



Buenos Aires, March, 2000. Members of HIJOS, an organization of sons and daughters of the disappeared protesting during an hearing in Tribunales for Naval Captain Alfredo Astiz. photo courtesy of Daniel Jayo/Página12



HUMAN RIGHTS PROSECUTIONS IN EUROPE AND ARGENTINA

Testimony in ongoing human right cases against Argentine military for crimes committed during the military dictatorship, 1976-83

Prosecutions are currently ongoing in Europe and Argentina in cases related to human rights violations committed during the repression. In 2000, EAAF testified in or provided information for prosecutions in Italy, Spain, Germany and Uruguay as well as Argentina.

EAAF members Dario Olmo and Morris Tidball Binz testified in Italy on October , 2000. This trial resulted in the conviction and life sentence of General Suarez Mason, ex chief of the First Army Corps.

At his request, we have provided data on EAAF investigations related to Spanish-Argentine citizens to Judge Baltazar Garzón in Spain for the prosecutions he is carrying out against Argentine military for crimes against humanity. For over two years, EAAF has contributed information to cases of human rights crimes committed against Germans or German-Argentines that are being heard by the Nuremburg Court and other courts in Germany in addition to cases still under investigation.

EAAF is currently collaborating with the Uruguayan Truth Commission by finding information on Uruguayan victims of Operation Condor in Argentina. In addition, we are working to identify bodies of Argentines buried in Uruguay.

We expect to provide data and to serve as expert witnesses in forthcoming cases in Europe in addition to our ongoing involvement in prosecutions taking place in Argentina.

BACKGROUND TO THE PROSECUTIONS

Following the return to democracy and the work of the CONADEP Truth Commission¹ criminal procedures were initiated in civilian courts against members of the Argentine military. By the end of 1985, five of the nine members of three preceding military juntas were found guilty of murder, torture, kidnapping and disappearances. General Videla and Admiral Massera were sentenced to life imprisonment, under a law that held that military excesses (including torture and murder) were not only illegal but considered states terrorism as well as crimes



Santiago, Chile - October, 1973. Pinochet, left, and Salvador Allende three weeks before the 1973 coup in which Allende lost his wife.

against humanity. Threatened by two military uprisings and further military intervention, partial amnesty laws² were passed in 1986 and 1987 by executive initiative for more than one thousand top military officers accused of torture and murder. Subsequent to another military rebellion in 1990, Menem pardoned all middle-and-senior-ranking military officers convicted of carrying out tortures, assassinations, and disappearances, including those who had already been sentenced to life in prison. Some guerrilla leaders were also pardoned at this time. Collectively, these pardons and amnesty laws initially put a stop to the majority of investigations and prosecutions taking place in Argentina.

CURRENT TRIALS TAKING PLACE IN ARGENTINA

BACKGROUND

The wide-ranging amnesty laws do not pertain to certain categories of crime. The first is the theft of babies by the Argentine military, which subsequently sold or gave these children to childless police or military families with whom they had connections. The second is the clandestine kidnapping and exchange of political prisoners among southern cone military regimes under the umbrella of Operation Condor, a conspiracy between Argentina, Bolivia, Brazil, Chile, Paraguay and Uruguay, that began in 1975. Armies and security services bartered political opponents across borders, assigned their own men to out-of-country operations to avoid the identification of local agents, and participated in murdering each other's political adversaries.³ Finally, crimes of corruption and illegal enrichment likewise do not fall under the umbrella of the amnesty laws.⁴

Since the first trials against high-ranking military members in 1985, several crucial breakthroughs with direct impact on human rights cases in Argentina have been made in the arena of international law. Disappearance is now recognized as a "crime against humanity", according to a new UN convention.⁵ As a result, this crime can no longer be included under any blanket pardon or amnesty. Second, in 1988, a number of cases were brought before the Inter-American Commission of Human Rights, part of the Organization of American States (OAS) by former political prisoners in Argentina demanding compensation for the time they spent in jail. Although these petitioners were awarded compensation by decree, a law was passed in Argentina in November 1991 extending the same reparations to all former political prisoners. This compensation was extended to the families of disappeared in 1994, creating the new legal status of "forcibly disappeared", which satisfied a number of key demands of surviving families, such as the ability to process wills, close a dead person's estate and distribute inheritance without having to declare an individual dead, a psychological and political compromise many families were unwilling to make without having the remains or accountability for forced disappearances.⁶



Judge Baltazar Garzón. photo by Clarín archives.

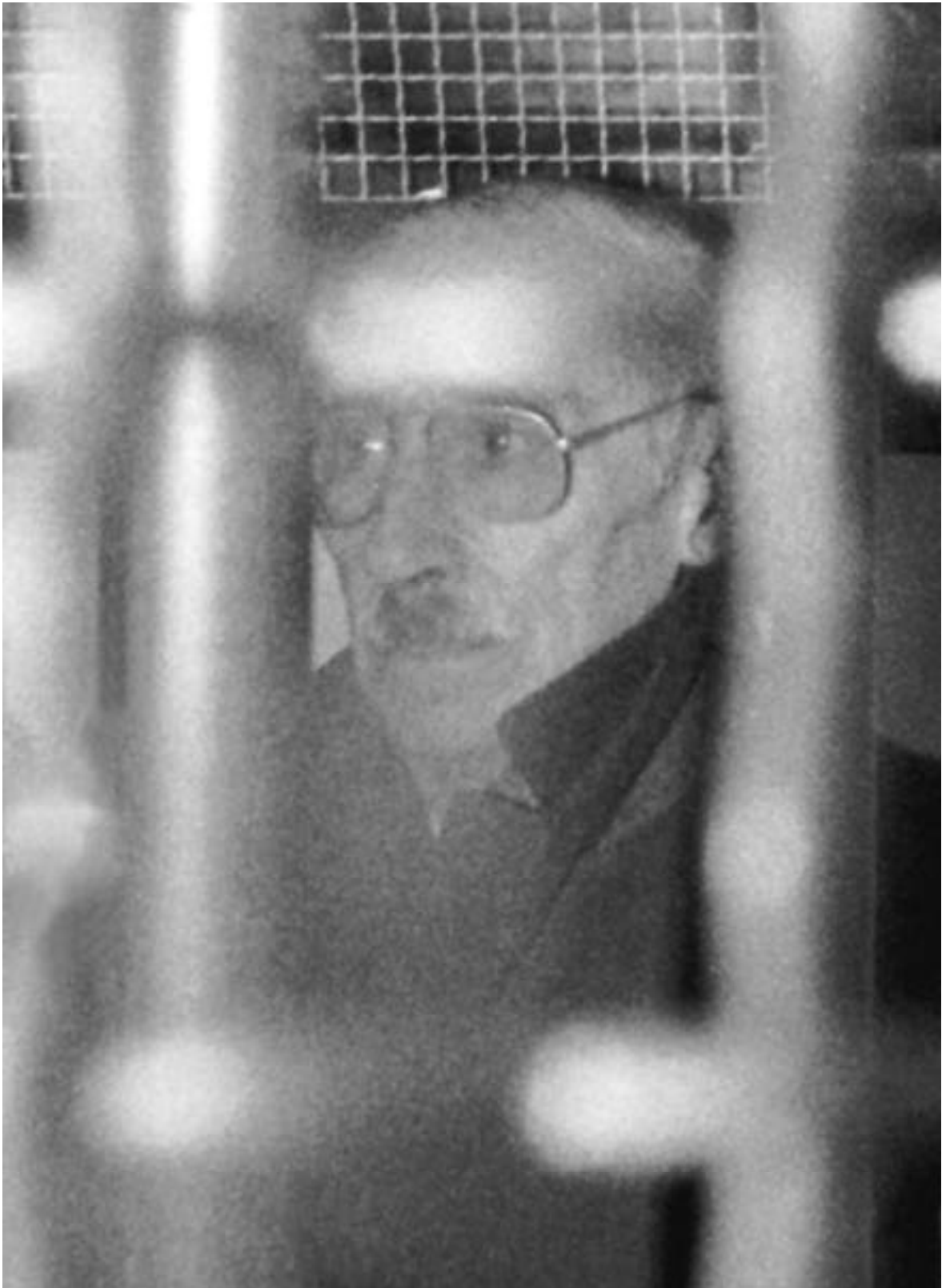
CURRENT PROCEEDINGS

In December 1996, the Grandmothers of the Plaza de Mayo filed a complaint with federal prosecutors alleging that almost 500 children would have been born in captivity to their daughters or daughters-in-law who were pregnant at the time of their arrests and disappearances. In 1999, they presented their case against the military as a systematic plan to remove all children born in captivity and it was accepted by an Argentine court. Providing false birth certificates and identifications utilized by the military, the Grandmothers proved that the crime was committed time and time again by high-ranking military. Since the amnesty laws did not cover this crime, these complaints have resulted in the detention⁷ of approximately ten Argentine military members including junta members General Videla, Admiral Massera, and General Bignone; General Suarez Mason, and Capitan Acosta. Moreover, since most of the children have not been returned to their families, the crimes are deemed to be ongoing at least under some interpretations of the law.

Relatives of Latin American citizens who disappeared

during the dictatorships that ruled the southern cone in the 1970's and 80's filed suits in Argentine courts in November 1999 against 16 top military officers for crimes against humanity. Two federal judges, Adolfo Bagnasco and Rodolfo Canicoba Corral, are now investigating the full extent of Operation Condor in Argentina. Complaints for these deaths have been filed against Generals Videla, Suarez Mason and Harguindeguy from Argentina, and Stroessner from Paraguay. In addition, they involve Chilean nationals Pinochet, Contreras and Espinoza, Uruguayans Vapora, Ramirez, Gavazzo, Cordero, Silveira and Campos Hermida and Paraguayans Brites, Guanes and Coronel.⁸

Videla is the first Junta member to stand trial for Operation Condor in the proceedings in Argentina. On August 17, 2001, as he did during the 1985 junta trials, he refused to testify regarding Operation Condor.⁹ The federal court where he was ordered to testify has also released extradition requests for Pinochet in relation to the assassination of Chilean General Carlos Pratts¹⁰ and his wife in Buenos Aires in 1974 (denied by Chile on August 5th) and



Buenos Aires, ?????. General Jorge Rafael Videla detained. photo by Adrian Perez/Página12.

Henry Kissinger, for questioning about US knowledge of and cooperation with Operation Condor¹¹ Pinochet is likewise refusing to cooperate with Spanish Judge Garzón, who has also called him to testify about Operation Condor:

In order to understand the parameters of the repression and Operation Condor in their country, a Truth Commission is currently under way in Uruguay and EAAF is collaborating with their proceedings.¹² When the military junta came to power in Uruguay during the early 1970s, many Uruguayan leftists and former guerrillas fled to Argentina to escape from the dictatorship in their own country. In 1976, when the military coup occurred in Argentina, they were caught in the web of Operation Condor, as were the Chileans, and many of them were killed and buried in Argentina. One aspect of EAAF collaboration consists of finding information on these victims and eventually assisting with exhuming, identifying, and repatriating the remains. The other aspect of our work there is related to Argentines who were killed and buried in Uruguay as well as those who were dropped from Argentinean Armed Forces planes into the Argentinean sea, a few of whom washed ashore in Uruguay. In the latter case, these bodies were buried there as “John Does.” An effort is being made to find and identify these bodies.

In March 2001, federal judge Gabriel Cavallo annulled the amnesty laws in Argentina, declaring the so-called “full stop” and “due obedience” laws “unconstitutional, null and void.” However, this overturning of the laws is not official until it is passed by the Supreme Court.¹³

Human Rights Prosecutions of High-Ranking Argentine Military in Europe

Several broad categories of prosecution related to the Argentine case are currently taking place in Europe. These include trials based on the principle of dual citizenship and trials addressing violations of human rights law within expanding universal jurisdictions. All of the defendants are being tried in absentia.

A movement to try members of the Argentine military outside of Argentina for human rights violations and mur-

ders committed during the Dirty War originated in Italy with La Liga por el Derecho de los Pueblos in the early 1980's. Procedures and investigations were initiated as early as 1983 for crimes against Italian citizens or those of Italian origin, but these were put on hold when Argentina returned to democracy and began its' own human rights prosecutions. However, since then there has been increasing interest in exploring the principle of universal jurisdiction in rela-

tion to the prosecution of crimes against humanity. Although jurisdiction over a crime normally depends on a link that is often territorial between the prosecuting state and the crime itself, as one leading lawyer on behalf of Human Rights Watch put it, “in the case of crimes against humanity that link may be found in the simple fact

that we're all human beings.”¹⁴ Universal jurisdiction is determined by international treaties and the general customs of states; under it, there is no safe haven for war criminals. The widening of universal jurisdiction for crimes against humanity, genocide, torture and war crimes has resulted in a favorable climate in Europe for both the prosecution of human rights abuses against nationals of European countries, as well as the prosecution of crimes against humanity regardless of where they have taken place.

Italy

Criminal procedures were again initiated in Italy after the pardons granted by Menem in 1990. Starting in the mid-1980s, the disappearance of more than 100 Italians and the kidnapping of ten babies of Italian descent born in prison during the military rule were investigated by the *magis - tratura* in Rome.¹⁵ Personal accounts and evidence were collected from witnesses, relatives of the disappeared, exiles, and human rights organizations. From these, a list of members of the armed forces accused of planning and carrying out the disappearances, tortures, and kidnappings was compiled.

The cases tried in Italy were limited to alleged violations against some Italian citizens.¹⁶ Italian judicial authorities sought the cooperation of Argentine authorities in the investigations but were refused on the grounds that

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Buenos Aires, Argentina. Captain Jorge "Tigre" Acosta entering the Court building. photo courtesy of Rolando Andrade tracuzzi/Página12

Argentina had conducted its own judicial process.

The *Tribunale di Roma* accepted 7 cases of disappearance and two cases of baby kidnapping in July 1997 and preliminary investigations began. Following hearings to establish responsibility on the part of members of the Argentine armed forces, seven ex-military officers, including two generals, one officer and four low-ranking military officers from the naval prefecture were indicted on May 20, 1999¹⁷ for the kidnapping and murder of



General Jorge Suarez Masón.
photo by Página12

eight Argentines of Italian descent. The Italian state became a plaintiff in the case. The trial, heard by the Assize Court of Rome, started on October 21, 2000.

EAAF members Dario Olmo and Morris Tidball Binz testified in this case on October, 2000 regarding the exhumations that EAAF conducted of the remains of

Italian-Argentine citizens Moressi, Lahitte, Mazzochi, and Carlotto. All of them were kidnapped at different times and in different places and, with the exception of Carlotto who was identified immediately after her death,¹⁸ buried as NN (Ningun nombre) or "John Does" in Buenos Aires cemeteries. EAAF identified the bodies and established the cause of death as multiple gunshot wounds. In the case of Carlotto, scars found on her pelvic bones strongly suggest that she had been pregnant at least once and may have given birth before she died.

The seven former officers were sentenced to life imprisonment on November 9th. General Carlos Guillermo Suarez Mason and General Santiago Omar Riveros were sentenced on December 6, 2000 to life in prison by the Penal Court of Rome for the disappearance and murder of these four Argentine/Italian citizens and others.¹⁹ Five other defendants were sentenced in absentia to 24 years in prison each.²⁰

At the request of the Italian judiciary, Naval Captain Alfredo Astiz, "the blond angel of death" as he became

known, was arrested in Argentina in early July 2001 for the murders of Italian-born Maria Aieta,²¹ and of Juan (Giovanni) Pegoraro and his pregnant daughter Susana,²² both of dual Argentine-Italian citizenship.²³ While Astiz has not been able to leave Argentina since 1990 due to an outstanding French arrest warrant, this is the first time that judicial investigations in Europe against more than 100 Argentine repressors resulted in an arrest in Argentina. In this case, federal Judge Maria Romilda Servini de Cubria issued the arrest warrant for the charge of baby theft, which was not covered under the amnesty.²⁴ Argentina rejected an extradition request from Italy on grounds of territoriality²⁵ and Astiz was released in August in an executive decision that overrode the decision of Judge Servini de Cubria. The decision was widely condemned by Human Rights Watch who called it “a victory for impunity unless the government of Argentina now ensures that Astiz is brought promptly to trial in Argentina.”²⁶

France



On March 16, 1990, Argentine Naval Captain Alfredo Astiz was convicted and sentenced in absentia to life imprisonment for his role in the torture and disappearance of two French nuns, Alice Domon and Leonie Duquet. The two were working with Madres de Plaza de Mayo when Astiz infiltrated it, singling out twelve people to be disappeared in 1977.



The French sought to question Astiz as early as 1982, when he was taken prisoner by the British navy during the Malvinas/Falkland war.²⁷ When the

British denied this appeal and Argentina did not respond to any requests for assistance, the French put out an international warrant for his arrest in 1985 that could be executed should he leave Argentina. Although he was nearly convicted in Argentina when the amnesty laws were passed, the Menem government nevertheless supported Astiz' naval promotion. Angered by this and by the unsolved disappearances of 15 French citizens during the dictatorship, France decided, according to the journalist Uki Goñi²⁸, to make an example of Astiz and put him on trial, which led to his in absentia con-

viction and sentencing. Astiz finally retired from active duty in the Argentine navy in 1996, after strong diplomatic pressure from Paris. In 1999, French courts agreed to hear a complaint involving the disappearance of an additional 12 people.

The French sentencing of Astiz in 1990 was the first conviction of an Argentine military outside of Argentina.

The Detention of Jorge Olivera

On August 6, 2000 Jorge Olivera was detained by Interpol in Rome under an international arrest warrant issued by France for the abduction and torture of Marie Anne Erize Tisseau, a French-Argentinean woman, in the province of San Juan, Argentina in 1976.²⁹ France requested that Italy extradite Olivera.³⁰ This was the first time that a former high-ranking Argentine military was detained abroad for human rights violations committed during the repression.³¹ Argentine Minister of Defense, Federico Storani, responded to the arrest by stating that the Argentine government would not do anything to impede Olivera's prosecution in Europe.³² After spending three days in a prison cell, Olivera appeared before the Rome tribunal and denied his involvement in the crime, expressing strong opposition to his extradition to France. The lawyer for the Erize family insisted that there was significant evidence and testimony implicating Olivera.³³

Olivera was released by the Rome Court of Appeals on September 18th on the grounds that the crimes of which he was accused were subject to a statute of limitations. A full examination of the French extradition request was still pending. In order to circumvent the fact that cases of forced disappearance - now categorized as crimes against humanity - have no statute of limitation in international human rights law, Olivera and associates had fabricated a death certificate for Marie Anne Erize.³⁴ By the time the document was proven to be false, he was back in Argentina, where the government continues to defend the principle of territoriality with regard to international arrest warrants and extradition requests.³⁵ The case provoked a wide-scale investigation in Italy: The Procurator General appealed the court's decision, the Minister of Justice announced an internal disciplinary investigation into the conduct of the Rome Court of Appeals judges and the Public Prosecutor opened an investigation into apparently false information that Olivera presented to the court.³⁶

Although Olivera narrowly escaped prosecution, this case reinforces how risky overseas travel is becoming for those charged with human rights violations in Argentina.

Germany

Since July 20, 1998, the prosecutor's office in Nuremberg has been investigating the participation of 39 Argentine military officers in the disappearance of approximately 74 Argentine-German dual citizens or those of German descent during the last military regime. The Coalition Against Impunity: Truth and Justice for the German "Disappeared" in Argentina, formed in Germany in March 1998 by various non-governmental organizations concerned with human rights, has been instrumental in bringing these cases to trial.³⁷ On July 12, 2001, an international arrest warrant was issued for General Suarez Mason for his role in the death of German citizen Elizabeth Käsemann³⁸, killed on May 24, 1977. This was the first decision made by a German court against perpetrators of the military repression in Argentina.³⁹ Among others who stand accused are ex-presidents, Generals Videla and Galtieri, Admiral Massera and Captain Astiz. Not only has the German government publicly committed to supporting these trials, but also in a 1999 visit to Argentina, Chancellor Gerhard Schroeder asked President Menem and then-presidential candidate de la Rúa to establish the truth of the whereabouts of Argentine-German citizens who disappeared during the repression.

Among other cases currently being investigated by the Nuremberg court are those of Federico Jorge Tatter; Gerardo Coltzau Fernandez, Marcelo Weisz, his wife Susana Gonzalez de Weisz and their 6 month-old baby,⁴⁰ who were disappeared and Betina Ruth Ehrenhaus, kidnapped in 1979, tortured and released from ESMA (Navy School of Mechanics) after two days. Her boyfriend, Armando Pablo Lepiscopo, with whom she was kidnapped, remains disappeared.

In Berlin, a case was opened on June 28, 1999 for the disappearance of another four Argentines of German origin—Alicia Nora Oppenheimer; Juan Miguel Tanhauser; Leonor Gertrudis Marx and Walter Claudio Rosenfeld—during the last military dictatorship. The parents of the four were German Jews who had immigrated to Argentina in the 1930's after the rise of National Socialism. The case was filed by lawyers

Wolfgang Kaleck and Horacio Ravenna, representing relatives of the victims. General Videla, Admiral Massera and General Suarez Mason are accused for these disappearances.

EAAF has been collaborating for several years in the investigations carried out by German courts in relation to these cases and others that will eventually be tried. On August 16, 2001, President Fernando de la Rúa ruled out the possibility of General Suarez Mason's extradition to Germany, again invoking the principle of territoriality.

Sweden

Sweden has consistently de-manded that Argentina solve the disappearance of Dagmar Ingrid Hagelin⁴¹, a 17 year-old Swedish-Argentine who was abducted on the morning of January 27, 1977.⁴²



Dagmar Hagelin was mistaken for a member of the armed Montoneros group and consequently kidnapped. Her case became a serious international problem for the Argentine dictatorship at the time of its occurrence.⁴³ Nevertheless, according to several sources, Dagmar was

killed, to prevent leaks about the atrocities at ESMA. In an interview with the magazine *TresPuntos* in Buenos Aires in January 1998, Astiz denied participating in the disappearance of Hagelin but said he knew who did, although he refused to identify this person.

Although Ragner Hagelin, her father, was awarded compensation by an Argentine court in 1992 for his daughter's death, this money was not paid until he took the case before the Interamerican Commission on Human Rights.⁴⁴ Nevertheless, because Dagmar's abductor has not been brought to justice in Argentina, investigations are currently underway in Stockholm to open a Swedish case against Astiz and others involved in her death.⁴⁵

Switzerland

On December 15, 1998, Swiss prosecutor Bernard Bertossa issued an extradition warrant for Admiral Massera for his role in the disappearance of Chilean-Swiss citizen Alexei Vladimir Jaccard Seigler in 1977.⁴⁶ Jaccard was kidnapped

on May 16, 1977 in Buenos Aires, together with other Chileans who have been active in the Chilean Communist Party and members of the Argentine Committee in Solidarity with Chile. Jaccard was later seen at ESMA (Navy School of Mechanics) . The Swiss also seek to extradite Videla on the same charges.⁴⁷

In addition to the Jaccard case, Swiss federal prosecutors have been investigating bank accounts held by accused former military at the request of Judge Garzón. These accounts are apparently numerous and held in over 600 Swiss financial institutions. As of July 1997, Switzerland had frozen the accounts and other assets of four people on the list of 110 former Argentine military and police officers charged with the death of Spanish citizens.⁴⁸

Spain

The Spanish human rights prosecutions currently under way have catalyzed the field of international human rights. While based on legal traditions of universal jurisdiction, they have widened what is included in these categories and arrived at innovative bases from which to defend these usages.⁴⁹ These cases have their foundation in the definition of crimes against humanity established in Nuremberg in 1946.⁵⁰ Crimes against humanity have no statute of limitations and can be tried in any nation. The Nuremberg Principles are explicit about these crimes committed by individuals, not the state. Any person found guilty of such offenses “is internationally accountable and subject to punishment” whether or not he or she continues to govern. Under these Principles, it is impossible to pass the blame to others. The Spanish cases are unique because of their depth and scope as to the implementation of these basic definitions, consequently calling for rethinking ideas about sovereignty, impunity and accountability, especially as they are used in international law.

Background to the Spanish Prosecutions

The Spanish Union of Progressive Prosecutors⁵¹ filed a criminal complaint against the Argentine military for the disappearance of Spanish citizens in that country by exercising a popular initiative on behalf of 3 main groups of plaintiffs: the Argentine Association for Human Rights in Madrid, the Free Association of Lawyers and the United Left, a consortium of 6 political parties.⁵² After its filing,

the complaint eventually arrived in the office of the *Juez de Instrucción*⁵³ Baltazar Garzón, in the National Court and was accepted for investigation on June 10, 1996.

Until Garzón issued the first arrest warrants for high-ranking military after 18 months of investigation, few in the Spanish judicial system paid attention to the case. Since then, his rulings have been continually challenged by the Spanish parliament and the Spanish Supreme Court, which has nevertheless decided that he is within his jurisdiction to investigate the facts of what occurred during the military dictatorships in Argentina and Chile.⁵⁴ Due to the innovative invocation of jurisdiction of universal crimes that was inscribed into the Spanish Penal Code and other bodies of domestic law in the mid-1980's but rarely used, these cases are gradually clarifying the substance, scope and significance of them to Spanish jurists.⁵⁵

Constructing the Argentine Case:

On June 28th, 1996, Garzón ruled that the court had jurisdiction to investigate the case against the Argentine military and to prosecute any of the crimes committed by the accused and other responsible parties. In the course of the investigation, thousands of witnesses were deposed.⁵⁶ He proceeded with prosecutions by challenging the Argentinean amnesty laws.⁵⁷ The Spanish prosecution of Argentine military officers is ambitious and broad based and many are implicated.

Addressing Historical Silences: The Scilingo case

In October 1997 Garzón issued an arrest warrant that included naval Captain Adolfo Scilingo. Scilingo was among the few Navy naval officers who decided to confess his part in dumping the disappeared detained at ESMA from planes into the Argentine sea.⁵⁸ Furthermore, Scilingo willingly traveled to Spain to testify before Garzón as to the organization of the repressive action in Argentina, and his role in it, submitting memos, letters and other documents supporting his testimony. Afterwards, Scilingo was detained in Spain until January 1998.⁵⁹

In 1999, Garzón prohibited Scilingo from leaving Spanish territory and revoked his Argentine passport to ensure that he could not do so easily. This decision was overturned by the Spanish Constitutional Court on July 16, 2001 when they declared that these measures had infringed on Scilingo's per-

sonal freedom.⁶⁰ Garzón ruled on July 31, 2001 that imprisonment was the minimum act to ensure that Scilingo was brought to justice in Spain.

The First Extradition?: Cavallo in Mexico

Miguel Angel Cavallo⁶¹ was a Navy captain in the Argentine Army and worked out of ESMA, the Navy Mechanics School during the military regime. After the dictatorship, he moved to and lived in Mexico under the name of Ricardo Angel Cavallo, where he became a successful businessman. On August 24, 2000, during a stopover in Cancun en route to Argentina, Cavallo was arrested for genocide, torture and terrorism and indicted by Garzón on

Garzón established that the repression in the southern cone was coordinated through Operation Condor and has compiled a list of 150 members of the Argentine Armed Forces who will be prosecuted in relation to these charges.

Sept 1st. By September 12th, Garzón filed an extradition request, adding 32 counts for torture to the original indictment.⁶² Mexican judge Jesus Guadalupe Luna authorized Cavallo's extradition to Spain on Jan 12th, 2001.⁶³ On February 3rd, 2001, the Mexican government agreed to extradite Cavallo. In response to a request for assistance from Cavallo's defense team, the Argentine government has maintained that his extradition is a matter to be settled between Mexico and Spain and has not intervened.⁶⁴ Cavallo is currently appealing the Mexican verdict.

OPERATION CONDOR: THE CHILEAN AND ARGENTINE CASE

Separate ongoing prosecutions for Operation Condor were eventually consolidated to one case under Garzón. Upon hearing that Pinochet was visiting England in October 1998, *Izquierda Unida*, one of the plaintiffs, asked the court to interrogate him regarding his role in Operation Condor.⁶⁵ It also requested that Pinochet and other Chilean military be charged with disappearances and kidnappings. At the same time, the Relatives of the

Detained and Disappeared in Chile requested that Pinochet and others be charged with genocide, terrorism and torture. On October 16th, Garzón accepted these requests, issuing an arrest warrant for Pinochet as well as a request for his extradition to Spain.⁶⁶ The precedents established in Garzón's prosecution of General Augusto Pinochet are of central importance in expanding universal jurisdictions.

Garzón established that the repression in the southern cone was coordinated through Operation Condor and has compiled a list of 150 members of the Argentine Armed Forces who will be prosecuted in relation to these charges. International arrest warrants have been issued for General Galtieri, Admiral Anaya, Brigadiers Omar Graffigna, and Basilio Lami Dozo, all members of the military juntas that ruled during the last dictatorship. They had all previously been judged during the Junta trials ("Causa 13") in Argentina.⁶⁷

The Archives of Terror found in Paraguay have been crucial in detailing the extent of the clandestine and labyrinthine operations of Operation Condor and widespread involvement in it. The archives apparently make clear that the CIA and some US officials knew about Operation Condor but didn't reveal it to the public or to Congress.⁶⁸ A recently declassified state department document partially revealed the extent of US involvement in facilitating communication among southern cone intelligence chiefs through a US communications installation in the Panama Canal Zone that covered all of Latin America.⁶⁹ The document confirms suspicions on the part of the Spanish court investigating Operation Condor that key information is lodged in US security archives.

Israel

Beginning in 2000, a special commission was designated by the Israeli Parliament to examine the possibility of initiating an exploratory mission in Israel potentially leading to a trial of those high-ranking military officers responsible for the disappearance of Jews in Argentina during the repression. As part of their mission, this commission visited Buenos Aires in early September 2001. The details of EAAF collaboration with this project will be forthcoming in the 2001 report.

United States

In 1996, Argentina settled a case that had been fiercely battled for fourteen years with plaintiff José Siderman⁷⁰, narrowly avoiding being among the few foreign government to be tried in the US for human rights abuses committed in its own country.. Siderman, 85 at the time of settlement and in exile in Los Angeles, sued the Argentine government in a federal court in California for the loss of businesses and property he valued at \$26.4 million and for the having been detained, tortured and forced into exile during the last Argentine military government.⁷¹

PROCEEDINGS BEFORE THE INTER-AMERICAN COURT FOR HUMAN RIGHTS (ICHR)

The rulings and edicts of this court, a part of the Organization of American States, have been central to human rights implementation in Latin America by local judiciaries. Several major conventions are now widely observed, in particular the Inter-American Convention on Forced Disappearance, entered into force on March 28, 1996. Argentina has, in general, maintained a cooperative attitude toward using the court to deal with its internal human rights problems.⁷² At this time, a number of Argentine cases are being considered by the court or in settlement. Several of these have long-term implications for human rights prosecutions in the sense that they are landmark cases that will hopefully provoke necessary local legislation and/or implementation. In *Carmen Aguiar de Lopacó v. Argentina*⁷³, the litigant claimed that by refusing to determine what happened to her daughter who disappeared in March 1977, the Argentine courts violated her right to truth, specifically her right to know what happened to her daughter. This right has been upheld by the ICHR and local judiciary implementation is underway in Argentina.⁷⁴ In *Hagelin v. Argentina* the right to compensation was affirmed as a basis of respect for human rights.⁷⁵ In a related case admitted by the court after domestic remedies had been exhausted, Perrone and Prechel seek compensation due them as former political prisoners.⁷⁶ *Emiliano Castro Tortrino v. Argentina*⁷⁷ involves a history of corruption and impunity in relation to the theft of a grandchild this

grandfather has been trying to recover since the day the child's mother disappeared in 1977. While the Argentine Supreme Court ruled that criminal action had been extinguished through prescription, Tortrino, and as a result, other parents and grandparents, may find justice through the intervention of IACHR.

CONCLUSIONS:

Although Argentina has thus far refused to extradite high-ranking military officers in favor of local judicial processes, and these are currently circumscribed by the amnesty laws, nevertheless, European prosecutions have prompted cases in Argentina to be opened in response to new available data. Many high-ranking military officers are currently in prison or under house arrest and an increasing number are confined to Argentina as a result of international arrest warrants issued in their names. In certain cases, local judges are responding to international arrest warrants with local warrants of their own. Military who have been convicted in Europe may no longer leave Argentina without fearing arrest.

The prosecutions in Europe reflect the amplification of universal jurisdiction in trying human rights crimes and the use of international human rights law to battle impunity. This has been greatly strengthened by the high-profile Pinochet case and the Pinochet precedent of detention. Pinochet's case, and those of Olivera and Cavallo, may serve as warnings and deterrents.

FOOTNOTES

1. Please see the Introduction to this report for further background
2. Two partial amnesty laws in particular effectively put a halt to the Argentine project of prosecuting those who had acted with impunity during the dictatorship. The first, the *Punto Final* (Full Stop) law, passed by the Alfonsín government on December 24, 1986, halted all procedures against the military by setting a short statute of limitations (to January 30, 1987) with regard to the filing of criminal complaints against Argentine military. Subsequently, the *Due Obedience Law* was passed on June 8, 1987, excluding rank and file Argentine military from prosecution on the grounds that they were obliged to obey their superiors. These laws contributed to impunity and lack of accountability for the major abuses carried out between 1976 and 1983.
3. Although some details of Operation Condor were known and referred to, for example in the 1985 CONADEP report *Nunca Más*, the extent of Operation Condor was not discovered until the Archives of Terror were unearthed in a suburb of Asunción, Paraguay by lawyer and human rights activist Dr. Martín Almada in December 1992.
4. In one case, Admiral Massera, known as the great appropriator during the repression and defender of the philosophy that "the boys should be compensated for the risks they run", (In *Children of Cain*, by T. Rosenberg, Wm. Morrow & Co., New York, 1991) is currently being prosecuted in Argentine courts for killing two men whose vineyards he confiscated during the repression and wished to maintain as his personal property.
5. International convention on the protection of all persons from forced disappearance. See *The Rome Statute of the International Criminal Court*, 1998.
6. See *Unspeakable Truths* by Priscilla Hayner, Routledge 2001, pp. 175-8.
7. Upon reaching seventy years of age, Argentine prisoners are allowed to request house arrest.

- For this reason, the majority of the accused remain under house arrest although they have also been in prison at various times.
8. Judicial Diplomacy Chronicles and Reports on International Justice.
 9. Clarin August 18, 2001.
 10. Pratts was the commander of the military under President Allende in Chile. When Pinochet came to power, he was exiled in Argentina. His assassin, US citizen Michael Townley, confessed to killing Pratts and his wife as well as Dr. Orlando Letelier (former Chilean minister of Foreign Affairs under Allende) and Ronnie Moffit, his US colleague, following orders of the DINA (Chilean secret police). He also confessed to killing a former Bolivian president General Juan José Torres in Buenos Aires. Due to these crimes, the Argentine judiciary sought to extradite Townley to Buenos Aires in 1985 but the request was refused.
 11. Clarin August 10, 2001.
 12. See Uruguay section in this report.
 13. Clarin July 26, 2001.
 14. HR Watch, The Pinochet Precedent: How Victims can Pursue Human Rights Criminals Abroad.
 15. At the beginning of the twentieth century, many Italians immigrants arrived in Argentina to settle, eventually composing one-third of the population. For that reason, many Italians or Italians descendants in Argentina were killed—not because they were singled out but because they represent such a large percentage.
 16. The cases were based on Article 8 of the Italian Penal Code, which concerns “political crimes” and is limited in scope to offenses against the Italian state or Italian citizens (Redress).
 17. Clarin, October 9, 1999.
 18. Laura Carlotta’s body was given to her family after her death by a brother-in-law of her parents who was a policeman. They reburied her body but wanted to establish her cause of death and confirm her pregnancy.
 19. These include Daniel Ceuffo, Martino Mastinu and Mario Massas, and the children Guido Carlotta and Alberto Fabbri.
 20. Others charged by the Rome Penal Court included Juan Carlos Girardi, Buenos Aires police chief during the repression, Claudio D’Angelo, former head of the Naval prefecture Zonas del Tigre, former lower-ranking military Julio Rossin, Alejandro Huertas, Jose Luis Porchetto and Omar Maldonado (Ambito Financiero, May 21, 1999)
 21. The mother of a former leader of the Peronist Youth Group Dante Gullo
 22. Susana gave birth in captivity to Evelyn Vázquez, a girl was illegally adopted by low-ranking naval officer Policarpo Vázquez.
 23. The Guardian, July 3, 2001.
 24. Clarin 26 July 2001.
 25. Foreign Minister Adalberto Rodriguez Giovanini told reporters, “Argentina insists that its citizens must be tried by its own courts for actions committed on its territory.” (Clarin, 16 ago 2001)
 26. HR Watch, Washington, DC August 15, 2001.
 27. The Swedish also sought to question him regarding the murder of Argentine-Swedish citizen Dagmar Hagelin at that time.
 28. “Conviction in France” by Uki Goni, First Page, Buenos Aires, October 27, 1996.
 29. Erize’s mother, Francisca explained that five days after her daughter was kidnapped, 16 men broke into her house in the middle of the night, destroying everything and forcing her other children to the ground by threatening them with machineguns. They told her not to worry about her daughter - she was already dead. “Argentine Human Rights Criminal Detained in Italy”, Marcela Valente, IPS, August 10, 2000.
 30. He happened to be in Italy collecting information for a legal case that he was mounting against Margaret Thatcher for the sinking of a naval ship during the Malvinas/Falkland War (The Pinochet Precedent: Who could be arrested next?” by Marguerite Feitlowitz, War Crimes Project, October 2000).
 31. Scilingo was arrested and detained in Italy after testifying in Judge Garzón’s court in Spain.
 32. The Transnational Institute News, August 15, 2000.
 33. Among the testimony against Olivera was that of torture survivor Margarita Camus, who knew Marie Anne during her captivity and knew that Olivera tortured her, denouncing him from prison in 1977 before the Federal court of Mendoza. Valente, August 10, 2000.
 34. Olivera is an attorney who helps to coordinate the defenses of other high-ranking military being tried for human rights abuses in Argentina, including Videla, Suarez Mason and Massera. He also helped to launch a campaign for victims of terrorist acts committed in the 1970s, encouraging them to demand compensation from the state. (Amnesty International Report on Argentina, 2001).
 35. Another arrest warrant has been issued for Astiz and 48 have been issued for various high-ranking military by Judge Garzón in Spain.
 36. Amnesty International Report on Italy 2001.
 37. The Coalition Against Impunity is also supported by Adolfo Perez Esquivel, Nobel peace prize winner in 1980. The choice of the Nuremberg courts for hearing these cases is particularly symbolic because of the prosecution of the Nazis that took place there after World War II. Also see The Ambito Financiero, May 21, 1999.
 38. Käsemann was a sociologist who’d worked in Argentina from 1968. In 1977, she was kidnapped by the military and tortured for 8 weeks until she was killed on May 24, 1977 at the age of 30. Her death was reported by General Suarez Mason on May 26, 1977 when he announced that 16 subversives had been assassinated, 12 men and 4 women, among them Isabela Käsemann. Käsemann’s family was able to repatriate her remains by paying \$26,000 to the Argentine military who had murdered her; according to Argentine-German writer Osvaldo Bayer (EFE 12/7/01)
 39. Its basis was Article 7 of the German Penal Code that protects all German citizens against any crime committed against him or her outside of Germany.
 40. 1st Sergeant of the Federal Police, Hector Julio Simón, confessed to their murders on the Buenos Aires television program hosted by Mauro Viale in 1997 (Coalicón contra la Impunidad en Argentina, Germany).
 41. Alfredo Astiz mistook Dagmar for Maria Antonia Berger, a member of the Montoneros, as she walked home from a friend’s house just down the street from her own. As a result, he shot her in the head from behind and stuffed her in the trunk of a car, bringing her to ESMA. Although badly wounded, Hagelin was lucid and recovering from her wounds according to survivors who saw her.
 42. The form of the demand from Stockholm made on January 27, 1997—the twentieth anniversary of her disappearance, was a letter from 33 Swedish legislators to the speaker of the Lower House of the Argentine congress, Alberto Pierri.
 43. When the vice-minister for Foreign Affairs visited ESMA at the beginning of February 1977 to inquire about Dagmar, GT332 intelligence chief Jorge Acosta, also known as “El Tigre,” replied, “We cannot give in to public opinion. It’s now that we must show ourselves strong.” According to Ines Carrozo, a survivor of ESMA, “Acosta himself repeated at the time that they had a problem and that they had to solve it. They decided to kill her (Dagmar) and Pernias [Navy captain and one of Acosta’s most notorious torturers at ESMA] agreed to it.” (From Dagens Nyheter 3/10/96, translation provided by Uki Goni).
 44. He was subsequently paid in 2000.
 45. The statute of limitations in Sweden for crimes such as kidnapping is twenty-five years, necessitating the need to act quickly on this matter.
 46. Jaccard was a former member of the Communist Party of Chile, for which he had been jailed and tortured under Pinochet. Upon his release at the end of 1973, he went to Geneva, studied and married Paulina Velosa. Two years later, he went to visit his family in Argentina and Chile. On May 16, 1977, he was kidnapped on the street in Buenos Aires. According to testimonies and evidence collected by Grupo Nizkor, the federal police jailed and interrogated Jaccard and later transferred him to ESMA. (“Ampliación y fundamentación del Auto ordenado la prisión provisional incondicional de Augusto Pinochet y su detención”, Madrid, 18 October 1998.)
 47. The extradition requests follow the criminal complaints filed in Geneva by Jaccard’s widow.
 48. “Swiss Freeze Assets of Four Argentines Accused in Spain” in the New York Times, July 29, 1997
 49. The Spanish cases are based on nine international human rights treaties and conventions, the majority of them signed immediately after the death of Franco in 1975, and further supported by progressive domestic law originally directed towards Basque separatists. (Feitlowitz 1999)
 50. These include systematized killings, torture, disappearance, slavery, and arbitrary deportation, forced labor, rape, and persecution for politics, religion or ethnicity. (See Feitlowitz 1999, Lacabe 1998).
 51. Member Carlos Castresana was galvanized to action by memorials on the twentieth anniversary, March 24, 1996, of the coup that brought the last military junta to power. Struck by the ongoing prosecutions in Italy and France, and a case of such clear-cut impunity, he wondered why there was no litigation in Spain, where close to 1000 victims had their roots and where approximately one million Argentines had come in exile during the repression.
 52. Because Spanish law allows citizens and private organizations to initiate criminal proceedings before instructing courts without the approval of the public prosecutors office, the prosecutions in Spain are the first in Europe not solely started by those seeking redress but also by empathetic citizens in solidarity with the quest for justice.
 53. This section of the court carries out research, calls witnesses, takes sworn testimonies and structures the trial with extensive input from the lawyers for the plaintiffs, while another judge renders the verdict (Feitlowitz 1999).
 54. Clarin, October 9, 1999.
 55. Ibid.
 56. These included survivors of the repression, ex-disappeared, relatives of the victims, politicians, police who hoarded documents for the past 20 years, prosecutors from the trials in Argentina, midwives and obstetricians who attended chained desaparecidas while they gave birth, former generals and even the ex-President of Argentina, Isabel Perón. (See Feitlowitz 1999).
 57. He ruled that these laws (1) did not extend to crimes of genocide or terrorism; (2) cannot bind the Spanish legal system as Spanish juridical order prohibits pardons; (3) the penal code and Supreme Court do not admit the defense of due obedience as justification for following illegal orders; and, (4) the laws in question violate international treaties that Argentina has ratified. “Criminal Procedures Against Chile and Argentinean Repressors in Spain: A Short Summary,” by Margarita Lacabe, Derechos Human Rights, November 11, 1998.
 58. Earlier, he had recounted the details of “flights of death” recounted by Horacio Verbitsky in El Vuelo. In addition to speaking freely with reporters, Scilingo also wrote a book he now claims he only wrote due to financial need (IPS 5 Nov 99).
 59. After he was charged for deaths and detained, he retracted his testimony (BBC August 1, 2001).
 60. Izquierda Unida immediately responded, asking that Scilingo be jailed without the possibility of bail or release because of the high risk of his escaping Spanish justice.
 61. During the Dirty War, he was known as “Serpico.”
 62. Two French police interrogated Cavallo on Sept. 18th. This was part of a rogatory commission requested by French investigative judge Roger Le Loire regarding the disappearance of 15 French citizens in Argentina.



Buenos Aires, Argentina - July 3, 2000. Naval Captain Alfredo Astiz escorted to Tribunales. photo courtesy of Gustavo Ercole/Página12

63. His decision was based on an extradition treaty signed in 1980 between Mexico and Spain, and international conventions on genocide and torture. Luna reiterated that the treaty places international agreements above federal laws.
64. Clarin July 26, 2001; Cavallo is currently hoping to be extradited to Argentina, where the Mendoza Court has called for his testimony in a case of fraud and misappropriation of funds. (Clarin, July 2, 2001)
65. Much of Garzón's case against Pinochet is related to Operation Condor.
66. This was based on the Law of Criminal Procedure, the 1957 European Convention on Extradition, the UK-Spain Extradition Treaty and the Principles of international cooperation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity. . See "Criminal Procedures Against Chile and Argentinean Repressors in Spain: A Short Summary," by Margarita Lacabe, Derechos Human Rights, November 11, 1998
67. Clarin, October 9, 1999.
68. "Into the Murky Depths of Operation Condor", by Lucy Komisar, LA Times November 1, 1998
69. In the cable to Cyrus Vance, Robert White, US Ambassador to Paraguay, was concerned that the extent of the US connection to Operation Condor might be revealed during the investigation into the death of Letelier, former Chilean Foreign Minister and Ronnie Moffit, his US colleague. "It would seem advisable," White suggests, "to review this arrangement to ensure that its continuation is in US interest." New York Times March 6, 2001.
70. Argentine lawyers steadfastly argued that the American legal system had no right to judge its treatment of Siderman and that it was protected by the Foreign Sovereign Immunity Act. However, when the last military junta asked the Los Angeles Superior Court to forward a notice of suit it had filed against Mr. Siderman in 1981, the US Court of Appeals for the Ninth Circuit ruled, Argentina implicitly waived its rights to immunity. In addition, one of the assets the Siderman's had lost was a new hotel in Tucumán, their home province. Because this hotel had accepted credit cards issued in the US, the Ninth Circuit court was able to set aside sovereign. (New York Times, September 1, 1996) As a result, the Ninth Circuit set aside the protections Argentina would normally have had from the Siderman's property claims.
71. "For the First Time, US Court to Weigh Claim of Rights Abuses in Foreign Lands", New York Times, September 2, 1996
72. See "A Non-governmental Vision of the Inter-American's System's Reform Process" by Ariel Dulitzky, Viviana Krsticevic and Alejandro Valencia Villa, CEJIL.
73. IACHR Case 12.059
74. A friendly settlement was signed on November 15, 1999. The IACHR determined that it is the exclusive jurisdiction of the federal courts to determine truth regarding all disappearances prior to December 1983, that social assisting prosecutors shall be assigned to all cases to determine truth and fate of disappeared and that the plaintiff shall refrain from pursuing further international proceedings until these are fulfilled. (See Report No. 21/00, Case 12.059).
75. IACHR Case 11.308 upheld Haglin's right to compensation for damages for suffering experienced by his immediate family due to the Argentine state's claim that it had no ideas as to the whereabouts of his daughter who disappeared on January 27, 1977 (See Sweden section above.) Haglin exhausted domestic remedies before appealing to the IACHR.
76. The compensation laws, passed in 1991, were the direct result of a case brought to the IACHR by a group of former political prisoners.
77. IACHR Case 11.597.