

A Government in Transition: Raúl Alfonsín and Argentina's Return to Democracy

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Abstract

This project analyzes the process of democratic transition that began in Argentina after the fall of the military dictatorship, known as the Process of National Reorganization, on December 10, 1983. The democratic transition, following the country's most repressive dictatorship, occurred at the beginning of a wave of similar transitions throughout Latin America. Consequently, it developed methods to address state terrorism nearly in tandem with the global development of transitional justice. As one of the first Latin American countries to transition from a military to a democratic government in the late 20th century, Argentina pioneered new methods of addressing state sponsored human rights violations. Under President Raúl Alfonsín, Argentina published the first report documenting the findings of a truth commission, becoming the first country to hold trials against its own former leaders for crimes committed during the exercise of power. Alfonsín would later limit this initial momentum toward accountability through the authorization of Full Stop and Due Obedience laws, which narrowed the scope of the trials in order to maintain democratic stability. Despite these limitations, his presidency remains revolutionary as a result of the transitional justice mechanisms he initiated. Argentina became the first country that did not seek complete amnesty for human rights violations committed by the military regime but rather pursued an end to impunity through trials and truth seeking mechanisms. The Alfonsín government marked a major shift in transitional justice strategy up to this point in history. Therefore, it should be judged not only by the laws which limited progress against impunity, but also by the precedents it set in the fight for truth and accountability. Drawing upon oral and written sources gathered while conducting research in Buenos Aires, I conclude that Alfonsín had to limit the trials in order to maintain social and political stability in Argentina.

Keywords: state sponsored terrorism, democratic transitions, Argentina Dirty War, 1976-1983

1. Introduction

On March 24, 1976, the Argentine Armed Forces overthrew President Isabel Perón and installed a military government, which ushered in a brutally repressive era in Argentina. This military government—known as the Process of National Reorganization—was characterized by its oppressive violence with the disappearance of 30,000 people and the elimination of democratic freedoms. It is called “disappearance” because, while a small number of those detained survived, most of these people were never seen again. With the election of Raúl Alfonsín on December 10, 1983, the military dictatorship ended, but society remained deeply divided. Victims and their families favored widespread prosecution for human rights violations while many, especially the military, rejected investigations and trials.

Confronting this challenge, Alfonsín was the protagonist of the Argentine transition to democracy in 1983. By 1989, he was largely seen as an overly idealistic president, who had been too cowardly to carry out his promise to prosecute all human rights violations. Today he remains a figure of controversy. However, I argue that he set important precedents in the field of transitional justice, which refers to measures implemented in order to address human rights violations during the period following an authoritarian government. These measures include but are not limited to criminal judgement, truth commissions, and amnesty laws. As president, Alfonsín stood at the vanguard of the development of democratic transitions, and his methods would establish the foundation for an enduring democratic system in Argentina.

As Argentina's democratic transition occurred at the beginning of a wave of similar transitions throughout Latin America, it pioneered methods to address state-sponsored terrorism nearly in tandem with the development of transitional justice study. Moreover, the phrase "transitional justice" is not used in scholarly work until 1992, nearly ten years after the transition began in Argentina.¹ As the first country to publish a report documenting the findings of a truth commission and to implement trials against its own former leaders, Argentina established precedents for the future of democratic transitions.

2. Raúl Alfonsín's Presidency

The Argentine transition began in October 1983 when the military junta called elections following disastrous defeat in the Malvinas War. Of the candidates, Raúl Alfonsín would dominate the 1983 electoral campaign, essentially by appealing to the Preamble of the National Constitution and promising to put the military government on trial for the atrocities committed between 1976 and 1983. However, Alfonsín also sought a balance between punishing crimes of the past and reestablishing democracy. Several scholars have indicated that Alfonsín's strategy was to bring a small number of high officials to trial in order to reach verdicts rapidly and allow a prompt reintegration of the Armed Forces into democratic society.² He believed this strategy would punish those primarily responsible for the repression without alienating all of the Armed Forces.

With this platform, Alfonsín would win the presidential election on October 30 with 52% of the votes. Even though he advocated trials, his promise to adhere to the Constitution and reinstate democratic processes reassured those reluctant to pursue prosecution. Still, it is worth noting that Alfonsín's principal competitor, Italo Luder, received 40% of the votes, despite accusations of a secret pact with the military and his proposal for complete amnesty. Luder's share of the votes indicates that a large portion of the public supported amnesty. Consequently, Alfonsín's proposed trials would face opposition among the general public. In fact, just three percent of the public considered the issue of human rights as the most important, so the decision to punish the main repressors was a decision taken by Alfonsín against the majority opinion.³

Despite possible opposition, Alfonsín began to confront issues related to the military dictatorship immediately upon taking office. On December 15, a few days after his inauguration, he created the National Commission on the Disappearance of People (CONADEP). As outlined in his decree, CONADEP would be composed of sixteen members: ten non-legislative members appointed by Alfonsín and six legislative members designated by congress. Only three of the six legislative spots would ultimately be filled because congressmen from the opposition parties refused to participate in the commission—a sign of the political divide regarding this issue.⁴

In addition to political opposition, Alfonsín faced resistance from key human rights groups: "With the exception of the APDH [Permanent Assembly for Human Rights], CONADEP was rejected by all the human rights organizations, as they maintained that only a bicameral commission would have the coercive powers necessary to subpoena the military and politically condemn state terror."⁵ Alfonsín, however, feared that legislators in a bicameral commission "would compete among themselves to impose harsher punishments on the armed forces, thus creating a situation of extreme tension."⁶ In order to avoid a struggle amongst political parties during the commission's tenure, Alfonsín created a commission of notable figures (including some members of congress), rather than a strictly bicameral one.

This commission included public figures from a variety of fields, and most had also been defenders of human rights during the dictatorship.⁷ The commission investigated the circumstances surrounding the disappearance of people between 1976 and 1983, informed the Executive and Legislative branches of these findings, and published a final report documenting its investigation.

During its mandate, the commission received more than 50,000 declarations from survivors of the detention centers and relatives of the disappeared. Its final report, *Nunca más* [Never Again], registered 8,961 cases of disappearance and identified 340 clandestine detention centers but admitted that these numbers were likely lower than the real number of disappeared.⁸

CONADEP served as an official and public record of human rights violations. For relatives of the disappeared, and even Argentines who were not directly affected by the repression, *Nunca más* gained important moral significance. Mario Cantarini, relative of a disappeared person, describes the title's impact as brilliant because it created an expression, never again, "that remains in the mind and body of the people."⁹ This title, *Nunca más*, came to symbolize the country's dedication to human rights and democracy while the content served as a triumph of the truth. The report, *Nunca más*, was a formal recognition of the crimes committed by the former government and a promise that this would never again happen in Argentina.

When Alfonsín created the commission, he also ordered the arrest of the military leaders that had governed between 1976 and 1983. As someone who suffered personally, Cantarini found this act heroic because the military had not been forced from power but voluntarily called elections. Initiating trials against the military leaders within five days of assuming the presidency was an impressive demonstration of power and commitment to the protection of human rights.

The trial of the military leaders began on April 22, 1985 in the newly formed National Criminal Court of Appeals. There were 711 charges against the members of the juntas. The most frequent were kidnapping, torture, and murder.¹⁰ Disappearance did not figure into the charges because this crime did not yet exist in Argentine legislation, nor in any other country's legislation.¹¹

During the trial 833 people testified. The defense of the ex-commanders used three lines of argument: the political nature of the process; the "warlike" state under which the military's actions should be justified; and the trial's unconstitutionality, as it removed the former commanders from military jurisdiction.¹² The Chamber dismissed this defense because suppression of terrorist groups, which the military stated it was fighting against, should never escape the framework of the law.¹³ In its entirety, the verdict condemned five generals to imprisonment, which included two life sentences and ordered that investigations continue in order to discover and punish the perpetrators of kidnappings, torture, and murders.¹⁴ Although such sentences against former leaders had never before been seen in Latin America, the trials did not satisfy all. Victims and their families felt the sentences were too mild while the military and its sympathizers felt they were undeserved.¹⁵

The verdict, which had ordered the ongoing investigation of human rights violations during the dictatorship, aggravated growing tensions with the military by stimulating more accusations. By mid-1986, 3,000 cases were pending in Argentine courts, and the rise in accusations had increased tension between the government and military.¹⁶ The trials of lower officers provoked more hostility within the military than those of top leaders because subordinates felt the military had forced them to commit heinous acts, which they had not personally devised or expected as part of their service. Now, with the return of democratic rule, they felt the military did not protect individuals or itself against criminal action. The scope of discontent within the military became increasingly evident. In May 1986, Alfonsín visited the Third Army Corps in Cordoba, and a bomb was discovered where he was scheduled to appear. It was the first serious attempt to assassinate President Alfonsín and demonstrated the discomfort and anger of the Armed Forces in regards to his policies.¹⁷

In addition to the tension within the Armed Forces, Alfonsín faced opposition to the trials from some civil sectors that sympathized with the military. A group known as Families of the Victims of Subversion (FAMUS) began to hold monthly rallies to protest the conviction of military members, who they believed had been protecting the country from terrorism and should not be punished for such actions.¹⁸ As a result of their military sympathies, FAMUS attacked Alfonsín for the trials and cuts to military spending. By December 1986, their rhetoric became more violent and cries of "Death to Alfonsín!" could be heard at their rallies.¹⁹ In spite of such violent speech, Alfonsín did not take action against the rallies or their participants; however, he could no longer ignore the hostility toward judicial action.

To alleviate tension, Alfonsín tried to limit the charges against the military. In December 1986, he enacted the Full Stop law, which established a sixty-day period to present charges against the Armed Forces after which no more charges could be brought. Alfonsín believed Full Stop was a compromise that allowed many to be brought before the courts while still establishing a limit to judicial actions. Responding to law's proposal, human rights groups, with the support of factions of the major political parties, organized a protest march of 50,000 people.²⁰ Despite public protest and dissent within his own party, Alfonsín presented the law before Congress because he wanted to respect the constitutional process. Both houses of Congress passed the law.

Although Alfonsín had received legislative support for the Full Stop measure, judicial response sought to undermine the law's effectiveness. In order to deliver charges before the deadline, the courts in several provinces suspended their holiday recess, which defeated Alfonsín's intentions. More than 300 senior military officers, apart from those already convicted or detained, remained accused by the deadline.²¹

As a demonstration of the military's resentment toward the trials, various units rebelled in April 1987. These uprisings culminated with the seizure of Campo de Mayo Military Base, located near Buenos Aires.²² In response, Alfonsín met with the rebel leaders and reported that those involved would be arrested and put on trial. He then assured

all Argentines, “There will not be blood in Argentina.”²³ He did not announce, though, that he planned to introduce a second law, which would limit trials.

On May 14, 1987, he published the law of Due Obedience, which exempted from prosecution all military persons below the level of colonel. Despite the timing, Alfonsín insisted that growing tensions with the military did not motivate the policy change. Instead, he pointed toward statements made during his electoral campaign in which he had posed three levels of responsibility. First, those who gave the orders; second, those who obeyed them; and third, those who committed excesses. The first were the former commanders, and they should be tried. The third were those who had used the repressive framework for their own advantage, and they should also be judged. But the second group, those who had obeyed orders (even if they were perpetrators of crimes) were protected by the so called Due Obedience law.²⁴

While Alfonsín had proposed these three levels of responsibility before 1987, the uprisings arguably hastened the implementation of Due Obedience. In fact, Alfonsín justified it by the recent military tension and maintained that during the crisis, Argentina was on the brink of civil war.²⁵ However, he publicly denied that military uprisings motivated the law to avoid creating a precedent of yielding to military insurrection. Between 1930 and 1976, Argentina had six military coups and two presidents named by the Armed Forces.²⁶ This political history combined with recent rebellions signaled clear potential for political overthrow and a return to the chaos of earlier years.

3. Conclusion

Human rights groups labeled Full Stop and Due Obedience “laws of amnesty,” yet Alfonsín’s government still pursued punishment more aggressively than existing examples of transition had. Alfonsín abandoned the precedent of complete amnesty, and Argentina became the first example of a government that punished its own former leaders for crimes committed during the exercise of power. Before his government and the trial of the juntas, many believed that trials presented a risk to the long-term survival of democracy. Nevertheless, Argentina disproved this theory by maintaining the highest number of domestic human rights trials of any country during the transition from authoritarian to democratic government, while also enjoying its longest uninterrupted period of democratic rule.²⁷

Moreover, Argentina’s truth commission became a model that has been used in more than thirty countries since 1983, and Argentine personnel have served as advisers to several commissions.²⁸ Truth commissions have quickly become a common tool in transitional justice, especially within Latin America. Notably, the 1991 Chilean truth commission and the 1993 Salvadorian Commission borrowed liberally from the Argentine model.²⁹ El Salvador’s commission is striking because it was the first to be paid for and staffed by the United Nations—a clear recognition of the importance of this type of transitional justice mechanism by the international community.³⁰

Furthermore, the export of the commission’s methods led to the global acceptance and practice of “the right to the truth.” In 1988, a group of human rights activists, philosophers, legal experts, and political scientists from various countries met at the Aspen Institute Conference to compare experiences of transitional justice initiatives.³¹ In the conference report, organizer Alice Henkin wrote of common agreement that successor governments have an obligation to investigate and establish the facts, so the truth can be made part of the nation’s history.³² As the first country to establish a truth commission, Argentina pioneered the right to the truth.

The fragile state of democracy in Argentina, and Latin America as a whole, in 1983 made Alfonsín’s efforts more difficult. When he assumed power, most neighboring countries were still governed by military regimes, and it was feared that these neighboring regimes could help Argentina’s armed forces return to power.³³ Additionally, prior to the military uprisings in 1987, no democratically-elected president in Argentina had withstood the threat of a military coup to complete his or her term in the preceding sixty years. Responding to this history of democratic instability and the potential influence of neighboring authoritarian regimes, Alfonsín made prudent decisions to balance the call for justice and political stability. He sought to achieve this balance through the establishment of an enduring democratic system.

For Alfonsín, the first step in establishing and preserving democracy was restoring faith in democratic processes and institutions. Alfonsín believed he could restore this faith by a limited number of trials against the country’s former leaders rather than widespread trials, which risked military insurrection and threatened the country’s fragile democracy. The trials of a small number of military officials would demonstrate the ability of democratic processes to condemn illegal acts, even when performed by those in power, while also protecting democracy. This was an important act in a country prone to military intervention and a major shift in transitional justice strategy up to this point in history.

Although the measures applied early in Alfonsín's term were revolutionary, the last years of his presidency would limit this progress. In response to the challenges of establishing democracy, Alfonsín had to make some concessions to ensure that democracy was not interrupted. The resulting enactment of the Full Stop and Due Obedience limited the scope of future trials, but did not diminish the importance of prior convictions. While it is true that these laws slowed the path toward justice, it is also true that Alfonsín acted courageously against the very men who had just allowed him to assume his role as president. In the moment that Alfonsín called for trials against the ex-leaders, it was not certain that the military would stay out of politics, so it was a political and personal risk to try them.

It is within this context of balancing justice and democratic stability that Full Stop and Due Obedience must be considered. As president during the transition, Alfonsín faced a moral dilemma: did he prosecute all those who committed human rights violations and risk losing democracy? Confronting this choice, he decided to protect democracy because he understood that only democracy could ensure the protection of human rights in the future.

As a human rights advocate, Alfonsín did not desire to limit the trials, but such measures were intended to preserve higher values. This enduring commitment to democracy remained evident throughout his political career. Upon the possible repeal of both laws in 2003, Alfonsín spoke to congressmen from his party and assured them that repealing these laws was a final step in strengthening Argentine democracy. Rather than viewing their potential annulment as an attack on his politics or moral character, he said "Having proof of this consolidation [of democracy] will make me the happiest man on earth."³⁴ Although not fully achieved during his presidency, Alfonsín's politics, including these unpopular measures, created a society in which democracy was strong enough to fully prosecute human rights violations.

Alfonsín's presidency should be judged not only by the laws which limited progress against impunity but also by the precedents it set in the fight for truth and accountability. Before Alfonsín, neither Argentina, nor any other country in the world, punished its own former leaders for crimes committed during the exercise of power. By taking prudent measures when confronting the reality of the country's political situation, Alfonsín arrived at the elections of 1989 and successfully transferred power to the opposing party—a feat that few Argentine presidents had achieved. In his own words, "Follow ideas, not men. Men succeed or fail, but it is the ideas that transform themselves into torches that keep democracy alive."³⁵ His presidency did not simply symbolize the return of democracy to Argentina but rather a lasting commitment to democratic ideals. Alfonsín's presidential legacy is not limited to his efforts in the field of human rights or transitional justice; instead, his legacy is the establishment of Argentina's longest period of democratic stability.

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