

# BRIDGING HISTORIES: ARGENTINA'S TRANSITIONAL JUSTICE PROCESS AND THE RECOGNITION OF THE ARMENIAN GENOCIDE

*Federico Gaitan Hairabedian*  
*American University Washington College of Law*

## Abstract

This article analyzes how the Argentine Transitional Justice Process (ATJP) enabled the judicial recognition of the Armenian Genocide through domestic mechanisms anchored in international human rights law. Argentina's determination in the Armenian Genocide Truth Trial (2001–2011) constitutes the first and most rigorous judicial finding on the genocide by any national court, grounded not in memory politics or diplomatic pressures but in binding legal standards. The article examines how an Argentine federal chamber upheld the right to truth of a descendant of genocide survivors and applied the principle of inapplicability of statute of limitations to state-denied genocidal crimes, issuing an unprecedented ruling despite the absence of an accused before the court. This decision shows that when international or diplomatic routes are blocked, domestic courts can still give effect to international legal norms, especially when backed by sustained civil society engagement. The emphasis is on the transnational application of Argentine jurisprudence to historical atrocities, while selectively referencing Argentina's broader experience in prosecuting crimes against humanity, including the 1985 Juntas Trial and the ESMA III-Death Flight Section Trial. The article asserts that Argentina's definition of the right to truth as an independent legal obligation, conceptualized by Juan E. Méndez and implemented via truth trials, and the intertwined adoption of the five pillars of transitional justice mechanisms (truth justice reparations memory and guarantees of non-recurrence), provides a persuasive avenue for enhancing genocide recognition through legal innovation. The study posits that by positioning domestic adjudication as a venue for global norm creation, Argentina's methodology bolsters the international human rights framework, challenges denialism, and underscores the legal importance of remembrance following mass atrocities.

**Keywords:** transitional justice; right to truth; crimes against humanity; Argentina; Armenian Genocide; universal jurisdiction; genocide prevention

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## Introduction

This paper examines how the Argentine Transitional Justice Process (ATJP) enabled the legal recognition of the Armenian Genocide through domestic mechanisms grounded in international human rights law. By analyzing the Armenian Genocide Truth Trial (2001–2011),<sup>1</sup> the first judicial determination of the genocide by a national court, the paper argues that Argentina operationalized the right to truth and other international legal principles to address a state-denied atrocity beyond its borders. This case illustrates how domestic courts, when supported by robust constitutional frameworks and civil society mobilization, can contribute to global efforts against denialism and impunity.

Argentina's ability to undertake this form of adjudication emerged from a decades-long process of confronting the crimes of its last military dictatorship (1976–1983).<sup>2</sup> The Juntas Trial and the investigative work of CONADEP,<sup>3</sup> culminating in the Nunca Más or Sábato report, established a durable legal and moral foundation for accountability.<sup>4</sup>

1 Declarative Resolution of Historic Events Known as Armenian Genocide—Years 1915/1923 (Juzgado Nacional en lo Criminal y Correccional Federal N° 5, Secretaría N° 10 2011).

2 Rather than being a disconnected or isolated episodes, this transitional justice process must be understood as part of an integrated continuum with different phases. See Arthur Paige “How ‘Transitions’ Reshaped Human Rights: A Conceptual History of Transitional Justice,” *Human Rights Quarterly* 31, no. 2 (2009): 321–367 (arguing that “transition” is not a clearly bounded phase but a flexible and evolving process, with transitional justice extending beyond regime change into the consolidation of democratic institutions). See also Aryeh Neier, *The International Human Rights Movement: A History* (Princeton, NJ: Princeton University Press, 2012), 255–258 (noting that transitions often persist beyond the collapse of authoritarian regimes, as legacies of repression require long-term engagement through truth-seeking, justice, and institutional reform efforts that are frequently delayed or obstructed).

3 Decreto del Poder Ejecutivo Nacional No. 187/1983, “Créase la Comisión Nacional sobre la Desaparición de Personas (CONADEP)” *Boletín Oficial de la República Argentina*, 15 December 1983.

4 Ernesto Sábato chaired the National Commission on the Disappearance of Persons (CONADEP), established in 1983 to investigate human rights abuses during Argentina's last dictatorship. He played a central role in drafting the *Nunca Mas* report, which documented systematic forced disappearances, torture, and killings perpetrated by the regime. His leadership lent the report significant credibility, as he was a respected intellectual figure. However, the report's framing known as the “Two Demons Theory” presented Argentina's political violence as a conflict between two extremes: the state and guerrilla groups. Its prologue portrayed state terrorism as a reaction to guerrilla violence, suggesting moral equivalence. This framing drew criticism from human rights organizations for downplaying the state's disproportionate violence and systemic repression. Sábato is widely regarded as one of Argentina's most prestigious writers. Although he had a youthful affiliation with the Communist Party, he became a vocal critic of Soviet authoritarianism. During the dictatorship, he initially praised General Jorge Rafael Videla after a personal meeting, describing him as “cultured” (see Larry Rohter, “Ernesto Sábato, Novelist and Rights Advocate, Dies at 99,” *New York Times*, 1 May 2011, <https://www.nytimes.com/2011/05/02/world/americas/02sabato.html>), but by 1981, he shifted his stance and led the *Movimiento para la Recuperación de Niños Desaparecidos* (Movement for the Recovery of Disappeared Children) alongside Nobel laureate Adolfo Pérez Esquivel. He was widely read, respected, and admired across Argentina's political spectrum. Ernesto Sábato's death was mourned by leading intellectuals across the Argentinean political spectrum. Horacio González, then director of Argentina's National Library, referred to him as “a voice of a high humanistic tradition” whose cultural and ethical contributions, especially his leadership in CONADEP, were invaluable. (See Horacio González, “Era una voz de una alta tradición humanística,” *Página/12*, 30 April 2011, <https://www.pagina12.com.ar/diario/ultimas/20-167354-2011-04-30.html>). See also Emilio Crenzel, “Genesis, Uses, and Significations of the Nunca Mas Report in Argentina,” *Latin American Perspectives* 42, no. 3 (2015): 20, 24–25. The University of Buenos Aires Press published the report under the title *Nunca Más* (Never Again), signaling

These institutions demonstrated how truth-seeking and criminal justice mechanisms could function in a mutually reinforcing manner, shaping an enduring national commitment to truth, justice, and memory.

The theoretical foundation of this paper draws on Ruti Teitel's understanding of transitional justice as an evolving legal process and on Juan E. Méndez's articulation of the right to truth as an autonomous international obligation essential to accountability and genocide prevention.<sup>5</sup> Together, these frameworks demonstrate how Argentina's transitional justice architecture, through the development of universal jurisdiction, truth trials, reparations, and sustained judicial innovation, generated the normative conditions that later enabled the first judicial recognition of the Armenian Genocide worldwide, grounded in the application of international human rights law and the domestic operationalization of the right to truth.<sup>6</sup>

The right to truth, understood within broader obligations of reparation and non-repetition, requires states to clarify past violations for both victims and society. As Méndez emphasizes, the failure to meet this obligation generates ongoing international responsibility, regardless of domestic amnesty laws or pardon decrees.<sup>7</sup> Increasingly recognized within the atrocity-prevention architecture of the United Nations,<sup>8</sup> the right to

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that these efforts were neither isolated initiatives nor fragmented responses. Rather, they represented a renewed national commitment to accountability for high-level perpetrators and a decisive state initiative, institutionally supported by the University itself. See Emilio Crenzel, "Argentina's National Commission on the Disappearance of Persons: Contributions to Transitional Justice," *International Journal of Transitional Justice* 2, no. 2 (2008): 173-191.

5 Ruti G. Teitel, "Transitional Justice Genealogy," *Harvard Human Rights Journal* 16 (2003): 69-94.

6 Sevane Garibian, "Ghosts Also Die: Resisting Disappearance through the 'Right to the Truth' and the Juicios por la Verdad in Argentina," *Journal of International Criminal Justice* 12, no. 3 (2014): 515-538.

7 Juan E. Méndez, "Accountability for Past Abuses," *Human Rights Quarterly* 19 (1997): 255, 259-265. Juan E. Méndez has consistently advanced the right to truth as a legally enforceable obligation of states, central to both transitional justice and atrocity prevention. Drawing on his work within the Inter-American system and his broader scholarship, Méndez emphasizes that the right to truth is not merely reparative but foundational to accountability and democratic legitimacy. This right, he argues, derives from states' binding duties under international law to investigate, prosecute, and punish gross human rights violations, especially when criminal prosecutions are temporarily blocked or politically obstructed. The Inter-American Court of Human Rights codified this obligation in *Velasquez Rodriguez v. Honduras*, holding that under Article 1(1) of the American Convention, states must "take reasonable steps to prevent human rights violations and... investigate violations committed within their jurisdiction, identify those responsible, impose the appropriate punishment, and ensure the victim adequate compensation." The Court further affirmed that the right to truth belongs not only to victims and their families but also to society at large, especially in the face of systematic state violence such as enforced disappearances. See also *Velasquez Rodriguez v. Honduras*, Judgment, Inter-American Court of Human Rights, Series C, no. 4, 174, 29 July, 1988. Méndez links this doctrine directly to genocide prevention and the Responsibility to Protect (R2P), contending that when embedded in domestic jurisprudence, the right to truth functions as a normative safeguard against the recurrence of mass atrocities see Juan E. Méndez, "Derecho a la verdad frente a las graves violaciones a los derechos humanos," in *Aplicacion de los Derechos Humanos por los Tribunales Locales* (n. p. 1997), 517-540.

8 U.N. Secretary-General, *Report on the Implementation of the Five-Point Action Plan and the Activities of the Special Adviser of the Secretary-General on the Prevention of Genocide*, U.N. Doc. A/HRC/7/37 (18 March 2008).

truth functions as a forward-looking safeguard against the recurrence of mass atrocities.<sup>9</sup> Méndez also underscores that failure to fulfill this obligation exposes states to ongoing international responsibility, regardless of domestic amnesty measures or pardon decrees.

The subsequent analysis situates the Armenian Genocide Truth Trial within two landmark cases of the ATJP: the first domestic response of the Juntas Trial in 1985 and the ESMA III-Death Flight Section Trial between 2012 and 2017.<sup>10</sup> By internalizing international human rights standards, Argentine legal system have become key guarantors of anti-impunity norms, a human rights culture based on deterrence, and democratic stability.<sup>11</sup> This dynamic, evolving, and at times contested process, shaped by legal innovation and sustained societal activism demonstrates how domestic accountability mechanisms can generate transnational legal effects by addressing historical cases of impunity and denial. It provided the legal and social framework that uniquely positioned Argentina to recognize the Armenian Genocide judicially and contributed to the development of international human rights law and contemporary transitional justice mechanisms.<sup>12</sup>

The first part of the article examines the foundational phases of the ATJP, followed by an analysis of the jurisprudential evolution leading to Argentina's recognition of the Armenian Genocide. Then the article evaluates the broader implications for international human rights law and genocide prevention.

## Legal Development and Foundational Phases of Argentina's Transitional Justice Process

After an initial period of impunity during which high-ranking commanders Jorge Rafael Videla, Emilio Eduardo Massera and Orlando Ramón Agosti were convicted in the Juntas Trial and then benefited from amnesty laws and presidential pardons that revoked their sentences, a second wave of prosecutions emerged. This renewed phase extended across

<sup>9</sup> Juan E. Mendez, "The Importance of Justice in Securing Peace and Fostering a Durable Political Settlement," RC/ST/PJ/INF.3 (International Criminal Court Review Conference, 1 June 2010).

<sup>10</sup> Centro de Estudios Legales y Sociales (CELS), *Megacausa ESMA: El Juicio* [ESMA Megacase: The Trial] (Buenos Aires: CELS, 2017), <https://www.cels.org.ar/especiales/megacausaesma/en/>. See also *Court Case ESMA Trial -Death Flight Section*, Tribunal Oral en lo Federal No. 5 [Federal Oral Criminal Court No. 5 of Buenos Aires] (Argentina, 2018).

<sup>11</sup> Francesca Lessa, *Memory and Transitional Justice in Argentina and Uruguay: Against Impunity* (Palgrave Macmillan, 2013), 50-80. Explaining that Argentina's transitional justice process, through truth commissions, trials, and reparations, has aimed not only at accountability but also at reshaping institutions and preventing future abuses by fostering reforms such as police reform and civilian control of the military, thereby illustrating the interaction between legal innovation and social-political action in promoting enduring structural change.

<sup>12</sup> Teitel "Transitional Justice Genealogy," (arguing that transitional justice unfolds through historically contingent phases and functions as a dynamic legal response to political flux, in which the law both reflects and shapes conditions of democratic transition). Teitel identifies Argentina's experience as emblematic of a post-Cold War model wherein legal innovation, grassroots mobilization, and international norms coalesce to confront past state crimes, despite periods of regression and contested legitimacy.

the hierarchical command structure and gained momentum in the early 2000's following three landmark rulings by the Argentine Supreme Court: *Simón*, *Mazzeo*, and *Arancibia Clavel*.<sup>13</sup> In these decisions, the Court held that amnesty laws and presidential pardons were incompatible with international law, and that the underlying crimes committed during the dictatorship, contemplated in the Argentine legislation at the time of the events, constituted crimes against humanity. These rulings reaffirmed the State's binding duty to investigate, clarify the truth, and prosecute those responsible.

Transitional justice has frequently been conceptualized as a political choice, influenced by national contexts and the propensity of state actors to pursue accountability.<sup>14</sup> But Argentina's legal, social, and cultural developments over the past two decades, for example, point to a deeper shift: key elements of its transitional justice process like especially victim-centered domestic prosecutions of international crimes are now understood as binding legal obligations under international law, not optional policy tools.<sup>15</sup> In this model, prosecutions are not just one component of transitional justice: they form its backbone. They anchor the evolution of complementary mechanisms demonstrating how legal, institutional, and civil society actors have progressively integrated the five pillars of transitional justice into a coherent and interdependent system.<sup>16</sup>

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13 It is analytically compelling to examine the progressive and evolving dialogue between international and domestic law in Argentina's post-dictatorship jurisprudence. This development unfolded alongside the "golden age" of international human rights law, the period between the fall of the Berlin Wall (1989) and the September 11 attacks (2001), characterized by the emergence of international criminal justice institutions (e.g., the establishment of the ICC in 1998) and heightened global debates on impunity, exemplified by the Pinochet and Scilingo cases. Argentina's 1994 constitutional reform institutionalized the principles of truth, memory, and justice as foundational elements of its democratic social pact. This reform marked a decisive internalization of *jus cogens* norms aimed at dismantling the structural conditions that enable mass atrocities and attacks on democracy and the rule of law. It also elevated international human rights treaties to constitutional status. Landmark rulings such as *Simón*, *Julio Héctor y otros s/privación ilegítima de la libertad*, etc., Corte Suprema de Justicia de la Nación [CSJN] (Arg. June 14, 2005), and *Arancibia Clavel, Enrique Lautaro s/homicidio calificado y asociación ilícita*, Corte Suprema de Justicia de la Nación [CSJN] (Arg. Aug. 24, 2004), exemplify how Argentine domestic legal institutions internalized and advanced this global normative shift, embedding transitional justice principles within local jurisprudence.

14 Laurel Fletcher and Harvey Weinstein, "Violence and Social Repair: Rethinking the Contribution of Justice to Reconciliation," *Human Rights Quarterly* 24, no. 3 (2002): 573.

15 Bronwyn Anne Leebaw, "The Irreconcilable Goals of Transitional Justice," *Human Rights Quarterly* 30, no. 1 (2008): 95. (She argues that framing transitional justice as a legal obligation reflects a normative shift away from political discretion toward binding international human rights duties).

16 As Pablo de Greiff argues, these pillars, truth, justice, reparation, non-repetition, and memory, must be seen as interdependent legal duties rooted in international and regional human rights law, but as a set of interrelated legal obligations grounded in international and regional legal frameworks. United Nations, Human Rights Council, Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, prepared by Pablo de Greiff, U.N. Doc. A/HRC/24/42, 26 (28 August 2013). See Jaime Malamud-Goti, "Transitional Governments in the Breach: Why Punish State Criminals?" in *Transitional Justice: How Emerging Democracies Reckon with Former Regimes*, ed. Neil J. Kritz (Washington, DC: United States Institute of Peace Press, 1995), 189. Jaime Malamud-Goti, a legal advisor to President Raúl Alfonsín, and architect of the "Truth & Limited Justice" policy approach of Alfonsín government argued that transitional governments must carefully calibrate their approach to criminal accountability in order to avoid destabilizing democratic consolidation. He contended that, although prosecuting senior military officers for crimes against humanity was a moral imperative essential to reasserting the rule of law, the prosecution of all involved personnel was politically

The legal architecture that enabled Argentina to adjudicate the Armenian Genocide emerged from its monist constitutional framework, which gives international human rights norms direct domestic effect.<sup>17</sup> Through the constitutional hierarchy established in 1994,<sup>18</sup> international human rights treaties acquired superior status, providing Argentine courts with a normative and jurisdictional foundation to confront grave crimes. This framework sustained the reopening of dictatorship-era prosecutions in the 2000s and, critically, created the doctrinal conditions for addressing state-denied atrocities beyond Argentina's borders.

With that situation as a background, Gregorio Hairabedian, a second-generation descendant of Armenian Genocide survivors in Argentina and an active intellectual within the Armenian community and the human rights movement,<sup>19</sup> strategically initiated a judicial action before the Buenos Aires Federal Criminal Chamber, together with his daughter, the human rights lawyer Luisa Hairabedian, to seek legal recognition of the Armenian Genocide. The claim was grounded in the constitutional right to truth and the direct applicability of international law by domestic legal systems courts. Within this architectural framework, the Armenian Genocide Truth Trial—also known as the Hairabedian Case—emerged as the first judicial proceeding worldwide to recognize the Armenian Genocide through a domestic court. The case illustrates how national courts, operating within transitional justice frameworks, can implement international human rights norms to confront entrenched denial and impunity. In doing so, the proceeding demonstrates how domestic adjudication may contribute to the internal development of international law, reinforcing normative structures that adapt over time in response to historical atrocities and contemporary demands for justice and accountability.<sup>20</sup>

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untenable. The widespread institutional nature of Argentina's state terror, where nearly all military personnel were complicit by either action or acquiescence, necessitated the development of criteria to distinguish degrees of responsibility. Malamud-Goti ultimately justified the controversial decision to limit prosecutions through laws such as the Full Stop (Ley de Punto Final) and Due Obedience (Ley de Obediencia Debida), contending that these were pragmatic measures designed to prevent backlash from the armed forces while preserving the nascent democratic order.

17 Garibian, "Ghosts Also Die," 515-538.

18 Constitución Nacional [National Constitution] art. 75, inc. 22 (Argentina).

19 For more on this see <https://aurorahumanitarian.org/en/gregorio-hairabedian>.

20 The concept of autopoiesis—from the Greek *auto* (self) and *poiesis* (creation)—was originally developed by Humberto Maturana and Francisco Varela to describe self-producing and self-maintaining systems. Legal scholar Anthony D'Amato draws on insights from General Systems Theory to argue that international law evolves through internal normative processes rather than solely through external political or institutional imposition. While D'Amato does not develop a full theory of legal autopoiesis, his systems-based account supports the view of international law as a self-referential and norm-generating legal order. See Anthony D'Amato, "Groundwork for International Law," *American Journal of International Law* 108, no. 4 (2014): 650-679.

## From Resistance to Justice: Responses from the Civil Society and the Judiciary

During the military regime, the early mobilization of victims and the strategic litigation advanced by human rights organizations, supported by international networks of defenders, religious leaders, NGOs, and allies in politics, the arts, and education, transformed Argentina into a compelling example of how an active civil society, driven by empathy for victims of state terrorism and unified by the call for Nunca Más, contributed to a distinct model of participatory accountability.<sup>21</sup> This process revealed the transformative power of international legal norms when anchored in grassroots activism and supported by an independent judiciary.<sup>22</sup>

The mobilization and persistent demands of relatives of victims of mass atrocities (particularly enforced disappearances, torture, and killings carried out in clandestine detention centers and through death flights) during the late 1970s generated a new political identity that has persisted for more than four decades. By the early 21st century, the Argentine state had developed a structured field of action to confront its recent past, integrating the five pillars of transitional justice and creating a fertile environment for the advancement of human rights litigation. This evolution aligns with Kathryn Sikkink's account of the "justice cascade," which describes the expansion of accountability practices across domestic and international settings.<sup>23</sup>

Over the last forty years, a powerful discursive front emerged in the Argentine society, shaped by a distinct language and representational style grounded in a repertoire of symbols and rituals,<sup>24</sup> as well as innovative political and legal strategies. This new discourse, at once imperative and consoling, challenged and denounced state crimes with a potent narrative of social and political struggle in defense of human rights, achieving significant progress in the fight against impunity, the search for truth, and the punishment of those responsible. This heterogeneous social subject what we may call the "human rights movement" formed its identity around the defense of human rights and the pursuit of justice. Over the past four decades, it not only succeeded in halting a powerful tide of

21 See generally Elizabeth Jelin, "The Politics of Memory: The Human Rights Movement and the Construction of Democracy in Argentina," *Latin American Perspectives* 21, no. 2 (1994), 38.

22 Paige "How 'Transitions' Reshaped Human Rights," 321, 323-329. (He argues that Argentina's early post-dictatorship responses were pivotal in transforming global human rights advocacy from "naming and shaming" to pursuing accountability, thereby laying the groundwork for what would become the field of transitional justice). See also Kathryn Sikkink and Carrie Booth Walling, "Argentina's Contribution to Global Trends in Transitional Justice," in *Transitional Justice in the Twenty-First Century: Beyond Truth Versus Justice*, eds. Naomi Roht-Ariaza and Javier Maríezcurrena (Cambridge: Cambridge University Press, 2006). They emphasize how Argentine human rights organizations leveraged international networks to pursue accountability, shaping international norms and influencing the construction of the transitional justice field from the Global South.

23 See generally Kathryn Sikkink, *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics* (New York and London: WW Norton and Company, 2011).

24 Vincent Druliole, "H.I.J.O.S. and the Spectacular Denunciation of Impunity: The Struggle for Memory, Truth, and Justice and the (Re-)Construction of Democracy in Argentina," *Journal of Human Rights* 12, no. 2 (2013): 259-276.

impunity under the banner of *Juicio y Castigo* [Trial and Punishment] but also crafted a new political agenda with the strength to contest and shape discursive hegemony around issues of human rights violations.<sup>25</sup> In this context, Gregorio Hairabedian asserted his right to ascertain the truth regarding the fate of his family members who succumbed to the extermination policies enacted by the Ottoman Empire and the Young Turk movement against the Armenian population, and he filed a case in the Buenos Aires Federal Chamber to initiate a truth-seeking process to uphold his right to uncover the truth.

## Creative Implementation of International Human Rights: The Operability of the Right to Truth through the “Truth Trials”

After the Juntas Trial, during the final years of the Alfonsín presidency and the early Menem administration, the enactment of the Due Obedience and Final Stop Law and the presidential pardons to those perpetrators convicted institutionalized impunity and brought the prosecution of human rights crimes and the broader pursuit of truth and justice to a halt. Yet legal and societal demands for accountability continued to advance, even when formal judicial avenues were blocked. From this impasse emerged the *Juicios por la Verdad* (Truth Trials), a distinctive set of non-punitive, quasi-judicial proceedings developed primarily in federal courts in big cities like La Plata, Rosario and Buenos Aires.

These proceedings, known as truth trials, although lacking the authority to impose criminal sanctions, played a crucial symbolic and reparative role. They enabled victims and survivors to access the judicial system, offer testimony, and contribute to the clarification of the facts and the institutional reconstruction of historical truth. By preserving documentary evidence and reviving the memory of the disappeared, these trials upheld the right to truth and advanced efforts to investigate state-sponsored violence. Most importantly, they gave victims a voice and promoted the principle of integral reparation in the context of state terrorism and mass human rights violations. Crucially, they also functioned as a mechanism to compel the State to fulfill its international obligations to investigate gross human rights violations and to provide victims and society with the answers they were entitled to, even in the absence of formal criminal accountability. Argentine scholar Nora Rabotnikof underscores that these proceedings were crucial in sustaining memory and justice during a period when formal prosecutions were suspended. While these mechanisms lacked the authority to impose criminal sanctions, these trials laid a foundational evidentiary and normative framework that would later support the reactivation of criminal prosecutions following the annulment of impunity laws.<sup>26</sup>

Sevane Garibian notes that these legal strategies functioned as a powerful form of

25 Nora Rabotnikof, “Memoria y Política a Treinta Años Del Golpe,” in *Argentina, 1976: Estudios en torno al Golpe de estado*, eds. Clara E. Linda, Horacio Crespo, and Pablo Yankelevich (Mexico: El Colegio de Mexico, 2007), 259-284.

26 Nora Rabotnikof, “Memoria y Política.”

resistance against the dictatorship's effort to erase historical responsibility.<sup>27</sup>

There is no doubt that these proceedings played an instrumental role in expanding the evidentiary record and in reinforcing the domestic application of Inter-American Court of Human Rights jurisprudence.<sup>28</sup> Although they lacked punitive authority, the *Juicios por la Verdad* allowed courts to formally document facts, preserve historical memory, and uphold the right to the truth.<sup>29</sup> In doing so, they offered a form of institutional accountability within the constraints imposed by the amnesty framework that ruled Argentina between the Juntas Trial and the reopening of trials in the early 2000's.

From a legal standpoint, three interrelated dimensions underscore the normative strength of the right to truth under international law: (1) the legal invalidity of blanket amnesties for gross human rights violations; (2) the obligation to prosecute or extradite, as codified in the principle of *aut dedere aut judicare* [either extradite or prosecute]; and (3) the frequently invoked rationale of reconciliation, which must not supersede victims' rights to truth and accountability. Within this framework, the right to the truth operated not only as a remedial measure for victims and society but also as a legal mechanism to enforce international obligations, prevent impunity, and deter the recurrence of atrocity crimes.<sup>30</sup>

According to Garibian, Argentina has implemented nearly every transitional justice mechanism recognized globally: from early trials, amnesties, and pardons to truth commissions and, most importantly, the repeal of amnesty laws and the reopening of criminal proceedings.<sup>31</sup>

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27 Garibian, "Ghosts Also Die," 515-538.

28 E.g *Barrios Altos v. Peru*, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 75, 41-44 (14 March 2001) (holding that amnesty laws preventing the investigation and punishment of serious human rights violations are incompatible with the American Convention on Human Rights and lack legal effect). See note 8; U.N. Human Rights Committee, *General Comment No. 31*, U.N. Doc. CCPR/C/21/Rev.1/Add.13, 18 (26 May 2004) (emphasizing that states may not relieve perpetrators from personal responsibility through amnesties and that victims have a right to an effective remedy, including truth). These legal proceedings were grounded in international human rights law, particularly the principle of state responsibility for gross violations. The Inter-American Court of Human Rights has articulated that these proceedings served as effective remedies. This was made explicit in *Barrios Altos v. Peru*, where the Court affirmed that legal instruments granting impunity for these crimes are incompatible with the state's international obligations. Even where criminal prosecutions are obstructed or delayed due to *de facto* amnesties, the state remains under a binding duty to disclose the fate and whereabouts of victims and to fulfill the truth-seeking function as a standalone right, as articulated in *Velásquez Rodríguez v. Honduras*, para. 181. Furthermore, the invocation of reconciliation as a justification for legal leniency cannot override the rights of victims and society to access the truth. On the contrary, reconciliation efforts that omit truth and accountability risk reproducing impunity and undermining the very foundations of democratic legitimacy.

29 Mendez, "Accountability for Past Abuses."

30 United Nations General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, GA Res. 60/147, UN GAOR, 60th Sess., Agenda Item 71(a), UN Doc A/RES/60/147 (21 March 2006).

31 Garibian, "Ghosts Also Die," 515-538. (Emphasizing the juridical role of the *Juicios por la Verdad* in resisting impunity and fulfilling the state's duty to guarantee the right to truth under international law, even in the absence of criminal sanctions).

## The Second Wave of Judicial Response: The ESMA III Death Flights Trial as a Paradigmatic Framework of Memory, Truth, and Accountability

The reactivation of prosecutions after 2003 marked a decisive juridical shift in Argentina's transitional justice trajectory. The Supreme Court's rulings in *Arancibia Clavel*, *Simón*, and *Mazzeo* established that crimes against humanity are imprescriptible and that amnesty laws and pardons violate binding obligations under international human rights law. By reinstating Point 30 of the 1985 Juntas Trial judgment, these decisions reopened investigations that suspended under the Due Obedience and Final Stop and the presidential pardons regimes. The renewed prosecutions drew on decades of testimonial and documentary evidence preserved by CONADEP, the *Juicios por la Verdad*, and survivors and victim's private archives.<sup>32</sup> These materials formed the evidentiary backbone of the second wave of trials, enabling courts to fulfil the State's duty to investigate and punish enforced disappearance, torture, and other crimes against humanity.

This continuity, as Rabotnikof and Garibian argue, demonstrates that Argentina's human rights movement functioned as a normative agent, ensuring that truth and memory shape the development of domestic and international accountability standards. Within this legal framework, the ESMA III-Death Flight Section Trial epitomizes the institutional consolidation of Argentina's accountability process and stands as a paradigmatic expression of this new phase.<sup>33</sup> While the Juntas Trial established the criminal responsibility of high-ranking commanders, ESMA Trials, specially ESMA III exposed the operational mechanics of clandestine repression.<sup>34</sup> Its findings on systematic extermination practices, in-

32 Recently, during the Month of Cinema, I had the honor of moderating a memorialization event in which Isabel Mignone, sister of Mónica Mignone and daughter of Emilio F. Mignone, founder of the Center for Legal and Social Studies (CELS), donated a collection of family documents to the Academy on Human Rights and Humanitarian Law and the Pence Law Library at American University Washington College of Law. The donation, curated from the Mignone family archive, includes materials gathered by Emilio Mignone himself, most notably detailed diaries from the *Juntas Trial*, offering valuable primary sources for future research on Argentina's transitional justice process. See *Cine, Activismo y Derechos Humanos: 40º Aniversario del Juicio a las Juntas y el Poder de la Memoria en la Justicia Transicional*, panel hosted by the Academy on Human Rights and Humanitarian Law, American University Washington College of Law (30 May 2025).

33 The ESMA III Death Flights Section Trial stands as a testament to Argentina's integrated and sustained accountability efforts. While the Juntas Trial focused on top military commanders, the ESMA trials (I, II, III, among others) uncovered the operational architecture of state terror, prosecuting those directly involved in clandestine exterminations. For a comprehensive overview of the ESMA III Trial, see Centro de Estudios Legales y Sociales (CELS), *Megacausa ESMA: El Juicio* (2017). The ESMA proceedings comprise a series of interconnected judicial trials addressing crimes committed at the former Naval School of Mechanics (ESMA) between 1976 and 1983 under Argentina's last military dictatorship. The ESMA III Trial Death Flight Section, concluded in 2017, represents the nation's most extensive prosecution of crimes against humanity. Centered on atrocities committed at the Navy's clandestine detention center, ESMA (*Escuela de Mecánica de la Armada*), the trial involved 54 defendants and 789 victims. ESMA, originally intended to serve as a naval academy and center for education, became, in stark contrast, a site of terror during Argentina's last military dictatorship. As described by survivor and sociologist Pilar, ESMA operated as a concentration camp, marked by systematic torture, enforced disappearances, and even the theft of infants born in clandestine detention. See Calveiro, *Poder y desaparición*.

34 ESMA III stands as the most comprehensive synthesis of Argentina's three phases of transitional justice,

cluding the judicial confirmation of the “death flights”<sup>35</sup> and the later recognition of sexual violence as crimes against humanity,<sup>36</sup> illustrate how domestic courts internalized and applied international human rights law and international criminal law standards.

The trial’s doctrinal impact extends beyond national borders. It reaffirms the international consensus that blanket amnesties for serious human rights violations are incompatible with *jus cogens* norms, a position long advanced by Méndez, the Interamerican jurisprudence and other relevant transitional justice experts.<sup>37</sup> It also reflects Teitel’s insight that transitional justice generates new legal meanings during political transformation.<sup>38</sup> Through strategic litigation, victims’ participation,<sup>39</sup> and judicial independence, Argentina transformed transitional justice from a discretionary policy vulnerable to political pressures, including the pressures that produced the impunity laws and the presidential pardons intended to appease sectors of the armed forces after the Juntas Trial, into a rights-based obligation grounded in truth, justice, reparation, and guarantees of non-repetition.<sup>40</sup> This reactivated judicial process provided the normative

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addressing the core of the Navy’s systematic repression and implicating both senior officers and rank-and-file perpetrators, including the infamous Alfredo Astiz. A symbol of state terror, Alfredo Astiz, also known under the aliases “Gustavo Niño” and “Ángel Rubio” (the “Blond Angel”), was identified as one of the key perpetrators of heinous crimes committed at the clandestine detention center located at ESMA. His involvement extended beyond acts of torture and inhumane treatment within the detention facility to include clandestine intelligence operations; for example, at the Santa Cruz Church where families of *desparecidos* gathered to find their relatives. See Leila Guerriero, *La Llamada: Un Retrato* (Barcelona: Anagrama, 2024). This work contributes to the cultural dimension of transitional justice by reconstructing the testimony of Silvia Labayrú, a survivor of the ESMA detention center, where she endured forced labor, torture, and sexual violence perpetrated by members of Task Force 3.3.2, including Alfredo Astiz and Eduardo “El Gato” González. Following the 1985 *Juntas* Trial, Astiz remained at liberty for several years, benefiting from the impunity conferred by the Full Stop (*Ley de Punto Final*) and Due Obedience (*Ley de Obediencia Debida*) laws. During the 1990s, he provoked public outrage by openly participating in nightlife events, granting media interviews in which he declared himself “the best-trained soldier to kill a journalist,” thereby deepening the pain of victims and underscoring the enduring legacy of impunity prior to the reactivation of accountability mechanisms in the early 2000s. See Claudia Feld, “Early Photos and Public Visibility of the Repressor Alfredo Astiz: from Undercover Agent ‘Visible Face’ of Horror (1977-1982),” *Sudamérica: Revista de Ciencias Sociales* 19 (2023): 16-45.

35 While the existence of death flights had been known through exile testimonies since 1979 ESMA III presented irrefutable, court-validated evidence of their systematic planning and execution. See 60 Minutes, “Finding Argentina’s ‘Death Plane,’” *CBS News*, 4 April 2025, transcript, CBS, <https://www.cbsnews.com/news/finding-argentina-death-plane-60-minutes-transcript/>.

36 Regarding these testimonies and the varied approaches to memory and evidence collection, particularly concerning women victims of sexual crimes at ESMA. See Munu Actis, Cristina Aldini, Liliana Gardella, and Miriam Lewin, *That Inferno: Conversations of Five Women Survivors of an Argentine Torture Camp* (Nashville, TN: Vanderbilt University Press, 2006).

37 Diane F. Orentlicher, “Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime,” *Yale Law Journal* 100, no. 8 (1991): 2537.

38 Teitel, “Transitional Justice Genealogy.”

39 Valeria Veigh Vega, “The Relevance of Victims’ Organizations in the Transitional Justice Process: The Case of the Grandmothers of Plaza de Mayo in Argentina,” *Intercultural Human Rights Law Review* 12 (2017): 1-70.

40 Juan E. Mendez, “Victims as Protagonists in Transitional Justice,” *International Journal of Transitional Justice* 10, no. 1 (2016): 1, 2-4. Mendez argues that states have a binding legal obligation under international law to investigate, prosecute, and punish gross human rights violations, and that victims must be treated as active participants in justice processes.

and institutional foundation that later enabled innovative proceedings such as the Armenian Genocide Truth Trial.

## Breaking Cycles of Impunity: The Hairabedian Case and the Judicial Recognition of the Armenian Genocide

The twentieth century is often described as the “century of genocides,”<sup>41</sup> beginning with the mass extermination of Christian minorities, particularly Armenians,<sup>42</sup> by the collapsing Ottoman Empire under the cover of World War I.<sup>43</sup> This event is widely recognized as a genocide by most global scholars, researchers, states, NGOs, the press, and numerous serious research organizations.<sup>44</sup> However, the perpetrator, or, more precisely, the successor state (the Republic of Turkey) of the one that perpetrated the crime (the Ottoman Empire), continues to deny its classification as genocide, allocating significant efforts to this denial.<sup>45</sup> This denialism has been compounded by recent political and financial support for Armenia’s adversaries, further harming the descendants of genocide survivors within

41 Some scholars contend that the first genocide of the twentieth century was the genocide of the Herero and Nama peoples, perpetrated by the German Empire in present-day Namibia. While the chronological debate over which atrocity constitutes the “first genocide” may be analytically superfluous, it nonetheless reveals a noteworthy pattern: in the cases of the Herero and Nama, the Armenian people, and the Holocaust, Germany has demonstrated a measure of historical accountability for its role in these atrocities. See Vahakn Dadrian, *German Responsibility in the Armenian Genocide: A Review of the Historical Evidence of German Complicity* (Watertown, MA: Blue Crane Books, 1996).

42 Raymond Kevorkian, *The Armenian Genocide: A Complete History* (London: I. B. Tauris, 2011), 71-85; Taner Akcam, *A Shameful Act: The Armenian Genocide and the Question of Turkish Responsibility* (New York: Henry Holt and Company, 2006), 4-9; Raphael Lemkin, *Manuscript Notes on the Armenian Genocide*, Box 2, Folder 7, Raphael Lemkin Collection, New York Public Library.

43 Akcam, *A Shameful Act*, 4-6; Raphael Lemkin, *Totally Unpublished Manuscript*, Box 2, Folder 7, Raphael Lemkin Collection, New York Public Library, (arguing that the Armenian Genocide was a central event that inspired his formulation of the term “genocide” in 1944 and his subsequent work on the Genocide Convention); Vahakn N. Dadrian, *The History of the Armenian Genocide: Ethnic Conflict from the Balkans to Anatolia to the Caucasus* (Oxford: Berghahn Books 1995); International Association of Genocide Scholars (IAGS), *Letter to Turkish Prime Minister Recep Tayyip Erdogan*, 13 June 2005, <https://www.genocidescholars.org> (affirming the Armenian Genocide and urging recognition by Turkey and declaring the mass killings of Christian minorities from 1915–1923 as genocide by over 80% of members).

44 Armenian National Institute, “Affirmation,” Armenian-Genocide.org, last updated 21 March 2022 (listing 795 official records, including state-level resolutions, laws, and declarations affirming the Armenian Genocide across national legislatures, international bodies, and local institutions) [https://www.armenian-genocide.org/News.380/current\\_category.186/press\\_detail.html](https://www.armenian-genocide.org/News.380/current_category.186/press_detail.html)?

45 Richard G. Hovannisian, “Denial of the Armenian Genocide 100 Years Later: The New Practitioners and Their Trade,” *Genocide Studies International* 9, no. 2 (2015): 228–247. See IAGS, *The Armenian Genocide Resolution Unanimously Passed by the Association of Genocide Scholars of North America* (June 13, 1997) (on file with author); A Century of Denial: The Armenian Genocide and the Ongoing Quest for Justice: Hearing Before the Comm’n on Sec. & Coop. in Eur., 114th Cong. (Apr. 23, 2015), <https://www.csce.gov>; See also *Altuğ Taner Akçam v. Turkey*, App. No. 27520/07, paras. 93–98, Eur. Ct. H.R. (2011) (holding that Turkey’s criminal prohibition on “insulting Turkishness” violated Article 10 of the European Convention on Human Rights, emphasizing the chilling effect on academic freedom and open discourse concerning the Armenian Genocide).

the Armenian diaspora.<sup>46</sup>

Almost a century after the Armenian Genocide, a remarkable shift in the fight against impunity occurred in Argentina through the Armenian Genocide Truth Trial. This was the first judicial proceeding in history to recognize the Armenian Genocide through a domestic court investigation grounded in the right to the truth.<sup>47</sup> Because it was impossible to prosecute those responsible for the Armenian Genocide directly, the case employed the innovative framework of the *Juicios por la Verdad* and the universal jurisdiction principle. These proceedings, which began in the same Federal Chamber of Buenos Aires where both the Juntas Trial and the *Juicios por la Verdad* in Buenos Aires city were held, offered a path toward justice and partial reparation.<sup>48</sup>

The Truth Trial of the Armenian Genocide emerged as a direct extension of Argentina's transitional justice innovations. In 2001, Argentine citizen Gregorio Hairabedian, the son of Armenian Genocide survivors, filed a petition before the Federal Criminal Chamber of Buenos Aires requesting a judicial investigation into the fate of his relatives, who had been deported from the towns of Palu and Zeitun in the Ottoman Empire and whose descendants later resettled in Córdoba, Argentina. Represented by his daughter, Luisa Hairabedian, he grounded the petition in the right to the truth, a legally enforceable guarantee under Article 75(22) of the Argentine Constitution and under international human rights law. The petition asked the judiciary to determine whether the mass atrocities committed by the Young Turk regime between 1915 and 1923 constituted genocide in the legal sense, and to establish, as far as possible, the fate of the Hairabedian family members who perished during those events. The prosecutor initially rejected the petition, asserting a lack of territorial jurisdiction because the crimes had occurred abroad, arguing that any potential claims were time-barred, and noting that the alleged perpetrators were no longer alive. However, the petitioners appealed, invoking the autonomous and imprescriptible nature of the right to

46 See Fabián Salvioli, Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence, *Preliminary Observations: Visit to Armenia (16 to 24 November 2023)*, U.N. Doc. A/HRC/56/CRP.2 (2023). This report offers a vital analytical bridge between the ongoing denial of the Armenian Genocide by Turkey and the contemporary crisis between Armenia and Azerbaijan over Nagorno-Karabakh. While the UN Special Rapporteur on Transitional Justice, Fabián Salvioli, does not explicitly name Turkey as a perpetrator of the 1915 genocide, his formal recognition of it as a historical atrocity constitutes a significant step in establishing legal and moral continuity. By situating Armenia's transitional justice needs within a broader narrative of unresolved historical crimes, the report helps contextualize how the legacy of unacknowledged atrocities, particularly the Armenian Genocide, has shaped the structural conditions that contribute to the repetition of mass violence today. See also Luis Moreno Ocampo, *Expert Opinion: The Blockade of Nagorno-Karabakh Is Genocide* (Center for Truth and Justice, 7 August, 2023,), <https://www.cftjustice.org/wp-content/uploads/2023/08/Moreno-Ocampo-Expert-Opinion.pdf>. See also Juan E. Mendez, *Preliminary Opinion on the Situation in Nagorno-Karabakh and on the Need for the International Community to Adopt Measures to Prevent Atrocity Crimes* (Center for Truth and Justice, 23 August, 2023), at <https://www.cftjustice.org/preliminary-opinion-on-the-situation-in-nagorno-karabakh-and-on-the-need-for-the-international-community-to-adopt-measures-to-prevent-atrocity-crimes/>.

47 Garibian, "Ghosts Also Die."

48 Declarative Resolution of Historic Events Known as Armenian Genocide – Years 1915/1923. The Armenian Genocide Truth Trial lacked both subject-matter jurisdiction and adjudicative competence to determine the international legal responsibility of the Republic of Turkey.

the truth and drawing on universal jurisdiction principles that had gained renewed force after the Pinochet arrest warrant. They argued that Argentina's judiciary possessed the authority to investigate gross human rights violations and especially genocide, regardless of where they were committed, when no other judicial forum existed, and when the absence of justice perpetuated ongoing harm.

In a decision that became central to the jurisprudential evolution of Argentina's transitional justice process, the Federal Criminal Chamber of Buenos Aires overturned the prosecutor's dismissal. The Chamber held that the judiciary was obligated to examine allegations of genocide within the framework of the right to the truth, even when atrocities occurred outside national territory and in a historical period long preceding contemporary legal mechanism. The Chamber grounded its reasoning in its own institutional history as the tribunal that conducted the Juntas Trial, in the subsequent *Juicios por la Verdad*, and in Argentina's constitutional and international obligations to investigate, clarify, and document serious human rights violations. In this decisive case the Chamber emphasized that denying access to truth would itself constitute a violation of Argentina's human rights commitments. It therefore ordered the opening of a full judicial investigation and assigned a federal judge to gather testimonial, documentary, and archival evidence.

Following the tragic death of Luisa Hairabedian in 2004, her family created the Fundación Luisa Hairabedian, which played a decisive role in sustaining and expanding the litigation. The Foundation coordinated the collection of survivor testimonies from the Armenian community in Argentina and facilitated the acquisition of archival evidence from Germany, France, the Vatican, Belgium, and the United States.<sup>49</sup> In response to judicial requests, the German Foreign Office produced extensive diplomatic archives documenting the systematic deportations and killings of Armenians and revealing explicit statements of intent by Ottoman authorities to eliminate the Armenian population.<sup>50</sup> These documents corroborated core elements of genocide under Article 2 of the 1948 Genocide Convention (killings, infliction of serious bodily and mental harm, deliberate creation of conditions of destruction, prevention of births, and forcible transfer of children) and provided compelling evidence of *dolus specialis*, as it was clarified in international jurisprudence of the ICTR and ICTY.<sup>51</sup>

49 During her lifetime, Luisa Hairabedian had contacted Professor Alejandro Schneider, a historian affiliated with the Oral History Program at the University of Buenos Aires (UBA), to collect oral testimonies of Armenian Genocide survivors residing in Argentina using academic oral history methodology. This effort led to the formation of an interdisciplinary team of young scholars who compiled survivor testimonies. These were subsequently submitted as evidence to the truth trial, alongside international documentation. Additionally, the court summoned various members of the Armenian community, primarily survivors and descendants, to testify in the Truth Trial. See generally Schneider, Alejandro Miguel, and Juan Pablo Artinian, *Las voces de los sobrevivientes: Testimonios sobre el genocidio armenio* (Buenos Aires, 2011).

50 Carlos Federico Gaitán Hairabedian, and Valeria Thus. "El juicio por el derecho a la verdad del Genocidio Armenio: Herramientas contra la negación, por la verdad y la justicia," *Bordes. Revista de Derecho, Política y Actualidad* (2018): 213–220.

51 *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, Judgment 498–523 (Int'l Crim. Trib. for Rwanda Sept. 2, 1998); *Prosecutor v. Rutaganda*, Case No. ICTR-96-3-T, Judgment 59–62 (Int'l Crim. Trib. for Rwanda Dec. 6, 1999); *Prosecutor v. Jelišić*, Case No. IT-95-10-T, Judgment 105–109 (Int'l Crim. Trib. for the Former Yugoslavia Sept. 2, 1999).

The judicial investigation proceeded over nearly a decade and operated as a paradigmatic instance of how the right to the truth functions as both a procedural mechanism and a form of symbolic reparation. Drawing on survivor testimony, historical documentation, international archives, expert reports,<sup>52</sup> and Argentine law that recognizes the Armenian Genocide through a legislative procedure,<sup>53</sup> the federal court concluded in April 2011 that the Ottoman Empire had committed the crime of genocide against the Armenian people between 1915 and 1923. It recognized the Hairabedian family as a victim of that genocide.<sup>54</sup> As the proceedings advanced, the court expanded the scope of the case beyond the fate of Gregorio Hairabedian's family. This was the first judicial determination worldwide affirming the legal character of the Armenian Genocide through a court-supervised evidentiary process rather than through legislative proclamation or diplomatic acknowledgment.

This proceeding thus represents a profound extension of Argentina's memory, truth, and justice paradigm. It demonstrates how domestic courts can operationalize international human rights law to address historical atrocities beyond their borders when impunity persists and no other judicial mechanism is available. It also illustrates how the right to the truth, which is central to the Argentine transitional justice process (ATJP), can serve as a vehicle for recognition, reparation, and norm generation, reinforcing a global legal framework in which genocide and crimes against humanity demand acknowledgment,

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via Dec. 14, 1999).

52 According to official documentation obtained from the German Ministry of Foreign Affairs, held by the Documentation Center of the Fundación Luisa Hairabedian, extermination orders targeting the Armenian people were issued in line with the expansionist project of Talaat Pasha, the Ottoman Minister of the Interior, with the support of the German Empire. This alliance laid a foundational ideological basis for Nazism and ultimately the Holocaust. See generally Stephan Ihrig, *Justifying Genocide: Germany and the Armenians from Bismarck to Hitler* (Cambridge, MA: Harvard University Press, 2016). The Fundación Luisa Hairabedian continues to promote the dissemination of the judgment and its broader implications for global human rights education and prevention. This work is carried out in collaboration with international partners through a range of legal, cultural, academic, and educational initiatives. Notably, the Foundation has maintained a long-standing role in the Genocide and Human Rights University Program at the University of Toronto, organized by the International Institute for Genocide and Human Rights Studies (a division of the Zoryan Institute) promoting a new generation of genocide scholars Latin America, see at <https://www.verdadyjusticia.org.ar>.

53 Argentina – National Law No. 26.199 (2006/2007): On 13 December 2006, the Argentine National Congress enacted Law No. 26.199, which was promulgated on 11 January 2007. The statute officially recognizes the Armenian Genocide and designates April 24 as the “Day of Action for Tolerance and Respect Among Peoples,” commemorating the genocide of the Armenian people. The law, passed by both chambers of Congress and signed by the President, promotes remembrance, public participation in commemorative acts, and invites provincial adherence. Although the title of the law refers to “tolerance and respect,” some Armenian community organizations criticized its ambiguity during the legislative campaign. Nevertheless, the statute clearly acknowledges the genocide. Notably, the Turkish Embassy in Argentina actively lobbied against its adoption in an effort to mitigate the law’s recognition of the Armenian Genocide. See Law No. 26.199, 11 January 2007, [Boletín Oficial de la República Argentina], <https://www.argentina.gob.ar/normativa/nacional/ley-26199-124099>.

54 As the case moved forward, the court widened its scope beyond the fate of Gregorio Hairabedian's family. What began as an individual petition grew into a proceeding similar to a class action. Major Armenian community organizations in Argentina not only supported the Hairabedian claim but also presented themselves as potential victims. They asked the judge to investigate not just a single family's history, but the fate of the Armenian people as a whole.

documentation, and accountability, irrespective of temporal or territorial distance. As Kathryn Sikkink has argued, Argentina's human rights trajectory transformed from that of a "pariah state" to a global protagonist in the promotion of human rights.<sup>55</sup>

The Argentine experience has helped build a legal ecosystem capable of reaching beyond national borders. In doing so, it has opened pathways for truth and accountability, offering long-denied recognition and forms of symbolic redress to descendants of genocide survivors. In this case, reparation assumed a fundamentally symbolic character, grounded in the satisfaction component of integral reparation under international human rights law. Satisfaction refers to the judicial acknowledgment of the genocide, the establishment of an authoritative historical record, and the formal validation of victims' narratives. These measures offered a form of justice to Armenian-Argentine descendants of genocide survivors by affirming their right to truth within a domestic judicial forum. Despite this broader representational character and the symbolic effect of the reparations, the judgment did not adjudicate Turkey's international responsibility, nor did it engage claims for material, economic, or territorial reparations. Those issues belong to a distinct legal plane involving inter-state responsibility. Because the Argentine proceeding did not compromise Turkey's state responsibility, it could not impose state-level reparations, even though its evidentiary findings and accountability reasoning may hold future relevance for other types of international or inter-state claims. The initiative thus remained a diaspora-led effort to secure access to justice for individuals and communities, while the question of reparations owed by Turkey to the Armenian state continues to rest within the domain of international responsibility.<sup>56</sup> These measures remedy decades of silence by providing what no international tribunal ever delivered for Armenians: a judicial finding that affirms responsibility and restores the dignity of survivors and their families.<sup>57</sup> This case illustrates how Argentina's unique model of transitional justice offers a powerful framework for confronting impunity, even in cases long denied by their perpetrators, demonstrating that transitional justice is not merely about addressing the past; it's about reshaping legal and moral expectations for the future.

The reception of the Hairabedian decision among different constituencies illustrates how the five pillars of transitional justice, truth, justice, reparation, guarantees of non-repetition, and memory, can operate beyond the territorial boundaries of the forum State. For Armenian descendants in Argentina, the judgment supplied authoritative judicial recognition of a historical truth long preserved within family memory, transforming intergenerational testimony into an officially validated narrative and confirming victims as protagonists of the process, consistent with Méndez's vision of victim-centered transitional justice.<sup>58</sup> Armenian communities worldwide, including actors in Armenia and

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55 Lessa, *Memory and Transitional Justice*.

56 Basic UN Principles and Guidelines, annex.

57 Garibian, "Ghosts Also Die."

58 "La Justicia argentina reconoció el genocidio del pueblo armenio," *Clarín*, 2 April 2011, at [https://www.clarin.com/sociedad/Justicia-argentina-reconocio-genocidio-armenio\\_0\\_HyL9FS4awQx.html](https://www.clarin.com/sociedad/Justicia-argentina-reconocio-genocidio-armenio_0_HyL9FS4awQx.html); "Turkey Slams

the broader diaspora, interpreted the ruling as a form of symbolic justice and satisfaction: even in the absence of surviving perpetrators subject to Argentine jurisdiction, the court affirmed the genocidal nature of the Ottoman-era violence and upheld the State's obligation to investigate and declare the truth, mirroring the "satisfaction" measures articulated in the UN Basic Principles on the Right to a Remedy and Reparation. At the same time, the decision strengthened communal identity and invigorated the educational, cultural, and legal initiatives of Armenian organizations in Argentina.<sup>59</sup> These groups have deployed the judgment as a human rights teaching tool and as a means of enhancing public visibility for Armenians as key actors within Argentina's broader human rights-enforcement community. By aligning themselves with the country's Transitional Justice Process, Armenian organizations emerged as social allies of the human rights movement and actively contributed to the evolving framework of truth, memory, and justice. In doing so, they bridged the history of the Armenian Genocide with the experiences of those affected by mass atrocities in Argentina, creating a shared narrative rooted in solidarity, rights protection, and collective remembrance.<sup>60</sup>

## Conclusion

The Hairabedian decision generated significant guarantees of non-repetition and contributed to Argentina's enduring commitment to truth-telling. By incorporating the Armenian Genocide into the country's transitional justice jurisprudence, the ruling reaffirmed an emerging global norm that mass atrocities must be confronted through law, public recognition, and durable memorial practices. Pope Francis's 2015 acknowledgment of the Armenian Genocide further reinforced this normative expectation, framing remembrance as an ethical imperative and promoting dialogue in societies divided by historical violence.<sup>61</sup> In a context of escalating regional conflicts and humanitarian risks, this convergence between judicial recognition and moral leadership underscores the contemporary relevance of the Truth Trial and demonstrates how courts, civil society, and

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Argentine Ruling on Armenian Genocide," *Radio Free Europe/Radio Liberty*, 5 April 2011, at <https://www.azatutyun.am/a/3546772.htm>.

59 AGBU, "Paths to Justice: The Armenian Journey in Argentina and Uruguay," <https://agbu.org/latin-american-armenian/paths-justice>; "97th Anniversary Commemoration of the Armenian Genocide in Montebello, California," *YouTube*, 28 April 2012, at <https://www.youtube.com/watch?v=6aQMq2E5MDQ>.

60 Gaitan Hairabedian, *El juicio por el derecho a la verdad del Genocidio Armenio*; Ministerio de Educación de la Nación, "Educar para no olvidar: El primer genocidio del siglo XX," at <https://continuemosestudiando.abc.gob.ar/contenido/educar-para-no-olvidar-el-primer-genocidio-del-siglo-xx/>; "Genocidio armenio: los hechos del pasado, las luchas del presente," at <https://www.educ.ar/recursos/158765/genocidio-armenio-los-hechos-del-pasado-las-luchas-del-prese>; Aprender, "Haciendo memoria del genocidio armenio," at <https://aprender.entrerios.edu.ar/haciendo-memoria-del-genocidio-armenio-1/>; Fundación Luisa Hairabedian Verdad y Justicia, "Programa educativo: Derechos Humanos y Genocidios," at <https://verdadyjusticia.org.ar/programa-educativo-derechos-humanos-y-genocidios/cuadernillo/>.

61 Pope Francis, "Homily of His Holiness Pope Francis," *VATICAN*, at [https://www.vatican.va/content/francesco/en/homilies/2015/documents/papa-francesco\\_20150412\\_omelia-fedeli-rito-armeno.html](https://www.vatican.va/content/francesco/en/homilies/2015/documents/papa-francesco_20150412_omelia-fedeli-rito-armeno.html).

religious actors can collectively shape a transnational architecture of prevention.

Comparative experiences, especially in Latin America, concerning the diverse domestic responses to the implementation of the Condor Plan,<sup>62</sup> highlight the importance of sustained accountability. Spain's post-Franco amnesties foreclosed judicial scrutiny of civil-war crimes for example; Brazil continues to face institutional resistance that entrenches impunity for dictatorship-era abuses. Colombia's Special Jurisdiction for Peace offers a more ambitious model,<sup>63</sup> yet its conditional amnesties raise concerns regarding alignment with international standards on accountability.<sup>64</sup> These variations confirm that transitional justice is not a uniform formula but a context-dependent legal framework grounded in universal principles of truth, justice, reparation, guarantees of non-repetition, and memory. While prosecutions remain essential to affirm victims' suffering and uphold the rule of law, they cannot alone remedy the structural harms embedded in societies marked by mass atrocity. As Whigham's work on resonant violence demonstrates, the legacies of repression persist across generations and require multidimensional responses.<sup>65</sup>

The Armenian diaspora in Argentina illustrates how domestic mechanisms can address unresolved historical harms beyond national borders.<sup>66</sup> The effectiveness of such measures, however, depends on their integration with international human rights law, an imperative rendered urgent by ongoing conflicts in the Caucasus and the Middle East. The ATJP demonstrates the capacity of domestic courts to operationalize international norms, provide recognition and partial reparation, and advance truth-seeking when global mechanisms falter.

Transitional justice should therefore be understood as a comprehensive project of democratic consolidation, atrocity prevention, and historical redress. Its progress is contingent upon political will, institutional resilience, and sustained civic engagement. Argentina's renewed prosecutions illustrate how criminal accountability can reinforce an integrated policy framework, consistent with the approach outlined by Pablo de Greiff during his mandate as UN Special Rapporteur. De Greiff argues that prosecutions must be

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62 Francesca Lessa, *The Condor Trials: Transnational Repression and Human Rights in South America* (Yale University Press, 2022).

63 For a detailed analysis of Spain's transitional justice process, see Felipe Gomez Isa, "Retos de la justicia transicional en contextos no transicionales. El caso español," in *Justicia de transición: el caso de España*, ed. Santiago Ripoll Carulla and Carlos Villan Duran (Barcelona: Institut Català Internacional per la Pau, 2012), 175-177. See also Spain, Law No. 52/2007 of December 26, 2007, *Boletín Oficial del Estado* No. 310 (December 27, 2007); and Spain, Law No. 20/2022 of October 19, 2022, *Boletín Oficial del Estado* No. 250 (October 20, 2022). See also Raphael Minder, "Argentine Judge Orders Arrest of Spanish Ex-Officials," *New York Times*, 1 November 2014, at <https://www.nytimes.com/2014/11/02/world/americas/argentine-judge-orders-arrest-of-spanish-ex-officials.html>.

64 Max Pensky, "After Impunity: The Anti-Impunity Norm, the Colombian Special Jurisdiction for Peace, and the Future of International Criminal Law," *Genocide Studies and Prevention* 18, no. 2. (2024): 46-62.

65 The infringement of fundamental human rights not only affects the descendants of genocide victims but also has broader societal implications. It contributes to ongoing challenges in confronting historical truth and leaves behind traces of resonant or "latent" violence. Kerry Whigham, *Resonant Violence: Affect, Memory, and Activism in Post-Genocide Societies* (New Brunswick, NJ: Rutgers University Press, 2022).

66 Artinian, "Between the Local and the Global South."

accompanied by truth-seeking, reparations, and institutional reform, and that prioritization, transparency, and meaningful victim participation are essential to maintaining public trust. Argentina's reparations policies, memory sites,<sup>67</sup> educational initiatives, and symbolic measures reflect this holistic vision, embedding the intertwined implementation of the five pillars of transitional justice as structural components of democratic life. As both De Greiff and his successor Fabián Salvioli maintain, collective memory functions not merely as symbolic recognition but as an institutional safeguard against future abuses.

In conclusion, Argentina's experience in addressing state terrorism, recognizing the Armenian Genocide, and prosecuting gross human rights violations demonstrates how domestic legal systems, when aligned with international obligations, can break cycles of impunity and build resilient, rights-protective societies. Transitional justice, as a dynamic and evolving framework, must continue adapting to diverse legal and social contexts. Other societies still standing in the shadow of unpunished crimes may find a guiding light in Argentina's long and arduous pursuit of truth, justice, memory, and reparations. For those who continue to seek international recognition of the Armenian Genocide and the acknowledgment of state responsibility by Turkey, Argentina's experience offers more than a legal precedent. It offers a moral compass. It shows that even after generations of silence, suffering does not have to remain unnamed, and impunity is not eternal. By embracing these lessons, a path emerges toward dignity restored, history confronted, and the hope of a final end to the suffering and denial that have haunted the Armenian people for over a century.

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## About the Author

**Federico Gaitán Hairabedian** is an S.J.D. candidate at American University Washington College of Law, where he conducts doctoral research under the supervision of Professor Juan E. Méndez. He is an Argentine lawyer specializing in international human rights law, transitional justice, and the prevention of genocide and mass atrocities. He has participated in landmark accountability proceedings in Argentina, including the ESMA Megatrial, and has worked extensively on the judicial recognition of the Armenian Genocide through the right to truth and universal jurisdiction. His research focuses on the interaction between domestic prosecutions, international human rights law, and global norm-development in post-atrocity contexts.

Email: federicogaitan0@gmail.com

ORCID iD: <https://orcid.org/0000-0002-9880-049X>