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Uruguay's culture of impunity continues to rear its head

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The [decision](#) by Uruguay's Supreme Court of Justice to transfer Judge Mariana Mota is evidence that the country's culture of impunity for the crimes of the 1973-85 dictatorship endures. The judge was in charge of more than 50 cases of human rights violations perpetrated during the authoritarian regime. In 2010, he condemned former dictator Bordaberry to 30 years in prison for leading the military-backed coup in 1973 in a historic verdict. The transfer of judge Mota is a damaging setback of alarming consequences in the search for justice for past crimes in Uruguay and calls into question the real extent of Uruguay's commitment to the cause of justice and human rights.

Uruguay has won international plaudits of late and gained the image as a bastion of progressivism in Latin America. Last year it legalised abortion, making it the second country to do so in the region, and it proposed legislation to legalise marijuana places it at the vanguard of the so-called war on drugs. Then there is President José 'Pepe' Mujica, whose folksy, down-to-earth form of leadership and position as the ['world's poorest president'](#) makes him a refreshing contrast to the vast majority of the globe's leaders. As such, Uruguay is regaining its title of 'the Switzerland of Latin America'.

This positive image, however, took a significant step backwards on 13 February 2013, when the country's Supreme Court of Justice decided to transfer Judge Mariana Mota from her criminal jurisdiction (tribunal 7 in Montevideo) to a new position as judge of civil tribunal 1 in Montevideo. For the past several years, Mota has been at the forefront of investigations into the vast human rights violations, including executions, torture, disappearances and prolonged imprisonment committed by the military dictatorship that ruled from 1973 to 1985. Until a few days ago, she had been in charge of more than 50 cases of the dictatorship's crimes. In February 2010, it was Mota who sentenced in a [historic verdict](#) in Latin America the former dictator Juan María Bordaberry to 30 years in prison for his part in leading the 1973 coup d'état.

Throughout Uruguay, Mota is well respected, and considered to be well trained, competent, qualified, professional and responsible. In the aftermath of her transfer, several political leaders expressed their indignation and surprise. Uruguay's Foreign Minister Luis Almagro for instance labelled Mota an ["extraordinary judge"](#) and declared that Uruguay is likely to lose its international standing as a result of this event. MP Felipe Michelini expressed his surprise and indignation for the lack of explanations behind the Court's decision as well as his preoccupation for the stance of the Supreme Court in terms of fighting impunity for the dictatorship's crimes. Lastly, MP Luis Puig asserted that the judge's transfer amounted to 'a real triumph of impunity'.

By removing Mota, the Uruguayan judiciary has shown itself determined to derail efforts to deliver justice for the military's crimes, despite the [revocation of a 25-year-old amnesty law](#) in October 2011.

In the 1970s and 1980s, Uruguay became known as 'the torture chamber of Latin America', reflecting the repressive techniques used by the military dictatorship. Between 1973 and 1977, the dictatorship boasted the highest percentage of political prisoners per capita in the world, who were subjected to prolonged imprisonment and physical and psychological torture. Over 200 civilians were forcibly disappeared during the 12-year rule; thousands were brutally tortured and illegally detained.

Following the return to democracy in 1985, the administration of Julio María Sanguinetti established the *Ley de Caducidad de la Previsión Punitiva del Estado* (Law on the Expiry of the Punitive Claims of the State, or Expiry Law). This amnesty law granted complete impunity to military and security personnel for the crimes they committed during the dictatorship.

The new democratic government took a position of 'no truth, no justice' to calls for accountability and information about the whereabouts of the disappeared. As such, silence and oblivion became institutionalised, and the Expiry Law became the cornerstone of a culture of impunity.

There have been sustained challenges to institutionalised impunity since the adoption of the Expiry Law, always spearheaded by [civil society organisations](#). Two referenda triggered by human rights groups failed to overturn the law in 1989 and 2009. Some high-profile prosecutions were achieved after 2005 with efforts by lawyers to circumvent the parameters of the law; nevertheless, the preservation of the amnesty meant that all attempts to investigate abuses had to be approved by the Executive.

A decision by the Inter-America Court of Human Rights (IACtHR) in the case of [Gelman vs. Uruguay](#) in February 2011, finally led to the revocation of the law by the Parliament in October 2011.

Overturning the Expiry Law means that Uruguay's judiciary is free to investigate and hold to account those responsible for abuses carried out a generation ago. However, Wednesday's decision suggests that the culture of impunity that existed for over 20 years still exerts its influence and is much harder to eradicate than initially expected. As many, including lawyer Pablo Chargoña and activist Raúl Olivera, have previously stated, impunity in Uruguay goes well beyond specific laws such as the Expiry Law and has transformed itself into 'factual impunity'.

Mota's involvement in high-profile cases had previously generated attempts to oust her from her position. In 2011, she was forced to explain to the Supreme Court allegations in a news article that she had attended a March of Silence, a yearly demonstration organised by the human rights community to demand information about those disappeared by the dictatorship. Last year, she incited the wrath of many individuals, including former President Jorge Batlle and current President Mujica following an [interview with an Argentine newspaper](#) in which she criticised the Uruguayan government's efforts to shed light on the crimes of the past. Once again, Mota was forced to explain her actions to the Supreme Court.

Given previous efforts to undermine her position, it appears unlikely to be a mere coincidence that the Supreme Court should decide to remove her from her post. Although the Court is permitted to do so according to Uruguayan laws, its failure to provide an adequate explanation points to something more calculated. As Mota explained in an [interview](#) with *La Diaria* newspaper, 'it is strange for a judge to be transferred without having made a request, nor having demonstrated malpractice'.

What is worrying is that the Court should decide to remove a judge who has proved herself as competent, efficient, and well trained in the cases in which she is involved. Even worse is that such a development should arise only months after which the Expiry Law was finally overturned. With Mota's removal, it is highly likely that the 55 cases of abuse by the dictatorship she was investigating will cease to develop and be subject to lengthy delays. With the advanced age of many of the defendants, such delays can dramatically reduce the likelihood of them standing trial and produce further impunity.

If Uruguay is to retain its continued regaining its image as the Switzerland of Latin America, it is fundamental that the independence of judges such as Mota, as well as the rule of law, is respected. Judges like Mota should be supported and accompanied in the fight for justice, not ousted and removed from their jobs. Without this, the dark years of the dictatorship will continue to cast a long shadow.

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