

£ARGENTINA

@The Outstanding Debt:

Amnesty International's Continuing Concerns on the Fate of the "Disappeared"

"Ello [apertura de los archivos] nos permitirá saber qué pasó con cada uno de los desaparecidos y ubicar a nuestros nietos y además, de esa forma, el Estado pagará una deuda contraída con los argentinos y con la humanidad entera" said Estela Barnes de Carlotto, President of the Grandmothers (Abuelas) of Plaza de Mayo.

"This [opening of the archives] will allow us to find out what happened to each and everyone of the "disappeared" and to locate our grandchildren, furthermore, in this way, the State will pay the debt it has with Argentines and with the whole humanity.

Following the presidential decision to open on 17 February 1992 the files held by the Argentine State Information Secretariat, *Secretaría de Informaciones del Estado*, on Nazi war criminals who took refuge there, President Carlos Saúl Menem's government has been urged by relatives of victims of human rights abuses in Argentina and by human rights organizations to open the police and military archives which they believe contain details on cases of over 9000 people officially recorded as having "disappeared" under the military governments of the 1970s and 1980s.

In 1983 the civilian government of President Raúl Alfonsín established the National Commission on Disappeared People, *Comisión Nacional sobre la Desaparición de Personas (CONADEP)*. *CONADEP's* task was to prepare a full report to clarify the "tragic events in which thousands of people disappeared". In its report *Never Again, Nunca Más*, first published in 1984, *CONADEP* catalogued 8961 cases of unresolved "disappearances" and warned that the true figure might be even higher. According to information received by Amnesty International, since *CONADEP* presented its report to President Alfonsín on 20 September 1984, 215 names have been added to the list of "disappeared". *CONADEP* drew up files comprising the complaints of relatives of "disappeared" prisoners, testimonies of people released from secret detention centres and statements from members of the security forces who participated in the repressive activities it described. *CONADEP's* task, however, was made more difficult by the alleged destruction or removal, prior to the restitution of

power to the constitutionally elected authorities, of records which detailed the fate of "disappeared" people.

Since democracy was reinstated in Argentina in 1983 the armed forces and security services have alleged that police and military archives with details on cases of those detained and "disappeared" during the so-called "dirty war" of the 1970s and early 1980s have been destroyed. In an interview to the Argentine magazine *Noticias* on 23 February 1992, General Benito Reynaldo Bignone, the last president during military rule, confirmed armed forces allegations that during his term of office the archives were destroyed, on grounds that the Law of Pacification, or Amnesty Law, had "wiped the slate clean" and rendered the records "invalid".¹

Argentine human rights organizations, however, have always doubted whether the archives have actually been destroyed. In a press conference given by President Menem on 24 May 1992 in Mar del Plata, when asked whether his government was willing to open the security police and military archives of the military dictatorship, he replied that it "was a possibility" and mentioned that in his forthcoming meeting in July 1992 with the Grandmothers of Plaza de Mayo, a human rights organisation formed by the grandmothers of missing children, he would discuss the matter with them if they brought it up.

On 15 July 1992 President Carlos Saúl Menem met the Grandmothers of Plaza de Mayo who gave him a four-page petition demanding a thorough investigation into the cases of children reported missing in Argentina following the abduction, killing or secret imprisonment of their parents by members of the security forces during the "dirty war". The Grandmothers of Plaza de Mayo also requested to have access to the documentation available in the security police and military archives. President Carlos Saúl Menem promised to "track down", (*rastrear*), the information.

After President Carlos Saúl Menem's meeting with the Grandmothers of Plaza de Mayo, the Argentine government announced that the present National Human Rights Directorate, *Dirección Nacional de Derechos Humanos*, would be elevated to the rank of Subsecretariat, *Subsecretaría*, as a sign of the President's will to collaborate on the fate of the "disappeared". The National Human Rights Directorate, is, among other things, in charge of updating *CONADEP's* list. Amnesty International has in the past urged the National Human Rights

¹ "Cuando se dictó la Ley de Pacificación, luego llamada de Autoamnistía, se especificaba que todos los antecedentes de los beneficiados quedarían sin efecto y por eso se incineraron. No creo que hubieran podido aportar algo nuevo, por eso dictamos la ley como un intento de hacer borrón y cuenta nueva", commented General Benito Reynaldo Bignone. "When the Law of Pacification was passed, later known as Amnesty Law, it was specified that the case histories of those benefited by the Law would be invalidated and therefore we destroyed them [the files]. I do not think that they could have contributed with anything new, that is the reason the law was decreed as an attempt to wipe the slate clean"

Directorate (see AMR 13/05/90, Missing Children Update) to do all in its power to adequately maintain the files on the "disappeared" collected by the *CONADEP*.

Amnesty International has consistently called on Argentine governments to fully and impartially investigate the very serious human rights violations committed by successive military juntas and for those responsible to be brought to justice. It has particularly emphasised the need for the fate of the "disappeared", among them hundreds of children, to be clarified. The organization has noted with dismay that civilian governments have systematically precluded investigations into serious human rights violations, which has helped the military evade accountability for them.

In 1983 the Argentine government repealed the Law of Pacification (otherwise known as the Amnesty Law), which granted an amnesty to all members of the police, military and security forces, and the civilians who worked with them during the "war against subversion". However, subsequent government measures shielded the military from accountability for human rights abuses. In 1985, a small number of high ranking officials were tried, convicted of human rights violations and sentenced to imprisonment. In December 1986, the Punto Final Law (Full Stop Law) set a very short deadline for new prosecutions to be initiated against members of the armed forces, police or prison services accused of past human rights violations. The ley de Obediencia Debida, (Law of Due Obedience), enacted in June 1987 gave a virtual amnesty to all but the most senior officers accused of abduction, torture and extrajudicial executions during the military rule. A presidential decree in October 1989 pardoned 39 military officers who were to have been tried by civilian courts for crimes perpetrated during the "dirty war". On 29 December 1990 President Carlos Menem pardoned the leaders of the Argentina military juntas and other high ranking officers jailed for crimes committed during the "dirty war". Among those pardoned were former army General Carlos Suárez Mason, who was awaiting trial in Argentina on 39 murder charges relating human rights violations. President Menem has taken personal responsibility for the latest pardons, arguing that they were necessary to promote national reconciliation. Argentine human right groups, opposition politicians and others have condemned the pardons, calling them a travesty of justice.

From its experience of human rights campaigning throughout the world, Amnesty International has observed that instead of contributing to the process of national reconciliation, amnesty laws which allow perpetrators of crimes to evade accountability often have the effect of suppressing efforts to determine the truth and of fomenting a climate of impunity. This frequently sets in motion a vicious circle of violence in which human rights abuses continue and it also denies the victims of human rights abuses and their relatives the possibility to have their cases clarified and to seek redress from the state.

Amnesty International is urging the authorities to disclose the information allegedly available in the security police and military archives, in order to provide relatives of victims of

"disappearances" with legal means to establish the truth about what happened to their loved-ones.

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