

ARGENTINA PROJECT (S200000044)

U.S. DEPT. OF STATE, A/RPS/IPS

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(CW011)

1184 JLR R

Argentina

Comeras Watch

July 1982

ARGENTINA: Human Rights During the
Falklands/Malvinas Crisis

The April 2 takeover of the Falklands/Malvinas Islands by the Argentine Armed Forces produced a major change in the political climate in Argentina with significant repercussions for human rights. The military defeat culminating on June 15 has caused a major political crisis that is still to be resolved. The present report discusses some events relating to human rights during the crisis.

I. The Desaparecidos

The government has not accounted for thousands of persons who disappeared between 1976 and 1981 after their arrest by security forces. A vague promise by Minister of the Interior Gen. Alfredo St. Jean in March, to the effect that some families would be informed privately of the fate of their relatives, has not been followed up. The methodology of disappearances, i.e., kidnappings by plainclothesmen in unmarked cars, in broad daylight and with impressive display of weapons and violence, was used again during the height of the conflict; one American journalist and three British TV journalists were abducted from the street in downtown Buenos Aires in front of the Foreign Ministry, on May 11 and 12.

After a few hours, all of them were found alive in the suburbs, naked and stripped of their personal possessions. The government profusely apologized to them for the incidents ← to the Brits NOT the U.S.

On June 21 and 22, two trade union activists were arrested and remained "disappeared" until July 28. Hector Edgar Cassani (Jones) who had held trade union positions prior to 1976, was arrested on June 21 in Plaza Constitucion, a main railroad terminal in Buenos Aires. Lawyers from the Center for Legal and Social Studies filed a habeas corpus petition on his behalf. The next day, Miguel Angel del Pla, an autoworker employed by Renault in Cordoba and an activist in the autoworkers union (SMATA), was reported arrested by the provincial police of Cordoba. On June 28, hundreds of human rights activists demonstrated before the government house in Buenos Aires, while a delegation met with Inspector Dominguez of the Federal Police inside the Casa Rosada. Dominguez informed the delegation that both persons were under arrest. In the case of Cassani, the habeas corpus was officially answered the same day, stating that he was being held incommunicado by the Federal Police, on charges of possession of forged documents, and possession of a knife, a misdemeanor.

In the case of del Pla, a wire by DYN, a private news agency, on Monday, June 28, cited a communique from the provincial police of Cordoba, stating that he had been arrested while distributing the leaflets of an "unauthorized political organization" at the gates of the Fiat plant in Ferreyra, Cordoba. The communique also stated that he was being held in a facility of the provincial

police, at the disposition of the Third Army Corps. No charges were announced. Del Pla was never authorized to see his relatives or his lawyers. He was finally released in the first week of July and reported that he had been severely tortured. He still had visible marks on his body. On the basis of this treatment, human rights activists suspect that the initial plan regarding del Pla's arrest might have been to torture and then to eliminate him, and that those plans were later changed as a result of the intense public outcry demanding his reappearance. Cassani was also tortured in the course of interrogation about his political activities. He is still in prison and under prosecution, but his lawyers and relatives have been allowed to see him.

On July 2, the eight human rights organizations working in Argentina held a press conference and announced the disappearance of 2 other persons in Cordoba, Ms. Eva Luz Khairallah, an architectural student and Mr. Juan Carlos Interlandi, a teacher. They were last seen on June 30, when they were working to secure the release of Miguel del Pla. On July 6, the military authorities of Cordoba acknowledged their arrests and announced they would be prosecuted before federal courts.

II. PEN Detainees

The state of siege continues in effect, and consequently, the Executive Branch still has the power to arrest persons and hold them indefinitely in administrative detention. Before the Pope's visit, Minister St. Jean announced that 240 persons of

those who have been imprisoned for several years without charges would be released into restricted liberty or full freedom as a good-will gesture. No lists were published, though many prisoners were personally notified in the prisons that this would happen to them. After Galtieri resigned, on June 17, St. Jean is said to have announced that these releases were now subject to review by the future president. This prompted a strong protest by the Permanent Assembly for Human Rights and a demand for their immediate release. They were released a few days later, and the Permanent Assembly held a press conference and reception for them. The government has now said that there are still 275 persons under PEN detention, and another 250 serving sentences handed down by military or federal courts. Nearly 1,000 are in mandatory exile, after being allowed to leave the country under the "right of option"; they are not allowed to return while the state of siege is in effect. The human rights organizations continue to have difficulties checking the accuracy of these figures.

In mid-June, a lawsuit was filed in Buenos Aires by some 400 individuals, including a broad spectrum of opposition leaders and Nobel Prize laureate Adolfo Perez Esquivel, demanding a judicial termination to the state of siege, which has been continually in effect since November of 1974. They also sought the immediate release of all persons held at the will of the Executive Branch, without charges and without order of a competent judge. The largest opposition party, the Partido Justicialista (Peronists) recently issued an official demand for the release

of all political prisoners and the termination of the state of siege.

III. Sentences by Military Tribunals

The government has refused to order a review of the sentences handed down by the Special War Councils created in 1976, which have convicted civilians without allowing them any access to independent counsel or defense. Some of these sentences have recently been upheld by the Supreme Court after having been challenged on constitutional grounds.

IV. Prison Conditions

On April 1, 1982, 52 mothers and other relatives of political prisoners filed a lawsuit with federal judge Norberto Gilletta of Buenos Aires in the form of a recurso de amparo, seeking the closure of Unit 1, a modern facility in the city of Buenos Aires, also known as the Caseros Prison, for the neighborhood in which it stands. The action described the prison conditions, with no sunlight at any time for the inmates, as well as a rigorous disciplinary system. Judge Gilletta dismissed the complaints without ordering or performing any inspection, nor requesting any report, on the basis that administrative remedies had not been exhausted. A similar presentation was made administratively to Minister of Justice Lucas Lennon, who never responded to it.

On June 29 at 3 p.m. Jorge Miguel Toledo, an inmate in

Caseros, committed suicide. Mr. Toledo who was 27 years old, had been sentenced to 6 years in prison by a military court and had already served 4 1/2 years; his relatives were pursuing his release on parole. The human rights organizations held a press conference on July 2 and made a complete description of conditions in Caseros and other prisons. CELS also sent a telegram to Minister of Justice Lennon (who was confirmed in that office by President Bignone) on behalf of 15 detainees in different prisons who are undergoing conditions similar to those that drove Toledo to commit suicide.

V. Freedom of Expression

During the conflict, the military government enacted emergency measures to restrict information. Only the official news agency, TELAM, was allowed to report from the Malvinas, and it soon became clear that its reporting was more in the nature of war propaganda. All other journalists, both national and foreign, were forced to rely on government reports in Buenos Aires. Many foreign correspondents suffered restrictions when they attempted to cover activities in the southern provinces. On April 13, three British journalists, Simon Winchester of The Sunday Times and Ian Mather and Anthony Prime of The Observer, were arrested in Ushuaia, the capital of Tierra del Fuego, and tried for espionage. On June 29th they were released on bail and allowed to leave the country, with an obligation to return in two months. They face possible prison sentences of two to eight years.

Andrew Graham-Youll, foreign correspondent for The Manchester Guardian, was attacked on June 24 by plainclothesmen travelling in an unmarked police car. Bystanders helped him escape. The incident happened in front of the Foreign Ministry, in the same place where the British TV crew was abducted in May. Graham-Youll was born in Argentina and had worked for the Buenos Aires Herald, an English language newspaper. He left in 1976, after his life was threatened. He had returned recently to cover the Malvinas conflict. His attackers apparently knew him.

In addition to the abduction of foreign journalists described above, many media representatives suffered threats. The national media, at the suggestion of the government, engaged in a considerable amount of self-censorship. Two dailies from the southern city of Comodoro Rivadavia were punished with shut-downs for alleged violations of the security measures.

Although public rallies and demonstrations in support of the Argentine claim to the Malvinas were publicly encouraged, it became clear that the government used selective standards in authorizing them. Two rallies organized by students in support of the official fund for the war, which were to be held in auditoriums of the National University of Buenos Aires, were prohibited: they would have featured speakers from opposition political parties. The state-run TV channel staged a 24-hour telethon to raise funds for the war effort; well-known artists, considered "leftist" by the government, were announced but, in the end, were not allowed to perform. Finally, two members of the Communist party, while

painting graffiti in support of the Argentine rights to the Malvinas, were shot and wounded from an unmarked car.

Before the invasion, several rallies on March 30, organized by the Central Labor Confederation (CGT), were harshly repressed by the government. In Buenos Aires, the police cordoned off the city, arrested more than 2,000 demonstrators, and used violence against many groups as they formed. In Mendoza, the police shot into crowds of demonstrators, killing a worker, Jose Ortiz, and wounding several others.

In the wake of the invasion, the government actively promoted rallies in its support. From the start, however, most demonstrators made it clear that they continued to oppose the government, although they supported Argentine sovereignty over the Malvinas. After the defeat, on June 15, a spontaneous demonstration in Buenos Aires, demanding the resignation of the government, was violently dispersed by the Federal Police.

After his appointment, and in order to secure some consensus for his presidency, General Bignone promised that he would terminate the ban on political activities in effect since 1976. On July 1, when he took over, he announced that the ban was "de facto" lifted. As of July 8, however, the government had not repealed Law Number 21323 that established that prohibition. It was unclear whether other related laws would eventually be repealed, such as Law Number 21325, that declared the illegality of 49 political parties and organizations. In any event, it seems that such laws would be enforced selectively, as has been

the case over the last few years. On July 6, when the military authorities of Cordoba acknowledged the arrest of Ms. Khairallah and Mr. Interlandi, they said that they would be prosecuted before federal courts for the offense of conducting activities in favor of a political organization banned by Law Number 21325.

VI. Human Rights Organizations

Throughout the conflict, human rights organizations continued to pursue their objectives. They received several threatening telephone calls, demanding that they stop their activity, in the name of "national unity." The Mothers of the Plaza de Mayo continued to hold weekly demonstrations in front of the government house to demand an accounting of their disappeared relatives. On many occasions, they were harassed and insulted by policemen.

In addition to the demonstrations noted above, it must be noted that the demonstration of Monday, June 28, organized by the Comision de Familiares de Detenidos y Desaparecidos, which prompted the government to account for the status of del Pla and Cassani, was the first demonstration in six years organized to demand the release of all PEN prisoners.

On July 8, the Mothers of the Plaza de Mayo and the Commission of Relatives of Political Prisoners and Disappeared Persons held a demonstration in front of the house of government, and delivered a document to President Bignone demanding public accounting for the whereabouts of the detained-disappeared persons.

Dr. Jose Federico Westerkamp, a prominent scientist and one of the best known human rights leaders in Argentina was arrested on Saturday, July 10. His wife Angela reported that Dr. Westerkamp, who is one of the directors of the Centro des Estudios Legales y Sociales (CELS), was apprehended at the Trelew Airport in the province of Chubut, after visiting their son Gustavo, who has been in prison without charges since 1976. Gustavo Westerkamp is presently confined at the federal prison of Rawson, Chubut.

On Monday, July 12, Dr. Westerkamp was detained at the police precinct in Rawson, to be arraigned on charges of contempt of court arising from statements he made to the local press last December when a lawsuit brought by CELS regarding abusive prison conditions in Rawson had been summarily dismissed by the local federal judge. A surrogate judge interrogated Dr. Westerkamp for 4 hours on July 12 and scheduled a new hearing for July 14. He also interrogated him about recent statements on the subject made to Canadian Radio and about a recent public complaint issued last week in Buenos Aires after the suicide of political prisoner Jorge Miguel Toledo.

Emilio F. Mignone, president of CELS, is representing Dr. Westerkamp in Rawson in these proceedings. The National Academy of Science of the United States and the American Association for the Advancement of Science have sent telegrams expressing concern about the situation of Dr. Westerkamp.

VII. Treatment of Soldiers

One of the most disturbing aspects of the ill-fated campaign for the Malvinas Islands is beginning to be revealed to the Argentine public, although many details still remain obscure. Some 10,000 freshly recruited conscripts, most of them only 18 years old, were taken to the islands to fight against the British fleet. They had not only had virtually no military instruction (they are drafted annually in February and March, and basic training usually ends in June), but they were also inadequately equipped. Many of those who returned have complained of malfunctioning weapons and scarce ammunition. Much more serious, however, is the fact that most of them spent weeks in trenches in freezing temperatures and stormy conditions, without adequate clothing, and with very limited food supplies. As a result, it seems that hundreds of them have had to suffer amputations and other mutilations due to trench foot, frostbite and gangrene.

Although their performance under these conditions was brave, it seems that their morale was shaken by the incompetence of their officers, who apparently resorted to shooting some young soldiers to prevent them from deserting the trenches.

These accounts are slowly being reported in the national media, in spite of efforts made by the government to cover them up. They have shocked Argentine public opinion in such a way that even conservative politicians are demanding full explanations for these events.

VIII. The Astiz Case

The garrison commander at the South Georgias, Navy Capt. Alfredo Astiz, who was taken prisoner by the British forces in mid-April, was not immediately returned with the other prisoners of war, because the Swedish and French governments requested an opportunity to interrogate him in connection with the disappearances of two French nuns and one 16-year-old Swedish citizen. Astiz had been singled out as early as 1979 as one of the more active officers involved in running a concentration and extermination camp in the Escuela de Mecanica de la Armada, a Navy facility in Buenos Aires. Survivors of this camp have published testimony in Europe linking him directly to these two cases, as well as many other disappearances. After providing the opportunity for his interrogation, when he refused to discuss disappearances, the British Government returned him to Argentina, complying with the Geneva Conventions. In the meantime, however, the reasons for his temporary retention in custody and the facts of his case were widely reported in the Argentine media. A conservative Catholic group filed a habeas corpus on his behalf, on the theory that he was being deprived of his freedom in Argentine territory. Judge Nicasio Dibur, of the Federal Courts of Buenos Aires, rejected the action, but transformed it into a criminal complaint against Margaret Thatcher et al., for illegal deprivation of liberty. The Mothers of the Plaza de Mayo intervened in the case, submitting evidence for investigation, and offering their personal testimony to the effect that Astiz had infiltrated them in order

to abduct 13 of their members in December 1977, in the same incident resulting in the disappearance of the two French nuns. This is the first time that a federal judge has been confronted with direct and massive evidence of the responsibility of a security agent for disappearances. Under Argentine law, it is the judge's duty to order an investigation, although Astiz, as a member of the armed forces, could claim immunity from prosecution and demand that the case be referred to military courts. Upon Astiz's return to Argentina, the judge dismissed the case against Thatcher et al. He has yet to act on the petition by the Mothers of the Plaza de Mayo.

IX. The New Rulers

Astiz is by no means an isolated case of direct involvement in crimes against humanity. The Escuela de Mecanica de la Armada, as well as all other concentration camps used after 1976, were approved, planned, and operated by the high command of each of the armed forces. Former President Galtieri, for example, has been cited in testimony as having been personally involved in running one such clandestine detention center in Funes, near Rosario, when he was commander of the Second Army Corps. His replacements in high office were also involved. General Cristino Nicolaidis, the new Commander-in-Chief of the Army, said in a press conference in Cordoba (where he was head of the Third Army Corps) on April 25, 1981, that he had personally spoken to a member of a group of Montoneros who had secretly entered the country in

1980. This group, which included two 16-year-olds, "disappeared" in March, 1980. General Nicolaidis' statement was carried in La Razon, a Buenos Aires evening paper, and in a cable by Agence France Presse on April 27, 1981.

General Reynaldo Bignone, the President-Designate, was second in command at Campo de Mayo, the nation's largest Army garrison, in the outskirts of Buenos Aires in 1976. Later, he became Secretary General of the Army under General Viola, a position in which he had extensive policy-making powers. In 1980, he returned to Campo de Mayo as Commander of Military Institutes. Between 1976 and 1980, Campo de Mayo was the site of at least one, and possibly several, clandestine concentration camps renowned for special cruelty. He is said to have repeatedly stated in conversations with politicians that the government cannot provide information on the disappeared, because they would have to reveal that most of them are dead, and then the relatives would demand the corpses and the punishment of those responsible. In statements for the press on July 1, the date of his inauguration, he responded to questions about the release of PEN detainees and an accounting for the detained disappeared. He said that, since his government would prepare the way for elections in 1984, there would not be any substantive changes in the situation before then.

X. Conclusion

Human rights concerns have been very much at the forefront throughout the Argentine crisis. It is possible that the government

may try -- as it did during the war -- to drown them under a wave of anti-British and anti-American feeling. It appears, however, that the renewed demands by the civilian opposition for a return to democratic rule will strengthen the concerns of those seeking redress and incorporate these concerns into the political agenda of the democratic movements.

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