

PRESS RELEASE for October 21, 1999



Menem's presidency about to end in Argentina, **with BAYS case being a glaring part** **of his flawed legacy**

- *Menem prepares to leave presidential mansion, with part of his benighted legacy having been the selection of one of the most ill prepared and counter-productive ambassadors in Washington, Diego Guelar.*
- *Newly formed Magistrates' Council surprisingly agrees to hear charges against the controversial judge who had ruled, with no corroborating evidence, that two adults who were members of the Buenos Aires Yoga School (BAYS), were "mentally incompetent" and should be turned over to their parents whom they previously had charged with sexual abuse and neglect.*
- *While the BAYS case receives great exposure on the Hill and in the White House, it is all but ignored in Buenos Aires, due to a lack of moral fiber and a supine media.*
- *Tide begins to turn as key Argentine agency denounces judge's role in BAYS case, as does high official of the University of Buenos Aires' Law School.*
- *Pressure building on Argentina authorities to come clean on BAYS case, as merely one small aspect of one of the most corrupt presidential administrations to plague the nation in its history.*

On Sunday, Argentine voters will elect a successor to President Carlos Saul Menem, whose administration has become synonymous with corruption and a contempt for moral and ethical values. Under his administration, the country's basic democratic institutions have fallen into an advanced stage of decrepitude. The legacy that Menem leaves behind him is meager. Rather than advancing his country and ennobling it, he has led it down the road of moral rot, and has substituted chicanery and deception for leadership. Meanwhile, to the consternation of Argentine officials, the BAYS affair is assuming a rising profile in the sparsely populated plains of U.S.-Argentine relations, significant for only the bizarre friendship between Menem and Bill Clinton. But even so, by now, more than 50 Democratic and Republican members of Congress, including the chairman and ranking minority leader of the House Judiciary Committee, have sent letters to President Menem or engaged in other efforts to gain clarification of the status of the charges against the Buenos Aires Yoga School (BAYS). This 300-member social and arts organization includes some of Argentina's most promising intellectuals and artists. Due to non-stop harassment by local authorities, the

school has seen its size dwindle in the last seven years from a membership list of over 1,000, as a result of a concerted campaign against it by the country's judicial and prosecutorial officials. Another factor relating to the organization's fate has been the malign neglect accorded it by the local press, with the notable exception of the Buenos Aires daily, *Página 12*.

As the case worked its way through Argentina's notorious judiciary, which has been classified by several international business groups as being among the most corrupt in the world, it has witnessed multiple instances of blatant judicial impropriety. Although officials serving in the Menem administration, as well as the president himself, repeatedly have been apprised of the fact that the persecution of BAYS had raised serious alarm abroad as well as increasing concern at home, no initiative to redress the situation has been undertaken. Rather than express concern over a case which was giving Argentina negative publicity around the world, particularly due to its tainted judiciary, such government officials as Foreign Minister Guido Di Tella and the Argentine ambassador in Washington, Diego Guelar, have followed a policy of subscribing to statements of plausible deniability on the BAYS matter, whose gross inaccuracies are an insult to their intended audience's intelligence.

Ambassador Guelar, in particular, has engaged in outlandish tactics which have been so high-handed and offensive that they seriously have alienated a number of Democratic and Republican legislators, who have castigated him in letters later released to the press. The Guelar appointment was vintage Menem. Guelar who narrowly survived a major financial scandal thanks (as his critics charge) to friends in high places, has brought his government few benefits in Washington, except for being ridiculed over his repugnant actions. His mercurial temperament and inability to meaningfully process information or present a rational defense for controversial actions, such as his premature rush to close the Israeli Embassy bombing case in Buenos Aires, with its heavy loss of life, has resulted in his ill-serving both the Menem administrations, or, more important, his nation. This last action of his was heatedly condemned by both U.S. and Argentine Jewish leaders. He also has permitted the BAYS case to shape contemporary U.S. - Argentine relations. Nor has he endeared himself to congress when he called one staffer a "prostitute" because of her intention to participate in a congressional staff delegation's visit to Argentina to investigate the BAYS affair. Rather than trying to quell the congressional wildfire over the BAYS case, he has only managed to throw gasoline over it.

Meanwhile, the BAYS case is attracting increasing attention in Buenos Aires. The head of the Government's public defender's agency has denounced the trial judge's persecution of BAYS and has publicly stated that if the case isn't thrown out, that the organization would be justified in appealing to the Inter-American Court of Human Rights to obtain the justice it could not find in Argentina. He was later joined by the head of the criminal law faculty of the University of Buenos Aires Law School, the distinguished, Eugenio Raúl Zaffaroni, who declared that the core of the case against BAYS was totally without merit.

Money not always talks when justice walks

Six years ago, when public awareness of it first broke, the Buenos Aires press simply dismissed BAYS as if the organization were a nothing more than a sex cult which routinely engaged in brainwashing its members — an Argentine version of a Jonestown. This was the prevailing portrait even though not a single member of the local media bothered to closely investigate any of the spurious charges lodged against the organization by a group of relatives who were intent on blaming it for their estrangement with their children. This was an act of personal irresponsibility on the media's part, which a number of Argentine journalists now see as a grievous lapse of professionalism. Since the first wave of tabloid journalism was applied to the case, a veritable "código de silencio" (code of silence) descended on it until several years ago, when a group of young BAYS members come to Washington to work the halls of Congress in search of the justice which they had been denied in their native country.

As a result of the ability of these BAYS members to capture the bipartisan interest and concern of an impressive number of congressmen, President Clinton eventually became involved in the case and has now written two letters expressing his concern over the apparent malfunctioning of proper legal procedures surrounding the trials of its members in Argentina. He also has made known that he had asked that the U. S. embassy in Buenos Aires "encourage Argentine authorities to respond fully to congressional correspondence on this matter."

The BAYS case began when one of its members privately charged her step-father with sexual abuse. He, in turn, counter-sued the organization, claiming it to be a sex cult that had "brainwashed" his daughter and "had taken her away from him," then reducing her to "adult servitude." This last charge was based on an obscure Argentine law from the last century that had no logical application to this case. The legal basis used by sitting judge, Julio Cesar Corvalán de la Colina, now has been blown apart by the University of Buenos Aires' Dr. Raul Zaffaroni's devastating critique of it, in which he dismissed Corvalán ruling as a unfit for legal action. In sifting through the list of those individuals on the outside who were hostile to the institution, it was established that in most cases, the tension between anti-BAYS parents and their BAYS children in fact pre-dated the establishment of BAYS or when their children became members of the organization. In several of the more egregious circumstances, key local observers, including some judges, believe that parental payoffs likely have been made to tilt the direction of the trial and that a strategy was calculatedly put into play by the dissident parents to discredit the school in the minds of the public and as a means of diverting attention from their own troubled family lives.

Bewitched, bothered and bewildered

The BAYS case initially was presided over by Judge Mariano Bergés from December 1993 until November 1995. After a short interregnum, it was taken over by Judge Corvalán. Under Bergés orchestration, BAYS's largely professional and heavily Jewish membership had suffered the full gamut of rhetorical abuse and his bizarre antics. These included Bergés interrogating children of BAYS members for many hours without their lawyers or parents

present, forced entry into private domiciles without a suitable search warrant, and the jailing on fraudulent charges of several BAYS members, all accompanied by a torrent of anti-Semitic epithets screamed out by him.

As a result of these flagrant excesses, Bergés was brought before the Argentine congress' Impeachment Committee on charges of serious illegalities and non-professional behavior while handling the BAYS case and other matters--138 irregularities and 4 crimes including acts of sexual depravity in the BAYS case alone. Not surprisingly, this deeply politicized Argentine legislative entity, with members of the Radical Party (increasingly famed for its venality) in the lead, rallied behind Bergés and voted for his exoneration. But, in spite of the Radical delegation's stance, the entire Impeachment Committee moved to indict Bergés before the Senate for the crimes of abuse of power, prevarication, and failure in his duties as a public official.

At this point, Bergés proceeded to caricature the process and embarrass even his defenders by charging that the BAYS defendants had "cast a spell over him." Although a final impeachment vote was never taken against Bergés, the BAYS case eventually was handed over to Corvalán, who now presides.

Dr. Corvalán, Psychiatrist

Instead of applying responsible jurisprudence in the BAYS case, Judge Corvalán grossly compounded his predecessor's malfeasance and lack of professional decorum. What will probably lead to his calamitous undoing is that Corvalán then engaged in the most flagrant misuse of his powers by duplicating the distortion of legal procedures and the misapplication of psychiatric practices engaged in during the worst days of the Stalinist era when opponents of the regime were routinely sent to be tortured in psychiatric wards in Siberia on supposedly medical grounds, without any justification or basis in fact.

Last March, even though the matter lay outside his judicial discretion, Corvalán who was appointed to the bench by the Argentine military junta (which was responsible for the torture and murder of upwards of 25,000 innocent Argentine civilians during the 1970's and 80's) declared two of the BAYS members "mentally incompetent," and awarded legal custody over them to their mothers from whom they long had been estranged. This ruling was confirmed on appeal by the Sixth Chamber Appellate Court, even though the psychological exams of one of them — Maria Valeria Llamas — had been administered by a medical team, which established that she was of, sound mind. It should be noted that the Sixth Chamber has the reputation of being one of the most corrupt benches in a court system renown for its notorious lust for payoffs, a fact authenticated by the private acknowledgment by one of its senior judges. The mental health specialists who had ruled on the BAYS defendants, also found that one of them had been physically and sexually abused by her stepfather and mother. If this wasn't Argentina — a country featuring a scandal-a-day and where civic rectitude is nearly an extinct species — it would be all but inconceivable that a judge would completely ignore expert testimony, and, with no recourse to concrete evidence to the contrary, would arbitrarily award custody over a 27-year-old woman to the very person who

the BAYS defendant previously had charged with sexual depravity. The University of Buenos Aires' Dr. Zaffaroni strongly condemned Corvalán's decision, stating that it was completely at variance with international practice.

After a fact-finding mission to Argentina, by high level members of their staffs, Representatives R. Wexler, J. Conyers, T. Hall, J. Lewis and R. Underwood, expressed their concern in a letter to President Clinton: "The Delegation found many legal and judicial irregularities." They also parenthetically noted that "The Argentine Ambassador, Diego Guelar, was invited to testify but did not appear nor excuse himself."

A growing support base

After lamentably ignoring the case because the media successfully had assigned a cultist status to BAYS, Argentine human rights advocates finally began to come forward to denounce actions committed by the Argentine judiciary and prosecutorial officials. Nobel laureate, Adolfo Perez Esquivel argued that Corvalán's competency ruling concerning the two BAYS members purported mental soundness that begged to be investigated. The famed human rights group, Mothers of Plaza de Mayo, found that the Corvalán ruling violated Article 16 of the International Treaty on Civil and Political Rights. The Grandmothers of the Plaza de Mayo, concurred, maintaining that the actions taken by Corvalán "are similar to those committed against citizens during Argentina's dirty war, when individuals were stripped of their civil rights." For these and a long list of other reasons, many Argentine students of jurisprudence believe that Corvalán deserves to be indicted and forced to resign because he is one of those who has given Argentine jurisprudence its current ill-repute.

Lawyers for the two BAYS defendants have pleaded for Corvalán's removal from their case in front of the Council of Magistrates, a new institution that evaluates judicial impropriety and instances of corruption. The case is now before that body's "Accusation Commission," headed by Radical party member Representative Melchor Cruchaga. At first, the case was destined to be routinely dismissed due to the built-in bias of Radical Party members, but due to the persistence of Council members Miguel Angel Pichetto and Judge Claudio Kipper, who argued that the charges against Corvalán must be heard, Cruchaga announced that because of the "international interest" in the case, a hearing would be held. This finding, although it may redeem Cruchaga's reputation, could prove fruitless later on, although it still would represent no small victory for the small army of Argentines committed to civic enlightenment in the country. The petition for relief filed by the BAYS defendants has been supported by, among others, the distinguished physicist and human rights figure Dr. Federico Westercamp, the Argentine League for the Rights of Man, and members of the Argentine House Human Rights Commission.

The proceedings against Corvalán are attracting a good deal of attention because the strong stand being taken against his blatant transgressions increasingly is being seen as a central milestone in Argentina's laborious struggle to earn the basic emblems of an authentic democracy and neutralize the country's judicial and political corruption, which up to now has been its curse.

The Council on Hemispheric Affairs, founded in 1975, is an independent, non-partisan and tax exempt research and information organization. It has been described on the floor of the Senate as being "one of the nation's most respected bodies of scholars and policy makers."