Tribute to Irwin P. Stotzky

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There is an air of paradox about settling accounts with human rights violators. Punishment of those who infringed the most basic individual liberties is perhaps the most effective means of restoring dignity to those who suffered directly or indirectly from the constant humiliation of state brutality. The question then arises as to who will design a policy for acquiring democratic dignity.

This was the question to answer in Argentina during 1983 when, after the Falkland/Malvinas war fiasco, the military surrendered their power to elected president Raul Alfonsín. As his advisers on legal and institutional issues, Carlos Nino and I realized that a basic agreement on justice strategies was as indispensable as it was difficult. Years of impotence before lawlessness and abuse had given rise to intense sentiments among the citizenry, and these strong emotions often failed to intersect.

There was seriously divisive conflict among Argentines about the nature and reach of criminal punishment and its effects on the dignity of the Argentine polity. In search of solutions, we often turned to our foreign friends: accomplished human rights activists, intellectuals, and politicians who offered their disinterested help. By and large, this did not work out well.

Most of the foreign collaborators and advisers visiting Argentina were from the First World and held adamant views about Argentina’s human rights policy. Depending on their view of the efficacy of the criminal justice system, our visitors were either optimists or pessimists. The optimists relied heavily on the justice system and advocated that all human rights abusers be criminally prosecuted and punished. This was largely the stance

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of most human rights activists and progressive politicians. The pessimists resisted the idea of punishment. They maintained that criminal punishment should be viewed with suspicion as an expression of moralistic prejudice, legalistic interference with political judgment, or both. Thus, because we necessarily relied on the designers of human rights policies in other countries for help, we were caught between extreme and mostly inapplicable conceptions of the role of criminal punishment in transitions to democracy.

Amidst accusations of leniency and vengefulness from local actors and the impracticable agendas of foreign experts and observers, we were caught between utopia and disbelief. Few Argentines and even fewer foreigners understood the complexities of the times. Indeed, only a small number of voices were of help and inspiration. One of these voices was that of Irwin Stotzky and his insight of principle and practice. Irwin Stotzky was caught by neither an unconditional faith in retributive justice, nor by the fear that retributive justice would jeopardize future political peace. Professor Stotzky's long-standing advocacy for refugees had exposed him to human suffering and to the virtues and limits of retributive justice. This balance of the ideal and the practicable, of the abstract and the concrete, has been the guiding principle in Professor Stotzky's passion for democracy and individual rights. His upcoming book on the democratization of Haiti, Silencing the Guns in Haiti: The Promise of Deliberative Democracy (University of Chicago Press) reflects his views. Like a social anthropologist, Stotzky wends his way into the intricate network of Haitian actors and power brokers to establish the possibility and limits of democratic rule in that country.

During his frequent visits to Argentina in the late 1980's, he became our fellow traveler, but he was even more obsessive and anxious than we were. In Buenos Aires, Nino, Stotzky, and I engaged in endless, thought-provoking debates. Stotzky's views were not only theoretically insightful, but also revealed his years of experience battling for Haitian refugees in the United States and abroad.

We continued our dialogues throughout the 1990's. In 1994, I saw Stotzky again in Haiti during a short trip to meet with President Aristide. Stotzky was then his usual self. He was surrounded by a dozen Haitian prosecutors who were over-
whelmed due to their inexperience, and they were looking to him for assistance. Professor Stotzky's achievements in Haiti were exceptional. Through his efforts, for the first time in Haiti's history, a case was brought against a human rights violator. The case culminated in a prosecution and conviction and has played a major role in re-establishing the rule of law in Haiti.

The "Lawyer of the Americas" Award could not have been given to anyone more deserving than Irwin Stotzky: as he is so highly appreciated in other countries, there is no reason why he should not enjoy the same appreciation here in Miami.