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[REDACTED] BUENOS AIRES 4943

E.O. 12065: GDS 6/18/85 (HARRIS, F. ALLEN) OR-P
TAGS: SHUM AR
SUBJ: (U) APPEALS COURT REJECTS TIMERMAN HABEAS CORPUS PETITION
REF: BUENOS AIRES 3993, PARA 6

SUMMARY: THE WEEKEND PRESS REPORTED THAT THE FEDERAL APPEALS COURT OF BUENOS AIRES REJECTED A HABEAS CORPUS PETITION FILED ON BEHALF OF FORMER "LA OPINION" EDITOR JACOBO TIMERMAN, WHO IS BEING HELD UNDER HOUSE ARREST AFTER TWO YEARS OF DETENTION. THERE WAS EARLIER SPECULATION THAT THE RECENT RETIREMENT OF TWO LIBERAL JUDGES ON THE COURT OF APPEALS MADE THE DECISION LIKELY. THE CASE MAY NOW GO TO THE SUPREME COURT.
END SUMMARY.

1. (U) A HABEAS CORPUS APPEAL TO THE BUENOS AIRES FEDERAL APPEALS COURT WAS FILED BY MRS. TIMERMAN SOME MONTHS AGO SEEKING TO HAVE HER HUSBAND, JACOBO TIMERMAN, FREED PURSUANT TO A DECISION OF THE ARGENTINE SUPREME COURT WHICH FOUND MR. TIMERMAN'S DETENTION UNDER THE PODER EJECUTIVO NACIONAL IMPROPER, INASMUCH AS THE FORMER EDITOR HAD BEEN INVESTIGATED BY A MILITARY COURT AND FOUND NOT TO HAVE ANY CONNECTIONS WITH SUBVERSION.

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2. (U) ACCORDING TO PRESS ACCOUNTS, THE RECENT APPEALS COURT DECISION APPEARS NOT TO HAVE BEEN

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ARGENTINA PROJECT (S200000044)
U.S. DEPT. OF STATE, A/RPS/IPS
Margaret P. Grafeld, Director
 Release () Excise () Deny
Exemption(s):
Declassify: () In Part In Full
() Classify as () Extend as () Downgrade to
Date _____ Declassify on _____ Reason _____

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A LEGALISTIC DECISION, BUT ARGUED THAT MR. TIMERMAN'S CONTINUED IMPRISONMENT WAS JUSTIFIED ON PRINCIPLES OF MORALITY, SUITABILITY, EFFICCY AND RESPONSIBILITY. ACCORDING TO THE PRESS THE JUDGES SAID THAT THE ARGENTINE NATION HAD FACED FORCES ORGANIZED, EQUIPPED AND DIRECTED BY ELEMENTS WHICH RESPONDED TO ALIEN IDEOLOGIES AND WITH THE PROCLAIMED INTENTION OF PROVOKING CHAOS AND "FOREIGNIZED" DESPOTISM. THE RULING WENT ON TO SAY THAT THERE WAS COMPLACENCY ON THE PART OF THE STATE, ENTITIES AND PERSONS WHICH "COULD HARM HEALTHY PUBLIC OPINION, FACILITATING PROMOTING THE DISASSOCIATIVE ACTION OF SUBVERSION." TO FACE THIS SITUATION THE MILITARY GOVERNMENT REQUIRED, ACCORDING TO THE COURT, A "SYSTEM STRONGER THAN THAT WHICH HAD THEORETICALEY RULED UP TO THEN AND WAS OBVIOUSLY INSUFFICIENT..."

3. [REDACTED] COMMENT: THERE WAS SPECULATION IN JUDICIAL CIRCLES THAT THE RECENT RETIREMENT OF THE "TWO LIBERAL JUDGES" IN THE THREE MEMBER BUENOS AIRES FEDERAL APPEALS COURT PANEL SIGNALLED THAT THE COURT DECISION WOULD BE UNFAVORABLE TO MR. TIMERMAN. ALTHOUGH THE EMBASSY HAS NOT AS YET RECEIVED A COPY OF THE DECISION, FROM THE NEWSPAPER ACCOUNTS IT APPEARS THAT THE COURT DID NOT CLEARLY ADDRESS THE UNDERLYING LEGAL ISSUE, WHICH IS WHETHER MR. TIMERMAN CAN BE HELD ON THE BASIS OF THE INSTITUTIONAL ACT ITSELF AND NOT UNDER THE NATIONAL EXECUTIVE POWER AUTHORITY GRANTED TO THE GOVERNMENT UNDER SPECIAL CIRCUMSTANCES DURING THE STATE OF SIEGE. THIS

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TYPE OF LEGAL DECISION WILL NOW BE FACED BY THE SUPREME COURT. END COMMENT.
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