

Hundreds face trial for dictatorship's crimes

# Argentine court strikes down amnesty for torturers

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Nearly three decades after the US-backed military coup that led to the “disappearance” of an estimated 30,000 people in Argentina, the country's Supreme Court Tuesday struck down a pair of laws that effectively granted an amnesty to those responsible for the dictatorship's crimes.

The ruling sets the stage for the prosecution of hundreds of members of the country's security forces who carried out the abduction, torture and murder of leftists, militant workers, students and other perceived opponents of the military dictatorship, which ruled Argentina from 1976 to 1983.

In its ruling, the high court found that the two laws—known as “punto final”, or full stop, and “obediencia debida”, due obedience—were in violation of both the Argentine constitution and international treaties to which Argentina is a signatory.

It also found that crimes against humanity have no statute of limitations and cannot be made the subject of an amnesty.

Similar laws protecting the military and police against charges of crimes carried out under US-backed dictatorships were implemented in Uruguay, Chile and Brazil as part of the so-called “transition to democracy” in the 1980s.

Responding to the decision, Argentine president Néstor Kirchner said, “It is a breath of fresh air that the impunity is coming to an end.” He said that the two laws struck down by the court had “filled Argentines with shame.”

Estela Carlotto, president of the Grandmothers of the Plaza de Mayo, praised the law, saying it would clear the way for trying the military criminals “with all of the law and constitutional norms that our children never had.” Carlotto, whose daughter was abducted and then executed after giving birth in prison to a baby boy, added, “For years we have had to live with thieves and assassins.”

However, Hebe de Bonafini, the president of the Mothers of the Plaza de Mayo, which has fought for justice for the disappeared for nearly three decades, was far more circumspect. She was skeptical that very many of those who committed crimes against humanity under the dictatorship would be punished. “There are more than 400 judges from the dictatorship, judges who are accomplices of the military,” she said. “I am not optimistic that they are going to jail.”

The two laws struck down by the court decision were enacted under the government of president Raul Alfonsín, who headed the

first civilian government after the collapse of the military junta in the early 1980s, amid a mounting economic crisis and the junta's ignominious defeat in the Malvinas War with Britain.

Under Alfonsín, former junta leaders, including Gen. Jorge Videla, Admiral Emilio Massera and Gen. Leopoldo Galtieri, were tried and sentenced in 1985 to life in prison.

Afterwards, the military exerted pressure on the government to call a halt to prosecutions stemming from the repression. The Alfonsín administration responded with “punto final” in 1986, imposing a 60-day deadline for the courts to wrap up any cases involving crimes against humanity.

The law had the unintended effect of provoking a flood of new charges that increased tension within the armed forces. A section of the military rose up in revolt, seizing control of army installations.

In answer to the uprising by the military, masses of Argentines took to the streets, vowing to resist. Far more frightened of the masses than of the military, Alfonsín enacted the “due obedience” law in June 1987, essentially providing a blanket amnesty on the same grounds made infamous by the Nazis: the dictator's assassins and torturers were “only following orders”.

The law brought an immediate halt to the prosecution of human rights charges against 1,180 members of the security forces. It threw into limbo two major cases that had been brought over crimes committed in two of the dictatorship's largest torture centers: the Navy School of Mechanics (ESMA) and the First Army Corps headquarters.

After Tuesday's court's decision, Alfonsín, the leader of the opposition Radical Party, joined the chorus of politicians praising the action, while making the improbable claim that he had himself laid the foundations for this step by enacting the very laws that were rejected. “Was democracy strengthened by the enactment of these laws?” he asked. “The only answer is yes, because 20 years after they were enacted, they can now be struck down, declared null and unconstitutional ... in the context of a decisively affirmed democracy.”

The chief of the Argentine Army, Lt. Gen. Roberto Bendini, acknowledged that up to 3,000 members of the armed forces, most of them retired, could be called before courts, but insisted that no more than 400 would likely be charged. This, however, is probably a conservative estimate.

The involvement of members of the security forces in acts of state terrorism was widespread. In part, this was the result of a deliberate policy by senior commanders to implicate as many personnel as possible in order to compromise them and prevent them from talking.

Left unanswered by the high court ruling is whether new charges can be brought against the surviving members of the former military juntas. While convicted in 1985, they were pardoned in 1990 by then-president Carlos Menem, a Peronist.

Videla and others have since been detained on charges related to the abduction of babies of the disappeared, some of them born in the torture centers, who were then illegally handed over to military and police personnel to be raised as their own children. The prosecutions were possible because the crime—which involved several hundred children—was not covered by either of the two amnesty laws.

The case that finally undid these two infamous laws was that of a young couple—José Poblete and Marta Hlaczik—who were abducted along with their eight-month-old baby, Claudia, in 1978 by one of the dictatorship's "task forces".

José was a Chilean railroad worker who had lost both legs in a train accident and had come to Argentina for physical therapy. A member of the group "Christians for socialism", he became active in the Peronist Front for the Disabled, campaigning for more funding for wheelchairs and other aid. He met and married his wife Marta, an Argentine, who was also active in the disabled movement.

They were taken to Olimpo, a concentration camp erected inside the main vehicle maintenance facility of the Argentine Federal Police. There, according to the testimony of survivors, they were both subjected to brutal torture. José was thrown out of his wheelchair, beaten and mocked by the torturers. Witnesses saw jailers dragging Marta naked by her hair while kicking and beating her. The two subsequently disappeared, though José's wheelchair was seen discarded in a corner of the installation's parking lot.

The baby, Claudia, was taken from her mother with assurances that she would be delivered to her grandparents. Instead, she was given a new identity and handed over to a police officer and his wife.

Underlying the case was the bizarre contradiction stemming from the amnesties extorted by the military in the 1980s. While those responsible could be tried for the abduction of the child and her illegal adoption, they could not be punished for the disappearance, torture and murder of both her parents.

As a result of the legal case brought by the Grandmothers of the Plaza de Mayo and the Center for Legal and Social Studies, a judge ruled in 2001 that the laws granting the torturers in the case impunity were unconstitutional. Despite the agitation and pressure exerted by thousands of relatives of the disappeared and survivors of the repression, it has taken four years for the decision to work its way up for consideration by the Supreme Court.

The old adage "justice delayed is justice denied" is clearly applicable to the long-awaited court ruling. In some cases, the passing of nearly 30 years presents serious hurdles to the presentation of evidence. In others, defendants are already dead.

Moreover, most of those who bore principal responsibility for

the crimes of the dictatorship are now in their 70s and will likely never spend a day behind bars. The standard practice of the Argentine courts has been to sentence those above 70 who are convicted of such crimes to house arrest. Other military officers, meanwhile, have been sentenced to confinement at army installations, protected by the institution that they previously served by organizing torture and murder.

There are reportedly 137 members of the military who are already detained either at home or on bases.

Because the great bulk of those facing the threat of prosecution are already retired, the court ruling has not provoked the same kind of reaction within the ranks of the armed forces as was seen in 1986-87. Argentine defense minister José Pampuro said that while some officers were expressing concern "in a personal capacity", the institution accepted the decision.

There is no doubt that the Argentine court's ruling provoked disquiet in Washington. Top American officials, both former and current, are deeply implicated in the horrific crimes carried out by the military junta in Argentina.

Former secretary of state Henry Kissinger, a close confidante of the current Bush administration, provided Washington's explicit support for the bloodbath in Argentina. Declassified US government documents detailing a meeting between the then-US secretary of state and his counterpart from the Argentine junta, Admiral Cesar Augusto Guzzetti, quote Kissinger saying, "If there are things that have to be done, you should do them quickly."

Amid widespread reports and protests over the disappearance, torture and murder of politicians, union leaders, students and intellectuals in Argentina, Kissinger went on to tell Guzzetti: "We are aware you are in a difficult period. It is a curious time, when political, criminal, and terrorist activities tend to merge without any clear separation. We understand you must establish authority."

The father of the current US president was at the time the director of the Central Intelligence Agency, and also deeply involved in the repression taking place in Argentina and elsewhere in Latin America.

Also present were the two most influential members of the current Bush administration. Vice president Dick Cheney—then the White House chief of staff—and Donald Rumsfeld, who, then as now, was defense secretary, overseeing relations between the Pentagon and the Argentine military.

Thus, the two figures who have served as the most prominent defenders of US behavior at the detention camp in Guantánamo Bay, Cuba have a long history of justifying and facilitating torture in the name of fighting "terrorism". This was precisely what the Argentine junta claimed to be doing as it rounded up and murdered over 30,000 of its own people.



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