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See you in court!

Holding the Military to Account in Latin America

The courtroom has become an increasingly common meeting place for retired military officials, and victims and their families who have suffered various forms of abuse at the hands of the military: torture, rape, forced exile, extrajudicial killings, detained-disappearance, massacres, genocide. This CMI Insight provides an overview of regional developments in transitional justice[1] for past wrongs in Latin America, covering the period from the early transitions to democratic rule in the 1980s to the present. Special focus is placed on Argentina (the regional protagonist of criminal justice); Brazil (the regional under-achiever); and Colombia, which is trying to hold its military to account in the midst of an ongoing peace process. The Insight concludes that time and patience are of utmost importance for those waiting for justice.

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Former Argentine dictator Jorge Rafael Videla attends the last day of his trial in Cordoba, Argentina. *Source:* Fox News Latino: bit.ly/1NxlWYm.

Violence under military rule and internal armed conflict[2]

Most of Latin America suffered either prolonged periods of military rule or internal armed conflict during the 1970s, 80s, and 90s. State repression was widely used to control societies. Violations varied in type, scope, and severity. For instance, the right-wing military dictatorships in the Southern Cone[3] were infamous for having tortured and "disappeared" its political opponents. As seen in Table 1, figures vary from between 10,000 and 30,000 dead and detained-disappeared in Argentina, to less than 200 in Uruguay. Torture was more widespread in Uruguay, Brazil and Paraguay than in Chile.

Typically, death rates go up in countries that suffer violent internal conflict, not only military repression. Peru, which had a mix of military rule and internal armed conflict, had around

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Table 1: Conflict and violence in nine Latin American countries

Country	Year of formal transition	Conflict or regime type before transition	Number of dead, detained-disappeared (DD), and displaced (all figures are contested estimates)
Argentina	1983	Military dictatorship	10,000–30,000 dead and DD; extensive torture
Uruguay	1984	Military dictatorship	190 dead and DD; 200,000 tortured
Brazil	1985	Military dictatorship	420 dead and DD; extensive torture
Chile	1991	Military dictatorship	3,200 dead and DD; 40,000 tortured
Paraguay	2003[a]	One-man/one-party military rule	400 dead and DD; 20,000 tortured
El Salvador	1991	Internal armed conflict	50,000 killed and DD
Guatemala	1996	Internal armed conflict	200,000 killed, some in genocide
Peru	2000[b]	Authoritarian regime and internal armed conflict	69,000 dead and DD; 600,000 internally displaced
Colombia	Ongoing[c]	Internal armed conflict	Large-scale killings; 4 million internally displaced

Source: Excerpts of Table 3.1, Chapter 1 in Skaar, García-Godos, and Collins (eds.), forthcoming May 2016, with some additional information added.

a. Dictator Alfredo Stroessner was ousted in a palace coup in 1989, but his Colorado Party stayed in power until 2008.
b. The year 2000 marks the end of the authoritarian civilian Fujimori presidency (1990–2000).
c. Peace negotiations in Colombia formally started in Oslo in October 2012. The parties to the peace negotiations decided on 23 September 2015 that a final peace agreement would be signed in March 2016.

69,000 dead and detained-disappeared and 600,000 internally displaced. El Salvador had around 50,000 killed and detained-disappeared during its 12-year-long civil war. In Guatemala around 200,000 were killed, some through genocide, during 36 years of civil strife ending with the UN-brokered peace agreement in 1996. Colombia is still a country in conflict. The fourth peace agreement was signed between the Santos-led government and the left-wing guerrilla group, FARC, on 23 September 2015, with a final peace agreement expected in March 2016 (Brodzinsky 2015). Although violence in Colombia has not yet been systematically documented by a truth commission[4], large-scale killings have been common and the number of internally displaced has been estimated to be at least around 4 million, possibly as many as 6 million, in the course of the longest lasting armed conflict in Latin America.

When the military dictatorships started to dismantle in the Southern Cone and peace agreements started being signed between former warring parties in Central America[5], one of the most contested questions in civil-military relations revolved around how elected (civilian) governments should deal with gross and systematic human rights violations committed by outgoing military regimes. This has been a pressing issue for every government in the Latin American region taking over after periods of systematic and widespread violations against the civilian population. Most transitional governments initially let the issue rest, either by silently ignoring it, or by openly stating, as did Uruguay's president in 1985, that the country should look to the future and let the past be the past. Most countries in the region, except for Paraguay, passed amnesty laws that precluded prosecution of the military for human rights violations committed during military rule or internal armed conflict. The amnesty laws were of different kinds, covered different kinds of crimes, and protected various kinds of alleged human rights perpetrators (principally, but not exclusively, the military) from prosecution. Amnesty laws were passed by the military before the transition (Chile); negotiated as part of the political agreements regarding either democratic elections (Uruguay) or the signing of a peace agreement (Guatemala, El Salvador, Colombia); or passed by congress after the transition (Argentina, Brazil, Peru).

Only one government in the entire region—that of Argentina—took on the challenge of openly confronting the military head-on right after its transition to democracy in the mid-80s. Yet, there has been a push for criminal justice in recent years across Latin America that is unprecedented.

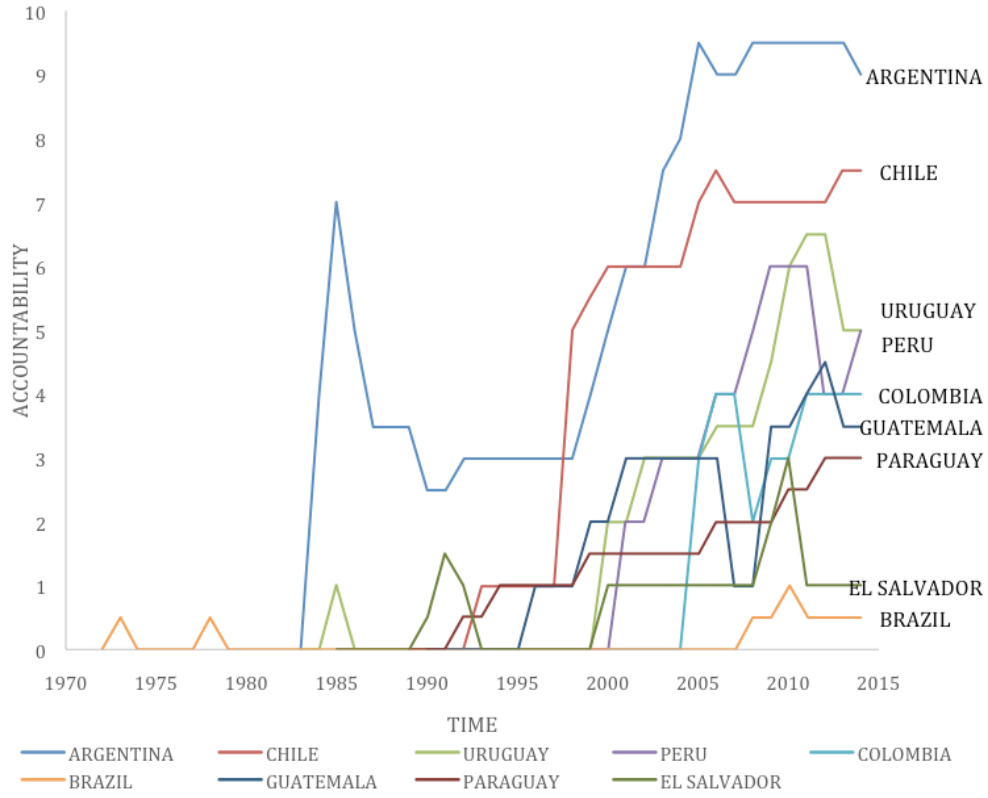
The military on trial: A regional overview

Latin America has, in recent years, gone from being a region of widespread impunity to a region of gradually increasing accountability for some of the severe human rights violations that the military and their allies committed against civilians during the prolonged periods of military rule and internal armed conflict that dominated almost the entire region in the 1970s, 80s, and 90s.

Several scholars have argued that a "justice cascade," with increased propensity for prosecution of grave human rights crimes, has swept the world in general and Latin America in particular over the past decade or two (Lutz and Sikkink 2001; Sikkink 2011). In a comparative analysis of nine Latin American countries (Argentina, Brazil, Chile, Colombia, El Salvador, Guatemala, Paraguay, Peru, and Uruguay), we found that there has certainly been a major expansion of criminal justice activity in the region since the turn of the millennium. We also found that the contributions made by these nine countries to this development are very uneven (Skaar, García-Godos, and Collins (eds.), forthcoming May 2016).

But how do we know just how significant the strides towards criminal accountability have been? How do we document and compare the prosecution of military for past wrongs across time and across countries? To answer these questions, we developed an "impunity-accountability spectrum" to capture variation in accountability across time and across space. The scale ranges from a minimum of 0 (= full impunity) to 10 (= full accountability).

Figure 1: Trials for past human rights violations in Latin America (1970-2014)



Source: Based on Figure 12.3 in Chapter 12 of Skaar, García-Godos, and Collins (eds.), forthcoming May 2016.

Figure 1 above tracks the accountability trajectories for trials concerning human rights violations until the end of 2014.[6] Note that the starting point for each transition is different for each country, based on the year of the first democratic elections or the signing of a (lasting) peace agreement.

We can make four principal observations based on comparing the trial trajectories for these nine countries. First, although some countries have made more progress than others, *accountability levels for trials were higher for each country in 2014 than at the beginning of transition, regardless of when the country started its transition to either democracy or peace.*

Second, *development from impunity to criminal accountability for past human rights crimes is a non-linear process*, as reflected in the dips, drops and upward trends in the country trend lines in Figure 1. This is seen perhaps most clearly in the case of Argentina, where an early peak in trial activity in 1985 (marking the Junta trials, which we will return to shortly), was followed by a backlash and temporary reversal. For many of the other countries too (Uruguay, Peru, Guatemala, El Salvador, and Brazil), advances in trials do not indicate a continuous movement towards greater accountability. Advances and setbacks, then, seem to be the norm rather than the exception.

Third, Figure 1 demonstrates that *the most marked shift from impunity towards accountability has taken place in Latin America since the turn of the millennium.*

Fourth, in spite of this generally overall positive trend from impunity towards accountability, *the criminal accountability scores for 2014 differ widely from country to country*. Argentina's extensive progress in criminal justice gives it an accountability score of 9.0 in the year 2014, closely followed by Chile at 7.5. By contrast, El Salvador and Brazil, with intact, active amnesty laws and few, if any, successful prosecutions, score only 1.5 and 1.0 respectively.

The next section considers some of the interrelated reasons behind this upsurge of and differences in criminal justice efforts, by examining in more detail the experiences of three countries that have had widely different trajectories: Argentina, Brazil, and Colombia.

Argentina, Brazil, and Colombia: The best, the worst, and the in-between[7]

Argentina comes out of this analysis as the undisputed regional protagonist of criminal justice for past crimes committed by the military.[8] This trend started at the time of democratic transition in the early 1980s, when Argentina became the first—and only—country in the region to try to hold its military to account for abuses committed during military rule. Temporarily emboldened by the military's loss against Britain in the Malvinas war, the first elected government headed by Raul Alfonsín immediately after the country's transition to democracy in 1983 ordered the courts to prosecute its military for forced disappearance, torture and other crimes. The push for criminal justice through the

courts caused military discontent that resulted in several (unsuccessful) military revolts. Consequently, Alfonsín had two laws passed in 1986 and 1987 respectively, which severely limited and narrowed criminal prosecutions to the top echelons of the military. As is widely known, the famous Juntas trial was followed by a backlash when the next president, Carlos Menem, shortly after taking office, in the name of "reconciliation" pardoned the generals who were serving the beginning of their long jail sentences. The initial strides in criminal justice hence came to a temporary halt.

Operation Condor: US-Backed Conspiracy to "Kidnap, Disappear, Torture and Kill" Latin American Opponents of Dictatorships. http://bit.ly/1NxkxAV

Yet, the progress initially made by Argentina in criminal prosecutions for past human rights violations no doubt laid the foundation for this country today being the undisputed regional champion of transitional justice. After a slow period of no or small advances in prosecutions of the military and their collaborators (see the flat and negative trend line for Argentina in Figure 1 for the period 1978-98), there was a renewed push for criminal justice, marked by a steep upward trend after 1998. The so-called "truth trials" of the 1990s focused principally on unearthing evidence that might locate the final destiny of the numerous detained-disappeared.

The Due Obedience Law of 1987 had a loophole that enabled criminal investigation of child abduction, which resulted in several criminal trials held between 1987 and 2000. The baby-kidnapping (*robo de bebes*) trials attracted international attention when judges tried to find out what had happened to the estimated 500 infants and children who had been kidnapped together with their mothers and later allegedly given up for adoption, mainly to childless military officials, after their mothers had been killed.[9]

Parallel to the truth trials and baby kidnapping criminal trials in domestic courts, Argentine nationals were prosecuted in various European courts (such as that of Spain) under the principle of universal jurisdiction. When the Argentine Congress annulled the amnesty law in 2001, thereby removing the legal barrier to criminal prosecution, large-scale trials started in Argentina. During this third phase of criminal justice in Argentina, more than 100 trials were completed by the end of 2014, with over 500 defendants convicted and 52 acquitted. Most of these trials involved a minimum of ten victims and/or five defendants; many are large and complex "mega-cases" with hundreds of victims (Procuraduría de Crímenes contra la Humanidad 2015). Among the more famous are the ESMA trials and Operation Condor trials. The latter involves the prosecution of so-called cross-border crimes committed by nationals from the Southern Cone countries plus Bolivia as part of the repression network called Operation Condor.[10] One of the latest reports from the Argentine prosecutions office details in all 2,166 people accused of crimes against humanity, of which about half are in detention, with around 13 percent having received sentences (Argentine Ministerio Público Fiscal 2015). The trials in Argentina are still ongoing.

In stark contrast with Argentina, **Brazil**, the largest country with the strongest economy in Latin America, is the country where least progress has been made in criminal justice. Forty years after the transition to democracy, Brazil has had virtually no criminal prosecution of people involved in dictatorship crimes. One-off attempts at criminal accountability in the 1970s, while Brazil was still under civil-military rule, remained just that: unsuccessful attempts. A bit more court activity has taken place since 2010, with several cases in the pipelines in 2015. No verdict has been reached so far, though, showing that Brazil is lagging far behind its neighbours in holding the military accountable (see Figure 1). This is above all due to a tacit agreement between democratic government and the military (whose presence in politics and the economy is still strong compared to many other Latin American countries) with regards to the fact that the past should not be dug up. Civil society has not been explicit in its demands for justice, and there has been relatively little international pressure on Brazil to deal with its past. Nevertheless, President Dilma Rousseff set up a truth commission that launched its final report in December 2014—making Brazil the ultimate regional latecomer also on the truth component of accountability. The truth commission's comprehensive account of abuses committed by the military has been widely contested in Brazil and has so far not led to widespread demands for justice.

Contrast Brazil with **Colombia**, where significant strides in criminal accountability have been made in the midst of the internal armed conflict. This conflict (called *La Violencia*), the origins of which date back to 1948, intensified when several left-wing guerrilla groups[11] entered the scene in 1964 and has caused the highest levels of violence in the region. According to official sources, almost 32,000 members of paramilitary groups had demobilised by August 2006, mostly through collective demobilisation (Alto Comisionado para la Paz 2006). Further demobilization has taken place since then, linked to the rights of victims through the Justice and Peace Law. As part of this law, the so-called justice and peace trials have clearly contributed to public acknowledgement of extensive paramilitary involvement

in the armed conflict and of the human rights violations committed by paramilitary groups, as well as, to some extent, to the exposure of economic and political structures that enabled this systematic paramilitary violence.[12]

A solution to criminal justice for past and ongoing crimes was one of six points proposed in the peace agreement of September 2015 between the Santos Government and FARC. A central feature here is amnesty for combatants, excluding for those who have committed the most serious crimes. Per the agreement, those who refuse to own up to crimes committed will be sent to ordinary prisons while the others will undergo "alternative forms" of punishment. The negotiating parties agreed to create special tribunals, which will include a mixture of national and international judges, to prosecute and judge crimes related to the conflict and committed by members of the FARC, state agents, and non-combatants. Confession of crimes will result in reduced sentences. Those who do not confess and are found guilty by the courts risk 20 years in prison. A special feature of the deal is that political crimes committed by FARC will be eligible for amnesty and pardons (Brodzinsky 2015).

The standard theoretical assumption in the transitional justice literature, as well as in empirical practice, has been that countries will engage with transitional justice only after securing peace or holding democratic elections. Colombia defies this stereotype view of transitional justice by engaging in criminal justice, reparations to victims, and truth-finding as the government is negotiating the terms of peace and transition with the FARC guerrillas. Why?

A strong and vibrant civil society has been key in placing or maintaining transitional justice on the political agenda.

The next section considers some of the interrelated reasons behind the upsurge and differences in criminal justice efforts across the Latin American region.

Explaining variations in criminal justice for past human rights violations

We here highlight seven factors as jointly explaining why we have observed a gradual movement from impunity to accountability: political will, civil-military relations, civil society strength, judicial independence, the regional human rights "climate," the demonstration effect, and time.

Political will has been crucial in all countries examined. Political preferences for or against accountability weigh heavily in explaining how much, and in what direction, a particular government is willing to push a criminal justice agenda and allocate resources for it. The influence of governing elites is particularly noticeable with respect to amnesties, which aim to prevent or restrict criminal prosecutions. This is because the presidentialist emphasis of most Latin American political systems makes it the prerogative of the executive branch to initiate legislative limitation, or to modify or annul amnesty laws. Nonetheless, judicial branches with a certain degree of autonomy and independence can exercise high levels of discretion through interpretation of amnesty laws. In this case, executive control will be restricted to efforts to steer judicial outcomes, for instance by appointing a pliant chief public prosecutor or judges sympathetic to the government's transitional justice preferences. Political will reflects a government's moral and political commitment to human rights principles as they apply to past crimes.

Positive political will, though essential, is not sufficient. A second key factor is the changing *role of the military*. In the early years of Argentina's and Chile's transitions, the desire of the first democratically elected presidents to push for prosecution was severely curbed by continuing military influence and threats to derail the democratisation process. In other countries, military pressure or continuing ties between the military and the new democratic government were so strong that no initial push to prosecute materialised (Brazil, Paraguay, Uruguay). As the military has gradually been reformed and/or brought under civilian control in those countries where it was the main perpetrator of violations, military pressure to defend impunity has either lessened or become less central to the formulation of transitional justice policy preferences.

Third, whereas a strong military influence over democratic politics has often had a decidedly negative effect on criminal prosecutions, *a strong and vibrant civil society* has been key in placing or maintaining transitional justice on the political agenda. Groups within civil society have submitted evidence to courts, mobilised nationally, (sub)regionally, and internationally, and activated the inter-American human rights system by means of individual petitions. Countries with a history of strong human rights networks, and/or generally buoyant traditions of grassroots political organising, have been at an advantage when compared to Paraguay, Peru and the Central American countries, where clientelistic or patronage politics have historically weakened autonomous civil society.

Fourth, *independent courts, and judges and prosecutors willing to bring and hear cases*, have been crucial for criminal accountability. The independence of courts and judges is affected by long historical and professional trends, and more recently by judicial reforms carried out across the region in the 1990s and 2000s. Courts and judges have increasingly responded more favourably than before—and sometimes more favourably than other branches of state—to regional and international pressures to comply with the contents of human rights instruments and the judgments or recommendations of the inter-American system. The Fujimori trials in Peru are a prime example of this. Unsurprisingly, countries with well-established state bureaucracies (Argentina, Chile, Uruguay) or a strong legalistic culture (Colombia) have generally seen more activity in the criminal justice dimension of accountability than have countries with historically weak or captured court systems (El Salvador, Guatemala, Paraguay).

Fifth, part of the variations in criminal justice may be further explained by taking into account some factors at the regional or international levels. *The inter-American human rights system* has also become an important regional transitional justice actor, particularly in recent years (Hillebrecht 2012). Specific Inter-American Court rulings have required increasingly more of states in regard to meeting societal and victims' rights with effective remedies, encompassing justice, truth, and reparations. Adverse rulings against a number of the countries analysed here have been obtained by domestic case-bringers, who are also active in pushing for subsequent compliance. These rulings have in turn become a new source of jurisprudence for domestic judges within and beyond the target state. Judges in domestic courts are accordingly increasingly called upon to rule in novel issue areas, including crimes against humanity and joint criminal enterprise. Regional non-governmental organisations such as the Due Process of Law Foundation have assisted by promoting awareness of regional developments, and jurisprudence, among case-bringers and judges.

The justice cascade in Latin America remains strongly conditioned by national contexts.

We note, though, that the degree of state compliance with Inter-American Court rulings has varied substantially across the nine countries examined. Executive and judicial compliance in the Barrios Altos case against Peru (2001)[13] and the Gelman case against Uruguay (2011)[14] show how Court judgments can have a positive effect on accountability. By contrast, repeated adverse Court rulings against El Salvador have to date had no discernible effect. Thus, we conclude that actual take-up of Inter-American Court rulings—whether by the target state or other—is at least as significant as the number or content of verdicts.

We would also like to draw attention to something we could sum up as the *demonstration effect*. We have noted that social demands for accountability may be heightened by a demonstration effect when neighbouring countries undertake active criminal prosecutions. This demonstration effect has been strongest in the former Operation Condor countries (i.e., Argentina, Brazil, Chile, Paraguay, and Uruguay), where domestic trials held in one country increasingly have involved citizens of other countries and/or generated extradition and information requests, such as in the mentioned Operation Condor trials.[15] Whether judges respond to these societal demands for justice or not depends on the strength and independence of the courts and judges—and also on the judges' willingness to apply principles of international human rights law. We also note a demonstration effect in the way judges have tried to bypass their domestic amnesty laws by interpreting the crime "detained-disappeared" as an ongoing crime, until the body has been recovered; hence, bypassing the statutes of limitations. As Figure 1 above shows, the justice field became particularly active at the turn of the millenium, in Chile and elsewhere. This suggests that the 1998 Pinochet arrest in London had ripple effects within and beyond Chile's borders, in part by reviving relatives' and survivors' demands for action against former regime figures. Another catalyst for domestic trials in various countries was provided by multiple attempts in European courts to try Argentine, Chilean, Guatemalan, and Salvadoran nationals, among others, for past crimes (Roht-Arriaza 2005).

Finally, there is also the simple factor of *time*. When a transition takes place in a given country is important for two reasons. First, the longer time since transition, the less politically contentious prosecuting the military is presumably going to be. Second, in practical terms, the more time goes by, the more time there effectively is to prosecute the military. We should not forget that trials may take years to conclude, from the moment the case starts in a first instance court until the ruling has been appealed throughout the system and a final ruling has been passed by a supreme court. Moreover, "regional" or "world time" plays a role as well. Countries with relatively recent (Peru) or ongoing transitions (Colombia) have moved into a regional context with a strong pro-accountability ethos and have an accumulation of regional and international experiences to learn from. There are also particular events, such as the Pinochet arrest in 1998 in the United Kingdom, that transcend domestic frontiers and can create region-wide effects. In the wake of the Pinochet case, there was a notable increase in pro-trials pressure from victims and relatives. There was also a more favourable response by domestic judges to demands for justice, which was reflected in innovative interpretations of the amnesty law.

Going back one more time to Figure 1, we note that the world-time effect is one contributor to a noticeable accountability spike around the year 2000, which has evened off or turned slightly negative in recent years for some countries. This may reflect the exhaustion of the potential and/or impetus for some transitional justice mechanisms in some countries. Human rights organisations may have changed their priorities, while some states continue to have other pressing issues including high homicide rates and impunity rates for common crimes (Guatemala and El Salvador).

In short, the analysis here suggests that the justice cascade in Latin America remains strongly conditioned by national contexts. Key factors include the quality of criminal justice structures and the strength of social demands for accountability, which in turn may be heightened by a demonstration effect when neighbouring countries undertake active criminal prosecutions.

7 important insights from Latin America

What can we learn from the Latin American experience with criminal accountability for past wrongs?

- Holding the military accountable for past human rights violations, right after transition to democracy, has historically been almost impossible.
- The more time that passes between political transition and the onset of criminal prosecutions of the military in court, the higher the likelihood of the military remaining in the barracks and not interfering in politics.
- Prosecution of the military is more likely to take place in societies with a strong and vibrant pro-accountability/pro-justice civil society.
- Political will is paramount to successful prosecutions of the military.
- A strong institutional framework helps too: Independent courts and independent judges are essential for holding free and fair trials of alleged human rights perpetrators.
- The mere presence or absence of amnesty laws is not what tips the balance against or in favour of pro-criminal accountability change.
- The Inter-American Court and Commission have played an important, in some countries even a pivotal, role in bringing about domestic justice in the Latin American region.

These insights may be of assistance to Colombia, which is currently facing the challenge of staking out a policy of transitional justice in a context where full accountability and absolute impunity are equally unlikely. The insights from the Latin American experience with criminal justice for past wrongs could also be worth considering for countries elsewhere in the world (such as the post-spring Arab region) that are in the midst of transition from internal armed conflict to peace, or from military dictatorship to democracy, and have to make some tough political and legal choices regarding how to deal with their military. The aim must be "Never Again" human rights violations – *Nunca Mas.*

Buenos Aires graffiti of Videla and the Argentina dictatorship
Source: BA Street Art. buenosairesstreetart.com: bit.ly/1JAXESp.

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Endnotes

[1] Transitional justice is here defined as processes and mechanisms for dealing with past atrocities, covering a range of formal as well as informal mechanisms developed in post-authoritarian and post-conflict situations, including prosecution through courts, truth-telling through truth commissions, victims' reparations, amnesties, vetting, lustration, institutional reform, and memorial projects. The focus for this CMI Insight is on prosecution through courts; i.e., trials.

[2] This CMI Insight draws on the conclusions of a book originating from research conducted over four years by an international interdisciplinary team headed by Elin Skaar (Skaar, García-Godos and Collins (eds.), forthcoming May 2016). The project "Reconceptualising Transitional Justice: The Latin American Experience" was funded by the Latin America Programme of the Norwegian Research Council (2010-2014) and located at the Chr. Michelsen Institute, Bergen. The author thanks Cath Collins and Jemima García-Godos for allowing her to use the efforts of joint research as a basis for this CMI Insight.

[3] The Southern Cone is the southernmost region of Latin America and comprises Argentina, Chile, and Uruguay. Paraguay and Brazil are sometimes, but not always, considered as belonging to this group. Here we count them in.

[4] We adopt here Priscilla Hayner's classic definition of truth commissions as 'bodies set up to investigate a past history of violations of human rights in a particular country – which can include violations by the military or other government forces or by armed opposition forces' (Hayner 1994, p. 598).

[5] We here refer to the internal armed conflicts of El Salvador and Guatemala, which ended with UN brokered peace agreements in 1992 and 1996 respectively.

[6] We tried qualitatively and numerically to assess the relative achievements of nine countries in the field of criminal prosecutions for past human rights violations. We took into account who was brought to court, whether or not the trials were considered free and fair, whether the person accused was found guilty and sentenced, if so, whether the sentence length was appropriate in light of the crime committed. On the basis of a large range of questions, we assigned values from 0 to 10 for each country for each year, where each number indicates how far, on an imagined impunity-accountability scale, the country has moved with respect to trials for any given year. The impunity-accountability scale was developed for a larger research project to capture accountability on four different dimensions: trials, truth, amnesty, and reparations (Skaar, García-Godos, and Collins (eds.), forthcoming May 2016). The focus for this CMI Insight is accountability in the trials dimension only; i.e., criminal accountability.

[7] Some, although not all, of the material in this section draws on chapters 3, 5, and 11 in Skaar, García-Godos, and Collins (eds.), forthcoming May 2016.

[8] Note that Chile has made slightly more advances than Argentina on other transitional justice dimensions, such as reparations to victims for physical or mental damage caused by the state during the period of military rule.

[9] Former dictators Videla and Reynaldo Benito Bignone were convicted and condemned to life imprisonment in July 2012 for overseeing the systematic stealing of babies born in captivity during the military dictatorship in Argentina. The trial lasted 15 months and investigated 35 cases of infant kidnapping.

[10] "Operation Condor was an infamous secret alliance between South American dictatorships in the mid and late 1970s —a Southern Cone rendition and repression program—formed to track down and eliminate enemies of their military regimes. The Condor trial charges 25 high-ranking officers, originally including former Argentine presidents Jorge Videla (deceased) and Reynaldo Bignone (aged 87), with conspiracy to 'kidnap, disappear, torture and kill' 171 opponents of the regimes that dominated the Southern Cone in the 1970s and 1980s. Among the victims were approximately 80 Uruguayans, 50 Argentines, 20 Chileans and a dozen others from Paraguay, Bolivia, Peru and Ecuador who were targeted by Condor operatives" (Osorio 2015).

[11] These were FARC-EP (Revolutionary Armed Forces of Colombia – People's Army), ELN (National Liberation Army), and EPL (Popular Liberation Army). These three groups were joined by a second wave of guerrillas in the 1970s, most of which demobilised by 1990. See Chapter 11 in Skaar, García-Godos, and Collins (eds.), forthcoming May 2016.

[12] Ibid.

[13] Inter-American Court of Human Rights (I/A Court HR), *Case of Barrios Altos v. Peru*. Judgment of March 14, 2001. The case focused on the indictment of General Julio Salazar Monroe for 15 extrajudicial executions in the Barrios Altos section of Lima in 1991. See judgement at http://bit.ly/1K840ZB.

[14] Inter-American Court of Human Rights (I/A Court HR), *Case of Gelman v. Uruguay*, Merits and Reparations, Judgment of 24 February 2011. Macarena Gelman was born in 1976 while her mother was clandestinely detained in Montevideo after she had been arrested in Buenos Aires and transferred to Montevideo. Macarena's grandfather, Argentine poet Juan Gelman, looked for his grandchild for over 20 years. Macarena was located in Montevideo in 2000 and reunited with her grandfather. See judgement at http://bit.ly/1NxkxAV.

[15] Note that current levels of trial activity vary notably among the Condor countries. Brazil and Paraguay have had hardly any trials at all. For Paraguay, the main explanation seems to lie with the weaknesses and deficiencies of the entire judicial system. In Brazil, there has simply been no political will to revisit violations of the past through criminal justice. Furthermore, the main type of repression in both Brazil and Paraguay, torture, is notoriously difficult to prosecute under prevailing national law applicable at the time these offences were committed. While Uruguay also had high rates of torture compared to extra-judicial killings, its small population arguably gave the repression greater visibility than in Brazil and Paraguay.

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