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Argentina/Italy: Under international law crimes against humanity cannot be subject to statutes of limitations

Amnesty International is making an urgent appeal to Italy and Argentina to carry out their international obligations and not to allow any statutes of limitations to be applied to cases recognized as crimes against humanity under international law.

"The decision by the Rome Appeal Court to release Jorge Olivera, apparently concluding that a crime such as torture, which is punishable under international law, is subject to a statute of limitations under domestic law is extremely worrying," the organization said today.

France has requested Italy to extradite Jorge Olivera for the kidnapping and torture of French citizen Marie Anne Erize Tisseau. These offences, which reportedly appear on the arrest warrant, were carried out systematically in Argentina and, given their scale and gravity, they constitute crimes against humanity.

The Rome Statute of the International Criminal Court, in its article 7, recognizes that torture, when carried out systematically or on a large scale, constitutes a crime against humanity. Article 29 of the same Statute rules that crimes which fall under the jurisdiction of the Court cannot be subject to any statutes of limitations. The article confirms that under international law the application of any statute of limitations in cases of crimes against humanity is prohibited.

If Jorge Olivera returns to Argentina, Amnesty International calls on the Argentinian State once again not to disregard its international obligations with regard to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment by using the impunity laws - *Punto Final* (Full Stop) and *Obediencia Debida* (Due Obedience) - to prevent investigation of the cases of human rights violations in question.

"The Full Stop and Due Obedience Laws, which were passed in 1986 and 1987 respectively when civilian government was restored in Argentina, should be annulled in order to allow justice to be done and the truth to be made known," said Amnesty International.

"These laws, the effect of which is to obstruct investigations into human rights violations committed under military rule, are an affront to society in general and negate the international commitments made by the Argentinian State to prevent, investigate and punish all human rights violations," the organization added.

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General Information

Article 7 of the Torture Convention, which both Italy and Argentina have ratified, states that if an alleged torturer is found to be present on their territory, they are obliged either to extradite him or to present his case to the authorities so that legal action can be taken.

Jorge Olivera was detained in Italy on 6 August 2000 after an international arrest warrant was presented by France on 26 July for the kidnapping and torture of French citizen Marie Anne Erize Tisseau who disappeared in 1976 in the Argentinian province of San Juan. Nevertheless, the Rome Court of Appeal ordered his release on 18 September on the grounds that the crimes of which he was accused were subjected to a statute of limitations.

In Argentina, the *Comisión Nacional sobre la Desaparición de Personas* (CONADEP), National Commission on the Disappearance of Persons, concluded in its report entitled "*Nunca Más*" ("Never Again") that the human rights violations committed under military rule, including torture, were the result of "the widespread implementation of a repressive methodology" set in motion by the Argentinian Armed Forces and under the "absolute control of the State authorities".

Under international law, the scale and magnitude of the human rights violations committed in Argentina under military rule constitute crimes against humanity and therefore cannot be subject to immunity, statute of limitations or amnesty, Amnesty International said today.

In March 1998, the National Congress of Argentina repealed the Full Stop and Due Obedience Laws. However, their repeal does not apply retroactively to human rights violations committed under military rule between 1976 and 1983.

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