From State Terrorism to Human Rights Evolution in Argentina: Transnational Networks and Seeking Justice

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Abstract

In the Cold War period, the military in Latin America expanded its role, intervened into politics and conducted human rights violations under the name of national security. With military training programs, the Untied States influenced the military's way of dealing with enemies for national security. Facing severe human rights violations such as torture and disappearance by the military, international NGOs and local groups worked together to improve human rights situation. As Argentina exemplifies, since the 1980s, newly democratizing states have increasingly made efforts to address accountability for the past human rights violations based on truth commissions and human rights trials. These are crucial elements to achieve transitional justice and consolidate democracy.

Keywords

Latin America, transnational networks, truth commissions, human rights trials

Introduction

Nuclear weapons have changed the nature of international politics in the Cold War period. Two superpowers—the United States and the Soviet Union—competed with each other for power and security. But World War III never broke out between them. So called "long peace" had been maintained for more than forty years. In contrast, civil wars and/or interstate wars broke out in developing countries. Political turmoils occasionally triggered coups by the military. Many states that experienced such wars were newly independent states after World War II. Both the United States and the Soviet Union intervened into these wars in order to maximize their influence and

escalated the confrontational situation. Without doubt, soldiers and citizens suffered from prolonged political turmoil and war. Civil wars continued years and divided the nations.

Indeed, Asia was one of the major battle grounds between the United States and the Soviet Union. Korean War broke out in 1950 and since then, the Korean Peninsula has been divided between South Korea and North Korea. In Southeast Asia, the United States escalated its military intervention in Vietnam War in the 1960s, fought the guerrilla warfare, and eventually withdrew troops from Vietnam in 1975.

In Latin America, despite the absence of major wars, act of war existed in the Cold War period. Due to intense political violence such as guerrilla fighting, counterinsurgency, and state terrorism, human rights had been severely violated. The major characteristics of human rights violations were torture, disappearance, and extra-judicial killings.

This paper will explore the background of political violence and human rights violation in Latin America in the Cold War period. Then it will investigate the roles of international non-government organizations and local groups in the stake of political violence. In addition, it will discuss the role of truth commissions and human rights trials in the post-authoritarian governments. In conclusion, this paper will examine roles of civil society for seeking justice and promoting human rights values.

Ⅰ. The Cold War, Cuban Revolution, and National Security Doctrine

During the Cold War, Latin America suffered from political violence, poverty, and social injustice. The military often engaged in excessive political intervention under the name of the National Security Doctrine. The military launched a coup, overthrew a democratic government, and established an authoritarian government. Under the military government, people who were considered subversive were abducted, detained, tortured, and disappeared. The military determined to fight against enemies for national security. For citizens, it was state terrorism and human rights violation.[1)]

Many Latin American militaries had developed such national security doctrine, and violated human rights since the 1960s. The United States influenced developing counterinsurgency doctrines and assisted the officers to practice counterinsurgency tactics. As early as the Eisenhower administration in the 1950s, the United States

reassessed the US military aid programs to Latin America, as Castro's forces effectively fought against Batista's army with guerrilla tactics. From the US point of view, heavily military equipments and forces would be useless for fighting against anti-government forces in guerrilla warfare. The United States came to believe that what Latin American militaries needed was to learn how to control civil disturbances and oppress pro-Soviet revolutionary movements. In particular, after Castro and his revolutionary fellows overthrew the Batista government and established a close relationship with the Soviet Union, the United States realized that the military must act effectively in order not to have "the second or third Cuba in Latin America".[2)]

President Kennedy, for instance, instructed the Joints Chief of Staff to study on anti-guerrilla forces in Latin America and other regions. Kennedy appointed a committee known as the Special Group to assess the usefulness of counterinsurgency effort. From the US point of view, trainings for internal security, anti-subversion, guerrilla and psychological warfare operation were more crucial than the hemispheric defense. The Kennedy administration organized interagency teams from Departments of the State and the Defense, the CIA and the FBI. The teams assessed the dangers of communist infiltration and subversion. They measured the capacity of Latin American military and police officers to respond to such threats. President Kennedy even used his presidential authority to waive Congressional restrictions on military aids for internal security.[3)]

In addition to military aids, the United States invited Latin American officers to get trainings at the military schools in the US. During the 1960s, elite Latin American officers had trainings at the School of the Americas and the Special Warfare School at Fort Bragg, North Carolina. At the School of the Americas, they studied clandestine operations, the use of informants, interrogation of prisoners and suspects, handling mass rallies and meetings, intelligence analysis.[4)]

Latin American militaries developed the National Security Doctrine. The military leaders considered that internal security and political intervention were important components of their mission. More or less, they saw that political leaders were corrupted, failed to develop national economy and stabilize society. Therefore, it was the military's mission to engage in such domestic affairs. Indeed, during the Kennedy administration, the military overthrew six administration with elected presidents in Latin America. For two decades between the mid 1960s and mid 1980s, the military repeatedly intervened into politics.[5)]

Later, the military's political intervention was escalated. The military engaged in systematic human rights violations against fellow citizens. In the worst situation, the military government conducted state terrorism under the name of national security. In the Southern cone countries such as Argentina, Brazil, Chile and Uruguay, and in the Central American countries such as El Salvador and Guatemala, a large number of citizens were abducted, detained, tortured, and disappeared.

For example, in the case of Chile, after General Pinochet overthrew the Allende administration in 1973, more than 40,000 were detained in the national stadium and tortured. In addition to the capital of Santiago, known as "the caravan of death", the army systematically traversed the country and almost 100 political prisoners were executed. In this way, indiscriminate killings, clandestine detention centers and systematic torture were conducted in the Pichochet government. Pinochet's act of war was so decisive that the fear and terror was penetrated not only in the society but also in the military organization itself.

From 1976 to 1983, Argentina's military junta launched a political project known as the Process of National Reorganization (Proceso de Reorganización Nacional, PRN). It aimed to restore order in the society based on values of Western Civilization and Christianity. Therefore, it was not simply the confrontation between the military junta and armed guerrillas. The military junta aimed to eliminate any roots of potential enemies, dangerous ideas and behaviors. For this purpose, in addition the military kidnapped people such as university students, teachers, members of the labor unions, psychiatrists, journalists, human rights lawyers, Jewish people and so on. The military detained them in the military facilities, tortured, and executed them illegally. Some prisoners were thrown into the Antarctic Ocean from airplanes. Others were buried in anonymous graves.

Guatemala's repression against indigenous people in the 1980s was notorious as well. As armed rebel groups carried out anti-government activities in the Mayan communities, General Efraín Ríos Montt responded with severe repression in rural areas. Because it was difficult to isolate armed opponents from other citizens in the jungle highlands, the government killed both of them in the villages. By so doing, it aimed to eliminate any potential threats. About between 150,000 and 300,000 people were dead in this state repression.[6)]

II. International NGOs, Local Groups, and Transnational Networks

At the stake of state terrorism and human rights violation in Latin America, international NGOs and local groups form transnational advocacy networks. They are major driving forces to improve human rights situations. In principle, international NGOs and local groups share specific goals and human rights norms. They coordinate to campaign for achieving the goals. They aim to address human rights violation problems with detailed documentation, witness, testimony and pictures. They lobby to international organizations and other governments, and mobilize public opinions. Often, members of local groups are the victims and/or relatives of victims of human rights violations. They may lack professional skills and financial sources. However, their personal stories and straightforward messages are essential to let the world know about the reality of human rights violations.[7)]

In fact, it is often pointed out that transnational networks have unintended consequences described as "boomerang effect". That is, human rights violators may dismiss human rights pressure applied by local groups. But transnational advocacy networks between local groups and international NGOs lobby international organizations and other powerful countries that support human rights issues to pressure the violators for human rights reforms.[8)]

1) International NGOs

Activities by the Amnesty International have been significant to improve human rights situations in Latin America. The Amnesty International was founded in London in 1961. In the beginning, it focused on individual prisoners and relied mainly on correspondence between the Amnesty International members and government authorities who could release prisoners. In the mid 1960s, the Amnesty International established a national office in New York. In the mid 1970s, staffs and activities were professionalized and started to work with the United Nations. The Amnesty International addressed problems of the torture, disappearances, and extrajudicial execution. It attempted to improve human rights conditions under repressive governments with pressure through the United Nations. In order to enhance its organizational capacities, the Amnesty International created a legal department with international lawyers. In

the case of the torture and disappearance, it published reports on human right situations based on first-hand information, collecting from the victims and the relatives of the disappeared and local groups.[9)]

The Washington Office on Latin America (WOLA) is an organization that exclusively focuses on Latin American region. Founded in the 1970s, WOLA lobbies the US government and Congress to carry out foreign policies and pass bills in order to promote human rights in Latin America. It supports drafting bills that the United State would give pressure to Latin American countries for human rights violations.[10)]

2) Local Groups

In the field of human rights in Latin America, victims and the relatives of victims form groups and work together. Unlike members of the international NGOs, people at these local groups are not necessarily professional in the field of human rights. In the case of Argentina, Argentina's Mothers of Plaza de Mayo was one of the most famous local groups. After the coup in 1976, mothers whose children were disappeared were so devastated that they asked for help at the police, ministry of interior, court and churches. These mothers came to know with each other and decided to walk together in the Plaza de Mayo. What they wanted to know was where their children were, whether or not their children were detained, why and where they were detained, whether they were tortured or not while being detained. They hoped the government to protect their children. When they started such activities, they were neither legal experts nor human rights advocates. But their message was so clear that they became symbolic eventually.[11)]

In addition to the Mothers of Plaza de Mayo, the Grandmothers of Plaza de Mayo was established. Members of the Grandmothers of Plaza de Mayo were originally members of the Mothers of Plaza de Mayo. As their children were pregnant when they were disappeared, these mothers believed that their grandchildren were born and were illegally adopted. Therefore, they have worked for finding their grandchildren, identifying their children, and relocating their grandchildren to their biological family. Indeed, as of 2006, the Grandmothers have found eighty three grandchildren of the five hundred grandchildren believe to be taken.[12)]

These local groups develop solidarity across the borders. In 1981, they joined together and formed the Latin American Federation of Associations for Relatives of

the Detained-Disappeared (Federación Latinoamericana de Asociaciones de Familiares de Detenidos-Desaparecidos, FEDEFAM). As early as 1983, FEDEFAM presented a draft for international treaty on the disappearances. Almost a decade later, in 1992, the United Nations approved the nonbinding Declaration for the Protection of All Persons from Enforced Disappearance. In 2006, the General Assembly of the U.N. approved a biding international treaty on disappearance, which opened for signature in 2007. Over one-fifth of the original signatories were Latin American countries. With efforts of local associations of relatives of the disappeared in Latin America, similar groups such as the Asian Federation against Involuntary Disappearances have formed in other regions.[13)]

Another distinctive local group is the Children of the Disappeared (Hijos e Hijas por la Identidad y Justicia contra el Olvido y el Silencio, HIJOS). It was a group of young people whose parents were disappeared or imprisoned. When they walk with the Mothers of Plaza de Mayo, there is a space of the disappeared between them. It implies that the Mothers continues to struggle for their missing children. The Children of the Disappeared is famous for its high-profile performance so called *escrache*. What the Children of Disappeared sought is to bring justice for those who benefited from the amnesty laws. The Children of the Disappeared exposed the location of these people. The members of the Children of the Disappeared marched in front of the identified person and called for justice with loud voice. In a way, *escrache* is an attempt to bring social justice, if not legal, to those who conducted human rights violations.[14)]

III. Promoting and Sustaining Human Rights in Latin America: Democratic Transition, Truth Commission and Human Rights Trials

In the 1980s and the 1990s, Latin American counties experienced democratic transition. In the democratization process, in many Latin American countries, if not all, newly elected leaders have tried to claim the state's responsibility of the pastwrongdoings. In some countries, they have made efforts to reconcile on the past human rights violations between human rights violators and victims.

1) Truth Commissions

One of the key features in the democratic transition is to establish some formal

institutional body that investigates human rights violations in the past. Truth commissions are instrumental to establish "truth" about the wrongdoing in the past.

Truth commissions aim to estimate the scale of human rights violation (e.g., the total number of violations) and to provide explanations of how and why such a set of violations occurred. They imply who are responsible for the atrocity. To be sure, roles and functions of truth commissions may differ from country to country. But public recognition and acknowledgement about the past are the core elements. In newly democratic society, people learn about the past tragedy and mechanism of systematic human rights violations in the past. With public recognition and acknowledgement atrocity would never again happen.

Bolivia was the first country that established so called truth commission (the National Commission of Inquiry into Disappearnce). But this commission was far from complete. Indeed, it was disbanded and a report of its investigation on the disappeared was never published. In contrast, Argentina's truth commission has played a significant role for remembering the past atrocity. Argentina's *Nunca Más*, a report of the National Commission on the Disappeared, was an important document for human rights trials at national and local levels. Argentina's *Nunca Más* has been a national best-seller, being widely read and translated into different languages.

When the government was reluctant to lead the truth commission, NGOs published a report on the disappearances. In Brazil, for instance, the Archdiocese of São Paulo published *Brazil: Nunca Mais* in 1985. More than two decades later, the Human Rights Secretary of Brazil published a 500 pages report titled *the Right to Memory and Truth*. In Uruguay, the initial report was inadequate. Therefore later with support from NGO, past human rights abues were documented. In 2002, National Peace Commission was established and investigated the disappeared between 1973 and 1985.

When Chile established the truth commission in the Aylwin administration, it aimed to investigate human rights violations during the Pinochet regime and to provide relatives of the disappeared with information. However, known as the Aylwin Doctrine, while it helped them to provide information about the fate of their loved one, the government hesitated to prosecute any officials. The Commission for Historical Clarification was established in the process of peace accord in the civil war in Guatemala. The United Nations supported this process and Secretary General of the UN appointed the chair of the commission who was foreign to Guatemala situation.

Besides this commission, Recovery of Historical Memory Project and International Centre for Human Rights Investigation supplemented data of killings and completed the whole picture of the past atrocity.[15)]

2) Human Rights Trials

In addition to truth commissions, having human right trial is another prominent feature of transitional justice. Substantial contents of human rights trials may differ from country to country. But human rights norms that seek accountability for human rights violations in the past have been developed through trials. This trend is often called "justice cascade".[16)]

In Argentina, for instance, human rights trials were held shortly after the democratic transition. Such trials were far away from smooth. Indeed, at various levels, they continue to be held since more than 20 years have passed. In 1985, nine members of military juntas found guilty and top military leaders in the Army and Navy were sentenced to life imprisonment. But facing pressure from the military, the Congress passed the two laws—the Final Stop Law (Punto Final) and the Due Obedience Law (Ley de Obediencia Debida). The Final Stop Law put an end to any further prosecution by setting the deadline. The Due Obedience Law granted immunity to all army personnel ranked colonel or below on the grounds that they were following orders. Furthermore, in 1990, President Menem pardoned the military junta leaders.[17)]

While the government tried to find a way to avoid being confront against with the military, relatives of victims, human rights organizations, and human rights lawyers called for "truth trials". Namely, they stated that citizens have the right to know what happened to their loved ones. These calls imply that even though laws may prevent the prosecutions of those responsible for human rights violation, judicial investigations may continue for seeking truth.[18)]

Another event related to human rights trials in Argentina was to prosecute for abduction of babies from detained mothers and illegal adoption in the *Proceso* period. The Grandmothers of Plaza de Mayo have made efforts to find their grandchildren since the group was founded. The group cooperated with the government for this purpose. As early as in 1992, National Commission for the Right to Identity, Comisión Nacional por el Derecho a la Identidad (CONADI), was established to find and identify missing children. President Menem pardoned the military leaders for human rights

violations. But the pardon did not cover the abduction of children and illegal adoption so that two major military leaders—Videla and Massera—were arrested for abducting babies, falsifying their identity, and arranging illegal adoption.[19)]

Argentina's human rights trials continued, as Argentina's Supreme Court declared the Final Stop and Due Obedience Laws unconstitutional in 2005. It claimed that amnesty laws were inapplicable to crimes against humanity. In 2007, a federal court overturned Menem's pardons and reopened trials.

As far as human rights trials are concerned, Pinochet's arrest in London in 1998 was a dramatic event in Latin America and the rest of the world. In Chile, after Pinochet's authoritarian government, newly elected leaders had promoted reconciliation, rather prosecution and punishment on human rights issues. It was almost impossible to imagine that Pinochet would be at human rights trials. However, in 1998, in London, Pinochet, a former head of the state, was subject to prosecution for human rights crimes. While Pinochet was staying there for medical treatment, Spain requested that the Chilean general be extradited to Spain for having tortured Spanish citizens. After an international arrest warrant was issued, Britain detained Pinochet for more than a year. Eventually, Britain allowed Pinochet to return to Chile for his poor physical and mental conditions in 2000. But returning to Chile, Pinochet had to face trials at home. While Pinochet was in London, the court changed its attitude toward human rights issues thanks to judicial reforms and generational shift in the post-Pinochet era. Only two months after his return, about 100 cases were filed against Pinochet. The Court stripped Pinochet's immunity as senator. Pinochet was under house arrest in Chile. In 2006, when he died for heart attack, he faced hundreds of charges for human rights violation to others.[20)] The Pinochet case implies that human rights trials can be held at both domestic and international levels.

Conclusion

Latin America has been at the core region of human rights accountability in the world. The truth commissions and human rights trials have been spread in the region, as Sikkink and Luz have called "justice cascade".[21)] In fact, from its own experiences, Argentine human rights organizations have promoted establishing new international human rights norms and practices. Argentine human rights activities, truth commis-

sion, and human rights trials have raised a generation of human rights activists and professionals.

During the international process of drafting the Convention on the Rights of the Child in the late 1980s, the Grandmothers of Plaza de Mayo persuaded Argentine Foreign Minister to press for provision in the convention on the "right to identity". The final convention includes these provisions as Articles 7 and 8. They are informally called "the Argentine articles". Because the Argentine Constitution incorporate international law directly into domestic law, once Argentina had ratified the convention, these articles provided the Grandmothers with the legal bases to argue that children had a right to identity, and thus to permit judges to order blood tests to children even when the adoptive parents oppose. By so doing, the Grandmothers succeeded in identifying whether or not the children were the sons and daughters of the disappeared.[22)]

Paradoxically, Argentina's experience of human rights violations in the 1970s encouraged Argentine people to engage in various human rights related activities in the 1980s and 1990s. Argentine human rights activists and legal professionals have developed their prestigious careers in the field of human rights internationally. Luis Moreno-Ocapmo, former assistant prosecutor in the Argentina's trials of the military juntas is the prosecutor of the International Criminal Court. Former director of CELS later served as a member of the Inter-American Commission on Human Rights. Argentina's one of the key founders of the Argentine forensic anthropology team later trained other forensic teams around the world and worked for Amnesty International in London. In this way, the Argentine human rights activists share their experiences with their counterparts around the world and promote human rights in the worldwide scale.[23)]

Since the 1980s, newly democratizing states have increasingly made efforts to address accountability for the past human rights violations based on truth commissions and human rights trials. Public recognition, acknowledgement, and even punishment through truth commission and human rights trials may be elements to achieve transitional justice and consolidate democracy. Remembering the past and learning lessons from it is crucial in order not to repeat atrocity again. Every country has its own political situations so that roles and function of truth commissions and human rights trials may vary. In addition, activities of truth commission and the process of trials

may be complex and time-consuming. But through these experiences, human rights norm would be formed and penetrated step by step at local, national, and international levels.

Notes

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