



The Unfinished Fight Against Debt

GABRIEL PASQUINI

'Globalization insights' is a series of feature stories told by journalists from Africa, Asia and Latin America – stories that give an insight into the perceptions and experiences of people as globalization unfolds in their environs. This project is jointly organized by the Friedrich-Ebert-Stiftung and IPS EUROPA.

Alejandro Olmos was no banker, politician or economist. But for the last 18 years of his life he was obsessed by one thing: Argentina's foreign debt.

On 4 April 1982 Olmos, an intellectual of nationalist persuasion, appeared before a judge in Buenos Aires to file a charge against what he considered to be one of the greatest crimes ever committed against his country: the acceptance of loans from international banks by the then military regime (1976-83) and the assumption by the state of debts in dollars contracted by private companies.

Olmos was not a celebrity and his charge was apparently just one among many that were lodged against the dictatorship during its final years, precipitated by the war against Britain over control of the Malvinas/Falkland Isles (2 April-14 June 1982). He did not expect any political support: he had to rely on his own resources. He dug for information, initiated measures, sought agreements with law-makers and economists, tried to interest researchers

and journalists. To achieve a greater impact, he compiled all the data he had in a book printed by a small nationalist publisher: *All you wanted to know about the foreign debt that they would never tell you*. But to little or no avail.

18 years passed. Cancer of the pancreas began to devour him rapidly. He still hoped that the court might lighten his last days with a ruling that would lend purpose to his life, but when he died on 24 April 2000 aged 76 his case – like a Kafka novel – was still at the procedural stage.

At the time foreign debt was a cancer eating into the Argentine national economy. In 1976, when the Armed Forces took governmental power by force, the country owed 7,875 million dollars, according to Central Bank statistics. By the end of 1983, when democratic government was restored, this liability had risen to 46,000 million dollars. In other words, the percentage of gross domestic product (GDP) accounted for by the national debt had risen from 18.9 in 1975 to 63.6 in 1983. And it has been growing ever since, as if the Argentine state had become addicted to the irresistible drug of foreign finance.

Under the administration of Raúl Alfonsín (1983-89), who was forced to resign amid hyperinflation, debt increased by 44.6 percent. During the two terms of office held by Carlos Menem (1989-99), whose policy of privatizing

public companies, economic deregulation, opening up trade and one-to-one parity between the U.S. dollar and the Argentinian peso was held up as a shining example by the International Monetary Fund (IMF), it rose by another 123 per cent and interest payments went up by 253 per cent.

By this time the debt was no longer just Argentina's problem. In 1998 the country's financial needs were soaking up 25 per cent of all the funds available for emerging markets, and three years later it was 33 per cent. In December 2001, when not even the international financial institutions were lending to Argentina any more, public debt skyrocketed to 140,000 million dollars.

Given the absence of funds and a fear that the untenable parity between the peso and dollar could spark a run, the government of Fernando de la Rúa (1999-2001) froze all bank assets. The lack of political support and mass demonstrations in the streets forced him to step down on 20 December 2001. His acting successor, Adolfo Rodríguez Saá, told Congress four days later that Argentina had defaulted: she would not be servicing her foreign debt. To ovations in parliament, Rodríguez Saá argued: "There is no getting round the crude reality that some people are saying the foreign debt, at least in part, is the biggest business deal Argentina has struck in all her history."

When Olmos died, investigations into the debt had swollen into some thirty fat files and innumerable documents held in Treasury rooms at the Argentine Central Bank. Once he had gone, there was only one person who could say with any certainty what truths might be concealed in that mountain of paper.

Juan Carlos Foerster was a sergeant in the Economic Crime Squad of the Federal Police when in 1983 Federal Court 2 recommended inquiries into the debt incurred by the Banco de Italia y Río de La Plata, a small piece in the huge debt investigation.

During the years that followed he studied to qualify first as an accountant and then as a lawyer. In the end he was given a job at Federal Court 2. He found that a new judge had arrived, but that enquiries into the foreign debt were still underway. Foerster saw two more judges arrive before he was entrusted with the case in 1993. It became a personal crusade. For all his efforts – with nothing but a small office and one assistant, set against the need to deal with many other complex cases – he did not manage to obtain a ruling before Olmos passed away.

About three months later, and 18 years after the initial indictment on 13 July 2000, Federal Judge Jorge Ballesterero finally signed a court decision stating that Olmos had been right: Argentina's foreign debt was the product of a chain of crimes committed by public servants under the military dictatorship.

Forced to borrow

First of all, the state had taken out loans without necessity. As former minister Martínez de Hoz told the court, "at meetings of the World Bank and other international bodies (in the seventies) there was a serious concern about what was called the international financial liquidity problem. The solution the countries which had these surpluses came up with was to recommend the international commercial banks to place these financial resources in countries that deserved loans and whose needs required finance for development".

Public companies were compelled to incur debt, and this led them down the path to ruin. The state oil company YPF, for example, only owed 372 million dollars in 1976, but this figure swelled to 6,000 million in 1983.

The money acquired in this manner was not used for public companies or public works, but solely to sustain a programme, implemented from 1976 to 1980, which would open the country to trade and enforce parity between the domestic currency and the U.S. dollar.

Investigations revealed that the Argentine state had not kept any accounts of its foreign debt: it relied entirely on creditors' records. This gave rise to abuses of all kinds. The former Minister of Economic Affairs, José Alfredo Martínez de Hoz (1976-80), acknowledged, for example, that a loan of 4,000 million dollars entered as awaiting payment had actually been settled and that part of the overall foreign debt consisted of loans between different divisions of multinational companies.

In some cases Argentina deposited the money with the international banks that lent it at their headquarters abroad, in return for paying lower charges for the loan. In 1979, for example, 83 per cent of the foreign currency reserves were placed in banks abroad. The Central Bank did keep a secret record of these placements, which was exposed during the investigations. The court also established that the "safe exchange" mechanism set up by Domingo Cavallo, then Director of the Central Bank (1982), ascribed the debts of private companies (some of which did not even exist) to the State.

Ballestero's ruling states: "No objections were raised about non-compliance with the Charter of the Central Bank of the Republic of Argentina; changes to legal instruments were facilitated and decreed in order to defer the jurisdiction of national courts to foreign judges; accounting records for the foreign debt are proven to have been non-existent; in order to uphold an economic policy, public companies were compelled to incur debt to obtain foreign currency which remained with the Central Bank, only to be returned to the exchange market; moreover, there were evidently no controls over the debt contracted by state companies with state guarantees."

Of course the ruling did not impose any punishment. As the period which had elapsed was longer than the sentence which could have been passed, the accused could no longer be punished. One court source commented that "perhaps it is for the best. If they had wanted to punish anyone, the case would have gone on to the Supreme Court, and who knows if the ruling which demonstrates what happened would have been upheld?"

So the ruling was not intended to penalize individuals but to review the debt question. Judge Ballestero declared in his decision that a copy would be sent to Parliament so that this body could take "the measures it considers conducive to the best solution in negotiating the nation's foreign debt which (...) was indecently increased from 1976 onwards by means of crude, exacerbating economics and politics which brought the country to its knees".

One of his predecessors on this case, Judge Martín Anzoátegui, had attempted to hand the investigation over to Parliament in 1984, predicting that it would prove too big for the court to handle. It did not happen then, and nor did it happen after the ruling. Attempts to set up a legislative committee on the matter came to nought.

Rodríguez Saá, the President who announced that Argentina would no longer be paying its debt and questioned its very legitimacy, was compelled to resign seven

days after his speech. The two presidents who followed him, Eduardo Duhalde (2002-2003) and Néstor Kirchner (2003-mandated to 2007), did not draw on the judge's arguments when negotiating how to restructure the debt.

Among other factors, the creditors were no longer the same. Out of a total of nearly 150,000 million dollars, 78,000 million in negotiable bonds, on which the government of Argentina has offered to pay only 25 per cent, are spread among thousands of investors all over the world. Of the remaining sum, 20 per cent is accounted for by debts with international loan institutions and the rest falls to Argentinian creditors.

The international banks who, along with servants of the military dictatorship, agreed the loans that triggered that huge snowball which has never stopped growing took pains to be rid of the burden in the eighties and nineties by way of various plans. These machinations are being investigated by the authorities following a second indictment that Olmos filed in 1993. That case has not yet been concluded.

Argentina has championed the idea of placing the administration of justice on an international footing. It therefore supported setting up the International Criminal Court. Luis Moreno Ocampo, its prosecutor, is a well-known Argentine jurist. Nevertheless, the files that encapsulate the criminal history of Argentina's foreign debt are still gathering dust in clerk Foerster's study.

About the author:

Gabriel Pasquini, an Argentine national, is author of investigative books and contributes to newspapers such as La Nación and Pagina12. He also teaches at an Argentine university.

More information is available on
www.fes.de/globalization

The views expressed in this publication are not necessarily the ones of the Friedrich-Ebert-Stiftung or of the organization for which the author works.

Friedrich-Ebert-Stiftung
Hiroshimastrasse 17
10785 Berlin
Germany
Tel.: ++49-30-26-935-914
Fax: ++49-30-26-935-959
Roswitha.Kiewitt@fes.de
www.fes.de/globalization

IPS EUROPA
Potsdamer Platz 11
10785 Berlin
Germany
Tel.: ++49-30-2589-4017
rjaura@ipseuropa.org
www.ipseuropa.org
www.ipseurope.org