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ACTION HA-05

INFO OCT-01 ARA-11 ADS-00 IO-14 CIAE-00 DODE-00
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TO SECSTATE WASHDC IMMEDIATE 239
INFO AMEMBASSY ASUNCION
AMEMBASSY BRASILIA
AMEMBASSY LA PAZ
AMEMBASSY MONTEVIDEO
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ARGENTINA PROJECT (S200000044)

U.S. DEPT. OF STATE, A/RPS/IPS

Margaret P. Grafeld, Director

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Exemption(s): _____

Declassify: In Part In Full

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Date _____ Declassify on _____ Reason _____

[REDACTED] SECTION 1 OF 2 BUENOS AIRES 2931

E.O. 12065: GDS 4/12/85 (HALLMAN, WILLIAM H.) OR-P
TAGS: SHUM AR
SUBJECT: (U) WEEKLY HUMAN RIGHTS COMMENTARY: APRIL 12, 1979
REF: BUENOS AIRES 2737

1. [REDACTED] SUMMARY. THE BARREIROS ABDUCTIONS, WHICH THE AMBASSADOR RAISED WITH GENERAL VIOLA HOURS AFTER RECEIVING THE FIRST REPORT OF THE INCIDENT, HAS CREATED PRECEDENT IN HOW CLOSELY THESE CASES ARE TO BE MONITORED BETWEEN THE TWO OFFICES. THE TIMERMAN SETBACK REPORTED EARLIER REFLECTS A MILITARY MOOD THAT DEMONSTRATES DIFFICULTIES IN STRAIGHTENING OUT PROBLEMS IN THE HUMAN RIGHTS FRONT. LIMITATIONS UPON THE JUDICIARY WERE UNDERLINED IN CONVERSATIONS THE PAST TWO WEEKS. END SUMMARY.

2. [REDACTED] BARREIROS DISAPPEARANCES. IT IS SIGNIFICANT
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THAT A RELATIONSHIP BETWEEN THE AMBASSADOR AND GENERAL VIOLA HAS BEEN ESTABLISHED THAT PERMITS FREE USE OF

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THAT CHANNEL FOR US TO REPORT DISAPPEARANCES (EVEN, IN THE BARREIROS CASE, WITHOUT HAVING A DIRECT REPORT FROM A FAMILY MEMBER AND STILL LACKING DETAILS) AND TO RECEIVE A PROMPT REPORT IN REPLY. (SEE BUENOS AIRES 2828.) THIS CORRESPONDS TO COMMITMENTS GIVEN BY AMBASSADOR AJA ESPIL AND SECONDED HERE, AND WE BELIEVE EXPEDITIOUS USE OF THE CHANNEL WILL MAINTAIN THE KIND OF DIALOGUE THAT WILL KEEP THE COMMITMENT ALIVE. VIOLA'S REPORT THAT THE ARMY WAS NOT RESPONSIBLE FOR THE BARREIROS ABDUCTIONS LEADS NOW INTO A POLICE INQUIRY, WHICH MAY OR MAY NOT TURN UP INFORMATION BUT WHICH CARRIES U.S. INSISTENCE IN THESE INDIVIDUAL CASES INTO A NEW AREA. (MEM CON OF AMBASSADOR'S TALK ON MARCH 12 WITH ROBERTO BARREIROS'S MOTHER WILL BE POUCHED.)

3. [REDACTED] BACKTRACKING ON TIMERMAN. THE STARK NEWS HANDED THE AMBASSADOR IN HIS MOST RECENT TALK WITH VIOLA (BUENOS AIRES 2828) THAT TIMERMAN'S RELEASE IS NOT POSSIBLE IN THE NEAR FUTURE WAS FLESHED OUT DURING VISITS APRIL 11 TO THE SECRETARIES GENERAL OF THE ARMY AND NAVY. (NOTE: VISITS WERE ARRANGED TO INTRODUCE PATRICK FLOOD, VISITING HERE THIS WEEK FROM HA.) ARGUMENTS PRESENTED AT BOTH SERVICE HEADQUARTERS FOLLOWED LINE THAT IDEOLOGICAL SUBVERSION HAS BEEN AND WILL REMAIN AS GREAT A DANGER TO THE COUNTRY AS ARMED SUBVERSION, THAT TIMERMAN IS ONE OF THOSE PERSONS CLOSELY IDENTIFIED WITH IDEOLOGICAL SUBVERSION, AND THAT HIS RELEASE WOULD BE REGARDED AS AN OUTRAGE BY ARMED FORCES MEMBERS. MEMBERS OF THE ARMED FORCES WERE DESCRIBED AS "A CONSTITUENCY" THAT FOUND ITS REPRESENTATION IN LEADERS OF THIS REGIME, AND IT WAS LOGICAL THAT LEADERS REFLECT THE VIEWS OF CONSTITUENTS -- MANY INFLUENCED BY THE VEHEMENT ANTI-TIMERMAN ARTICLES OF CABILDO MAGAZINE AND LA NUEVA PROVINCIA NEWSPAPER.

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THESE EXPLANATIONS SHED LIGHT TOO ON DIFFICULTIES THE GOVERNMENT HAS IN TAKING STEPS IN OTHER HUMAN RIGHTS AREAS -- FOR "THE CONSTITUENCY" HAS INFLUENCE ON THE FATE OF PEN PRISONERS AND IN ANY OTHER AREA OF TOPICAL INTEREST.

4. [REDACTED] THE JUDICIARY AND HUMAN RIGHTS. IT APPEARS THAT THE ARGENTINE JUDICIARY IS AWARE OF AND RESIGNED TO THE LIMITED ROLE IT WILL PLAY IN THE FORESEEABLE FUTURE IN DEALING WITH THE LEGAL ISSUES OF THE PEN DETAINEES AND THE DESAPARECIDOS. DURING THE LAST TWO WEEKS, EMBOFFS HAVE HAD A NUMBER OF CONTACTS WITH JUDICIAL FIGURES DURING THE VISITS OF THE NEW YORK CITY BAR ASSOCIATION LAWYERS AND HA/HR

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OFFICER FLOOD. THE CONTACTS INCLUDED SUPREME COURT JUSTICE GABRIELLI, MINISTER OF JUSTICE RODRIGUEZ VARELA, THE LEADERSHIP OF THE ARGENTINE BAR ASSOCIATION, GROUP OF YOUNG LAWYERS PLUS SENIOR PARTNERS OF CORPORATE LAW FIRMS AND CRIMINAL DEFENSE COUNSELS. MINISTER OF JUSTICE RODRIGUEZ VARELA'S JUDICIAL REFORM IDEAS CENTER ON IMPROVING THE FUNCTIONING OF JUDICIARY -- IMPROVING PHYSICAL FACILITIES, COMPUTERIZING THE ARGENTINE LAW, AND INCREASING COMMUNICATION BETWEEN JUDGES AND MEMBERS OF THE BAR. HE SAID REGRETFULLY THAT THERE WAS NOTHING THAT THE JUDICIARY COULD DO WITH RESPECT TO THE "DESAPARECIDOS" AND ACKNOWLEDGED THAT THE GOVERNMENT WOULD BE FORCED TO HOLD A CERTAIN NUMBER OF PERSONS UNDER EXECUTIVE DETENTION FOR THE IMMEDIATE FUTURE. SUPREME COURT JUSTICE GABRIELLI MAINTAINS THAT THE COURT SYSTEM MUST OPERATE WITHIN THE CURRENT HISTORICAL CONTEXT OF THE COUNTRY AND MUST CONFINE ITS EFFORTS TO STRICTLY LEGAL ISSUES. DECISIONS WHICH IMPACT BEYOND THIS NARROW LEGAL AREA ARE "POLITICAL" AND CANNOT BE ISSUED BY THE COURT UNDER PRESENT CIRCUMSTANCES. SEVERAL MEMBERS OF THE BAR EXPRESSED BELIEF THAT THE COURT, UNDER THE ASTUTE LEADERSHIP OF SUPREME COURT JUSTICE GABRIELLI, HAS IN THE SMITH III CASE SUCCESSFULLY SHIFTED RESPONSIBILITY TO THE EXECUTIVE FOR THE

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COURT'S INABILITY TO RESOLVE THE THOUSANDS OF HABEAS CORPUS PETITIONS PRESENTED ON BEHALF OF THE DISAPPEARED PERSONS. WITH RESPECT TO PEN DETENTIONS, THE COURT IN THE YANEZ SERIES OF DECISIONS HAS REAFFIRMED ITS NARROW INTERPRETATION OF THE STATE OF SIEGE PROVISIONS ENUNCIATED IN THE TIZIO DECISION. IN THIS DECISION THE COURT SAID IT WILL ACCEPT AS A CONSTITUTIONAL EXERCISE OF THE EXECUTIVE'S STATE OF SIEGE POWER THE DETENTION OF PERSONS WHOM THE EXECUTIVE ASSERTS HAS "LINKS WITH SUBVERSION," WITHOUT DEMANDING THAT THE EXECUTIVE DEMONSTRATE A PROBABILITY THAT A CRIME HAS BEEN COMMITTED.

5. [REDACTED] LEAGUE FOR THE RIGHTS OF MAN MEMBER PLACED UNDER PEN. FORNOFF OFFICIAL SHOWED EMBOFF AND HA/HR OFFICER LISTS OF PERSONS RECENTLY PLACED UNDER OR REMOVED FROM PEN (PODER EJECUTIVO NACIONAL) DETENTION. NOTABLE ON THIS LIST WAS A DECREE ISSUED FOR A PERSON WHO WAS CHARGED WITH AFFILIATION WITH THE LIGA
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ARGENTINA DE DERECHOS DEL HOMBRE. EMBASSY COMMENT:
THIS ORGANIZATION, A COMMUNIST PARTY BACKED HUMAN RIGHTS ORGANIZATION WHICH HAS BEEN ACTIVE SINCE 1937, HAS HERETOFORE BEEN UNDER CLOSE GOVERNMENT SCRUTINY, DUE TO ITS PCA CONNECTIONS. HOWEVER, THIS IS THE FIRST INSTANCE THE EMBASSY IS AWARE OF IN WHICH A LIGA MEMBER PER SE HAS BEEN PLACED UNDER PEN.
END COMMENT.

6. (U) PRESS FREEDOM COMMENTARY. COLUMNIST JAMES NEILSON IN THE BUENOS AIRES HERALD, A CLOSE OBSERVER OF HUMAN RIGHTS EVENTS HERE, WROTE IN A RECENT COLUMN THAT "AN INDICATION OF THE WAY THE ATMOSPHERE HAS IMPROVED... IS THE WILLINGNESS OF THE PRESS TO REPORT THINGS THAT WOULD HAVE BEEN STEADFASTLY IGNORED NO SO LONG AGO," LIKE THE THREAT OF A POLICEMAN IN CORRIENTES AGAINST A REPORTER. THE PRESIDENT OF THE ARGENTINE NEWSPAPER PUBLISHERS ASSOCIATION, OVIDIO LAGOS, PUBLISHER OF LA CAPITAL OF ROSARIO, SAID "THE CONSITUTIONAL GUARANTEE OF FREEDOM OF THE PRESS IS ENFORCED IN ARGENTINA" ALTHOUGH IN THE PAST SIX MONTHS THERE WERE "A FEW ISOLATED EPISODES THAT ATTEMPTED TO IMPAIR IT..."
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