

State Violence: The Brazilian Amnesty Law and the Fight Against Impunity

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Abstract : From 1964 to 1985, Brazil was ruled by a dictatorial regime that, under the discourse of fight against terrorism and subversion, implemented cruel and atrocious practices against anyone who opposed the State ideology. At the same time, several Latin American countries faced dictatorial periods and experienced State repression through apparatuses of violence institutionalized in the very governmental structure. Despite the correspondence between repressive methods adopted by authoritarian regimes in States such as Argentina, Chile, El Salvador, Peru and Uruguay, the mechanisms of democratic transition adopted with the end of each dictatorship were significantly different. While some States have found ways to deal with past atrocities through serious and transparent investigations of the crimes perpetrated in the name of repression, in others, as in Brazil, a culture of impunity remains rooted in society, manifesting itself in the widespread disbelief of the population in governmental and democratic institutions. While Argentina, Chile, Peru and Uruguay are convincing examples of the possibility and importance of the prosecution of crimes such as torture, forced disappearance and murder committed by the State, El Salvador demonstrates the complete failure to punish or at least remove from power the perpetrators of serious crimes against civilians and political opponents. In a scenario of widespread violations of human rights, State violence becomes entrenched within society as a daily and even necessary practice. In Brazil, a lack of political and judicial will withstands the impunity of those who, during the military regime, committed serious crimes against human rights under the authority of the State. If the reproduction of violence is a direct consequence of the culture of denial and the rejection of everyone considered to be different, 'the other', then the adoption of transitional mechanisms that underpin the historical and political contexts of the time seems essential. Such mechanisms must strengthen democracy through the effective implementation of the rights to memory and to truth, the right to justice and reparations for victims and their families, as well as institutional changes in order to remove from power those who, when in power, could not distinguish between legality and authoritarianism. Against this background, this research analyses the importance of transitional justice for the restoration of democracy, considering the adoption of amnesty laws as a strategy to preclude criminal prosecution of offenses committed during dictatorial regimes. The study investigates the scope of Law No 6.683/79, the Brazilian amnesty law, which, according to a 2010 decision of the Brazilian Constitutional Supreme Court, granted amnesty to those responsible for political crimes and related crimes, committed between September 2, 1961 and August 15, 1979. Was the purpose of this Law to grant amnesty to violent crimes committed by the State? If so, is it possible to recognize the legitimacy of a Congress composed of indirectly elected politicians controlled by the dictatorship?

Keywords : amnesty law, criminal justice, dictatorship, state violence

Conference Title : ICCLCPS 2015 : International Conference on Criminal Law, Criminology and Police Science

Conference Location : Paris, France

Conference Dates : June 25-26, 2015