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THE NUREMBERG PARALLEL IN ARGENTINA

LUIS MORENO OCAMPO *

I was one of the prosecutors in the trials that were carried out in Argentina in 1985 against the members of the military junta. Among the documents brought to light at the trials were the minutes of meetings which the members of the junta conducted when they were in power. The minutes revealed the members' intense wish to avoid, at all costs, a Nuremberg situation in Argentina. Despite their wishes, a Nuremberg situation of sorts did arise in Argentina.

The chief parallel between the trials conducted in Argentina and Nuremberg is the massive nature of the crimes that occasioned both trials. Another parallel is the disquieting degree of complicity among state officials in both Germany and Argentina that made possible the crimes committed in those countries.

Parallels notwithstanding, the trials in Argentina differ in certain legal and political respects from Nuremberg. Some very important political differences are that in Nuremberg the defendants had no weapons; they had no power; and backing the judges and the prosecutors were four victorious armies. By contrast, during the trials that were carried out in Argentina, our army was the same army that we were judging. For example, I live across the street from the Military School of Intelligence. Every morning, as I would go to trial, I would cross paths with officers who were going to Intelligence School where it is said that they were taught torture methods. Briefly stated, in our country, it is very difficult to try many people. If one attempts to try more people, it will be that much more difficult to control the police and the army.

As for differences, in our trials, instead of applying international law we applied the law that prohibits homicide and murder, that is, the nation's penal code. Furthermore, the court that presided over these trials was a federal court with a panel of six judges who were accustomed to trying cases individually. Thus, instead of a trial dealing with massive crimes, like genocide, we had to organize trials for an estimated ten thousand single homicides. I say estimated because we were not even certain of the exact number murdered or of the victims' identities. Also, we did not know how the crimes had occurred or how the perpetrators had committed the crime.

As a result of the investigation, we were able to determine how repression was established. The acts of torture and murder, rather than

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being the responsibility of an unidentified police officer or secret death squad, were accomplished through a completely organized system. Certain generals were responsible for different areas, and, at the same time, they authorized investigations and arrests against individuals. They were informed as to where these individuals were taken. They not only authorized the arrests, but also ordered the remaining police and military not to interfere with that process. Finally, these generals were the ones who decided which of the prisoners were to be spared and which were to be killed.

The whole state system participated in a massive cover-up, which included judges and private entities. Meanwhile, ambassadors worked toward denying accusations, and businessmen worked hand in hand with the military establishment making complaints against workers that they felt were too active or who carried out strikes. These workers were made to disappear. There were also people in the media, such as, owners of television stations and newspapers, who hid what was going on. The complaints were restrained; the media would respond that the communists had prompted the accusations in their efforts to discredit their enemy—the military establishment. In one case, a group from Amnesty International was denounced as being communist. This group from Amnesty International in Argentina was made up of Robert Drinan, a Jesuit priest who was a congressman in the United States, and Lord Averbury, a member of the British House of Lords.¹

The following account illustrates what state-sponsored repression means. Certain members of the police had planned to abduct a delegate of a union in a factory. The delegate, catching wind of this plan, was able to elude his would-be abductors by hiding in the ceiling of his home. From his hiding place in the ceiling, he was able to see how the police captured his wife and son. The neighbors who called the police were told that the police could not become involved in the matter. After the delegate fled to safety, his sister went to the police to file a complaint against the abductors. Ignoring her pleadings, which lasted several hours, the police refused to receive the complaint. Before leaving the police station, she saw that from a room there emerged one of the people who had abducted the child.

A second account will illustrate the bureaucratic nature of the repressive system. A group of army personnel went to arrest a group of rebels, *guerilleros*. Gunfire broke out and two of the *guerilleros* were killed and one was wounded. The wounded rebel was taken to a detention

1. See AMNESTY INT'L, REPORT OF AN AMNESTY INTERNATIONAL MISSION TO ARGENTINA preface (1976); Amnesty Int'l, Amnesty International Report Refutes Argentine Government's Claims of Improved Human Rights Situation Since Coup 1, News Release, AI Index: NWS 02/18/17 (Mar. 23, 1977).

center where he was tortured and interrogated. During this interrogation, the *guerillero* mentioned that they had \$120,000. The man who was torturing him became enraged and said, "Where is the \$100,000 that is missing? We only have \$20,000 here!" He was extremely angry and said, "We will be inspected. We have to report this and the commander is going to inspect."

So the other man who was dealing with the other torturer had a brilliant idea. One of the prisoners was an attorney. He was removed from that place, put in a room with a typewriter and asked to type up a complaint to find out what had happened with the \$100,000. This prisoner questioned all the torturers and all the people who were there. Finally, on the basis of what he had been told by the torturers, he concluded that the other prisoner, the *guerillero*, had lied under torture. There was only \$20,000. This allowed him to close the case and calm down the commanders.

By proving that there existed this organization, we were able to prove the responsibility of the commanding officers. In fact, this is how five of the nine members of the junta were condemned and found guilty. Two other generals were convicted in 1986. General Suarez-Mason, who was extradited from California, is awaiting trial in the forthcoming months.

The goal of our trials was similar to that of the Nuremberg trials: to bring about justice and respect for the law in an unlawful and unjust situation. While the military upheavals cloud this purpose, they are useful to help us understand the difficulties involved in implementing democratic systems. The world is witnessing, in Eastern Europe, Latin America and other places, totalitarian systems that are changing into democratic systems. The change, however, is not easy and it can not be done in one day. Democracy does not merely mean the election of representatives. It also entails a principle of equality and respect for the law. This requires another base of culture—a democratic way of thinking. But the process of democratization is full of contradictions with steps forward and steps backward. We must all keep in mind that these democracies, born in such great hopefulness, will have moments when they will not move forward but will rather move backward. The first brilliant moments, which we can consider the moments when the generals were tried, are later followed by grey moments, which every democracy goes through. I believe, however, that ultimately truth, freedom and justice are forces too powerful to be detained or stopped by a mere bureaucracy.

Thank you very much.

