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Inglês

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Argentina's Dirty War

More than 40 years have passed since Argentina's generals seized power. They kidnapped, tortured and killed thousands of Argentines whom they saw as a threat to western civilisation. Democracy was restored in 1983, but many perpetrators of those crimes have never been punished. Of the 2,780 people who have been charged with human-rights violations since 2006, just 750 have been found guilty.

Now, some Argentines fear, even that incomplete justice is being weakened. On May 3rd the country's supreme court made a decision that could free as many as 248 prisoners. The case relates to Luis Muiña, who in 2011 was sentenced to 13 years in prison for the kidnap and torture of five people in 1976. The court ruled that, under Argentina's "two-for-one" law, some of the time he had spent on remand [sob prisão preventiva] should reduce his sentence by double that amount of time. This cut it by eight years. His release on parole [em liberdade condicional] in April was thus legal.

Since democracy was restored, politics has dictated how the crimes of Argentina's "dirty war" are treated. A truth commission established that at least 8,960 people had been murdered. After military uprisings against the democratic government of Raúl Alfonsín in the late 1980s, the government introduced amnesty laws and pardons to placate the army. Under the populist presidencies of Néstor Kirchner and his wife, Cristina Fernández de Kirchner, from 2003 to 2015, the state threw its weight behind trial and punishment.

The government of Mauricio Macri, Argentina's president since December 2015, says it is returning to the principle that independent courts, not politicians, should administer justice. Its critics doubt that. They see the centre-right president as soft on dictatorship. In December he suggested that Remembrance Day, which commemorates the military coup [golpe militar] every March 24th, could be observed on the nearest Monday to raise productivity. Human-rights activists point out that Mr Macri appointed two of the three judges who set Mr Muiña free.

Stung by the criticism, his coalition joined forces with the opposition in the senate on May 10th to pass, unanimously, a law stating that two-for-one should not apply to crimes against humanity. That may prompt the supreme court to rule differently on similar cases. How it decides will matter as much as what it decides. Judicial independence is as important as punishing the dictators' henchmen [capangas, carrascos].

Adapted from *The Economist*, May 13th 2017

Introduction

This article from *The Economist* discusses a legal controversy taking place in Argentina. Read the text and answer the questions below. You are advised to read the questions carefully and give answers that are of direct relevance. Remember: Your answer to Question 1 must be written in Portuguese, but your answers to Questions 2 and 3 must be written in English. With these last two questions, you may use American English or British English, but you must be consistent throughout.

INGLÊS

Question 1 (to be answered in Portuguese)

(This question tests your understanding of the text, as well as your ability to identify and paraphrase the relevant pieces of information. Your answer should fill up approximately 15 to 20 lines in the space provided.)

A fight is taking place in Argentina over how to punish those who committed crimes in the service of that country's brutal military dictatorship. In your own words, describe this fight and the events and circumstances that caused it. In what ways have the country's politicians, civil society, and judiciary affected or influenced the situation? Explain how Argentina's supreme court may act in the future – and why it may act in such a way.

RESPOSTA:

Há mais de 40 anos, os generais argentinos tomaram poder e iniciaram a assim-chamada “guerra suja”, na qual eles sequestraram, torturam e mataram milhares dos seus compatriotas. Embora a democracia fosse reestabelecida em 1983, muitos dos envolvidos nos crimes daquela época nunca foram punidos. Das 2.780 pessoas acusadas de violar os direitos humanos, somente 750 foram condenadas.

Agora parece que mesmo essa justiça incompleta está sendo enfraquecida. Acontece que a lei “dois por um” permite que o tempo passado em prisão preventiva pode ser descontado em dobro da sentença final. Assim, Luis Muiña, que sequestrou e torturou 5 pessoas em 1976 e foi condenado a 13 anos de prisão em 2011, ganhou a liberdade condicional. E, dado que em 3 de maio de 2017 a corte suprema da Argentina julgou em favor da decisão, mais 248 detentos puderam ser soltos.

Talvez o maior problema é que nunca ficou resolvido exatamente como efetuar justiça com os criminosos da ditadura. Temendo a força dos militares, o governo do presidente Raúl Alfonsín promoveu indultos e leis de anistia para apaziguar o exército. Depois, os governos de Néstor Kirchner e sua esposa, Cristina Fernández de Kirchner, insistiram em julgamento e castigo. E ainda que o atual governo de Mauricio Macri diz que está voltando ao princípio no qual são os tribunais independentes, e não os políticos, que deveriam administrar a justiça, há os que duvidam da sinceridade do presidente: ele indicou 2 dos 3 juizes que libertaram Muiña.

Portanto, as fortes críticas levaram o governo e a oposição a se juntarem para promulgar, unanimemente, uma nova lei declarando que “dois por um” não deveria incidir sobre os crimes contra a humanidade. Isto pode incentivar a corte suprema a julgar outros casos de uma maneira diferente. Afinal, a independência judicial é imprescindível, tão importante quanto punir os carrascos da ditadura.

GRADE DE CORREÇÃO:

- A resposta inteira é copiada de partes do texto, dado que não respondem à pergunta OU a resposta é incompreensível. **(0- zero)**
- O candidato identifica no artigo apenas uma das informações esperadas, e a linguagem é pouco coesa, desarticulada, o que impede a compreensão e indica fluência insatisfatória. Vocabulário inadequado: muito básico e repetitivo, apresenta várias palavras “inventadas”, além de muitas falhas de ortografia. Presença de inúmeros erros básicos. **(25% de acerto)**
- O candidato identifica no artigo duas das informações esperadas, mas seu português é artificial, pouco natural, apesar de isso não ter constituído obstáculo para a compreensão. Linguagem pouco coesa, fluência satisfatória, ainda que medíocre. Vocabulário básico e repetitivo, falhas frequentes de ortografia e alguns erros básicos. A resposta também revela falta de domínio da língua inglesa. **(50% de acerto)**
- O candidato identifica duas ou mais das informações esperadas do artigo e usa alguma estrutura de formulação de resposta (introdução, argumentação, conclusão). Linguagem fluente, geralmente natural e coesa, algumas partes isoladas um tanto imprecisas/mal construídas, contudo, sem prejuízo para a compreensão da resposta. Vocabulário adequado, mas repetitivo ou não refinado. Falhas de ortografia, mas poucos erros básicos. A redação permite leitura fácil. **(75% de acerto)**
- O candidato identifica duas ou mais das informações corretas do artigo e usa estruturas de formulação de resposta (introdução, argumentação, conclusão). Português fluente, sempre natural e coeso. Vocabulário adequado e refinado, sem erros básicos. A redação permite leitura muito agradável. **(100% de acerto)**

 INGLÊS

Question 2 (to be answered in English)

(This question tests your ability to express yourself in a manner that is clear, precise, and relevant. Your answer should fill up approximately 15 to 20 lines in the space provided.)

Since the end of Argentina's dictatorship, successive democratically elected governments have in their own ways tried to deal with the crimes of the "dirty war." Of the governments mentioned in the article, which in your opinion took or is taking the best approach? Do you believe that any post-dictatorship government has addressed those crimes adequately? Why or why not?

Going further, explain as well how the "two-for-one" law most likely works and why it was or was not fair to apply that law to the case of Luis Muiña. Keeping in mind that by definition human rights mean everybody, can Muiña's release on parole last April be considered a victory or a defeat for human rights in Argentina?

In answering the above questions, you should support your points of view with clear, well-balanced, and specific reasons. And while you may take into account legal, ethical, and practical considerations, please try to be as objective as possible.

RESPOSTA:

It might be a question of semantics, but I cannot fail to note that the conflict initiated by Argentina's military dictatorship is known as the "dirty war," not the "dirty oppression" or the "dirty massacre." In other words, since in any war two sides are fighting, establishing justice afterwards is not always a simple question of black and white. For that reason, constitutional guarantees must be observed: revenge, however tempting and righteous it may be, is not justice.

So, while I think that Raúl Alfonsín, in his desire to protect Argentina's fragile democracy, may be excused for giving in to military pressure and that the Kirchner's hard-line approach, though not free of political motivation, had merit, I lean towards favoring Mauricio Macri's handling of the controversy. Does his approach address the problem adequately? It's too early to know. Probably nothing involving politics and justice can be perfect, but even so, letting independent courts decide, if indeed they really are independent, seems the only mature, sensible way to produce any semblance of justice. Moreover, we may accept as a given that judges who decide the fate of Argentina's alleged human rights criminals unfairly or unwisely will themselves be tried in the court of public opinion, an informal but effective "people's tribunal" that, thanks to the widespread social media, is nowadays more implacable than ever and always ready to attack miscreant government officials.

As for the "two-for-one" law, it allows the time a detainee spends on remand to be doubled and subtracted from his or her sentence. While that provision, in my opinion, errs on the side of generosity, it is the law – and I'm assuming it was passed during Argentina's current democratic period. We should agree, then, that in a liberal democracy – a term that applies to Argentina's government – anyone in preventive detention is innocent until proven guilty, however incriminating the evidence may be. When Luis Muiña was on remand, he had not been convicted of any crime; thus he was entitled to take advantage of the "two-for-one" law. Such an interpretation, though seemingly unfair, must be considered a victory for human rights in the sense that the law was applied in accordance with its intention. After all, we are not discussing "people-I-like rights" or "people-I-consider-worthy rights": human rights, as the question makes clear, mean everybody, and that includes someone later found guilty of a terrible crime.

GRADE DE CORREÇÃO:

- A resposta inteira ou a maior parte dela é copiada do texto dado, e o pouco de autoria do candidato contém muitos erros, OU a resposta é muito curta e contém muitos erros, OU é muito curta e demonstra falta de compreensão do texto e/ou da pergunta, OU é incompreensível. **(0-zero)**
- Resposta bem estruturada, mas o argumento nem sempre é justificado, OU a resposta contém contradições, OU resposta com boa argumentação, mas muito curta, OU com alguns problemas de estrutura ou partes irrelevantes em relação ao tema. Inglês pouco coeso e impreciso, às vezes impedindo a compreensão e revelando fluência insatisfatória. Vocabulário inadequado: muito básico e repetitivo, com várias palavras "inventadas" e muitas falhas ortográficas. Vários erros básicos. **(25% de acerto)**
- Resposta bem estruturada e relevante, mas alguns argumentos não são justificados, OU resposta contendo contradições, OU resposta apoiada em bons argumentos e justificada, mas com alguns problemas de construção ou partes irrelevantes para o tema. Inglês pouco natural, não chegando a representar obstáculo para a compreensão. Linguagem pouco coesa que revela fluência satisfatória, ainda que medíocre. Vocabulário um tanto básico e repetitivo, frequentes falhas ortográficas e alguns erros básicos. A resposta indica falta de domínio da língua inglesa. **(50% de acerto)**
- Resposta bem estruturada e relevante, mas nem todos os argumentos estão justificados, OU a resposta contém contradições. Inglês fluente, geralmente natural e coeso, mas apresenta partes isoladas um pouco desarticuladas, sem prejuízo, porém, da compreensão. Vocabulário adequado, mas repetitivo ou não refinado. Falhas ortográficas, mas sem erros básicos. A redação revela razoável domínio da língua inglesa escrita. **(75% de acerto)**
- Resposta bem estruturada e relevante, justificando com lógica o argumento. Inglês fluente, sempre natural e coeso. Vocabulário adequado e de bom nível, sem falhas gráficas nem erros básicos. **(100% de acerto)**

INGLÊS

Question 3 (to be answered in English)

(This question tests your ability to construct a balanced, considered, and fluent argument in the form of a short composition. Your answer should fill up approximately 15 to 20 lines in the space provided.)

Whether because of war, revolution, collapse, or voluntary transition, since the 20th century several dictatorial or authoritarian governments, besides the one in Argentina, have been supplanted by democracies. And when those democratic governments take over, they often make an effort to come to terms with the violent, tyrannical history of the governments they have replaced. The quotations below touch on two extremes of how countries may address such a criminal legacy.

On November 21, 1945, the American lawyer and judge Robert H. Jackson made the following opening statement for the prosecution before the International Military Tribunal in Nuremberg, which had been set up to try German war and human-rights criminals:

“That four great nations [The United States, The United Kingdom, France, and The Soviet Union], flushed with victory and stung with injury, stay the hands of vengeance and voluntarily submit their captive enemies to the judgment of the law, is one of the most significant tributes that Power has ever paid to Reason.”

As a result of the Nuremberg Trials – despite Robert Jackson’s magnificent, almost conciliatory words – many Germans, especially ex-Nazis, were executed (or committed suicide) or given long – even life – prison sentences.

The object was to enact *retributive* justice for crimes against humanity and, it was hoped, to ensure that such crimes would never happen again.

In contrast, when South Africa’s cruel apartheid regime finally ended, the new government not only set up a Truth and Reconciliation Commission to expose the terrible oppression that had taken place during the apartheid years, but also, in many cases, granted amnesty to politically motivated perpetrators who made full confessions and expressed sincere remorse.

The object was to enact *restorative* justice for human-rights crimes and, it was hoped, to move ahead with the building of a new country.

As the statesman Nelson Mandela, first president of the new South Africa, wrote in 1994, “No one is born hating another person because of the color of his skin, or his background, or his religion. People must learn to hate, and if they can learn to hate, they can be taught to love, for love comes more naturally to the human heart than its opposite.”

Nevertheless, in a speech on January 7, 1996, Mandela emphasized that, “True reconciliation does not consist in merely forgetting the past.”

Therefore, considering the information in the article and the examples of Nuremberg and South Africa – and considering as well that Brazil’s own National Truth Commission has accomplished very little (so far, not one military perpetrator has been tried or convicted) – discuss what you would like to see happen here with respect to the alleged human-rights criminals who acted under the auspices of the 1964-1985 Military Dictatorship.

The following questions will help you to formulate your point of view:

- In 1979, when Brazil’s Military Government granted amnesty to many in the opposition, it also granted amnesty to itself, i.e., for any human-rights offense that military personnel might have committed between September 2, 1961 and August 15, 1979. In your opinion, should such military personnel now be vigorously prosecuted or should they still enjoy protection under the 1979 Amnesty Law. Can that law be considered valid?
- Since some members of the opposition in fact resorted to extreme violence, should they be prosecuted despite having received amnesty?
- Should victims of the Military Government receive financial reparations?
- Should Brazilians even be concerned with crimes that may have happened decades ago?
- Will prosecuting human-rights criminals make Brazil a better place to live or will it merely keep old wounds open, further dividing the country? In other words, don’t we have more important things to do, or can Brazil only move forward by confronting the past? If so, should justice be implacable or should it be tempered with common sense and mercy?

In answering, you may take into account legal, ethical, practical, and even religious matters, but please strive to be as clear-sighted and logical as possible, supporting your point of view with specific arguments and examples.

QUESTÃO 3 (continuação)

RESPOSTA:

In a strict sense, no law passed by a dictatorship can be considered valid: since a majority of the people never willingly gave such a government a power of attorney to represent them, it is by its very nature illegitimate. Therefore, while a dictatorship can “pass” all the laws it wants to and even enforce them through violence, intimidation, subterfuge, and public complacency, those laws are morally and ethically worthless, no matter how effective they may be. That fact alone abrogates the 1979 Amnesty Law, in which, to prepare its way out of power, the military rulers of Brazil and their accomplices protected themselves and also threw a bone to members of the opposition who might have engaged in criminal acts or human rights violations.

Is that why no one has yet accomplished anything concrete with respect to finally digging up the truth about the terrible crimes that undeniably were committed during the 1964-1985 period? Without a profound, impartial investigation, that truth – those truths – will remain forever buried, and apparently we’ll never start a serious excavation as long as the alleged perpetrators – on both sides – are still alive and powerful enough to keep the public in darkness. And let’s face it, when everyone involved is dead, not only will it be too late to get extensive first-hand information and actually bring the guilty to justice – imagine starting the Nuremberg Trials only after all the Nazis had died – but family members may block certain investigations claiming that the honor of their loved ones cannot be stained. In Brazil, in certain cases, the dead have rights and may control the living – as many Brazilian biographers know so well.

So what is to be done? In my opinion, a culture of complicity, a too-easy acceptance of bad, even criminal, behavior has impeded Brazil’s development for centuries. Not all truth is relative. Torture and murder are wrong and should be punished. So, even though, bewildered as I am by Brazil’s socio-political reality, I have no suggestion for how this can be accomplished, I say investigate and punish – period. Go deep. This is not a question of retributive justice or restorative justice: it is a question of justice, pure and simple. When we intone the Lord’s Prayer, we do not say, “Thy *relative* will be done.” We assume that, if it is the Lord’s Will, it is a priori good, no matter how destructive or revolutionary it may be. I am in no way suggesting that Brazil become a theocracy, but relativism and situational ethics are one of the main reasons that this country, which should be the best in the world, is in large part a cesspool of crime and corruption. We need justice. Investigate everyone involved and punish the guilty – now – be they former officials and accomplices of the Military Government or one-time members of the violent opposition. There is no good reason not to do this.

GRADE DE CORREÇÃO:

- A resposta inteira ou parte dela é copiada do texto dado, e o pouco de autoria do candidato contém muitos erros, OU a resposta é muito curta e apresenta muitos erros, OU é muito curta e demonstra falta de compreensão do texto e/ou da pergunta, OU é incompreensível. **(0-zero)**
- Resposta bem estruturada, mas nem todos os argumentos estão justificados, OU a resposta contém contradições, OU apresenta bons argumentos, mas é muito curta, OU as frases não são bem construídas, OU apontam partes irrelevantes para o tema. Inglês pouco coeso e desarticulado, impedindo, por vezes, a compreensão e sugerindo déficit de fluência. Vocabulário insuficiente e inadequado: muito básico e repetitivo, várias palavras “inventadas”. Muitas falhas ortográficas e vários erros básicos. **(25% de acerto)**
- Resposta bem estruturada e relevante, mas nem todos os argumentos estão justificados, OU resposta contendo contradições, OU resposta bem fundamentada, mas com falhas de construção ou aproveitamento de partes irrelevantes para o tema. Inglês pouco natural, mas sem prejuízo para a compreensão. Linguagem pouco coesa, indicando fluência satisfatória, ainda que medíocre. Vocabulário um tanto básico e repetitivo, inúmeras falhas de ortografia e alguns erros básicos. Domínio insuficiente da língua inglesa. **(50% de acerto)**
- Resposta bem estruturada e relevante, mas alguns argumentos não justificados, OU resposta contendo contradições. Inglês fluente, geralmente natural e coeso, mas com partes isoladas um tanto desarticuladas, sem impedir, porém, a compreensão da resposta. Vocabulário adequado, mas repetitivo ou não refinado. Falhas de ortografia, mas sem erros básicos. Leitura agradável. **(75% de acerto)**
- Resposta bem estruturada e relevante, justificando com lógica o argumento. Inglês fluente, sempre natural, coeso e excelente para a leitura. Vocabulário adequado e de bom nível, sem erros básicos. **(100% de acerto)**

* São aqui considerados “erros básicos” aqueles cometidos nas seguintes estruturas: Presente simples; Gerúndio; Present perfect; Passado simples; There is, there are; Futuro com “will” e com “to be going to”; Pronomes pessoais, possessivos, objeto e relativos; Possessive adjectives; Concordância nominal ou verbal; Comparativos e superlativos; Genitivo (possessivo com “’s”); Some-, any- e no-; Ortografia de palavras comuns ou que apareciam no texto; Confusão entre formas do singular e do plural.

Exemplos de erros não básicos incluem: falhas gráficas em palavras de ortografia difícil, preposições, infinitivo/gerúndio, past continuous, present perfect continuous, past perfect, past perfect continuous, future perfect, subjuntivo, condicionais.

NESSA ÁREA