

Resisting Tyranny: Human Rights Organizations, International Organizations, and Promotion of the Rule of Law in Argentina

ROBERT L. OPRISKO, *Indiana University*
OLIVIA GRACE WOLFE, *Butler University*

ABSTRACT: *The Madres de Plaza de Mayo successfully contributed to the peaceful overthrow of Argentina's military dictatorship and eventual installation of a healthy democracy. It accomplished this through contributions to civil society: promoting human rights laws, accountability, rule of law, and social justice. We argue that the Madres' success must also be evaluated by their success in condemning military personnel for human rights crimes. The Madres received aid from the Organization of American States' Inter-American Court and Commission on Human Rights, which influenced the government to establish the rule of law more effectively by placing the accused soldiers on trial. Using Argentina's democratic transition and The Madres de Plaza de Mayo as a case study, we argue that human rights organizations can bring about nonviolent democratic transitions, but not sustainable democratic institutions; however, in conjunction with intergovernmental organizations that have international legal jurisdiction, human rights organizations can more effectively establish the rule of law in the state, leading to a more sustainable democratic institution.*

Contextual Background and Research Objectives

Argentina's democratization history includes severe regime instability as the country alternated between authoritarian regimes and democracies in the 20th century. The second wave of democratization from 1945 to 1988 led many Latin American states, including Argentina, to democratization; however, many countries in the region soon returned to authoritarian regimes after this period (Berg-Schlosser, 2009). Following a military coup, Argentina reinstated a "ferce military dictatorship between 1976 and 1983" ("Argentina Country Report," 2012, p. 3). That regime eventually collapsed during the Dirty War due to a popular social movement towards re-democratization in reaction to the "circumstances of political violence" and "ensuing massive violations of human rights" committed by the military (Jelin, 1994, p. 38). The most widely known human rights violations committed by the military regime occurred when the military abducted children and babies in order to provide these children to "high ranking military officers and their accomplices" (Bennett, Ludlow, & Reed), but other violations included kidnapping individuals and throwing them out of planes over the ocean to make them 'disappear,' hence the name *desaparecidos*.

The human rights movement was an important liberal cause in Latin America, but nowhere was it such "an essential element of the new democracy" (Jelin, 1994, p. 46), as in Argentina. The Madres de Plaza de Mayo and the Abuelas de Plaza de Mayo, two well-recognized human rights organizations, advocated the convictions of war criminals through advocacy marches, letters, petitions, and personal testimonies. Meanwhile, the Center for Legal and Social Studies (CELS), another important human rights organization (HRO), provided data and legal expertise to facilitate the legal condemnation of the human rights abuses from the Dirty War. Their influence on the recognition of human rights violations in Argentina and their additional influence on increasing the rule of law in Argentina can be divided into three historical phases: 1) the initial reaction of the democratic Argentine government to human rights violations before the amnesty laws of the late 1980s and early 1990s; 2) the investigation, trials, and rulings conducted by the Inter-American Court; and 3) the actual convictions of the Dirty War human rights violators in Argentine national courts after the repealing of the amnesty laws. Through these historical phases, we argue the collaboration between the HROs and the Inter-American Court caused an increase in the independence of the judiciary and

equality before the law, thereby also increasing the rule of law in Argentina's democracy.

This essay first identifies the methods and strategies used by the Madres de Plaza de Mayo, the Abuelas de Plaza de Mayo, and the CELS to spread awareness and increase the recognition of the human rights violations by the military during the Dirty War. The middle section of this article describes the different phases of the Argentine government's condemnation of war criminals, beginning with the initial national condemnation before international involvement, then the Argentine government's reaction to Inter-American Court rulings, and finally the national courts' subsequent convictions of military officials who committed war crimes during the Dirty War. The final section of the essay discusses how the relation between the HROs, the Inter-American Court, and the Argentine government affected and continues to affect the rule of law in Argentina.

Introduction

Over the past century, the most recent wave of democratization (Berg-Schlosser, 2009), the increasing number of HROS, and the creation of international law tribunals have sparked scholarly research on each of these individual themes. Previous scholarship explored the relation between human rights organizations and democratic governments (Bonner, 2005; Jelin, 1994), the relation between human rights and international law (Cavallaro, 2008; Hillebrecht, 2012; Huneus, 2010), and the relation between democratic governments and international law tribunals (Benvenisti, 2008; Falk, 2014; Hillebrecht, 2012; Huneus, 2010; Smulovitz, 2010). However, scholars have yet to measure the domestic effects of the relationship between human rights organizations and international law tribunals on national governments and democracy.

Currently, a vast amount of literature exists on democratization theories, which explain both how and why democratic transitions occur successfully and also how these democratic transitions can establish sustainable democracies. Dahl (1999) argues that democracies are beneficial for the people in that they allow citizens to choose the governments and laws that govern them, protect citizens' fundamental rights, and provide political and social space for higher moral standards. However, the transitional road to democracy is a time-oriented, multifaceted process (Rustow, 1970). Moreover, transitional democracies are plagued by issues such as hav-

ing a delegative democracy in which too much power is concentrated in the executive branch, or an illiberal democracy, where elections are held but essential elements of democracy such as rule of law and separation of powers are not fully implemented (Sorenson, 2007). Some scholars, however, hold that states that contain an active civil society with popular mobilizations have experienced the most successful democratic transitions and become more stable democracies (Cavallaro, 2008; Sorenson, 2007).

All in all, the literature consistently shows that HROs greatly contributed to the democratic process in Latin America (Bonner, 2005; Fallon, 2008; Jelin, 1994; Weylen, 1993, 1994), but the sustainability of the democracy, especially in Argentina, depended also on the presence of the Inter-American Court for enforcement and increased accountability (Bonner, 2005; Jelin, 1994). While democratization is highly contingent upon local societal changes, it is also highly influenced by the international dimension. There is a bleeding between the levels of analysis, or, as Weinstein would put it, between the realms of political action. (Oprisko, 2015; Weinstein, 1970). Consequently, our research builds off of this past literature to show the causal relationship between the collaborative actions of HROs, international law tribunals, the Argentine government, and the measurable increase of rule of law.

Methods

To examine the relationship between the HROs' activities and advocacy, the Inter-American Court's procedures and rulings, and the Argentine government's subsequent convictions of war criminals from the Dirty War, we used local news reports, international magazine articles, scholarly articles, court rulings and reports from the Inter-American Court, as well as data from the CELS. These primary and secondary sources historically trace the actions of the HROs, the Inter-American Court, and the Argentine judiciary. To supplement this historical research we utilized the Freedom House's Freedom in the World Index and the World Report's Human Rights Watch Reports to provide empirical analysis of the increase in rule of law in the Argentine government. Some of the current indices that seek to measure rule of law in nations and territories are the Freedom House's Freedom in the World ratings, the Global Integrity Index, the Worldwide Governance Indicators, Polity IV, and the World Justice Project's (WJP) Rule of Law Index, among others. Many scholars have used these indices to measure

democratization efforts and rule of law more specifically (Andrews, 2004; Barro, 1997, 2000; Joireman, 2001, 2004; Rigoban, 2005). However, Munck and Verkuilen (2002) and Skaaning (2009; 2009) recently analyzed the reliability, validity, and usefulness of these rule of law indices and found that each individually exhibits different problems with time and geographical scope, conceptualization, measurement, and aggregation.

Despite these drawbacks, the Vera Institute of Justice notes that indices are nonetheless helpful because they “make complex information and ideas easily understandable and facilitate comparisons across place and time (Parsons, 2008, p. 4). Moreover, Munck and Verkuilen (2002) assert that these indices are “tapping into the same fundamental underlying realities” (p. 29) of rule of law. Therefore, they should still be used by scholars because “having a data set on democracy, even if it is partially flawed, is better than not having any data set at all” (Munck & Verkuilen, 2002, p. 31).

To operationalize our variables appropriately, we have chosen a strategy that combines quantitative and qualitative methods, follows an appropriate time span for the case study of Argentina, and narrows our focus for conceptualization by using specific indicators of rule of law. We gathered quantitative aggregated and disaggregated freedom, civil liberty, and rule of law scores from the Freedom House’s Freedom in the World ratings and then complemented this data with the qualitative narrative country reports on Argentina from the Freedom in the World reports. Skaaning (2009) notes that the presence of narrative country reports in the Freedom House Index increases the validity of their measures as it provides both objective and subjective indicators, which are very appropriate for measuring rule of law. From the Freedom House’s quantitative data, we conducted a document analysis of the reports to map the progression of domestic court cases into conceptualization matrices. This allowed us to determine which indicators of rule of law would be most pertinent for our data analysis, as will be discussed below. In addition, we collected quantitative data on the number of cumulative convictions of war criminals in Argentina from the Human Rights Watch Reports. The Freedom House indices, spanning from 1998 to 2014, and the Human Rights Watch Reports, spanning from 1989 to 2014, are the indices with the most appropriate time spans for our research objective.

We rely on the definition of “rule of law” from the United Nations’ former Secretary General, Kofi Annan’s (2014), description as:

a principle of governance in which all persons, institutions, and entities, public and private, including the State itself, are accountable to laws that are publically promulgated, equally enforced, and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.

We focus on only two indicators of rule of law: an independent judiciary and equality before the law. Based on our qualitative documentary analysis and matrices, these two indicators in the Argentine national courts were the most affected by the actions of the HROs and the Inter-American Court. By focusing on two specific indicators within rule of law and supplementing this with objective data on the number of war criminal convictions in Argentina, our results will be less affected by bias, and the usage of multiple sources from Freedom House and the WJP’s Human Rights Watch will increase the reliability of our findings.

Strategies and Methods of the Argentine Human Rights Organizations

The Madres de Plaza de Mayo, the Abuelas de Plaza de Mayo, and the CELS spread awareness of the human rights violations during the Dirty War in Argentina in two very different ways. Jelin (1994) and Bonner (2005) emphasize the distinction between these human rights groups, and categorize them as either “affected” or “solidarity” groups. Oprisko (2012) examines the level of engagement of revisionist (reformist or revolutionary) groups predicated upon the diminution of human dignity. The HROs we examine all fall into the category of reformist groups because the focus of their revision is on strengthening adherence to existing law as a form of humanitarian governance. The Madres’ and Abuelas’ influence results from their experience with war crimes, as their children and grandchildren are among the disappeared. Thus, their group is comprised of mothers and grandmothers directly affected by the abductions. The Madres’ and the Abuelas’ main contributions come from raising awareness of the abuses and working with the presidents after the transition to condemn the human rights abusers legally. They increased awareness for these human rights abuses by marching

weekly at the Plaza de Mayo holding pictures of their abducted children. The Madres also invested in an advertisement in *La Prensa*, a dominant Argentine newspaper, on Mother's Day, that pleaded for a legitimate legal process to prosecute the military officials for abducting their children (Tedla, 2009). These actions later caused a media frenzy, leading to both national and international recognition of their plight and claims (Knudson, 1997; Tedla, 2009). The Madres de Plaza de Mayo was the first human rights group to protest actively and successfully against the actions of the authoritarian regime of Argentina (Waylen, 1994). In contrast, the CELS is the "solidarity" group, and its aim is to provide professional legal support (Bonner, 2005). Thus, the CELS emerged as a group of "professional 'human rights experts'" (Smulovitz, 2010, p.247), and is not only the primary legal expert on such cases, but also the most reliable statistics expert for human rights abuses in Argentina (Knudson, 1997).

Smulovitz (2010) argues that "support structures" consisting of local lawyers and a "new rights advocacy network of nongovernmental organizations" (p. 234) significantly contributed to Argentina's judicialization process by "democratiz[ing] access to the courts" (p.237). In this instance, the "affected" groups formed part of the "new rights advocacy network," while the CELS formed the legal section of the support structure (p.234).

The human rights organizations' work towards domestic condemnation of the war criminals was exemplary even before the Inter-American Court began to report on and hold trials for the war crimes. In 1977, before the democratic transition occurred, the Madres de Plaza de Mayo created a petition consisting of 24,000 signatures and also a list of 537 desaparecidos and sent it to the Argentine government. Although this increased attention internally (Tedla, 2009), the Madres and the Abuelas continued to assert their claims and demands further by working more directly with powerful government officials. With a large amount of power concentrated in the presidency, the Madres and Abuelas, by working with various presidents like Raúl Alfonsín, Carlos Menem, and Néstor Kirchner, immediately attempted to utilize the executive and judiciary branches of government to condemn the military branch of the past. The two "affected" groups demanded not only truth and justice from their government, but also made "demands anchored in the judiciary, in politics, in culture, and in society" (Jelin, 1994, p.48). Most importantly, the "solidarity" HROs, such as CELS, complemented the work of the "affected" HROs by providing legal skills and data both nationally and internationally (Bonner, 2005).

The Ineffectiveness of the National Government's Reaction to War Crimes

Raúl Alfonsín, the first democratically elected president after the transition, initially led the campaign to convict the military officials by creating the National Commission on Disappeared People (CONADEP) in 1983. The Madres, Abuelas, and CELS all worked with CONADEP to compile historical information for the prosecution of war criminals. After this collaboration, CONADEP produced an extensive report known as "Nunca Más" or "Never Again" in 1984 that revealed 1,351 military and police as human rights offenders (Knudson, 1997). In collaboration with the Abuelas, Alfonsín also established the National Genetics Bank that compiled genetic information that not only aided the prosecution but also allowed the Abuelas to identify their lost (Bonner, 2005). However, although Alfonsín may have had genuine intentions, he did not "adopt [all] principles and demands of the movements . . . in their full meanings [because of his focus on pragmatic politics and the] need to negotiate and make compromises with powerful political actors" (Jelin, 1994, p. 46).

Condemnation of six military officials, including Ramon J. Camps, and the military presidents during the Dirty War, Jorge Rafael Videla and Roberto Eduardo Viola, provoked strong military reactions against Alfonsín, pressuring him to invoke amnesty laws (Knudson, 1997). Regardless of his constructive measures, Alfonsín tried to appease the military, which still held a great deal of power in the post-transition period. To appease them, he passed legislation known as Final Point in 1986, which limited the time span for penal action against human rights offenders to only 60 days; and Due Obedience in 1987, which provided amnesty for officials at the level of lieutenant colonel and below under the premise that they were simply "obeying orders" (Bonner, 2005, pp. 60–61). All in all, these pardoned more than 260 officials (Bonner, 2005), and this event was later described as "a grave injustice to the judicial power" (Knudson, 1997, p. 106).

However, the amnesty laws did not pardon the crime of stealing babies, so the Abuelas de Plaza de Mayo could still help prosecute cases specific to that crime. With the help of President Menem and the creation of CONADI, the National Commission on the Right to Identity, which provided even further genetic data to help identify children, the Abuelas prosecuted several criminals (Bonner, 2005). Nonetheless, out of the 1,351 people accused of human rights violations, 1,195 were investigated in court under the Military Justice Code; yet, a mere seven indi-

viduals were officially convicted, and not a single person served a full sentence for their violation (Bonner, 2005).

Ultimately, while Alfonsín and the Madres had the opportunity to fortify both the Argentine democratic institution and “civilian control over the military” (Bonner, 2005, p. 60), the politicized nature of the Argentine state, especially controlled by hyperpresidentialism and a still powerful military, unfortunately restricted the national courts. For this reason, the Madres, Abuelas, and CELS alone were unable to increase rule of law and inclusion in Argentine democratic institutions directly after the transition period. Therefore, the HROs’ only method of combating the national issue of rule of law illegitimacy was to utilize international courts and organizations, such as the Organization of American States’ Inter-American Court and Inter-American Commission on Human Rights of 1979, placing pressure on the Argentine government to prosecute offenders accordingly.

The HROs and the Inter-American Court

The combined efforts of the Madres, the Abuelas, and the CELS in working with the Inter-American Court must be highlighted to gain a full understanding of the advocacy for war crimes prosecution. The Madres de Plaza de Mayo began sending letters to international human rights organizations, including the Inter-American Commission on Human Rights and Amnesty International (Tedla, 2009). The Madres and Abuelas then gained further attention from the Organization of American States (OAS) after their weekly protests gained international publicity. The OAS deployed its Inter-American Commission to investigate the human rights offenses that the Madres claimed. Though the Argentine government surprisingly invited the Inter-American Court to perform this investigation (Knudson, 1997), several government officials, including one Argentine judge, did not fully cooperate with the Inter-American Court’s request for documentation and data and actually raided NGOs’ offices to impede the court in gaining an official list of all the human rights victims (“In Search of the Disappeared,” 1979).

The letter campaigns, weekly marches, and the Commission’s report on the human rights situation in Argentina still did not provide the legal action that the HROs desired. Therefore, the Madres, Abuelas, and the CELS began their international legal activities by submitting a petition to the Inter-American Commission that accused the Argentine government of not respecting their right

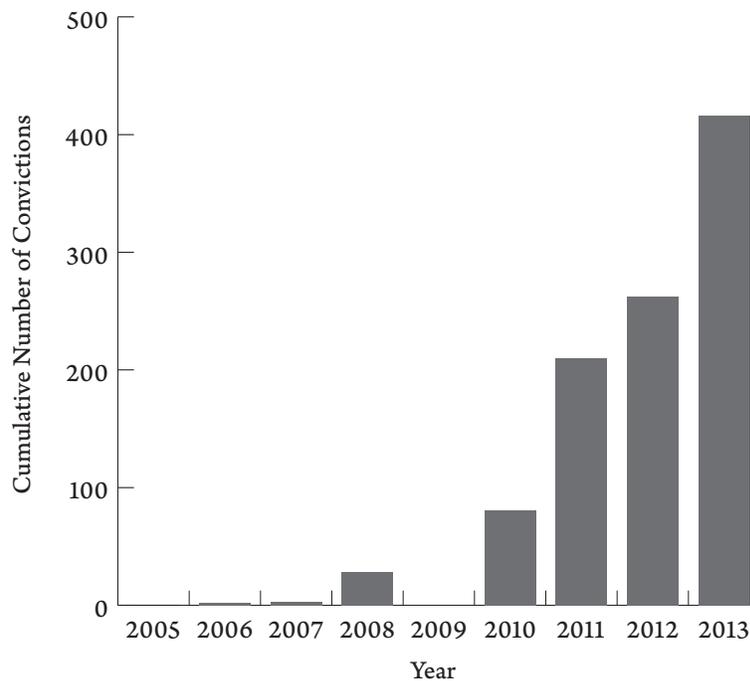
to judicial guarantees, the right to effective protection, and the obligation to respect the rights protected by the Inter-American Convention of Human Rights (Lapacó, 2000). The Inter-American Court thus proceeded with an investigation and prosecution of the alleged complaint and finally found the Argentine government guilty of said crimes. The court advised Argentina to comply with the decision of the Court by adopting necessary laws to ensure that human rights abuses could be pursued and the criminals would be prosecuted (Lapacó, 2000).

In working with the Inter-American Court, the HROs once again worked together to conduct research and compile the data, personal testimonies, and legal arguments that the Inter-American Court used to pressure the Argentine government to prosecute war criminals (Huneus, 2010). After taking the Argentine government to court, the Inter-American Court initially ruled that the Argentine government must pay reparations to ex-political prisoners, and later ruled that the families of the disappeared must be compensated as well. Argentina did, in fact, accept this ruling in 1992, passed the law of reparations, and began compensating ex-political prisoners and families of the disappeared. Bonner (2005) recorded that 12,800 ex-political prisoners had been compensated by Argentina by 2000. However, according to Bonner (2005), the majority of punishments administered by the international courts were reparations paid by military officials and the government to the victims, and the HROs rejected monetary punishment on the grounds that it was a compromise “like prostitution . . . [that did not provide] sufficient justice” (p. 66) for the abused and did not act as a punitive deterrent for future human rights abuses.

Thus the HROs continued to fight for additional legal actions to condemn human rights abusers in Argentina, and in 1994 the acceptance of international treaties by the Argentine government provided this legal guarantee. Following the international attention and rulings, the Argentine government embraced international treaties that recognized human rights such as the American Declaration of the Rights and Duties of Man and the American Convention, and integrated them into their Constitution in 1994 during de la Rúa’s presidency (Huneus, 2010). In fact, the government even gave these international treaties “legal superiority over national laws” (Bonner, 2005, p. 67).

The acceptance of the international treaties paved the way for the next biggest step in increasing the rule of law: the revocation of the amnesty laws from Alfonsín and Menem’s presidencies (Bonner, 2005). The Abuelas

Figure 1. Cumulative Number of Domestic Convictions in Argentine National Courts of War Criminals from the Dirty War



Data gathered from World Justice Project's Human Rights Watch Reports, 2006–14.

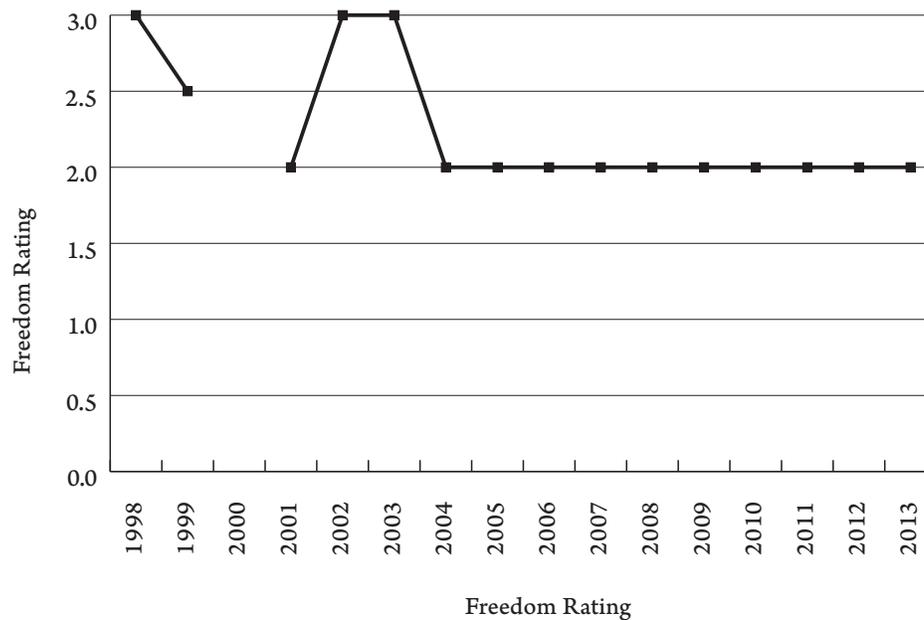
and the CELS had a special effect on the amnesty laws' abolition as they launched a formal complaint against the Argentine government and started the debate about revoking the amnesty laws (Rohter, 2006). In June of 2005, the Argentine Supreme Court formally declared the amnesty laws unconstitutional (Rohter, 2006). Even more impressive, the Congress repealed the previous military code of justice (Hillebrecht, 2012). Santiago A. Canton, a journalist for *La Nación*, a prominent Argentine newspaper, proudly claimed that revoking the amnesty laws "has possibly been the most important decision for the strengthening of the rule of law in Argentina and in all of the region" (as cited in Hillebrecht, 2012, p.961). From these government decisions and pressure provided by the Inter-American Court and HROs, the Argentine judiciary could move forward with its own domestic cases to prosecute human rights violations from the Dirty War, contributing to the increase of two indicators of rule of law: an independent judiciary and equality before the law.

The Effect of the HROs and the Inter-American Court on Rule of Law in Argentina

Figure 1 demonstrates the drastic increase in domestic convictions of the Dirty War war criminals in Argentina after the Supreme Court found amnesty laws unconstitutional. From the first two prosecutions in 2006, the Argentine judiciary indicted, prosecuted, and convicted a total of 416 war criminals by 2014.

The Freedom in the World Methodology (2014) specifies that they evaluate an independent judiciary based on the following three questions that specifically relate to the constitutional amendments and convictions made by the Argentine judiciary:

- Is the judiciary subject to interference from the executive branch of government?
- Do executive, legislative, and other governmental authorities comply with judicial decisions, and are these decisions enforced?

Figure 2. Argentina's Freedom Rating

Data gathered from the Freedom House “Freedom in the World” Reports, 1998-2013. A country or territory is assigned a rating (7 to 1) for civil liberties—based on its total scores for civil liberties questions. Each rating of 1 through 7, with 1 representing the greatest degree of freedom and 7 the smallest degree of freedom.

- Do powerful private concerns comply with judicial decisions, and are decisions that run counter to the interests of powerful actors effectively enforced?

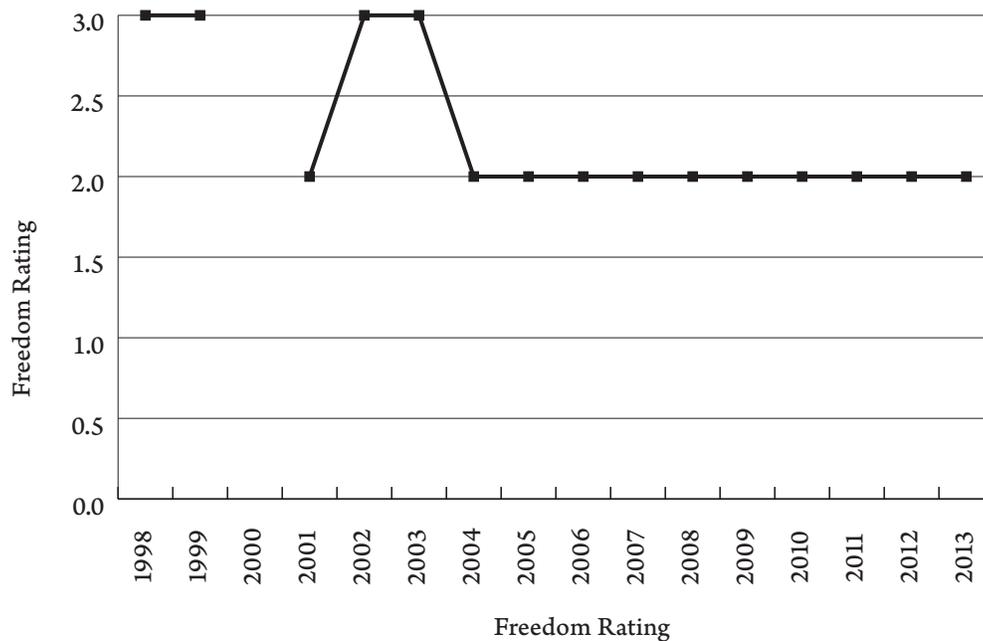
These convictions by the Argentine government demonstrate that the Supreme Court distanced itself from the previous executive influence and repealed the amnesty laws, thus allowing the domestic court to prosecute the human rights abusers that had previously been pardoned by Alfonsín and Menem. Therefore, the judiciary became less politicized and more independent. We argue that these convictions demonstrate the increase in equality and accountability before the law based on indicators from the Freedom in the World Methodology. The indicator raises the question, “Do laws, policies, and practices guarantee equal treatment of various segments of the population?” (“Freedom in the World 2014 Methodology,” 2014). These convictions indicate that the military and police officials, previously regarded as “powerful actors” and a specific “segment of the population,” were

consequently considered equal to all other Argentine citizens because they were no longer pardoned by the amnesty laws and henceforth held accountable by nationally recognized international treaties (“Freedom in the World 2014 Methodology,” 2014).

Additionally, Freedom in the World includes the question, “Do citizens have the means of effective petition and redress when their rights are violated by state authorities?” (“Freedom in the World 2014 Methodology,” 2014). These convictions further demonstrate that when the Madres, Abuelas, and CELS, composed of Argentine citizens, chose to appeal to the national courts to prosecute the past military and police authorities, the Argentine state finally indicted and convicted the abusers with legitimate legal procedures and authority.

In relation to these criminal convictions, the Freedom and Civil Liberties Ratings in Figures 2 and 3 mirror this increase in rule of law in that both show an increase of freedom from a score of 3 to 2 in 2004, the year after the amnesty laws were first repealed. The increase in

Figure 3. Argentina’s Civil Liberty Rating



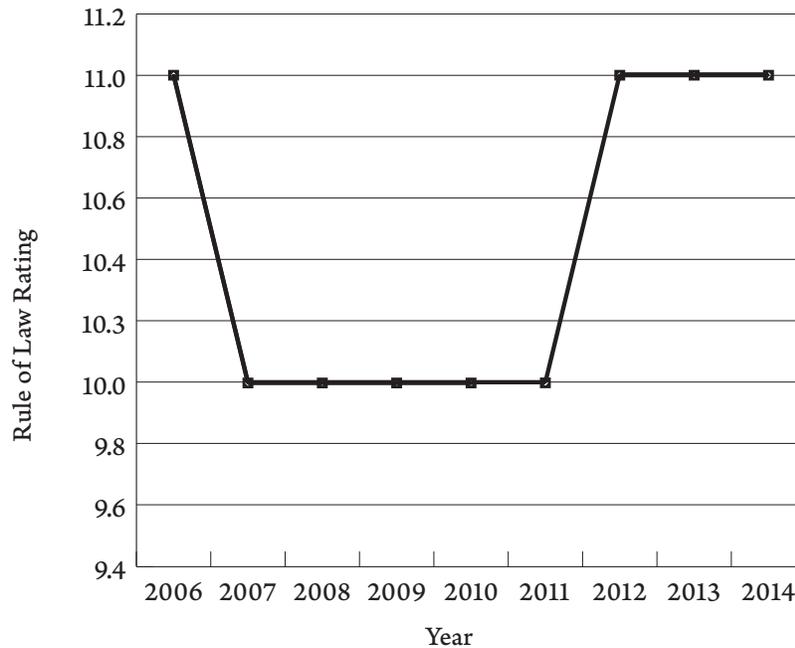
Data gathered from the Freedom House “Freedom in the World” Reports, 1998-2013. A country or territory is assigned a rating (7 to 1) for civil liberties—based on its total scores for civil liberties questions. Each rating of 1 through 7, with 1 representing the greatest degree of freedom and 7 the smallest degree of freedom.

freedom remains constant with both the Freedom Rating and Civil Liberties rating reporting a constant score of 2 from 2004 to the most recent report in 2013.

The Rule of Law rating in Figure 4 proves slightly more difficult to interpret from the aggregated rule of law scores. In 2007, the rule of law score decreased from 11 to 10, but then the score returns from a score of 10 in 2010 to a score of 11 in 2012 (no report is available for 2011). When we examined Freedom House’s narrative country report (Table 1) for rule of law during those years, we found that other aspects of rule of law unrelated to the effect of the HROs and Inter-American court on the Argentine national war criminal trials had decreased the rule of law from 2006 to 2007. These indicators included a further decrease in public safety, crime, and drug sales, continued “arbitrary arrests and abuse by police,” and continued discrimination against various minority groups (“Argentina,” 2007; “Argentina,” 2008; “Argentina,” 2009; “Argentina,” 2010). Moreover, politicization of the judiciary increased once more because

Congress altered the judicial selection process for the Supreme Court. While these other rule of law indicators are nonetheless still problematic, they do not directly correlate with the human rights offenses and its effects on the rule of law.

What this does indicate for our empirical analysis is that, as Skaaning (2009) and Munck & Verkuilen (2002) show, aggregated scores for rule of law fail to reveal the entire picture and qualitative country reports can supplement the quantitative scores to allow scholars to decipher what portions of rule of law were affected by various independent variables. In other words, the qualitative matrices we created from the document analysis of the narrative country reports in Table 1 allowed us to see that rule of law, the dependent variable, was affected more in 2006 and 2007 by independent variables unrelated to the HROs, the Inter-American Court, and their effect on war criminal convictions. In addition, the Rule of Law rating does not have an adequate time span for the present case study and therefore does not allow for the comparison of rule of

Figure 4. Argentina's Rule of Law Rating

Data gathered from the Freedom House “Freedom in the World” Subcategory Scores Report, 2006–2014. No data available for 2011. Scores range from 0–16; 16 is the most free and 0 is the least free, or “not free.”

law before and after the first convictions of war criminals in 2006, creating a limitation for this index that once more only the narrative country reports can counterbalance.

However, when specifically looking at the independent judiciary and equality under the law indicators by evaluating presidential pardons and official indictments of war criminals through the document matrices we created, one can see that the HROs and Inter-American Court decreased the power of the executive branch, providing a system of checks and balances. Specific changes included: 1) a decreased ability to pardon military and police officials for war crimes; 2) increased the ability of the Argentine judiciary to indict and prosecute the war criminals; and 3) increased the independence of the Argentine judiciary. This evolution is reflected in the Freedom House scores, which rated Argentina as only “Partly Free” overall in both 2002 and 2003, but then returns Argentina to “Free” status in 2004 because of two main factors: “the stabilization of the country’s electoral democracy and important innovations in fighting cor-

ruption and ending military and police impunity” (“Argentina,” 2004). This significant increase in Argentina’s freedom rating in 2004, the Freedom, Civil Liberties, and Rule of Law ratings, and the cumulative number of convictions thus connote the tangible results that the Madres and Abuelas and the CELS in combination with the Inter-American Court achieved by pressuring the Argentine government into formally convicting the war criminals in national courts.

In conclusion, the historical data from primary and secondary sources documented above develops the relations between the human rights organizations, the Inter-American Court, and the domestic Argentine courts. While this historical data creates a causal relation between the three actors, it does not provide a measurable change in rule of law. The addition of the Freedom in the World Index’s scores and the collection of data to document the cumulative number of convicted war criminals demonstrates how the advocacy, petition, and legal actions of the Madres, Abuelas, and CELS combined with the Inter-

American Court's reports and rulings actually resulted in the measurable increase of rule of law in Argentina.

Conclusion and Directions for Future Research

The data and analysis presented above shed light on how HROs can help strengthen the rule of law inside their respective national governments with the help of inter-governmental organizations with international law jurisprudence. Huneus (2010) notes that scholars should devote more attention to understanding factors that "can create mutually beneficial incentives" for compliance to international law, which could "enhance the Court's power" (p.116). Following the present research, it is possible that the combination of human rights organizations, as a sector of civil society, could provide this type of incentive for national governments. In other words, when HROs combine with international law tribunals to pass legislation and prosecute those who break such legislation, the connection that HROs provide for civil society will also provide extra incentive for national governments to comply with international law. As Cavallaro and Brewer (2008) assert, intergovernmental organizations with jurisdiction on international law have more successful compliance outcomes in national governments when their procedures and rules expand on local civil society actors' "long term efforts to advance human rights" (p.770). Conversely, human rights organizations with little hard power or leverage in their national governments may utilize international law tribunals to successfully attain the long-term goals for which they strive. In this instance, the Madres, Abuelas, and CELS were less effective in the post-transition democratization phase in formally convicting human rights violators due to hyper-presidentialism (Waylen, 1993), and were forced instead to turn to the Inter-American Court to create a mutually enforcing team. Thus, the HROs provided the local mobilization, and the Inter-American Court provided a "substantive source of law" that "empower[ed] domestic constituents to mobilize for their rights" in a manner perceived as legitimate by the Argentine government (Hillebrecht, 2012, p.965). Together, they increased both the probability of Argentina complying with international

law, promoting human rights, and advancing the establishment of rule of law.

Our research also shows that quantitative and aggregated indices for measuring rule of law are inadequate. Narrative country reports help show the reasons behind "measured" quantitative scores and also show how different aspects of rule of law, like independent judiciary and equality before the law, all contribute to the final aggregated score. Without subcategory scores and the narrative country reports from Freedom House, the data on rule of law would have showed a completely different picture and also would have discounted the positive contribution of war criminal convictions to rule of law in the Argentine democracy.

From these findings, it is clear that more research is needed first to examine theories of compliance when HROs' actions and impact are added into the equation of national and international courts. Scholars in the future should also conduct more research that spans a broader scope of countries and time periods to find if HROs can provide this incentive globally, not just within the Inter-American Court and singular countries like Argentina. Moreover, democracy and rule of law indices in particular should continue attempting to improve their methodologies through the addition of broader time spans, qualitative analysis to supplement the quantitative scores, and the increased availability of disaggregated scores with clear coding descriptions. Only by strengthening the methodologies behind the democracy indices can future scholars formulate clearer conceptions of the increase and decrease of democratization indicators, and only by further investigating the linkages between human rights organizations, international law, and national government compliance can we understand how these three factors can contribute to increase in rule of law and acceptance of human rights legislation globally.

ROBERT L. OPRISKO is a research fellow at the Center for the Study of Global Change in the School of Global and International Studies and director and editor-at-large of *E-International Relations*. OLIVIA GRACE WOLFE is a MA candidate in international studies.

References

- Andrews, J. T. & Montinola, G. R. (2004). Veto players and the rule of law in emerging democracies. *Comparative Political Studies*, 37, 55–87.
- Annan, K. (2014). United Nations and the rule of law. Retrieved from <http://www.un.org/en/ruleoflaw/>
- Argentina. (2004). *Freedom in the World: Freedom House*.
- Argentina. (2007). *Freedom in the World: Freedom House*.
- Argentina. (2008). *Freedom in the World: Freedom House*.
- Argentina. (2009). *Freedom in the World: Freedom House*.
- Argentina. (2010). *Freedom in the World: Freedom House*.
- Argentina Country Report. (2012) *Bertelsmann Stiftung's transformation index*. Gütersloh: Bertelsmann Stiftung.
- Barro, R. (1997). *Determinants of economic growth: A cross-country empirical study*. Cambridge, MA: MIT Press.
- Barro, R. (2000). Rule of law, democracy, and economic performance. In K. R. H. Gerald, P. O'Driscoll Jr., & Melanie Kirkpatrick (Eds.), *2000 Index of Economic Freedom*. Washington, DC: Heritage Foundation
- Bennett, A., Ludlow, M., & Reed, C. (n.d.). Madres de Plaza de Mayo: History. Retrieved from <https://webspace.utexas.edu/cmr485/www/mothers/history.html>.
- Benvenisti, E. (2008). Reclaiming democracy: The strategic uses of foreign and international law by national courts. *The American Journal of International Law*, 102(241), 241–274.
- Berg-Schlosser, D. (2009). Long waves and conjectures of democratization. In C. W. Haerpfer (Ed.), *Democratization* (pp. 45–54). Oxford: Oxford University Press.
- Bonner, M. D. (2005). Defining rights in democratization: The Argentine government and human rights organizations, 1983–2003. *Latin American Politics and Society*, 47(4), 55–76.
- Cavallaro, J. L. & Brewer, S. E. (2008). Reevaluating regional human rights litigation in the twenty-first century: The case of the Inter-American Court. *The American Journal of International Law*, 102(4), 768–827.
- Dahl, R. (1999). *On democracy*. New Haven, CT: Yale University Press.
- Falk, R. (2014). The future of international law. *(Re)Imagining Humane Global Governance*. New York, NY: Routledge.
- Fallon, K. M. & Viterna, J. (2008). Democratization, women's movements, and gender-equitable states: A framework for comparison. *American Sociological Review*, 73(4), 668–689.
- Freedom in the World 2014. (2014). *Freedom House*.
- Freedom in the World 2014 Methodology. (2014). *Freedom in the World: Freedom House*.
- Hillebrecht, C. (2012). The domestic mechanisms of compliance with international human rights law: Case studies from the Inter-American human rights system. *Human Rights Quarterly*, 23, 959–985.
- Huneus, A. (2010). Rejecting the Inter-American Court: Judicialization, national courts, and regional human rights. In A. H. Javier Couso, and Rachel Sieder (Ed.), *Cultures of Legality: Judicialization and Political Activism in Latin America*. New York, NY: Cambridge University Press.
- In search of the disappeared: A commission probes the government's record on human rights. (1979). *Time*, 114, 42.
- Jelin, E. (1994). The politics of memory: The human rights movements and the construction of democracy in Argentina. *Latin American Perspectives*, 21(2), 38–58.
- Joireman, S. F. (2001). Inherited legal systems and effective rule of law: Africa and the colonial legacy. *Journal of Modern African Studies*, 39, 571–596.
- Joireman, S. F. (2004). Colonization and the rule of law: Comparing the effectiveness of common law and civil law countries. *Constitutional Political Economy*, 15, 315–338.
- Knudson, J. W. (1997). Veil of silence: The Argentine press and the Dirty War, 1976–1983. *Latin American Perspectives*, 24(6), 92–112.
- Lapacó, C. (2000). Report No. 21/00 Case 12.059 (I.-A. C. o. H. Rights, Trans.). Washington, DC: Organization of American States.
- Levitsky, S. & Way, L. A. (2006). Linkage versus leverage: Rethinking the international dimension of regime change. *Comparative Politics*, 38(4), 379–400.
- Munck, G. L. Verkuilen, J. (2002). Conceptualizing and measuring democracy: Evaluating alternative indices. *Comparative Political Studies*, 35(5), 5–34.
- Oprisko, R. L. (2012). The rebel as sovereign: The political theology of dignity. *Revista Pleyade* (9), 119–136.
- Oprisko, R. L. (2015). Weinstein's methodology for political analysis. In R. L. Oprisko & D. S. Rubenstein (Eds.), *Michael A. Weinstein: Action, Contemplation, Vitalism* (pp. 139–147). New York, NY: Routledge.
- Parsons, J., Thornton, M., Bang, H. E., Estep, B., Williams, K., & Weiner, N. (2008). *Developing indicators to measure the rule of law: A global approach*. A report to the World Justice Project Vera Institute of Justice.
- Rigoban, R. & Rodrick, D. (2005). Rule of law, democracy, openness, and income. *Economics of Transitions*, 13, 533–564.
- Rohter, L. (2006). After 30 years, Argentina's dictatorship stands trial. *New York Times*. Retrieved from [http://www.lexisnexis.com.ezproxy.butler.edu/hottopics/lnacademic/?verb=sr&csi=6742&sr=BYLINE\(Larry\)%2Bw%2F3%2BROhter\)%2BAND%2BHEADLINE\(After+30+Years%2C+Argentina's+Dictatorship+Stands+Trial\)%2BAND%2BDATE%2BIS%2B2006-08-20](http://www.lexisnexis.com.ezproxy.butler.edu/hottopics/lnacademic/?verb=sr&csi=6742&sr=BYLINE(Larry)%2Bw%2F3%2BROhter)%2BAND%2BHEADLINE(After+30+Years%2C+Argentina's+Dictatorship+Stands+Trial)%2BAND%2BDATE%2BIS%2B2006-08-20)
- Rustow, D. A. (1970). Transitions to democracy: Toward a dynamic model. *Comparative Politics*, 2(3), 337–363.
- Skaaning, S. (2009). Measuring civil liberty: An assessment of

- standards-based data sets. *Revista de Ciencia Política*, 29(3), 721–740.
- Skaaning, S. (2009). Measuring the rule of law. *Political Research Quarterly*, 63, 449–460.
- Smulovitz, C. (2010). Judicialization in Argentina: Legal culture or opportunities and support structures? In A. H. Javier Couso, and Rachel Sieder (Ed.), *Cultures of Legality: Judicialization and Political Activism in Latin America* (pp. 234–253). Cambridge: Cambridge University Press
- Sorenson, G. (2007). From transition to standstill. *Democracy and Democratization: Processes and Prospects in a Changing World* (Vol. 3rd). Boulder, CO: Westview Press
- Tedla, A. & Plaistad, S. B. (2009). Mothers of the Plaza de Mayo campaign for democracy and the Return of their “disappeared” family members, 1977–1983. Retrieved from <http://nvdatabase.swarthmore.edu/content/mothers-plaza-de-mayo-campaign-democracy-and-return-their-disappeared-family-members-1977-19>
- Ventura, A. (2000). Robo de bebés: respaldo de la Corte a Bagnasco. *La Nación*. Retrieved from <http://www.lanacion.com.ar/26546-robo-de-bebes-respaldo-de-la-corte-a-bagnasco>
- Waylen, G. (1993). Women’s movements and democratisation in Latin America. *Third World Quarterly*, 14(3), 573–587.
- Waylen, G. (1994). Women and democratization: Conceptualizing gender relations in transition politics. *World Politics*, 46(3), 327–354.
- Weingast, B. R. (1997). The political foundations of democracy and the rule of law. *American Political Science Review*, 91(2), 245–263.
- Weinstein, M. A. (1970). Politics and moral consciousness. *Midwest Journal of Political Science*, 14(2), 183–215.

Appendix. Qualitative Document Analysis Matrix

Year	Pardoning of Officials?	Independent Judiciary?	Human Rights Groups Improvement	Indictments
1990	Yes, Menem and Alfonsin pardoned many officials (1986, 1987, and early 1990s)	No, considered politicized and inefficient	None	None
1998	No, decrease - court ruled that 5 former military officials should be prosecuted.	No, considered politicized and inefficient	None	None
1999	Yes, increase - 2 former military officials appointed to top provincial justice posts	Yes, increased independence - politicization still an issue	Constant - no change	None
2000	No, decrease - De la Rúa dismissed the 9-member military tribunal in favor of the civilian tribunals for prosecution of past war crimes	No data	No data	No data
2001	Constant - no change	Constant - no change	Yes, improved during De la Rúa's presidency	None
2002* Changed to "Partly Free"	No, decrease - November overthrow of amnesty laws	Constant - no change	Yes, continued increase	None
2003	Constant - no change	Constant - no change	Constant - no change	25 indictments of former military officials including military dictator, General Leopoldo Galtieri
2004* Change back to "Free"	Constant - no change	Yes, increase - Kirchner begins process of removing several Supreme Court justices to decrease politicization; additionally, Kirchner signed decree to limit presidential influence of Supreme Court judge appointments and NGOs can now participate in selection process	Constant - no change	Yes, increase - Kirchner signed the decree to indict military officials formally for human rights war crimes
2005	No, decrease - Supreme Court officially abolishes amnesty laws because of their unconstitutionality	Yes, continued increase for the same reasons as above; 2 women appointed as justices	Constant - no change	Constant - no change

Appendix. Continued

Year	Pardoning of Officials?	Independent Judiciary?	Human Rights Groups Improvement	Indictments
2006	No, decrease - Supreme Court invalidates presidential pardons granted to Menem by 3 military officials	No, decrease - additional issues with judicial insecurity arise (unrelated to war crimes)	Constant - no change	Yes, increase - first prosecution and conviction of military official, Juliio Simon, after the abolishment of amnesty laws; indictment of 3 additional officials who were granted presidential pardon under Menem
2007	Constant - no change	No, decrease - increased politicization of judiciary and executive branch influence due to changes in how justices are selected	Yes, increase - civil society as a whole is noted as "robust" and active in society	Yes, increase - a priest was convicted for war crimes during the Dirty War and the detainment of Isabel Peron in Spain for her war crimes places additional pressure on Argentine government
2008	Constant - no change	Constant - no change	Constant - no change	Yes, increase - Jorge Videla transferred to prison and Ricardo Cavallo (previously in Spain, but extradited to Argentina) convicted for human rights abuses
2009	Constant - no change	Constant - no change	Constant - no change	Yes, increase - another extradition case from Spain to Argentina to prosecute a navy pilot for human rights abuses during the Dirty War
2010	Constant - no change	Constant - no change	Constant - no change	Yes, increase - Jorge Videla and 20 military and police officials convicted for war crimes
2011	Constant - no change	Constant - no change	Constant - no change	Yes, increase - 12 military and police officials convicted for war crimes, including Ricardo Cavallo and Alfredo Astiz
2012	Constant - no change	No, decrease - continued issues with corruption and politicization.	Constant - no change	Yes, increase - Jorge Videla convicted for additional war crimes and 50 additional years are added to his former life sentence

Data gathered from Freedom House "Freedom in the World" Reports, 1998–2013.