

The Categories of Perpetrator and Victim in Transitional Justice: An Analysis of the Argentinian Dictatorship as a 'Restless Event'

Michael Humphrey and Estela Valverde

Abstract: International human rights law constructs the perpetrator-victim binary as a legal formulation of a relationship created by acts of violence. During transition, victims demand justice for the mass crimes committed by perpetrators against them. Yet, as the case of Argentina demonstrates, this binary is not a stable endpoint but a site of perpetual political contestation. This article argues that the Argentine dictatorship (1976–1983) operates as a 'restless event', where the categories of perpetrator and victim are continuously renegotiated. Through a historical analysis of over thirty-five years of transitional justice policy—from Alfonsín's 'two demons' thesis and Menem's amnesty, to the Kirchners' genocide frame and Milei's recent revisionism—we demonstrate that legal rituals like trials have failed to generate a consensus on the past and produce a settled narrative. Instead, they have fuelled a cyclical struggle where victims and perpetrators remain locked in a symbiotic conflict over memory and blame. The article concludes that the 'restless event' framework reveals the inherent instability of transitional justice's foundational categories, showing that in deeply divided societies, the past is not a closed chapter but an ongoing political frontier.

Keywords: perpetrator-victim, transitional justice, Argentina, human rights, restless events

Introduction

International human rights law constructs the binary 'perpetrator-victim' as a legal formulation of the relationship created by extreme acts of violence. When those violent acts refer to non-derogable crimes (crimes against humanity, genocide) then the rights of victims to justice under international human rights and humanitarian law cannot be extinguished. After mass violence, transitional justice employs a human rights lens to construct violence as violations of human rights and the legal subject positions of perpetrator and victim which are co-constitutive of each other. The seminal work of Ruti Teitel periodised the evolution of transitional justice which criminalised state wrong-doing as part of the development of modern human rights

Journal of Perpetrator Research 8.2 (2026), 103–136
DOI: 10.21039/jpr.8.2.218 © 2026 by the Authors



This article is published under the Creative Commons Attribution 4.0 International License. To view a copy of this license, visit <https://creativecommons.org/licenses/by/4.0/>

law.¹ During the 1980s, there was often a trade-off between peace and justice which prioritised democratic transition, nation-building and re-establishing the rule of law over the pursuit of criminal justice which was often blocked by amnesty laws.² Only after the year 2000, with international legal tribunalisation and subsequently the establishment of the International Criminal Court, did accountability for crimes against humanity (atrocities crimes) become a mandatory transitional justice norm.³ But the universalist and maximalist position of the right to justice for all victims of atrocity is an unattainable ideal. In practice, the prosecution policies of successor states have been selective at best, limited by elite agreements that have imposed degrees of impunity at transition and/or by the sheer number of perpetrators, crimes and victims to address post-transition.⁴ The result is that perpetrators and victims contest the implementation of transitional justice measures trying to minimise or maximise accountability, respectively. Victims seek to maximise their legal visibility and that of their perpetrators to achieve justice and gain recognition (of human rights violations), while perpetrators seek to minimise their own legal visibility and that of their victims to limit accountability.

This struggle between perpetrators and victims to maximise or minimise accountability continues beyond the moment of political transition conducted through the four pillars of transitional justice measures: truth, justice, reparations, and guarantees of non-repetition. The outcomes of truth commissions and trials (truth and justice pillars), the performative hinge rituals of transitional justice, are reinforced by the more restorative justice measures of reparations and guarantees of non-repetition designed to produce lasting effects. Post-transitional justice, the later revival and/or revision of the original transitional justice outcomes, is symptomatic of the restless and ongoing struggle between victims and perpetrators to allocate blame and defend or alter

1 Ruti G. Teitel, 'Transitional Justice Genealogy', *Harvard Human Rights Journal*, 16 (2003), pp. 69–94.

2 See Priscilla B. Hayner, 'Fifteen Truth Commissions—1974 to 1994: A Comparative Study', *Human Rights Quarterly*, 16 (1994), pp. 597–655.

3 See Diane F. Orentlicher, 'Settling Accounts: The Duty to Prosecute Human Rights Violations of a Previous Regime', *Yale Law Review*, 100.8 (1991), pp. 2537–2615; Kathryn Sikkink, *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics* (W.W. Norton & Co, 2011).

4 On the role of elites on limiting justice during political transitions see Eric A. Posner and Adrian Vermeule, 'Transitional Justice as Ordinary Justice', *Harvard Law Review*, 117.3 (2004), pp. 761–825.

the official justice narrative. In Argentina, the 'dictatorship', often referred to as the 'Dirty War',⁵ remains a 'restless event' that is not confined to the past but continues to resonate, transform, and demand interpretation in the present.⁶ Its meaning and the roles of those involved are not fixed but are constantly being renegotiated through new trials, testimony, cultural productions and generational change. This article explores the ongoing struggle between perpetrators and victims since 1983 over who should be held accountable for the serious crimes committed during the 'Dirty War' in Argentina (1976–1983) and how those events should be remembered. It argues that the rigid application of the perpetrator-victim binary can obscure the dynamic and ongoing nature of societal reckoning with the past. It employs a process-tracing methodology, analyzing the evolution of official narratives through key legal and political documents—including the successive prologues to the *Nunca Más* report, amnesty laws, and court rulings—over four decades of Argentine democracy. It traces the trajectory of the political and legal contest over accountability during thirty-five years through the history of political revisions of the official narrative of the Dirty War originally set out in the Prologue of the *Nunca Más* Report (1984), 'Never Again: The Report of the Commission about the Disappeared' [*Nunca Más, informe de la Comisión sobre la Desaparición de Personas* – CONADEP], retrospectively called a truth commission.

Our focus is on the role of transitional justice and post-transitional justice policy in determining who were the perpetrators and who were the victims in the Argentine Dirty War. Transitional justice policy emerged in the 1980s when it referred to the political constraints on legal responses to the criminal behaviour of repressive authoritarian regimes in Latin America. Several leading scholars have identified the Latin American context of transition from authoritarian to democratic government as the contemporary origins of transitional justice.⁷ Samuel

5 The military adopted the term 'Dirty War' late in the dictatorship to characterise the methods it used in its fight against internal subversion. See James P. Brennan and Mercedes Ferreyra, *Argentina's Missing Bones: Revisiting the History of the Dirty War* (University of California Press, 2018), p. 4.

6 The expression 'restless event' is drawn from the work of Robin Wagner-Pacifici. 'The restlessness of events is a function of the ongoing interpretive and interactional competitions and contestations among principal actors and witnesses'. Robin Wagner-Pacifici, 'Theorizing the Restlessness of Events', *American Journal of Sociology*, 115.5 (2010), pp. 1351–1386 (p. 1374).

7 Carlos S. Nino, *Radical Evil on Trial* (Yale University Press, 1996); Ruti G. Teitel, *Transitional Justice* (Oxford University Press, 2000); Paige Arthur, 'How "Transitions" Reshaped Human Rights: A Conceptual History of Transitional Justice', *Human Rights Quarterly*, 31.2 (2009), pp. 321–67.

Moyn describes transitional justice as a 1980s 'optic based on the Latin American experience to allow human rights to be not just a moral criticism of terrible regimes but internal political resource in the erection of their successors'.⁸ Argentina is recognised as having been in the vanguard of the development of transitional justice policy. The decision by President Alfonsín (1983–1989) to investigate and prosecute those responsible for the atrocity of 'enforced disappearance' was, at the time, unprecedented. Traditionally, political elites in Argentina and in Latin America more broadly had managed transitions after civil war or dictatorship through political reconciliation based on mutual amnesty and amnesia. The retiring military in the neighbouring states of Uruguay and Chile adopted this model.⁹ Alfonsín was able to pursue truth and justice policies because the Argentine military could not dictate the terms of their return to barracks since their legitimacy had been seriously undermined by revelations about the secret policy of mass 'disappearance' and their defeat in the Malvinas-Falklands war in 1982. Alfonsín was elected with a mandate to investigate the fate of the disappeared, strongly supported by the families of the disappeared and the human rights movement, and to prosecute those most responsible.

Transitional justice is understood as a set of measures – truth, justice and redress – to enact liberalising change with the intention of preventing the recurrence of political violence. In the case of Argentina, this meant consolidating democracy to bring an end to the historical cycle of five military *coup d'états* since the 1930s and many more military rebellions.¹⁰ Over the last forty years, transitional justice has evolved to encompass both retributive and restorative approaches to justice and is now established as the UN norm of the four pillars – truth, justice, reparations, and non-recurrence of human rights violations. In this article we explore the trajectory of transitional justice processes since the return to democracy in 1983 and the instability of the perpetrator-victim binary. Transitional justice and post-transitional justice in Argentina has three phases. The first phase (1983–1986) saw

8 Samuel Moyn, *The Last Utopia: Human Rights in History* (Belknap Press, 2012), p. 221.

9 See Francesca Lessa, 'Barriers to Justice: The Ley de Cautividad and Impunity in Uruguay', in *Amnesty in the Age of Human Rights Accountability: Comparative and International Perspectives*, ed. by Francesca Lessa and Leigh A. Payne (Cambridge University Press, 2012), pp. 123–51; Louise Mallinder, 'The End of Amnesty or Regional Overreach? Interpreting the Erosion of South America's Amnesty Laws', *International and Comparative Law Quarterly*, 65.3 (2016), pp. 645–80.

10 Between 1930 and 1970 there were twenty-six military rebellions closely correlated with economic crises. See Gilbert Merkx 'Recessions and Rebellions in Argentina, 1870–1970', *Hispanic American Historical Review*, 53.2 (1973), pp. 285–95 (p. 286).

the new Alfonsín government initiate transitional justice measures to investigate and prosecute dictatorship era crimes under the Argentine criminal code. The official narrative in the *Nunca Más* Report blamed 'extremists' on both sides for the atrocities (two demons theory). The second phase (1986–2003) saw amnesty laws halt national trials, convicted *Junta* leaders pardoned, and victims awarded substantial reparations payments. In response, the families of the disappeared and human rights advocates rescaled their pursuit of justice by taking their rights claims to the Inter-American Court of Human Rights (IACtHR) and UN human rights bodies to pressure the Argentine government to restart the prosecutions of the military under international law.¹¹ The third phase (2003–2016), the post-transitional justice stage, saw the Néstor Kirchner and Cristina Fernández Kirchner governments annul the amnesty laws and reactivate the prosecutions of dictatorship era crimes in 2005. They reframed prosecutions of the military by accusing them of state terrorism and prosecuted them under international human rights law for crimes against humanity and even genocide. The legal framing of Dirty War crimes as international crimes was institutionalised in a revised Prologue of the *Nunca Más* Report (2006) which accused the military of genocide. Subsequent conservative governments have revised the official narrative of the 'Dirty War'. Transitional justice measures have been unable to generate an enduring consensus as they were constantly contested through stalled trials, amnesties, pardons, and competing collected memories. We argue the categories of perpetrator and victim are not stable juridical facts but are dynamically constructed and contested over time through evolving legal processes, memory politics, and social movements.

Transitional Justice as a Lawmaking Project

The transitional justice project has become, at its core, a lawmaking project through the international legalisation and judicialisation of human rights aimed at strengthening legal remedies for victims by ensuring states meet their obligations under international law and

¹¹ Between the Menem presidency and Kirchner presidency there were the de la Rúa (1999–2001) and Duhalde (2002–2003) presidencies during which there was an economic crisis with inflation peaking at an annual 5000%, a banking crisis resulting in the pesification of US dollar accounts, mass demonstrations against economic policies known as the *cacerolazo*—banging pots and pans, and the majority of Argentines falling below the poverty line.

incorporate human rights standards into domestic law. Transitional justice, as a lawmaking project, occurs in contexts where legality and legal authority have been radically undermined by political violence (authoritarian regimes, civil wars) creating widespread impunity. In these destabilised contexts, justice measures are deployed to generate a public consensus about injustice and culpability for acts of extreme political violence to bring about closure and reconciliation in societies deeply polarised by past conflict.¹² However, because the impact and legacy of repression on society is uneven, post-transition consensus about the past is difficult to realise. In Argentina, state terrorism had radically undermined communication and social knowledge of the reality of repression amongst ordinary citizens through a deliberate policy of social dis-articulation.¹³

The theorisation of transitional justice as a lawmaking project is not well developed.¹⁴ We argue transitional justice measures are shaped by two distinct cultural processes. Firstly, as a ritual with a transitive structure, and secondly, as an 'event' whose meaning is constructed and culturally normalised through political semiosis. As a ritual it is performative, as an 'event' it is constituted through the process of political semiosis – performative acts, demonstrative acts and representational acts. Communities participate in these transition rituals as an act of collective witnessing or *communitas*.¹⁵ From a constructivist perspective, law's generative capacity lies in its instrumentality to establish enforceable norms to regulate human behaviour and in its symbolic capacity to produce meaning in social relationships.¹⁶ Transitional justice lawmaking has a strongly symbolic character because its primary task is to generate legal norms and re-establish the rule of law. In transition, the challenge for law is not merely the administration of justice with respect to past violence or atrocity, but the need to re-establish state legality and legitimacy to recover the force of law.¹⁷ The four pillars constitute

¹² Posner and Vermeule, p. 761.

¹³ Jaime Malamud-Goti, *Game Without End: State Terror and the Politics of Justice* (University of Oklahoma Press, 1996), pp. 125–27.

¹⁴ For comprehensive theoretical discussion of this topic see Chapter 1 and 2 of Michael Humphrey and Estela Valverde, *Transitional Justice, Impunity and the Judicialisation of Politics* (Larcier Intersentia Europe, 2025).

¹⁵ Victor Turner, *The Ritual Process: Structure and Anti-Structure* (Aldine Publishing, 1969), p. 370.

¹⁶ Mauricio García-Villegas, *The Powers of Law: A Comparative Analysis of Sociopolitical Legal Studies* (Cambridge University Press, 2018), p. 20.

¹⁷ Pierre Bourdieu, 'The Force of Law: Toward a Sociology of the Juridical Field', *Hastings Law Journal*, 38.5 (1987), pp. 805–13.

the legal mechanisms deployed to achieve retributive and restorative justice and produce these lasting effects – widespread public acceptance of the verdicts, consensus about the past (official narrative), redress for victims (reparations, recognition), the strengthening of human rights protection, and even reconciliation. These legal rituals can get stuck in the liminal stage for many different reasons: trials are undermined by witness intimidation, the community does not bear witness, truth commission recommendations are neglected, and the judicial process is delegitimised by the counter-narratives of defendants and their supporters and by the rejection of the court's authority. Our theoretical point here is that the four pillars are generative lawmaking measures and failure to implement them disables the larger retributive and restorative justice aims of transitional justice. The instability of the perpetrator-victim binary is a product of these unresolved generative rituals.

TRANSITIONAL JUSTICE AND DEMOCRATIC TRANSITION (1983–89)

President Alfonsín was elected in 1983 with a mandate to investigate the crimes of the dictatorship and prosecute those most responsible. Italo Luder, his Peronist opponent, had proposed the opposite, amnesty and amnesia. The aim of Alfonsín's transitional justice policy was to help deliver on his election slogan: 'With democracy one eats, one is educated, one is cured.'¹⁸ While Alfonsín's transitional justice policy was unprecedented, it was strictly aimed at delivering a symbolic impact through quick truth and justice transition measures to bring closure, consolidate democratic transition, and re-establish the rule of law. First, he established a commission of inquiry to investigate the dictatorship's policy of 'disappearance'. Second, he selectively prosecuted the perpetrators (architects and worst offenders) of state terror and of guerrilla violence. Third, he provided redress for the victims (families of the disappeared) in the form of pensions and memorialisation. The military strongly opposed Alfonsín's truth and justice policy. They had attempted to grant themselves self-immunity through the National Pacification Law (1983) and issued their account of the Dirty War in the 'Final Document of the Military Junta on the War against Subversion and Terrorism', but were unable to negotiate the terms of political tran-

18 Ernesto Semán, 'Argentina: into the Abyss', *New York Review of Books*, March 15, 2024.

sition because of their loss of legitimacy.¹⁹ Their humiliating defeat in the Malvinas-Falklands war (1982), the public outrage over revelations about secret mass disappearance, and the strength of Alfonsín's democratic mandate to pursue truth and justice measures allowed Alfonsín to repeal the military's self-amnesty law in Congress.²⁰

The crime of 'disappearance' created unique problems for any criminal investigation. Disappearance, as counter-insurgency strategy, was modelled on French 'revolutionary war theory' deployed in colonial Algeria and designed to maximise the opportunity to collect intelligence about insurgents through mass abductions, detention, interrogation, and torture to defeat the militants' activities and terrorise the population into submission.²¹ The Argentine military called the dictatorship the 'National Reorganisation Process' (*El Proceso de Reorganización Nacional* – PRN), abbreviated as *el proceso*, whose goal was to defeat the internal subversive enemy. According to General Reynaldo Benito Antonio Bignone, the last *Junta* leader, *el proceso* was 'a copy of the battle for Algiers'.²² Disappearance allowed the military to officially deny any responsibility and made investigations or legal redress difficult because victims remained invisible. It also left the indelible legacy of traumatic memory with the families of the disappeared – empty graves and unresolved mourning – which created the impetus for the unique mothers' movement who demanded to know the fate of the disappeared and to bring them back alive.

The main goal of Alfonsín's transitional justice policy was to re-establish the rule of law and consolidate democratic transition. He immediately established the Commission concerned with the Disappeared (*Comisión nacional sobre la Desaparición de Personas* – CONADEP) with *Decreto* 187/83 'to clarify the facts related to the disappearance of people' and produce an official account of the practices of state terror and its victims which was published as the *Nunca Más* Report (1984).²³

19 Berber Bevernage, *History, Memory, and State-Sponsored Violence* (Routledge, 2012) p. 40.

20 Eva van Roekel, *Phenomenal Justice: Violence and Morality in Argentina* (Rutgers University Press, 2020), p. 110.

21 Khatchik Der Ghougassian and Leiza Brumat, 'The Argentine Military and the "Antisubversivo" Genocide: The School of Americas' Contribution to the French Counterinsurgency Model', *Genocide Studies International*, 12.1 (2018), pp. 8–71 (pp. 58–59).

22 Cited in Der Ghougassian and Brumat, p. 58.

23 '...esclarecer los hechos relacionados con la desaparición de personas ocurridos en el país', *Decreto* 187, *Comisión Nacional sobre la Desaparición de Personas* (CONADEP), Art 1 (Buenos Aires, 1983) <<https://www.argentina.gob.ar/normativa/nacional/decreto-187-1983-263505/texto>> [accessed 7 March 2026].

CONADEP's mandate was limited to investigate only the fate of the disappeared, not the victims of other human rights violations, and to report within 180 days.²⁴ The hearings were held behind closed doors and without any subpoena powers. After the publication of the *Nunca Más* Report, Alfonsín initiated prosecutions against the leadership of the military and the guerrillas. The prosecution of the military followed in two stages – first, the leadership of the military *Juntas* (the architects) and second, officers accused of committing the worst human rights violations, primarily those who had been in charge of military zones and the clandestine detention camps.

CONADEP faced the major challenge of engendering a consensus about the truth of military atrocities in a society fragmented by the impact of the 'dis-articulating power' of state terrorism designed to eliminate any political opposition to military rule.²⁵ The practice of disappearance, which the military officially denied, amounted to clandestine mass murder – disappearance was a process involving surveillance, abduction, detention, torture and clandestine burial in graves or at sea. The scale and pervasiveness of disappearance created a disturbing dissonance between the everyday witnessing of incidents of abduction by the public and the *Junta's* official denial of any responsibility, leaving the public alienated from reality. Society became complicit in *el proceso* by rationalising their own witnessing of street abductions and remaining silent – '*algo habrán hecho*' (they must have done something!) was a common expression justifying inaction in the face of repression.²⁶ The best CONADEP could manage was to arrive at 'some consistent version of the experience that this society had emerged from...to create a new official story that was consistent with reality'.²⁷ CONADEP sought to generate moral outrage in the public by revealing the truth about disappearance as a systematic policy of repression. The *Nunca Más* Report was divided into two sections, the first, an account of the facts of disappearance, and the second, an interpretative section 'guiding its audiences on how to interpret the (un)

24 Nino, *Radical Evil on Trial*, p. 72.

25 Rachel A. May, 'Truth and Truth Commissions in Latin America', *Investigaciones Geográficas, Boletín del Instituto de Geografía, UNAM*, 21.2 (2013), pp. 494–512 (p. 500).

26 Marguerite Feitlowitz, 'También sobre las palabras la dictadura ejerció violencia', *El Clarín*, 5 September 1999, <<http://www.clarin.com/diario/1999/09/05/i-02010d.htm>> [accessed 2 April 2026].

27 Ibid., pp. 501–02.

lawfulness of the events', to ensure it would be widely read.²⁸ However, CONADEP was handicapped by its short time frame and limited access to sources. Firstly, the military had ordered the destruction of all official documentation relating to the repression before they returned to barracks.²⁹ Secondly, most documentation about the disappeared came from the case files of human rights organisations because there were so few survivors to testify.³⁰ Thirdly, because the military viewed CONADEP as illegitimate, they denied disappearance was a systematic policy, maintained their code of silence, and refused to testify before the Commission.³¹ In CONADEP, victims' memories were juxtaposed with the military pact of silence.³²

Some victims and human rights advocates also opposed CONADEP because they feared it would 'desensitise the population with a horror show' and produce an official narrative about mass extermination and secret graves and risk becoming the symbolic burial of the past.³³ The mothers' movement also split over the exhumation of clandestine graves and the return of recovered remains to relatives. One group, *The Association of the Mothers of the Plaza de Mayo* led by Hebe de Bonafini, rejected exhumations and private reburial of recovered remains as de-politicising because it personalised mourning. They demanded justice for all the disappeared insisting all the disappeared be returned alive and all perpetrators be punished. The association's demand 'to return them alive' morphed into 'keep them alive' not through mourning but through their own ongoing activism for the very social justice causes for which their children had struggled and had sacrificed their lives. By contrast, most of the human rights movement accepted the disappeared had been killed long before.³⁴ They also cooperated with CONADEP.³⁵

28 Vázquez Guevara, 'Prologue to Truth: Argentina's National Commission on the Disappeared and the Authority of International Law', *Leiden Journal of International Law*, 35.1 (2022), pp. 105–27 (p. 113).

29 May, p. 498.

30 Only 150 of the estimated 5,000 people detained in ESMA (Naval Mechanics School) survived imprisonment there. See Juan Francisco Vázquez Carruthers, 'Transitional Justice and Political Opportunism', in *Transitional Justice: Theoretical and Practical Approaches*, ed. by N. Weiss (Universitätsverlag Potsdam, 2022), pp. 39–71 (p. 60).

31 Only 2% of all submissions to CONADEP came from military personnel. See Emilio Crenzel, 'Genesis, Uses, and Significations of the *Nunca Más* Report in Argentina', *Latin American Perspectives*, 42.3 (2015), pp. 20–38 (p. 27).

32 van Roekel, p. 51.

33 Bevernage, p. 35.

34 Carlos S. Nino, 'The Duty to Punish Past Abuses of Human Rights Put into Context: The Case of Argentina', *The Yale Law Journal*, 100.8 (1991), pp. 2619–2640 (p. 2619).

35 Nino, *Radical Evil on Trial*, p. 78.

The *Nunca Más* Report established the evidentiary basis for the subsequent trials and set down the direction of Alfonsín's selective prosecutorial policy. The Prologue (1984) established the official narrative about the meaning of the Dirty War framed by the theory of the two demons. First it blamed the excesses on both sides, and second, it identified society as the innocent victim of these excesses. The official narrative blaming both sides was given force by Decrees 158 and 159 ordering the prosecution of seven guerrilla leaders and nine members of the three *Juntas* that held power during the dictatorship.³⁶ The Report identified 8,961 disappeared and 365 detention centres, but the Mothers' movement and the human rights advocates claimed the real figure was around 30,000 which they regard as sacred and incontestable.³⁷ The trauma in the surviving family members has expressed itself in the sacralisation of the victims.³⁸ Anyone who questions the 30,000 figure now risks being labelled as a genocide denialist.³⁹ The Report itself was depoliticised and dehistoricised by naming the victims but omitting the names of perpetrators identified in victim testimonies and the affiliation of the disappeared (not to undermine their claims as innocent victims).⁴⁰ Nevertheless, the Report did serve to constitute the absent victims (the disappeared) as 'legal subjects' and the CONADEP proceedings did succeed in generating collective moral outrage about the scope and systematic character of repression through disappearance and forged a consensus about state terrorism and support for the *Junta* trials. The Report denounced repression through the post-coup humanitarian lens emphasising moral empathy for (innocent) victims.⁴¹ This post-dictatorship humanitarian narrative displaced the pre-coup leftist revolutionary narrative that denounced state violence (previous military coups and states of emergency) as serving capitalism and celebrated their identity as militant activists exalted for their political commitment.⁴² The *Nunca Más* Report became the canonical account

36 Emilio Crenzel, *The Memory of the Argentina Disappearances* (Routledge, 2011), p. 36.

37 Alison Brysk, 'The Politics of Measurement: The Contested Count of the Disappeared in Argentina', *Human Rights Quarterly*, 16.4 (1994), pp. 676–92.

38 Jürgen Zimmerer, *From Windhoek to Auschwitz? Reflections on the Relationship between Colonialism and National Socialism* (De Gruyter Oldenbourg, 2024), p. 178.

39 Julián Pilatti, 'Why we say there were 30,000: a manual to avoid denialism in Argentina', *Peoples Dispatch*, 6 October 2023 <<https://peoplesdispatch.org/2023/10/06/why-we-say-there-were-30000-a-manual-to-avoid-denialism-in-argentina/>> [accessed 7 March 2026].

40 Crenzel, 'Genesis, Uses, and Significations of the *Nunca Más* Report in Argentina', p. 26.

41 Ibid., p. 21.

42 *Definitivamente nunca más: la otra cara del informe CONADEP* (FORES, 1985).

of the dictatorship and was incorporated into school curricula to help institutionalise collective memory. In response, the military challenged the Report's findings by publishing a counter report, *Definitivamente nunca más: la otra cara del informe CONADEP* (Definitely Never Again: the other side of the CONADEP Report).⁴³

JUNTA TRIALS

CONADEP set limits on the scope and duration of the prosecutions. Alfonsín's selective prosecution policy identified three categories of perpetrators: 'those who planned the repression and gave the accompanying order; those who acted beyond the scope of the orders, moved by cruelty, perversity and greed; and those who strictly complied with orders.'⁴⁴ The first to be prosecuted were the architects of repression, the leaders of the military *Junta*, then those who had exceeded orders in excessively cruel ways. In other words, the 'perpetrators behind the perpetrators' were the main target of the prosecutions.⁴⁵ For Alfonsín, the purpose of the trials was primarily exemplary justice, not retributive justice, with the collective goal of deterrence against future human rights violations. For him, the significance of the trials lay in their role as hinge trials to re-establish the rule of law and to generate widespread social consciousness about responsibility for the *Junta's* atrocities. Unlike the families of the disappeared and human rights organisations who demanded all perpetrators be prosecuted, he did not believe the success of the trials could be measured by the number of cases prosecuted and perpetrators punished.⁴⁶ Alfonsín controversially gave primary responsibility to the military courts to prosecute the *Junta* leaders and the senior officers responsible for the worst offences because their crimes had been committed under military jurisdiction. Alfonsín reasoned that military judges would be willing to purify their own ranks to restore the military's reputation through these trials.⁴⁷

43 Crenzel, 'Genesis, Uses, and Significations of the *Nunca Más* Report in Argentina', p. 29.

44 Nino, *Radical Evil on Trial*, p. 63.

45 Emilio Crenzel, 'Revisiting the Origins of Argentina's Military Junta Trial: Political, Moral, and Legal Dilemmas of a Transitional Justice Strategy', *Canadian Journal of Latin American and Caribbean Studies / Revue canadienne des études latino-américaines et caraïbes*, 42.2 (2017), pp. 144–64 (p. 152).

46 Nino, 'The Duty to Punish Past Abuses of Human Rights Put into Context', p. 2630.

47 Emilio Fermin Mignone, Cynthia L. Estlund, and Samuel Issacharoff, 'Dictatorship on Trial: Prosecutions of Human Rights Violations in Argentina', *Yale Journal of International Law*,

After the military court refused to try the *Junta* leaders, Alfonsín created a special federal court, the National Court of Appeals, to try them.⁴⁸ Importantly, CONADEP decided to send all case files to the civilian courts and only selectively to the military tribunal, thereby allowing families to decide where criminal actions brought by them could be prosecuted.⁴⁹

The *Junta* leaders were prosecuted under the Argentine criminal code for kidnapping, torture, and murder, not for crimes against humanity. Prosecutions for crimes against humanity did not occur until much later when trials of the military re-opened in 2006 and the jurisprudence around prosecuting international crimes in Argentine courts had matured through extradition cases and the ‘justice cascade’ – rescaling human rights claims to regional human rights courts and the UNCHR.⁵⁰ Five of the former *Junta* leaders were found guilty of crimes and four were acquitted.⁵¹ The judgement also ‘extended criminal responsibility to commanding officers in charge of zones, sub-zones, and areas, as well as to the “task forces” in charge of the “operations”, and the violations and murders committed inside the CDCs.’⁵² Prosecutions against 600 other officers were halted when the military rebelled against the expanded trials which they denounced as a leftist manoeuvre.⁵³ Alfonsín responded by introducing two amnesty laws: the Full Stop Law (1986) that set a limit of 60 days to file cases after which they would be extinguished, and the Due Obedience Law (1987)

12 (1984), pp. 118–50 (p. 142). In September 1984, the Supreme Council of the Armed Forces decided that the orders issued in the alleged “exercises of the fight against subversion” were “unquestionably legitimate. See Tappatá de Valdez, ‘Past and Present Central Issues of the Present in Argentina’, in *Contribution of Truth, Justice, and Reconciliation Policies to Latin American Democracies* (Inter-American Institute of Human Rights, 2011), pp. 47–77 (p. 57) <<https://www.corteidh.or.cr/tablas/28004.pdf>> [accessed 7 March 2026].

48 Mignone, pp. 140–41.

49 Crenzel, ‘Genesis, Uses, and Significations of the *Nunca Más* Report in Argentina’, p. 26.

50 Kathryn Sikkink and Hun Joon Kim, ‘The Justice Cascade: The Origins and Effectiveness of Prosecutions of Human Rights Violations,’ *Annual Review of Law and Social Science*, 9.1 (2013), pp. 269–85.

51 Lydia Chavez, ‘Argentine Court Finds Five Guilty for Junta Roles,’ *New York Times*, 10 December 1985.

52 ‘CDC’ refers to Clandestine Detention Centre. Maria Soledad Catoggio, ‘The Last Military Dictatorship in Argentina (1976–1983): The Mechanisms of State Terrorism,’ *SciencesPo: Mass Violence & Resistance – Research Network*, 5 July 2010, p. 8 <<https://www.sciencespo.fr/mass-violence-war-massacre-resistance/en/document/last-military-dictatorship-argentina-1976-1983-mechanism-state-terrorism.html>> [accessed 7 March 2026].

53 Nino, *Radical Evil on Trial*, p. 85.

that spelled out which ranks would be immune from prosecution.⁵⁴ At the time, Alfonsín portrayed the limited prosecution of the *Junta* leaders as a success arguing the trials had revealed their crimes, promoted national reconciliation, and achieved closure. For Alfonsín, the trials had served the performative role of symbolic denunciation of the 'Dirty War' and the punishment of the main architects. The public reaction to the amnesty laws and closure of the trials by those not directly impacted by disappearance was a relief that the Dirty War had been removed from the front pages of the newspapers.⁵⁵

Critics of the trials saw them as divisive. Malamud Goti, an architect of the prosecutions, argues the selective *Junta* trials failed to meet the high expectations people had for post-dictatorship justice. Firstly, the trials reproduced a new bipolar vision of society replacing the previous authoritarian divide between 'allies and enemies' with the 'guilty and innocent'. Secondly, neither side was pleased when 'not guilty' verdicts, by default, legally absolved the accused of any responsibility for the Dirty War. The convicted generals believed they had been made scapegoats while the human rights activists had expected more convictions and tougher sentences.⁵⁶ Thirdly, the restricted scope of the trials resulted in history being re-invented by putting most of the blame for violence on the military.⁵⁷ Fourthly, reconciliation had never been part of the human rights movement's discourse in Argentina nor was apology ever part of the military's perspective on the Dirty War.⁵⁸ Hence, the selective prosecutions did not manage to provide a unifying account of what had happened and who had caused most of the suffering. In addition, the pedagogical value of the trials was limited because the verdicts failed to engender community consensus about the repression or consolidate a rights-based agenda for the revived democracy.⁵⁹ The military approached the trials as 'trials of rupture' in which there were two incompatible frameworks of interpretation and where the defence

54 Nino, 'The Duty to Punish Past Abuses of Human Rights Put into Context', p. 2629. Ironically, Alfonsín had tried to legislate against the prosecution of lower ranks based on 'due obedience' – following orders – in 1983, but Congress rejected the proposal.

55 Paula L. Speck, 'The Trial of the Argentine Junta: Responsibilities and Realities', *University of Miami Inter-American Law Review*, 18.3 (1987), pp. 491–534 (p. 516).

56 Jaime Malamud-Goti, 'Dignity, Vengeance, and Fostering Democracy', *The University of Miami Inter-American Law Review*, 29.3 (1998), pp. 417–50 (p. 431).

57 Ibid., p. 449.

58 Mirna D. Goransky, 'Dictatorship and Trials in Argentina', *FICHL Policy Brief Series*, 89 (2018), pp. 1–3 (p. 1).

59 Malamud-Goti, 'Dignity, Vengeance, and Fostering Democracy', p. 445.

was conducted entirely as an attack on the court as illegitimate.⁶⁰ They rejected the very premise of the investigation and prosecution – that they had conducted an illegal coup and systematically repressed society. Instead of national reconciliation, Alfonsín's truth and justice policies culminating in amnesty laws, subsequently reinforced by President Menem's pardons, undermined his key goal of re-establishing the rule of law and introduced 20 years of impunity.

MENEM: AMNESTY AND AMNESIA (1989–1999)

President Carlos Menem reversed Alfonsín's truth and justice agenda of rule of law and democratic consolidation by embracing 'forget and forgive' to promote national reconciliation between the military and society.⁶¹ He made peace with the military by pardoning around 400 convicted military officers, forgiving them for their actions in the Dirty War. He granted 'presidential pardons to all those convicted or under trial for state and subversive acts of terrorism, for misconduct in the war, or for rebelling against democratic institutions.'⁶² This included 60 *Montoneros* (leftist guerrillas) convicted for terrorism.⁶³ In addition, he issued a series of amnesty decrees, known as the 'impunity laws', that freed criminals not previously covered by Alfonsín's amnesty laws. Most people opposed the pardons. Carlos Nino, a legal advisor to Alfonsín, argued they 'clearly damaged the rule of law'.⁶⁴ Alongside the pardons and impunity, Menem also rehabilitated the military by reinstating their historical role as guardians of the state providing internal security in national emergencies – a role from which Alfonsín's Defence laws had excluded them. Unlike Alfonsín, Menem managed the military by pandering to some, co-opting others, and crushing the most rebellious groups. He pampered them with praise and media attention at public ceremonies, promised them a new role in the war against 'narcotraffickers', and promoted their international engagement

60 'Trials of rupture' are those in which the defence attacks the very legal authority of the prosecution in contrast to 'trials of connivance' in which the defence questions the facts. See Martti Koskeniemi, 'Between Impunity and Show Trials', *Max Planck Yearbook of United Nations Law Online*, 6.1 (2002), pp. 1–35 (p. 26).

61 Elin Skaar, *Judicial Independence and Human Rights in Latin America* (Palgrave Macmillan, 2011), p. 54.

62 Nino, 'The Duty to Punish Past Abuses of Human Rights Put into Context', p. 2630.

63 Skaar, p. 54.

64 Nino, *Radical Evil on Trial*, p. 63.

in UN peacekeeping missions.⁶⁵ Goransky argues Menem's policy of reconciliation with the military proved pivotal in their submission to civilian government and rehabilitation in society.⁶⁶ Menem's policy was also a strategic partnership to contain popular resistance to his harsh neoliberal economic policies – historically, military coups and rebellions were closely associated with economic crisis.⁶⁷ His neoliberal programme reduced the state's economic and social functions while increasing its intelligence, internal security and repressive capabilities.⁶⁸ His successors, President De la Rúa (1999–2001) and President Duhalde (2002–2003), continued Menem's policies of reconciliation and reparations over prosecutions until 2003.⁶⁹

The impact of the amnesty laws and pardons on the victims was to deny them justice and support for social policies addressing the lasting impact of suffering and trauma from repression.⁷⁰ The victims and human rights organisations responded to Menem's policies of amnesty and amnesia by seeking alternative routes to justice. They pursued financial reparations for victims of state terrorism, they initiated truth trials to uphold the 'right to truth', they advocated for the legal punishment for the abduction of children, and they promoted prosecutions for human rights violations under universal jurisdiction. They also sought individual and public apologies, lustration, and the creation of memory spaces.⁷¹ Menem appeased the victims by granting substantial repara-

65 Katherine J. Worboys, 'The Traumatic Journey from Dictatorship to Democracy: Peacekeeping Operations and Civil-Military Relations in Argentina, 1989-1999', *Armed Forces and Society*, 33.2 (2007), pp. 149–68. At the same time as Menem was praising the military for their role in defeating subversion in the Dirty War, a judge in 1994 awarded \$3 million in a civil damages suit to the sole survivor of the Tarnoposiky family whose other members disappeared in ESMA in 1976. The judge ordered two former commanders-in-chief of the navy, Emilio Massera and Armando Labruschini, to pay one million US dollars each in compensation for 'material and moral damage' and for the government to pay \$1 million. The government appealed the decision. See 'Argentina: The right to full truth', *Amnesty International*, 1 July 1995 <<https://www.refworld.org/reference/countryrep/amnesty/1995/en/15894>> [accessed 7 March 2026].

66 Goransky, p. 2.

67 J. Patrice McSherry, 'Strategic Alliance: Menem and the Military-Security Forces in Argentina', *Latin American Perspectives*, 24.6 (1997), pp. 63–92 (p. 63).

68 *Ibid.*, p. 63.

69 Gabriel Pereira and Par Engstrom, 'From Amnesty to Accountability: The Ebbs and Flows in the Search for Justice in Argentina', in *Amnesty in the Age of Human Rights Accountability: Comparative and International Perspectives*, ed. by Francesca Lessa and Leigh A. Payne (Cambridge University Press, 2012), pp. 79–122 (p. 107).

70 Rosario Figari Layus, *The Reparative Effects of Human Rights Trials: Lessons from Argentina* (Taylor and Francis, 2017), p. 98.

71 Catalina Smulovitz, 'The Past is Never Dead': Accountability and Justice for Human Rights Violations in Argentina', in *After Oppression: Transitional Justice in Latin America and Eastern*

tions and initiating the search for the missing children abducted by the military.⁷² Law 24,321 created the legal category of ‘missing person as a result of enforced disappearance’, awarded reparations of US \$224,000 for each disappeared, and calibrated amounts for political prisoners according to their time in detention. Granted reparations, conditional on relinquishing the right to make further claims for compensation, were in the form of bonds to be redeemed at a future date.⁷³ Not all victims supported these reparations – the Mothers’ movement split over whether acceptance of reparations was blood money.⁷⁴

Three factors shaped post-transitional justice and the revival of the trials in Argentina after 2005. Firstly, the reduction in the threat of military intervention, secondly, sustained pressure for justice from human rights activists outside government, and thirdly, a more activist judiciary empowered by the growing legal basis for prosecutions of human rights violations (in domestic legislation or international law).⁷⁵ Constitutional reform in 1994, individual military officers breaking the code of silence to reveal details about the repression,⁷⁶ the IACtHR decision in the *Velásquez Rodríguez* (1998) establishing relatives’ right to know the truth about the fate of the disappeared, and repeal of the amnesty laws by Congress (1998) created openings for human rights activism in Argentine courts. The innovative ‘truth trials’ (*juicios por la verdad*) allowed relatives of the disappeared to initiate criminal investigation on the basis of the right to know the truth about the fate of the disappeared. CELS argued that truth trials upheld ‘the inalienable right to the truth, the obligation to respect the body, and the right to mourn the dead’.⁷⁷ The escalation of human rights claims by victims in the Inter-American Commission of Human Rights and IACtHR pressured the Argentine government to meet its human

Europe, ed. by Vesselin Popovski and Mónica Serrano (United Nations, 2013), pp. 64–85 (p. 71).

⁷² *Ibid.*, p. 72.

⁷³ Recipients had to renounce any further right to claims for compensation. These benefits were paid in ‘Bonds of Consolidation of the National Public Debt’ which could be redeemed in the future or cashed in for a reduced amount immediately. In the 2001 banking crisis many recipients saw the value of their bonds wiped out. See Nora Sveaass and Anne Margrethe Sønneland, ‘Dealing with the Past: Survivors’ Perspectives on Economic Reparations’, *International Perspectives in Psychology: Research, Practice, Consultation*, 4.4 (2015), pp. 223–38 (p. 226).

⁷⁴ *Ibid.*, p. 227.

⁷⁵ Skaar, p. 44.

⁷⁶ See Captain Adolfo Scilingo’s confessions about his role in the death flights from ESMA. Horacio Verbitsky, *The Flight: Confessions of an Argentine Dirty Warrior* (The New Press, 1996).

⁷⁷ The Mothers opposed these trials’ focus on exhumations. See Bevernage, p. 34.

rights obligations under the reformed Constitution (1994). In another judicial innovation, human rights advocates mounted cases in relation to baby theft (not covered by the amnesty laws) on the grounds that disappearance was an ongoing crime.⁷⁸

The human rights organisations and families of the disappeared also came into conflict with Menem's policy of forgive-and-forget over collective memory and sites of memorialisation. For example, Menem wanted to demolish the Naval Mechanics School (*Escuela mecánica de la armada – ESMA*), documented in the *Nunca Más* Report as a paradigmatic centre of detention, torture, disappearance, and the infamous death flights during the Dirty War, as an act of national reconciliation. The human rights movement wanted to preserve ESMA as a memorial to the victims (an estimated 4000 were 'processed' on the death flights), but the military opposed turning it into a museum of state terror. In the end, the human rights movement succeeded in getting a court order to prevent ESMA's demolition – Judge Guglielmino argued the complex should be preserved as a crime scene of the state crimes of the Dirty War.⁷⁹ By the late 1990s, the activism of victim and human rights organisations resulted in the proliferation of memory sites throughout the country, many focused on the former clandestine detention centres.⁸⁰ By effectively handing over these sites to human rights organisations the state absented itself from any role in their signification and institutionalisation in collective memory. Vezzetti points out there remains in these memorial sites an unresolved tension between the memory of the disappeared as innocent victims of state terrorism, and the memory of their militancy which, during the 1970s, had celebrated revolutionary violence in *la muerte bella*, the cult of the fallen, honour, and exaltation of violence.⁸¹

78 Special agencies were established to help locate the stolen children and clarify their identities – National Genetic Data Bank and the National Commission for the Right to an Identity (CONADI). See Skaar, p. 64.

79 Karen Elizabeth Bishop, 'Rebuilding Memory Sites in the Southern Cone: The Architectural History of Disappearance', *Journal of the Society of Architectural Historians*, 73.4 (2014), pp. 556–78.

80 Lorena Balardini, 'The Long Struggle for Accountability in Argentina: The Role of Civil Society's Activism and State Actors,' presented at 'Congress of Latin American Studies Association' (Chicago, May 2014) <<https://www.cels.org.ar/common/documentos/PonenciaLASABalardini-CELS.pdf>> [accessed 7 March 2026].

81 Hugo Vezzetti, *Sobre la violencia revolucionaria: Memorias y olvidos* (Siglo XXI, 2009).

POST-TRANSITIONAL JUSTICE UNDER PRESIDENT KIRCHNER (2003-2016)

The reopening of the *Junta* trials in 2006 depended on several factors. First, victim and human rights activism seeking to make *Junta* crimes accountable under international law, second, an activist judiciary responding to the development of human rights jurisprudence of the IACtHR, third, the annulment of the amnesty laws introduced by Alfonsín and the striking down of pardons issued by Menem, and fourth, the arrival in power of President Néstor Kirchner a pro-human rights supporter.⁸² The convergence of these factors allowed President Kirchner to relaunch the *Junta* trials to uphold the rights of victims to justice and revise the official narrative of the 'Dirty War' in a new Prologue to the *Nunca Más* Report (2006) blaming the military for state terrorism and genocide. Kirchner sided firmly with the victims in their demands for criminal justice and their condemnation of the military as perpetrators of the worst of all crimes, genocide.

The first *Junta* trials in 1986 had been prosecuted under Argentine criminal law, not crimes against humanity.⁸³ The gradual opening of the Argentine legal system towards international law began with the ratification of human rights conventions by Alfonsín in 1983 and the reform of the National Constitution in 1994 which granted constitutional hierarchy to a series of human rights instruments.⁸⁴ As a result of the judicial activism of victim and human rights organisations in the IACtHR and UNCHR, the Argentine judiciary increasingly turned to international criminal law to address dictatorship era crimes. International criminal law slowly made its way into Argentine jurisprudence through extradition cases establishing the supremacy of international law over domestic law and statute of limitations. Two examples are the Federal Court of Appeals ruling in 1989 in the Schwammberger case in favour of the extradition request for Nazi crimes and the 2004 extradition in the Arancibia case for extradition to Chile. The Argentine courts first applied the category 'crimes against humanity' in the Simón case which involved the detention, in the clandestine centre *el Olimpo*, of two Peronist Youth during the Argentine dictatorship. CELS had selected the case as a 'leading case' to challenge the constitutionality of the amnesty laws (Full Stop

82 'Argentina: Events of 2021', World Report 2022, *Human Rights Watch*, <<https://www.hrw.org/world-report/2022/country-chapters/argentina>> [accessed 7 March 2026].

83 Gaitán, p. 276.

84 *Ibid.*, p. 275.

and Due Obedience).⁸⁵ In 2001, a federal judge ruled the amnesty laws unconstitutional which the Supreme Court subsequently upheld in 2005.⁸⁶ Nevertheless, there has been ongoing legal contestation by accused perpetrators to have their crimes prosecuted as common crimes, and not crimes against humanity, in order to avoid accountability through the statute of limitations.

The Argentine courts' application of international law has been shaped by, firstly, neo-constitutionalism, and secondly, the role of the IACtHR in upholding international human rights law via the American Human Rights Convention. Neo-constitutionalism in Latin America refers to the change in the relationship between national constitutions and the Inter-American system – *Ius Constitutionale Commune en América Latina* (ICCAL).⁸⁷ Neo-constitutionalism emerged from the constitutional changes in Latin America in the 1980s based on a social consensus for reform to protect fundamental rights after the continent-wide experience of authoritarian repression. What has emerged is the deep integration of domestic and international human rights law allowing the American Convention to play an important part in constitutional transformation. The role of the IACtHR has supported the evolutionary interpretation of human rights treaties.⁸⁸ Through conventionality control it has directed national courts to review laws for compatibility with the American Convention on Human Rights. The pivotal role of the IACtHR in the legal interpretation of the American Convention on Human Rights helped regional human rights 'communities of practice' – the development of shared awareness of practice and conceptualisation of human rights in the Inter-American system.⁸⁹ For example, the concept of 'victim' as a rights bearer – 'someone who holds rights (particularly the right to participate in transitional justice proceedings) and is entitled to various forms of reparations', and as an epistemic category, one constituted through the criminal process whereby the 'perpetrator creates the victim'.⁹⁰ The concept of victim, as a cognitive category, has become a resource around which the Latin American 'community of practice' has

85 Yanina Guthmann, 'The Application of the Crime against Humanity Category in the Simón Ruling from Argentinian Supreme Court (2005)', *Lex Electronica*, 18.1 (2013), pp. 1–21.

86 Gaitán, p. 279.

87 Armin von Bogdandy and René Uruña, 'International Transformative Constitutionalism in Latin America', *The American Journal of International Law*, 114.3 (2020), pp. 403–42.

88 *Ibid.*, p. 411.

89 *Ibid.*, p. 415.

90 *Ibid.*, p. 423.

mobilised, forged identities, and determined strategies.⁹¹ The distinctive feature of the 'plaintiff-prosecutor' (*querellante* system) in the Argentine legal system, which allows victims and their relatives to initiate criminal prosecutions in which the state was implicated, has allowed them to activate neo-constitutionalism and bring international human rights law to bear on their claims in the Argentine courts.⁹² The IACtHR, as a human rights court, has assumed the role of ordering and supervising national prosecutions where states have been unwilling or unable to act.⁹³

The arrival of the Kirchner government in power in 2003 empowered the victims and human rights organisations in their advocacy to reopen the *Junta* trials. One reason Néstor Kirchner (2003-2007) and his wife Cristina Fernández de Kirchner (2007-2015), who succeeded him as president on his death, supported the human rights movement was that they both belonged to the faction of the Peronist movement which had been severely repressed during the dictatorship.⁹⁴ In addition, Kirchner embraced the longstanding memory, truth and justice project of the human rights organisations as a source of legitimacy in the context where people had lost all faith in government after the deep economic crisis in 2001.⁹⁵ Kirchner oversaw the annulment of Alfonsín's amnesty laws and Menem's pardons whose legal authority had already been eroded.⁹⁶ As well as relaunching trials against perpetrators from the Dirty War, Kirchner's human rights policy aimed to recuperate former detention centres as memory spaces; undertake the lustration of individuals linked to the *Junta* from the civil service, federal police and military; and cooperate with international extradition requests. To facilitate prosecutions, Kirchner increased the size of the Supreme Court and repealed Decree 1,581 (2001) which prevented extraditions and ratified Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity.⁹⁷ The recommencement of the *Junta* trials in 2006 also confirmed the successful subordination of the military to

91 Ibid., p. 424.

92 Mignone, p. 123.

93 Alexandra Huneus, 'International Criminal Law by Other Means: The Quasi-Criminal Jurisdiction of the Human Rights Courts', *The American Journal of International Law*, 107.1 (2013), pp. 1-44 (p. 1).

94 Francesca Lessa, 'Juicio y Castigo: Nestor Kirchner and Accountability for Past Human Rights Violations in Argentina', *LSE Research Online*, 19 November 2010 <<https://researchonline.lse.ac.uk/id/eprint/83050>> [accessed 7 March 2026].

95 Pereira and Engstrom, p. 114.

96 Lessa, 'Juicio y Castigo'.

97 Ibid.

civilian authority – 3,493 people were charged, 1,030 convicted, and 159 acquitted of dictatorship era crimes between 2005 and 2021.⁹⁸

While Alfonsín's transitional justice policies had pursued selective exemplary trials as the hinge legal ritual to consolidate the rule of law and democratic transition, Kirchner's post-transitional justice policies prosecuted the military perpetrators for crimes against humanity and genocide. President Néstor Kirchner adopted the term genocide, which the victims and human rights advocates had long used to denounce the *Junta*, to reframe the official narrative published in the *Nunca Más* Prologue (2006) to lay the blame squarely on the military for state terrorism and reject the two demons narrative.⁹⁹ Defending the change, Hebe de Bonafini, president of the *Asociación Madres de Plaza de Mayo*, said: 'Nuestros hijos no eran demonios. Eran revolucionarios, guerrilleros, maravillosos y únicos que defendieron a la Patria.' [Our children were not demons. They were revolutionaries, guerrillas, magnificent, and the ones who defended the Nation]. She embraced the youthful revolutionary militancy of the 1970s generation as defending the nation.¹⁰⁰

The application of the term genocide to *el proceso* has nevertheless been controversial because of its overlapping use as political rhetoric, as a sociological concept, and as a legal concept. No matter how the term is invoked, its real import is the heavy legal and moral burden it carries as condemnation for the most heinous of international crimes. But courts have found it difficult to apply the Genocide Convention to repression in Argentine society because the sectors targeted for repression did not readily fit the definition of a persecuted group (religious, ethnic group) under the Convention. Catoggio argues repression itself engendered the group identity through the shared experience of being targeted.¹⁰¹ Feierstein uses the expression 'reorganising genocide' to characterise *el proceso* which targeted not just armed militants but their entire families and social networks.¹⁰² The first case in which the

⁹⁸ Goransky, p. 1.

⁹⁹ Eduardo Luis Duhalde, a member of the Argentine Commission on Human Rights, used the term genocide in his book *El estado terrorista argentino* (Argos Vergara, 1983). See also Daniel Feierstein and Douglas Andrew Town, *Genocide as Social Practice: Reorganizing Society Under the Nazis and Argentina's Military Juntas* (Rutgers University Press, 2014).

¹⁰⁰ Greg Grandin, 'Living in Revolutionary Time: Coming to Terms with the Violence of Latin America's Long Cold War', in *A Century of Revolution: Insurgent and Counterinsurgent Violence During Latin America's Long Cold War*, ed. by Jocelyn Olcott and others (Duke University Press, 2010), pp. 1–42 (pp. 37, 35).

¹⁰¹ Catoggio, p. 18.

¹⁰² Feierstein and Town, pp. 47–51.

charge of genocide was made against the Argentine naval officer Adolfo Scilingo was by Judge Baltasar Garzón in Spanish judicial proceedings, but the Spanish Supreme Court rejected this charge in 2005.¹⁰³ In 2006, the conviction of the police commissioner Miguel Etchecolatz for crimes against humanity ‘in the context of genocide’ was the first time genocide was included in a judgement in Argentine courts.¹⁰⁴ Subsequent *Junta* trials have also included the charge of genocide but the courts have rejected it – e.g. the four ESMA mega-trials¹⁰⁵ – while others have contextualised convictions for crimes against humanity as occurring ‘within the framework of genocide’.¹⁰⁶ As Mahmood Mamdani notes, the danger of framing a conflict as genocide is the simplification of political violence constructed as a relationship between the evil perpetrator and innocent victim. Genocide then functions as ‘a label to be stuck on your worst enemy’ and puts both perpetrators and victims at the apex of the hierarchy of perpetrators (guilty of the most heinous crime), and of the hierarchy of victims (those who have suffered the worst crime).¹⁰⁷

While these struggles over legal classification of crime are on the face struggles over definition, they point to the inherent problem of representation of atrocity which can never be adequately captured by legal classification or legal narrative.¹⁰⁸ For the victims the revived trials have not been about closure but about ‘phenomenal justice’, ‘keeping the violence and the suffering in the ongoing present’.¹⁰⁹ In many

103 Der Ghougassian and Brumat, p. 50.

104 Margarita O'Donnell, ‘New Dirty War Judgments in Argentina: National Courts and Domestic Prosecutions of the International Human Rights Violations’, *New York Law Review*, 84.1 (2009), pp. 333–74 (p. 362).

105 Amy Booth, ‘Argentina Convicts Eight Men of Crimes Against Humanity During “Dirty War”’, *Vice*, 19 February 2021 <<https://www.vice.com/en/article/argentina-convicts-eight-men-of-crimes-against-humanity-during-dirty-war/>> [accessed 7 March 2026]. Even though the officers in the ESMA trials were not convicted of genocide, H.I.J.O.S., an organisation created by the victims’ children tweeted: ‘The only place for those who commit genocide is in a common prison’.

106 Natalie Alcoba, ‘Argentina: trans women among victims of ex-officers guilty of dictatorship-era crimes’, *Guardian*, 28 March 2024 <<https://www.theguardian.com/global-development/2024/mar/27/argentina-dictatorship-crimes-humanity-trans-women>> [accessed 7 March 2026].

107 Mahmood Mamdani, ‘The Politics of Naming: Genocide, Civil War, Insurgency’, *London Review of Books*, 29.5, 8 March 2007 <<https://www.lrb.co.uk/the-paper/v29/n05/mahmood-mamdani/the-politics-of-naming-genocide-civil-war-insurgency>> [accessed 7 March 2026].

108 Peter D. Rush, ‘Dirty War Crimes: Jurisdictions of Memory and International Criminal Law’, in *The Hidden Histories of War Crimes Trials*, ed. by Kevin Heller and Gerry Simpson (Oxford University Press, 2013), pp. 367–84 (p. 384).

109 van Roekel, p. 22.

cases traumatic memory had penetrated every facet of their lives, 'they could hardly talk about anything else, and their survival identity had significantly shaped the relationships with all their friends, lovers and children'.¹¹⁰ For the victims and the human rights movement, the significance of the revived *Junta* trials has been the opportunity to make the military accountable under international human rights law denied to them under Argentine criminal law. Since 2006, the cumulative effect of 321 rulings 'by dozens of judges, in courts of all kinds and all over the country, including the Supreme Court, all of them being officials of different political stripes' has been to consolidate a legal memory of the dictatorship crimes – state terrorism as a systematic plan to eliminate all opposition.¹¹¹ Criminal trials are important for establishing legal memory as the cornerstone of collective memory and a defence against denialism, as well as for the reintegration of victims into society. The absence of trials is 'a warranty for amnesia'.¹¹² Fournet argues that it was only after the Klaus Barbie trial made victim testimonies the centrepiece of proceedings that a collective memory of the Shoah began to emerge.¹¹³ In Argentina, even though trials have produced a dominant consensus/collective memory, the military and its supporters continue to reject it.

The generative legal effect of the post-transitional justice trials has been to reinforce the idea that human rights is about historical injustice. The discourse of human rights has been so closely associated with the abuses of the military *Junta* that advocacy around current human rights abuses is difficult.¹¹⁴ The Kirchners' embrace of historical injustice came at the expense of consolidating human rights as a contemporary political agenda legalising social problems as justiciable human rights problems.¹¹⁵ Critics also argue the continuation of the *Junta* trials has come to look more like historical revenge than the realisation of broader criminal justice goals like the consolidation of the rule of law.¹¹⁶

¹¹⁰ Ibid., p. 126.

¹¹¹ Daniel Cholakian, '30,000 Reasons: Argentines Uphold Memory in the Streets', *NACLA*, 28 March 2024 <<https://nacla.org/hundreds-thousands-argentinians-uphold-memory/>> [accessed 7 March 2026].

¹¹² Caroline Fournet, *The Crime of Destruction and the Law of Genocide: Their Impact on Collective Memory* (Routledge, 2016), p. 126.

¹¹³ Ibid., p. 120.

¹¹⁴ Par Engstrom, 'Addressing the Past, Avoiding the Present, Ignoring the Future? Ongoing Human Rights Trials in Argentina', *LASAFORUM*, XLIV.3 (2013), pp. 29–31 (p. 31).

¹¹⁵ von Bogdandy and Uruña, p. 430.

¹¹⁶ Lessa, 'Juicio y Castigo'.

The post-transitional justice trials of senior military officers in charge of clandestine detention centres generated the legal memory for their transformation into national memory spaces. Both Kirchners supported the collective memory project of the victims and human rights organisations to preserve the centres as human rights museums, handing them responsibility for these sites as guardians.¹¹⁷ As a result, remembrance became polarised, structured around those directly affected and their relatives.¹¹⁸ But handing over memorialisation to different victims and human rights groups has highlighted the lack of coherent goals of post-transitional policy and the social significance of the ongoing trials or role of memorialisation. There has been a lack of vision about how the outcomes of the different transitional justice measures can be synthesised and used to inform social policies in education, judicial reform, consolidation of human rights, and strengthening the rule of law.¹¹⁹

Reconciliation was never part of the transitional justice agenda in Argentina and even less so in the post-transitional justice period. The post-2006 trials for crimes against humanity aimed at retribution and have simply reinforced the divide between perpetrator and victim, not advanced any reconciliation. Instead, the victims seek 'irreconciliation' through active vigilance against impunity and collective engagement with the past', the opposite of reconciliation and closure.¹²⁰ The trials do not in themselves serve as a vehicle for reconciliation. As occurred in CONADEP, only the victims have been heard because the military have maintained their pact of silence, rejected the legitimacy of the trials, denounced them as victors justice, disputed the 30,000 disappeared figure, and made no apologies – except to acknowledge some unfortunate excesses.¹²¹ General Bignone observed that the trials reflect this divide: 'they will remember us as the executioners when we were the saviours'.¹²² These trials continue to function as 'trials of rupture' in which perpetrators and victims are divided by their distinct interpretive frameworks. For the victims and human rights organisa-

117 Bishop, p. 556.

118 Catoggio, p. 8.

119 Lorena Balardini, 'Argentina: Regional Protagonist of Transitional Justice', in *Transitional Justice in Latin America: The Uneven Road from Impunity Towards Accountability*, ed. by Cath Collins and others (Routledge, 2016), pp. 50–76 (pp. 67–68).

120 Noa Vaisman, 'Irreconciliation as Practice: Resisting Impunity and Closure in Argentina', *Journal of the Royal Anthropological Institute*, 28.S1 (2022), pp. 103–17 (p. 104).

121 Engstrom, 'Addressing the Past', p. 29.

122 Feierstein and Town, p. 139.

tions, the post-transitional justice trials are about punishing the perpetrators and embedding the legal memory produced in the verdicts in collective memory spaces (former clandestine detention centres) as an ongoing defence against denialism. The anxiety of the victims and human rights movement about denialism has been justified by the actions of conservative/right-wing governments since 2016. When President Macri, a neo-liberal conservative, came to power in 2016, he reinstated the two demons narrative in the *Nunca Más* Prologue (2006), sought to close memory sites established at the former detention centres, and sought to reduce the sentences of military convicted of crimes against humanity.¹²³ President Milei, elected in 2024, has rejected the consensus about state terrorism, questioned the figure of 30,000 disappeared, and revived the old National Security Discourse about the war against subversion.¹²⁴ His Vice President Victoria Villarruel denounced the guerrillas for crimes against humanity, claims the convicted military perpetrators are political prisoners, and that the military victims of guerrilla terrorism should be recognised for 'complete memory'.¹²⁵ Recent large scale fraudulent claims for victim compensation embedded in larger human rights cases have further served to undermine the legitimacy of the victim subject position and provide ammunition for the conservative side of politics.¹²⁶

123 Rut Diamint and Laura Tedesco, 'In Argentina, the Supreme Court spurs national outrage with leniency for a 'Dirty War' criminal', *Conversation*, 26 May 2017 <<https://theconversation.com/in-argentina-the-supreme-court-spurs-national-outrage-with-leniency-for-a-dirty-war-criminal-78296>> [accessed 7 March 2026].

124 Uki Goni, 'Argentines urged to reject 'dictatorial' Milei by offspring of regime torturers', *Guardian*, 7 November 2023 <<https://www.theguardian.com/world/2023/nov/07/argentina-election-milei-massa-dictatorship-letter-historias-desobedientes>> [accessed 7 March 2026].

125 Uki Goni, 'Blaming the victims: dictatorship denialism is on the rise in Argentina', *Guardian*, 29 August 2016 <<https://www.theguardian.com/world/2016/aug/29/argentina-denial-dirty-war-genocide-mauricio-macri>> [accessed 7 March 2026].

126 Matthew Bremner, 'The Argentine junta, the crusading lawyer and the imposter', *Financial Times*, 30 August 2025 <<https://www.ft.com/content/2971a0e7-a4b2-4f19-bdc9-732b0778320c>> [accessed 7 March 2026].

Conclusion

The perpetrator-victim binary, while a necessary legal fiction for transitional justice, is inherently unstable. Through the Argentine case, we have demonstrated that this binary does not simply describe fixed subject positions but actively creates a framework for their perpetual contestation. The instability of these categories is a direct reflection of the 'restless event' to which they refer. The four-decade struggle over accountability for the crimes of the Argentine dictatorship (1976–83) demonstrates that this period continues to function as a quintessential 'restless event'—a past that remains a live, contested site of political conflict. Argentina's trajectory of transitional justice is defined by this restlessness, manifest as a continuous struggle between perpetrators and victims to minimise or maximise their legal visibility. The perpetrator-victim binary has locked them into a self-referential struggle with the other. This has been a cyclical process, not linear one, buffeted by the policies of successive governments. From Alfonsín's 'two demons' framework, to Menem's imposed amnesia, to the Kirchners' reframing of the conflict as genocide, the full range of transitional justice measures have been deployed, not coherently, but as *ad hoc* legal tools to manage an inherently unstable political conflict. Moreover, these historical revisions were not merely a change in narrative but a fundamental *re-signification of the perpetrator category*, demonstrating how the restless event forces the binary to be continually renegotiated. The result is that the foundational categories of transitional justice itself—who counts as a victim, who is labelled a perpetrator—have never really been settled but remain the very stakes in an ongoing struggle.

The instability of the perpetrator-victim binary was evident from the outset. In the first phase of transitional justice, Alfonsín's attempt to use CONADEP and the *Junta* trials to *fix* a consensus around the 'two demons' narrative was fundamentally rejected by a military that refused the very category of 'perpetrator,' culminating in rebellions that forced amnesty laws. This early failure demonstrated that the legal ritual of the trial alone could not settle the 'meta-conflict' – the right of the military to intervene in national politics through coups. In his liberal legal imaginary, transitional justice was conceived as a self-correcting mechanism in which the truth about the repression (especially the policy of disappearance) revealed through CONADEP and the exemplary prosecutions, punishment and purging of those most responsible would generate a consensus about the crimes and

bring closure (if not national reconciliation). In the second phase, Menem approached transitional justice as closed and adopted amnesty and amnesia (he pardoned the imprisoned *Junta* leaders) to win over the military and rehabilitate them as a valued institution in society. Menem achieved reconciliation between the military and society by subordinating them to civil authority, ending the threat of further coups.¹²⁷ In the third phase, the Kirchners' revived post-transitional justice, emphasising retributive justice and the rights of the victim to justice. The Kirchners' reframed the Dirty War as genocidal state terrorism in a revised Prologue of the *Nunca Más* Report (2006). The charge of genocide had long been made by the victims' groups to denounce the military. Exercising their rights under the *querellante* system, the victims' groups also sought to amend the charges against the perpetrators to include genocide. Kirchners' post-transitional justice was concerned with historical injustice, the punishment of perpetrators, and the memorialisation of victims as a defence against future denialism. However, victims and human rights groups remain wary about the durability of the outcomes of the revived trials because previous political reversals have overturned verdicts and punishment through pardons, demonstrating there was 'no such fixed understanding of legal justice'.¹²⁸ The trajectory of transitional justice in Argentina reveals an evolving and fluid project whose aims change, whose performative legal rituals have left victims stuck in a liminal space, and with collective memory continually contested.

The driving force behind this contestation has been the victims and human rights organisations, who actively worked to redefine and weaponise the category of 'victim' to hold the state accountable. From the Mothers of the Plaza de Mayo to the strategic use of international courts, their activism ensured that the demand for justice, and thus the definition of the perpetrator, never faded. The state's response has been cyclical and reactive: Alfonsín's initial framework was vetoed by military rebellion; Menem imposed amnesia in a political trade-off; the Kirchners revived and re-signified the trials as a project of historical memory. Throughout, the performative legal rituals of trials and commission reports have not produced closure but have instead left society in a liminal space of contested memory. The revived trials of the 2000s demonstrate this enduring antagonism. Perpetrators and

¹²⁷ Goransky, p. 1.

¹²⁸ van Roekel, p. 47.

victims remain locked in a self-referential struggle, with the former rejecting the process as victor's justice and the latter viewing it as a sacred duty of political mourning. This symbiotic conflict, where each identity is reinforced by its opposition to the other, is the engine of the restless event. Therefore, the 'perpetrator' in the Argentine case is not a stable psychological profile but a relational and political category, its meaning contingent on the victims' claims, the state's narrative, and the shifting sands of memory. To study the perpetrator in such a context is to study a moving target, a label fought over, denied, and redefined across decades.

Works Cited

- 'Argentina: Events of 2021', World Report 2022, *Human Rights Watch* <<https://www.hrw.org/world-report/2022/country-chapters/argentina>> [accessed 7 March 2026]
- 'Argentina: The right to full truth', *Amnesty International*, 1 July 1995 <<https://www.refworld.org/reference/countryrep/amnesty/1995/en/15894>> [accessed 7 March 2026]
- Alcoba, Natalie, 'Argentina: trans women among victims of ex-officers guilty of dictatorship-era crimes', *Guardian*, 28 March 2024 <<https://www.theguardian.com/global-development/2024/mar/27/argentina-dictatorship-crimes-humanity-trans-women>> [accessed 7 March 2026]
- Arthur, Paige, 'How "Transitions" Reshaped Human Rights: A Conceptual History of Transitional Justice', *Human Rights Quarterly*, 31.2 (2009), pp. 321-67
- Balardini, Lorena, 'Argentina: Regional Protagonist of Transitional Justice', in *Transitional Justice in Latin America: The Uneven Road from Impunity Towards Accountability*, ed. by Cath Collins and others (Routledge, 2016), pp. 50-76
- , 'The Long Struggle for Accountability in Argentina: The Role of Civil Society's Activism and State Actors,' presented at 'Congress of Latin American Studies Association' (Chicago, May 2014) <<https://www.cels.org.ar/common/documentos/PonenciaLASABalardini-CELS.pdf>> [accessed 7 March 2026]
- Bevernage, Berber, *History, Memory, and State-Sponsored Violence* (Routledge, 2012)
- Bishop, Karen Elizabeth, 'Rebuilding Memory Sites in the Southern Cone: The Architectural History of Disappearance', *Journal of the Society of Architectural Historians*, 73.4 (2014), pp. 556-78
- Booth, Amy, 'Argentina Convicts Eight Men of Crimes Against Humanity During "Dirty War"', *Vice*, 19 February 2021 <<https://www.vice.com/en/article/argentina-convicts-eight-men-of-crimes-against-humanity-during-dirty-war/>> [accessed 7 March 2026]
- Bourdieu, Pierre, 'The Force of Law: Toward a Sociology of the Juridical Field', *Hastings Law Journal*, 38.5 (1987), pp. 805-13

- Bremner, Matthew, 'The Argentine junta, the crusading lawyer and the imposter', *Financial Times*, 30 August 2025 <<https://www.ft.com/content/2971a0e7-a4b2-4f19-bdc9-732b0778320c>> [accessed 7 March 2026]
- Brennan, James P. and Mercedes Ferreyra, *Argentina's Missing Bones: Revisiting the History of the Dirty War* (University of California Press, 2018)
- Brysk, Alison 'The Politics of Measurement: The Contested Count of the Disappeared in Argentina', *Human Rights Quarterly*, 16.4 (1994), pp. 676–92
- Catoggio, Maria Soledad, 'The Last Military Dictatorship in Argentina (1976–1983): The Mechanisms of State Terrorism', *SciencesPo: Mass Violence & Resistance – Research Network*, 5 July 2010, p. 8 <<https://www.sciencespo.fr/mass-violence-war-massacre-resistance/en/document/last-military-dictatorship-argentina-1976-1983-mechanism-state-terrorism.html>> [accessed 7 March 2026]
- Chavez, Lydia, 'Argentine Court Finds Five Guilty for Junta Roles', *New York Times*, 10 December 1985
- Cholakian, Daniel, '30,000 Reasons: Argentines Uphold Memory in the Streets', *NACLA*, 28 March 2024 <<https://nacla.org/hundreds-thousands-argentinians-uphold-memory/>> [accessed 7 March 2026]
- Crenzel, Emilio, 'Genesis, Uses, and Significations of the *Nunca Más* Report in Argentina', *Latin American Perspectives*, 42.3 (2015), pp. 20–38
- , 'Revisiting the Origins of Argentina's Military Junta Trial: Political, Moral, and Legal Dilemmas of a Transitional Justice Strategy', *Canadian Journal of Latin American and Caribbean Studies / Revue canadienne des études latino-américaines et caraïbes*, 42.2 (2017), pp. 144–64
- , *The Memory of the Argentina Disappearances* (Routledge, 2011)
- de Valdez, Tappatá, 'Past and Present Central Issues of the Present in Argentina', in *Contribution of Truth, Justice, and Reconciliation Policies to Latin American Democracies* (Inter-American Institute of Human Rights, 2011), pp. 47–77 <<https://www.corteidh.or.cr/tablas/28004.pdf>> [accessed 7 March 2026]
- Decreto 187, *Comisión Nacional sobre la Desaparición de Personas (CONADEP)*, Art 1 (Buenos Aires, 1983) <<https://www.argentina.gob.ar/normativa/nacional/decreto-187-1983-263505/texto>> [accessed 7 March 2026]
- Definitivamente nunca más: la otra cara del informe CONADEP* (FORES, 1985)
- Der Ghougassian, Khatchik and Leiza Brumat, 'The Argentine Military and the "Antisubversivo" Genocide: The School of Americas' Contribution to the French Counterinsurgency Model', *Genocide Studies International*, 12.1 (2018), pp. 8–71
- Diamint, Rut and Laura Tedesco, 'In Argentina, the Supreme Court Spurs National Outrage with Leniency for a 'Dirty War' criminal', *Conversation*, 26 May 2017 <<https://theconversation.com/in-argentina-the-supreme-court-spurs-national-outrage-with-leniency-for-a-dirty-war-criminal-78296>> [accessed 7 March 2026].
- Duhalde, Eduardo Luis, *El estado terrorista argentino* (Argos Vergara, 1983)

- Engstrom, Par, 'Addressing the Past, Avoiding the Present, Ignoring the Future? Ongoing Human Rights Trials in Argentina', *LASAFORUM*, XLIV.3 (2013), pp. 29–31
- Feierstein, Daniel and Douglas Andrew Town, *Genocide as Social Practice: Reorganizing Society Under the Nazis and Argentina's Military Juntas* (Rutgers University Press, 2014)
- Feitlowitz, Marguerite, 'También sobre las palabras la dictadura ejerció violencia', *El Clarín*, 5 September 1999, <<http://www.clarin.com/diario/1999/09/05/i-02010d.htm>> [accessed 2 April 2026]
- Fournet, Caroline, *The Crime of Destruction and the Law of Genocide: Their Impact on Collective Memory* (Routledge, 2016)
- García-Villegas, Mauricio, *The Powers of Law: A Comparative Analysis of Sociopolitical Legal Studies* (Cambridge University Press, 2018)
- Goni, Uki, 'Argentiniens urged to reject 'dictatorial' Milei by offspring of regime torturers', *Guardian*, 7 November 2023 <<https://www.theguardian.com/world/2023/nov/07/argentina-election-milei-massa-dictatorship-letter-historias-desobedientes>> [accessed 7 March 2026]
- , 'Blaming the victims: dictatorship denialism is on the rise in Argentina', *Guardian*, 29 August 2016 <<https://www.theguardian.com/world/2016/aug/29/argentina-denial-dirty-war-genocide-mauricio-macri>> [accessed 7 March 2026]
- Goransky, Mirna D., 'Dictatorship and Trials in Argentina', *FICHL Policy Brief Series*, 89 (2018), pp. 1–3
- Grandin, Greg, 'Living in Revolutionary Time: Coming to Terms with the Violence of Latin America's Long Cold War', in *A Century of Revolution: Insurgent and Counterinsurgent Violence during Latin America's Long Cold War*, ed. by Jocelyn Olcott and others (Duke University Press, 2010), pp. 1–42
- Guevara, Vázquez, 'Prologue to Truth: Argentina's National Commission on the Disappeared and the Authority of International Law', *Leiden Journal of International Law*, 35.1 (2022), pp. 105–27
- Guthmann, Yanina, 'The Application of the Crime against Humanity Category in the Simón Ruling from Argentinian Supreme Court (2005)', *Lex Electronica*, 18.1 (2013), pp. 1–21
- Hayner, Priscilla B., 'Fifteen Truth Commissions—1974 to 1994: A Comparative Study', *Human Rights Quarterly*, 16 (1994), pp. 597–655
- Humphrey, Michael and Estela Valverde, *Transitional Justice, Impunity and the Judicialisation of Politics* (Larcier Intersentia Europe, 2025)
- Huneus, Alexandra, 'International Criminal Law by Other Means: The Quasi-Criminal Jurisdiction of the Human Rights Courts', *The American Journal of International Law*, 107.1 (2013), pp. 1–44
- Koskeniemi, Martti, 'Between Impunity and Show Trials', *Max Planck Yearbook of United Nations Law Online*, 6.1 (2002), pp. 1–35

Layus, Rosario Figari, *The Reparative Effects of Human Rights Trials: Lessons from Argentina* (Taylor and Francis, 2017)

Lessa, Francesca, 'Barriers to Justice: The Ley de Cauducidad and Impunity in Uruguay', in *Amnesty in the Age of Human Rights Accountability: Comparative and International Perspectives*, ed. by Francesca Lessa and Leigh A. Payne (Cambridge University Press, 2012), pp. 123–51

——, 'Juicio y Castigo: Nestor Kirchner and Accountability for Past Human Rights Violations in Argentina', *LSE Research Online*, 19 November 2010 <<https://researchonline.lse.ac.uk/id/eprint/83050>> [accessed 7 March 2026]

Malamud-Goti, Jaime, 'Dignity, Vengeance, and Fostering Democracy', *The University of Miami Inter-American Law Review*, 29.3 (1998), pp. 417–50

——, *Game Without End: State Terror and the Politics of Justice* (University of Oklahoma Press, 1996)

Mallinder, Louise, 'The End of Amnesty or Regional Overreach? Interpreting the Erosion of South America's Amnesty Laws', *International and Comparative Law Quarterly*, 65.3 (2016), pp. 645–80

Mamdani, Mahmood, 'The Politics of Naming: Genocide, Civil War, Insurgency', *London Review of Books*, 29.5, 8 March 2007 <<https://www.lrb.co.uk/the-paper/v29/n05/mahmood-mamdani/the-politics-of-naming-genocide-civil-war-insurgency>> [accessed 7 March 2026]

May, Rachel A., 'Truth and Truth Commissions in Latin America', *Investigaciones Geográficas, Boletín del Instituto de Geografía, UNAM*, 21.2 (2013), pp. 494–51

McSherry, J. Patrice, 'Strategic Alliance: Menem and the Military-Security Forces in Argentina', *Latin American Perspectives*, 24.6 (1997), pp. 63–92

Merckx, Gilbert, 'Recessions and Rebellions in Argentina, 1870–1970', *Hispanic American Historical Review*, 53.2 (1973), pp. 285–95

Mignone, Emilio Fermin, Cynthia L. Estlund, and Samuel Issacharoff, 'Dictatorship on Trial: Prosecutions of Human Rights Violations in Argentina', *Yale Journal of International Law*, 12 (1984), pp. 118–50

Moyn, Samuel, *The Last Utopia: Human Rights in History* (Belknap Press, 2012)

Nino, Carlos S., 'The Duty to Punish Past Abuses of Human Rights Put into Context: The Case of Argentina', *The Yale Law Journal*, 100.8 (1991), pp. 2619–2640

——, *Radical Evil on Trial* (Yale University Press, 1996)

O'Donnell, Margarita, 'New Dirty War Judgments in Argentina: National Courts and Domestic Prosecutions of the International Human Rights Violations', *New York Law Review*, 84.1 (2009), pp. 333–74

Orentlicher, Diane F., 'Settling Accounts: The Duty to Prosecute Human Rights Violations of a Previous Regime', *Yale Law Review*, 100.8 (1991), pp. 2537–2615

Pereira, Gabriel and Par Engstrom, 'From Amnesty to Accountability: The Ebbs and Flows in the Search for Justice in Argentina', in *Amnesty in the Age of Human Rights*

- Accountability: Comparative and International Perspectives*, ed. by Francesca Lessa and Leigh A. Payne (Cambridge University Press, 2012), pp. 79–122
- Pilatti, Julián, 'Why we say there were 30,000: a manual to avoid denialism in Argentina', *Peoples Dispatch*, 6 October 2023 <<https://peoplesdispatch.org/2023/10/06/why-we-say-there-were-30000-a-manual-to-avoid-denialism-in-argentina/>> [accessed 7 March 2026]
- Posner, Eric A. and Adrian Vermeule, 'Transitional Justice as Ordinary Justice', *Harvard Law Review*, 117.3 (2004), pp. 761–825
- Rush, Peter D., 'Dirty War Crimes: Jurisdictions of Memory and International Criminal Law', in *The Hidden Histories of War Crimes Trials*, ed. by Kevin Heller and Gerry Simpson (Oxford University Press, 2013), pp. 367–84
- Semán, Ernesto, 'Argentina: Into the Abyss', *New York Review of Books*, 15 March 2024 <<https://www.nybooks.com/online/2024/03/15/argentina-into-the-abyss/>> [accessed 7 March 2026]
- Sikkink, Kathryn, *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics* (W.W. Norton & Co, 2011)
- Sikkink, Kathryn and Hun Joon Kim, 'The Justice Cascade: The Origins and Effectiveness of Prosecutions of Human Rights Violations', *Annual Review of Law and Social Science*, 9.1 (2013), pp. 269–85
- Skaar, Elin, *Judicial Independence and Human Rights in Latin America* (Palgrave Macmillan, 2011)
- Smulovitz, Catalina, '"The Past is Never Dead": Accountability and Justice for Human Rights Violations in Argentina', in *After Oppression: Transitional Justice in Latin America and Eastern Europe*, ed. by Vesselin Popovski and Mónica Serrano (United Nations, 2013), pp. 64–85
- Speck, Paula L., 'The Trial of the Argentine Junta: Responsibilities and Realities', *University of Miami Inter-American Law Review*, 18.3 (1987), pp. 491–534
- Sveaass, Nora and Anne Margrethe Sønneland, 'Dealing with the Past: Survivors' Perspectives on Economic Reparations', *International Perspectives in Psychology: Research, Practice, Consultation*, 4.4 (2015), pp. 223–38
- Teitel, Ruti G., 'Transitional Justice Genealogy', *Harvard Human Rights Journal*, 16 (2003), pp. 69–94
- , *Transitional Justice* (Oxford University Press, 2000)
- Turner, Victor, *The Ritual Process: Structure and Anti-Structure* (Aldine Publishing, 1969)
- Vaisman, Noa, 'Irreconciliation as Practice: Resisting Impunity and Closure in Argentina', *Journal of the Royal Anthropological Institute*, 28.S1 (2022), pp. 103–17
- Vásquez Carruthers, Juan Francisco, 'Transitional Justice and Political Opportunism', in *Transitional Justice: Theoretical and Practical Approaches*, ed. by N. Weiss (Universitätsverlag Potsdam, 2022), pp. 39–71

- Verbitsky, Horacio, *The Flight: Confessions of an Argentine Dirty Warrior* (The New Press, 1996).
- Vezzetti, Hugo, *Sobre la violencia revolucionaria: Memorias y olvidos* (Siglo XXI, 2009).
- van Roekel, Eva, *Phenomenal Justice: Violence and Morality in Argentina* (Rutgers University Press, 2020).
- von Bogdandy, Armin and René Uruña, 'International Transformative Constitutionalism in Latin America', *The American Journal of International Law*, 114.3 (2020), pp. 403–42
- Wagner-Pacifici, Robin, 'Theorizing the Restlessness of Events', *American Journal of Sociology*, 115.5 (2010), pp. 1351–1386
- Worboys, Katherine J., 'The Traumatic Journey from Dictatorship to Democracy: Peacekeeping Operations and Civil-Military Relations in Argentina, 1989–1999', *Armed Forces and Society*, 33.2 (2007), pp. 149–68
- Zimmerer, Jürgen, *From Windhoek to Auschwitz? Reflections on the Relationship between Colonialism and National Socialism* (De Gruyter Oldenbourg, 2024)

Michael Humphrey is Professor Emeritus in Sociology in the Discipline of Sociology and Criminology at The University of Sydney.

Estela Valverde is Honorary Associate Professor in the Discipline of Spanish and Latin American Studies at The University of Sydney.