reconstruction of Argentina."

However, the parliamentary votes were largely symbolic because the Supreme Court has the final say on constitutional issues. Nestor Kirchner declared, "Now it's up to the Court to decide... We've always wanted to try them in Argentina. Now we have the ability to do so. Those who were responsible for the genocide of the dictatorship will have to take responsibility for their actions."

According to constitutional lawyer Gregorio Badeni, "Until the Supreme Court makes a ruling, there will be great confusion. You're going to have different courts making different interpretations of the amnesty laws."

Meanwhile, Carlos Fayt, head of the Supreme Court, has made it clear that "No one pressures the court on anything."

Even if the Supreme Court ratifies the repeal of the amnesty laws, it is by no means certain officers will then face trial. Although investigations have resumed into activities at the ESMA and atrocities by the First Army Corps, most legal experts think the wording in the act repealing the amnesty laws will not allow trials to be reopened.

Since Kirchner's government signed the Letter of Intent, the media has portrayed him as a man locked in bitter negotiations with an IMF that is demanding too many austerity programmes in return for new loans. On September 9, Argentina defaulted on a $3 billion payment, but agreed to pay two days later after a deal with the IMF. The IMF executive board approved the deal at last week's meetings in Dubai. In the agreement, the IMF will loan Argentina another $12.5 billion—equal to the amount the country must pay back to the IMF by 2006. The Argentine government must also reach an agreement with private creditors on the refinancing of a further $21 billion of debt that is due them by 2007.

In return for the new loan, Anoop Singh, the IMF's Latin America director, said the Kirchner government had agreed on the "necessary reforms in key structural areas," such as overhauling the banking system, renegotiating public concessions and raising utility charges. In earlier discussions, Argentine negotiators claimed they had forced IMF negotiators to drop their demands that the Argentine government increase utility charges by 30 percent and compensate foreign banks.

The Argentine government has also agreed to limit its budget surplus to 3 percent of the gross domestic product next year, but according to John Welch, chief Latin American economist at WestLB in New York, for Argentina to achieve a 3 percent surplus is virtually impossible. The last year the country had a surplus was in 1993, and that was only 1 percent.

The Bush administration has been closely involved in the negotiations. US treasury secretary John Snow said, ''There is significant structural reform in this agreement... This is an agreement that represents a real advance and I am very pleased that it got done.''

"We indicated to Argentina in our discussions with them that a bad agreement was worse than no agreement, that there was a minimum level of reforms that had to be met or we could not be on board," Snow added. "That minimum, plus some, was met here."

Although the leading capitalist countries in the G7 grouping approved the deal, some smaller European countries and Australia abstained in the vote approving the new loan amidst fears their financial institutions could lose out.

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