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Nunca Más: Rhetoric of Human Rights and Democracy in Post-Authoritarian Argentina

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Nunca Más: Rhetoric of Human Rights and Democracy in
Post-Authoritarian Argentina

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INTRODUCTION

Throughout the last quarter of the 20th century, and particularly in the 1990s, many parts of the world were faced with how they were to conceptualize human rights. South Africa abolished apartheid and officially acknowledged its damaging effects; Rwanda experienced a horrific genocide of the Tutsi at the hands of the Hutu; the Bosnian War led to a period of ethnic cleansing of Muslim Bosnians; Cambodia underwent a period of genocide carried out by the Khmer Rouge regime; and nearly all of Latin America's democratic regimes were toppled in coup d'états that led to lengthy, repressive military dictatorships. Many regions and nations across the globe witnessed people suffer unimaginable horrors at the hands of their governments and their fellow citizens. Some of these conflicts found their roots in the ideological conflicts that characterized the Cold War, while others had their origins in internal disputes and tensions that were unrelated to any sort of superpower rivalry. Regardless of the source of these conflicts, by the time they ended, the world was forced to pause and reevaluate what was meant by "human rights": What are human rights? What did it mean to protect human rights? What did it mean to violate a human right? How did this violation or protection change the way members of society viewed themselves and each other? How do we establish a respect for human rights that ensures these horrors never reoccur?

Among these questions of human rights, there were also questions for those nations and societies that were undergoing a change in regime as well. For many nations in Latin America, authoritarianism and severe human rights violations were carried out by military governments under the guise of protecting their countries from Marxist subversion. When these military dictatorships had run their course and civilian rule had returned, these nations were faced with another set of conundrums: What is democracy? What does it mean to operate democratically?

How does a nation establish democratic norms and faith in democratic governance in the wake of a repressive regime? And most importantly, what responsibility does democracy have to upholding human rights and achieving reconciliation after a period of conflict?

It is with these contemplations in mind that this thesis moves forward with two broader questions: following a period of authoritarianism rife with human rights violations, how does a transitional democracy establish norms upholding democracy and human rights? Moreover, what are the long-term impacts and implications of this establishment of norms? I believe that these questions are integral to understanding the way methods and goals of transition are framed during a regime transition and beyond. The period of democratic transition is a delicate yet highly influential one. It is a time for a nation to reevaluate itself and decide what it does and does not want to embody; it is a point at which a nation can decide to break with or continue certain historical patterns.

Specifically in the context of a democratic transition coinciding with a period of post-conflict transitional justice,¹ a period of political transition serves as a time in which a society and a state can come together and discuss the ways human rights and democratic principles should overlap going forward, and how that should be politically expressed. New definitions of various concepts such as justice, truth, and reconciliation are formulated at this time, which are used to guide the nation forward as it seeks to create a new democratic environment in which human rights are protected in a certain way. Despite the clear importance of these ideological reformulations, much of the current scholarly work on democratic transitions and transitional justice predominantly focus on the role of institutions and institutional strength in establishing certain norms (Munck 1989; Domínguez and Shifter 2008; Smith 2012; Levine and Molina

¹ Which is often the case.

2011; O'Donnell, Schmitter, and Whitehead 1993; Levitsky and Murillo 2005). Similarly, although transitional justice scholarship has done more to probe the importance of rhetoric, there is still an overwhelming tendency to rely on the strength of democratic institutions² as the primary explanatory variable for the choice of certain transitional justice mechanisms and their subsequent success (MacAuliffe 2017; Mihai 2010; Sikkink and Walling 2007). The prevailing assumption is that institutional strength determines the success or smoothness of a democratic transition, and in turn the types of transitional justice mechanisms that will be utilized. In other words, if democratic institutions are strong, the democratic transition will transpire rather easily, and there will be more support for upholding democratic norms; similarly, if institutional strength is high during the period of transition, more elaborate transitional justice mechanisms will be utilized.

Reflective of much of current research in political science, the analysis of rhetoric as an explanatory variable rather than a byproduct of other political forces has been left by the wayside (Finlayson 2004). The research here proposes that the study of rhetorical and discursive patterns has much to contribute to the discussion of transitional democracy, transitional justice, and the ways they merge and interact. Focus on institutions alone implies that norms and political consciousness are informed by institutional action in a unidirectional way, leaving no room for a symbiotic perspective. In a similar vein, it does not answer the question of why certain transitional justice mechanisms are not carried out everywhere once institutions attain a certain level of strength. The way institutions operate and whether they are even defined as being strong or weak in the first place is dependent on the pre-established democratic norms. This leaves us

² It is crucial to note that throughout this essay, references to institutions refers to formal, structured, administrative state organizations such as courts, legislatures, and bureaucracies. The use of the term institutions here does not refer to ontological institutions such as the institution of human rights.

with the question of how these norms are produced and reproduced. It is through rhetoric as a method of analysis (tracing how democratic norms and principles are conceived of and maintained over time, which I call rhetorical carbon dating) and as an explanatory variable (rhetoric being the source of these norms and principles being developed) that a greater understanding of the overlap between democracy and human rights can be achieved.

I argue that in the case of Argentina, rather than through institutional strength alone, it was specific patterns of rhetoric that framed and contributed to the national understanding of transitional justice, transitional democracy, and the norms surrounding them. Furthermore, as my analysis shows, the rhetorical patterns established during the period of transition have had an enduring legacy in the way Argentina understands the relationship between human rights and democracy.

This thesis is divided into the following four sections: theory; methodology; rhetorical analysis; and discussion and conclusion. In the chapter on theory, I present a literature review of current theories related to transitional democracy, transitional justice, and rhetoric. I demonstrate the gaps within current transitional justice and transitional democracy theory that can be filled by what rhetorical theory has to offer. The following chapter lays out my methodology, such as the decisions behind my case and document selections. I also go over my guidelines for how I approach analyzing the rhetoric of each document, with much reference being made to Campbell and Burkholder's second edition of *Critiques of Contemporary Rhetoric* (1997). The next chapter deals with the actual analysis of various documents, focusing the heart of my analysis on speeches made by Argentina's presidents from 1983 to 2015. Lastly, I conclude with a summary of the implications and takeaways of my analysis, and what this thesis contributes to political

science, specifically to the discussions on democracy and human rights. I also point to how further research can build upon the relationships found here.

THEORETICAL FOUNDATIONS

Democratic transition and transitional justice are two processes that typically accompany one another, as the prevalence of the word “transition” might suggest. In part because of this association, the quality, implementation, and timeline of certain transitional justice practices is often assumed to be dependent on the democratic transition. This is reflected within transitional justice and democratic transition scholarship believes that the successful implementation of transitional justice methods depends on the strength of democratic institutions (Dominguez and Shifter 2008; O’Donnell 1994; Levine and Molina 2011). Much of the current scholarship focuses heavily on how institutional strength is the ultimate determinant for whether a transitional democracy will achieve consolidation or not, and similarly how transitional justice mechanisms will play out. Furthermore, there is concern that certain transitional justice mechanisms—namely truth commissions and domestic trials—may jeopardize the stability of the fledgling democratic regime in addition to threatening eventual consolidation (Sikkink and Walling 2007, 429). While institutional behavior is an important component of both areas, this singular link is limiting; this becomes evident when looking at Argentina’s rhetorical use of principles of democracy and human rights despite its historically weak institutions.

Transitional justice and transitional democracy are linked by more than institutional processes; they are also deeply connected by the rhetoric that pervades them. While institutional strength does have a significant role in the extent to which transitional states are able to implement and further bureaucratize transitional justice mechanisms, it is the rhetoric surrounding the overlap between democracy and human rights policy that has lasting impacts on how the state and society will view the relationship between democracy and human rights going forward. An overzealous focus on the role of institutions and state mechanisms is problematic in

the sense that transitional justice and the very concept of human rights becomes bureaucratized and limited by time, pre-established goals, and conceptions of justice regarding the way that it can be carried out through official state action. MacAuliffe (2017) explains, the use of the term “post-conflict” to describe the transitional democracy and transitional justice process reflects this dilemma, since it implies “an uncomplicated trajectory from violent insecurity to pacific stability...There are no fixed boundaries between conflict and post-conflict” (5). Taking this into consideration, it is imperative to move beyond the focus on time constraining effects of institutional development.

Conceptualizations of what human rights are, how they should be protected, the connection they have to democracy, and how the state should be connected to them that ultimately influence the way institutions behave and the way that they implement human rights policy. While institutional capabilities may have some influence on the conceptualization of human rights as policy in the immediacy of a democratic transition, it is the rhetoric of human rights and its relation to democratic governance that will have long term influence in conceptualizing the relationship between democracy and human rights.

The role of institutions should not be discredited. States are very much judged on how they operate; it’s not just what is said, but what is done. However, it should be acknowledged that how they define long term goals and the responsibility the government and society have to achieving those goals is equally important in the establishment of norms and understanding of democracy. As previously mentioned, this paper aims to push away from the notion that political strength and endurance regarding transitional justice and transitional democracies are only affected by the stability of democratic institutions. Though institutional strength can influence short-term “official” action, it does not account for the maintenance of long term beliefs. To see

how institutions have become so deeply embedded in political theory regarding regime change and the reconstruction of post-conflict societies, one must turn to the theory of democratic transition.

Transitional Democracy

To understand the theory behind democratic transition, it is important to first conceptualize what democratic transition is and why it matters. In the most simplistic of terms, transition is the period of change between regimes. Consequently, democratic transition is the shift from a non-democratic regime to a democratic one. Transitions are important to the long term political character of a nation, as the transition can “set a society on a path that shapes its subsequent political development” (Munck and Leff 1997, 343). Democratic theory and transition theory emphasize the importance on how the transition manifests itself. There is an overwhelming belief that “transitions matter because they generate fairly durable legacies that affect the posttransitional regime and politics” (Munck and Leff 1997, 345). By this, the scholarship is referring to the many variables involved in a regime change, from the first discussions of transition to consolidation, and how they ultimately alter the robustness and development of a democratic regime. From this perspective we can see how certain language, perspective, and norms can also create legacies, particularly during transitional regimes.

Of these many variables, much of the literature on democratic transition emphasizes the importance of two things: the actors involved and the method of transition. There is a variety of actors that can be involved in the transition process at varying degrees: this includes sectors of civil society, such as workers’ unions and human rights groups; incumbent elites, including the military officials currently in control; and the anti-incumbent elites, such as multiparty alliances

that intend to take political control and steer the state away from authoritarianism and towards democratization. Political actors during the transition are particularly important in that there can be lasting impacts stemming from the images and narratives they create about a nation's past and future, particularly a nation's relationship to human rights and democracy.

Once the actors involved in a transition are identified, much scholarly emphasis is put on the importance of methods of transition. There are many different ways a transitional democracy can take shape, with variability coming in many shapes and forms. One of the sources of this variation comes from the nature of the authoritarian regime. In the case of Argentina, a military coup led to a military dictatorship where a junta headed the institutional regimes. However, this institutional authoritarian regime was different from prior dictatorships in the sense that it was what Guillermo O'Donnell (1994) calls a bureaucratic-authoritarian regime. These regimes were "initiated and led by the military" and "claimed to pursue missions of national redemption" by engaging in severe repression and creating a culture of fear based on murder, torture, and disappearance of so-called dissidents that the military believed were a threat to the Western Christian way of life in *la patria* (Smith 2012, 46). Part of the military's legacy and method of legitimizing their repression was through the use of powerful, dehumanizing language. Considering that rhetorical patterns were central to an authoritarian regime's governance, it follows that specific uses of rhetoric would be just as important to a transitional democracy.

This already proves to be an obstacle to future democratization, as democratic transition can only occur if and when the authoritarian regime before it comes to a close. This is difficult to do, considering that the reasons most bureaucratic-military regimes come to power in the first place is a lack of faith in civilian government: "If existing policies seemed in anyway ineffective or unsuitable, the high command would feel not only justified but *obligated* to seize power. It

was their duty to *la patria*” (Smith 2012, 84). Seeing how the rhetoric of a mission to save the nation was part of how the dictatorship viewed itself, it logically leads that a transitional democracy’s own rhetorical narrative would serve just as much purpose.

Argentina underwent a pacted transition, known for its complex arrangements in which the outgoing military regime and the incoming democratic government must negotiate what compromises must be made by both sides in order for the transfer of power to go as smoothly as possible. The agreements surrounding the transition itself focused mainly on electoral, economic, and institutional guarantees (Smith 2012, 66). However, especially in terms of transitional justice processes, the negotiating and bargaining would continue to be a prominent political issue for the transitional democracy. As sections on transitional justice processes specifically will further detail, amnesty was a critical part of these negotiations. In these negotiations, there were also no limits imposed on how certain transitional ideas or goals were to be talked about; there was solely a focus on institutions. In this way, assertion of rhetorical norms acted almost as a loophole to avoid direct confrontation.

Another problem that transitional democracies borne of pacted transitions face is the fact that militaries do not simply disappear at the end of their dictatorships. As Smith (2015) explains, the military “had a ready exit: They could return to the barracks...More than any other autocrats, military rulers had a place to go” (63). This is a barrier to the possibility of sweeping change in pacted *reforma* transitions such as the ones in Argentina. The military continued to exist as an institution even after they relinquished their grip on politics. They could “return to the barracks” and thus reinstate their position as the armed forces of the new democracy. In this sense, the military becomes the first officially established institution to be created by the new democracy. This fact adds to the problematic perspective of focusing solely on the power and

stability of institutions as the signifier of a democracy's strength and stability: how can one reconcile the fact that the strongest institution at the beginning of a democratic transition is the very group that represents the opposite of democratic rule?

Thus, one of the earliest dilemmas of transitional democracies in these situations is the focus on establishing control of the military to ensure proper defense of the nation while staving off any possibility of a coup. However, while the democratic government wanted to impose significant control over their armed forces, the military itself wanted to maintain a significant portion of the autonomy they had grown accustomed to while in full control of the nation (Smith 2012, 89). This is one of the many difficulties faced by new democracies that follow military led authoritarianism. Transitional democracies are forced to walk this fine line between appeasing the military and appeasing civil society. To displease the military is to risk a coup, but to submit to their every whim is to lose credibility with civil society. It is reasonable to believe, then, that rhetoric would advocate certain beliefs and norms that could be carried forward and be enacted during a more appropriate opportunity in terms of institutional ability for action. Argentina exemplifies this in the way that human rights trials were put "on hold" in the late 1980s, but were restarted again in the early 2000s.

There are many determinants regarding what will make or break a new democratic regime in terms of its ability to develop itself in the face of possible obstacles. Juan Linz and Alfred Stepan (1996) have conceived theories of transitional democracy that place central focus on the power of institutions and the rule of law. They describe the most important building blocks of a successful transitional democracy are "the construction of civil society, constitutionalism and rule of law, professional norms of the bureaucracy, economic society, and political institutions from a very low base" (56). Linz and Stepan (1996) also argue that it is the

military's involvement in the transfer of power that is in large part the determining factor of when and to what degree transitional democracy will be able to establish these institutions (67). Here there is a clear emphasis on constructing the physical manifestations of democracy. There is no mention here of the relevance of cultivating democratic ideology and norms through specific rhetoric. Especially following a dictatorship wrought with human rights abuses, the use of rhetoric to make clear the intentions of the new democracy in upholding human rights by breaking with the wrongs of the previous regime are significant in drawing a distinction between what the state once was and what it intends to be going forward. Part of the difficulties that post-military dictatorial transitional democracies must face, and indeed what many transitional democracies in Latin America experienced in the latter half of the 20th century, is maintaining a balance between the threat of the military and ensuring that the citizenry continues to have faith in the strength and reliability of democracy as a form of government (Linz and Stepan 1996, 67). By looking beyond short term institutional action and focusing on rhetoric that can influence norms and understanding in the future, this balance can be maintained.

In delicate situations such as these, it is obvious that instilling ideas of adherence to democratic principles and the respect of human rights is extremely important when any definitive action may result in another coup. As Mihaï (2010) explains, "Democratic shifts need the backing of a supportive political and emotional culture" such as "mutual respect, the willingness to listen, to exchange arguments, and to include the points of view of all affected, tolerance, and social trust" which are typically missing from the oppressive authoritarianism that precedes it (193). It is important that the incoming democratic regime make it clear that justice is a democratic principle that will be upheld by normalizing the idea that all citizens have a voice and should use it, even if they were victims in another time or place. For many upset by human rights

abuses, there is a hope and, to a degree an expectation, that the new democracy will do something to help with reconciliation, whether that procedural justice, memorialization, or aid in “letting go”.

When focusing only on the role of the military in the transition, the chain reaction hypothesis stating military strength and involvement in the transition ultimately affects the ability to create strong democratic institutions makes logical sense. If a military-as-government decides to return to military-as-institution but retains a certain level of power during the events leading up to, during, and after the transfer, they will be able to use that power to their advantage. Their influence will allow them to protect the perpetrators within their ranks, such as bargaining for amnesty in exchange for an unthreatened return to democratic rule. This process has been seen in many post-conflict societies in the latter half of the 20th century, a key example being Argentina. However, as with most political phenomena, it would be erroneous to assume a simple cause-to-effect relationship, especially in regards to the development of transitional justice procedures and human rights policies. It would be just as much a mistake to discount the role military influence can play in these processes; still, methods of transitional justice and understandings of human rights cannot be explained by this factor alone. Although military power can affect how and to what degree a transitional democracy could implement their transitional justice policies and redefine the state’s goals within a short term timeline, it does not answer the question of what the desired transitional justice policies and state goals will be. The ideal transitional justice policies, regardless of whether they will be successfully implemented in the short term, will be heavily influenced by the rhetoric and norms of human rights that a state decides are fundamental and the responsibility of the state to uphold; this can allow for potential

future change and policy implementation based on the norms, ideas, and views that have been reproduced since the transition.

There is a prevailing assumption that institutions and legislation must build off of one another on the foundations of reasoned and logical deliberation and action. In terms of establishing a new democratic regime in the wake of authoritarian dictatorship, logical and procedural action are naturally to be preferred so as to establish a functioning democratic government as soon as possible. However, human rights and redressing human rights abuses in particular are not strictly logical processes. As Arabella Lyon (2013) explains, “human rights deliberations are difficult because they are deliberations across extreme difference, troubled by recognitions, competing values, and political hegemonies” (3). Emotionality is a key part of acknowledging and redressing the grievances of victims who have been marginalized by the heinous acts of the perpetrators, in these cases, the dictatorial regimes. The healing process of transitional justice must counteract various levels of damage: the logical incongruence of a government harming its citizens; the emotional damage caused by harm inflicted by humans onto humans; and the rhetorical damage done through the dehumanizing language of the dictatorial campaign when referring to its victims. Additionally, the transitional justice process will take time; transitional justice should also be considered a lifelong process if a community is to truly ensure that conflict doesn’t occur again. In his analysis of post-communist Poland, Aleks Szczerbiak (2015) emphasizes the significance of “normative factors and the extent to which the motives of those pushing for transitional justice may have been genuinely programmatically and ideologically driven more than [having been] rooted in strategic considerations” (61). The institutional processes of transitional justice and the legislative frameworks that outline them in

the first place are based in the norms and rhetoric that shape a nation's understanding of human rights; the importance of ideology and framing cannot be discredited.

Transitional Justice

It is important to firstly conceptualize transitional justice and the purpose it serves before analyzing particular mechanisms. It is especially important to understand that not all post-conflict societies view transitional justice the same way, and different methodologies will be more beneficial depending on the cultural context and ultimate goals of the post-conflict society. Because not every nation views the relation between human rights and democracy the same, as we will see, this is an important concept to consider. In the broadest sense of the term, transitional justice as a concept is centered on answering “questions of what reconstructive objectives post-conflict societies should pursue and how they should pursue them” (Clark 2009, 191). Transitional justice is the process by which these post-conflict societies identify, define, and come to terms with the period of mass violence and collectively decide how society and the state should come to understand and reconstruct itself in light of this historically defining moment. From this perspective, it is clear how transitional democracies are entwined in the process of transitional justice: both aim to shift from an unpleasant past to a more pleasant future; transition is the optimum time to achieve this goal.

The use of the term “transitional justice” is a complex one, as it is temporally limited. Mihai (2010) explains that “post-conflict justice” or “post-violence justice” are “more appropriate...for the processes of accountability and reconciliation chosen in the aftermath of traumatic violence” (184). While the use of the term “transitional justice” denotes that it

typically accompanies the transitional democracy process, it limits the time frame in which justice can be pursued. At a certain point, democratic transition comes to an end and, ideally, democracy is consolidated. Transitional justice, on the other hand, is a process that can never be considered truly finished, in that the production and reproduction of truth and memory never have ends. Transitional justice, when it seeks to preserve collective memory, includes the continuous act of remembering and disallowing the period of conflict to fall into the oblivion of the past. There is additionally a concern that other transitional justice mechanisms, unlike memory, are limited in terms of time; this is not so. As the Argentine case will demonstrate, transitional justice is an enduring process; as long as people continue to talk about all the aspects of conflict and reconciliation, it continues. Although this paper will continue to use the term “transitional justice” for the sake of simplicity, it is important to recognize where the terminology falls short.

In the scholarship and practice of transitional justice, there are several key themes that are central to any post-conflict society coming to terms with their history of mass violence: justice, truth, reconciliation, peace, healing, and forgiveness. The feasibility and assigned importance of each of these themes will vary depending on the social, political, and economic contexts of each post-conflict society. Clark (2009) states that all post-conflict societies are faced with two fundamental questions regarding how to proceed in terms of outlining goals and choosing transitional justice mechanisms: “First, is it necessary and feasible to punish the perpetrators of mass crimes? Second, if it is necessary and feasible...what is punishment designed to achieve?” (192). For the first question, feasibility can range from stability of the incoming regime, potential threats regarding a return to violent conflict such as via a coup, or financial flexibility. For the second question, punishment can serve various purposes, depending on how society and the state

view its relation to aiding reconciliation. Different forms of punishment will lead to different outcomes and will affect certain ideas of how human rights are best protected. . This brings us to a central part of understanding transitional justice theoretically and practically: justice.

Clark (2009) explains that there are three main forms of justice that a post-conflict society can choose to pursue: retributive, deterrent, and restorative. Retributive justice, according to Clark (2009), “holds that perpetrators must be punished” and that must be held accountable and get “what they supposedly ‘deserve’” (197). This more litigious view of justice as crime-and-punishment is based on the definition of justice as being the logical conclusion to the breaking of pre-established laws. In the case of human rights violations, this would entail standing trial, presenting and contesting evidence, and receiving sufficient punishment for the crimes for which they are found guilty, typically through jail time. As will later be evidenced in the analysis of the UN Universal Declaration on Human rights, this is reflected in the international understanding of human rights. The deterrent perspective on justice “holds that punishment is necessary... [to] help discourage a convicted perpetrator from committing another crime...and also to discourage current or potential criminals” (Clark 2009, 197). Contrary to retributive justice which asserts that punishment for a crime and the establishment of the rule of law is the ultimate goal, deterrent justice views it as a means to an end. This conception of justice takes the actions of society rather than individuals into regard; retributive justice views justice as necessary to teach a lesson to a violator of the law, while deterrent justice is more focused on instructing society as a whole to behave a certain way going forward.

Without punishment, there is no negative incentive to keep society from committing the same crime over and over again. Lastly, restorative justice advocates that “punishment of criminals is necessary but should be facilitated in ways that allow perpetrators and victims to

rebuild relationships... In the case of mass crimes such as genocide, restorative justice often views the reconciliation of entire communities as the ultimate objective” (Clark 2009, 198). This definition of justice sees crimes not only as the violation of legally ordained rules, but as the violation of the relationship between two individuals by one person acting violently against another. This definition of justice looks the farthest into the future in regards to how society will rebuild itself; beyond setting precedents for the state’s legal response to crime and the motivation for punishment, the restorative approach defines justice as the method by which the criminal and the victim reestablish a relationship as members of a common society. It does not advocate for the disregarding of crimes, but rather having an open dialogue on how to rebuild with the crime forming a part of the history between two groups or individuals. It should be noted that none of these types of justice need to be pursued in isolation, and often times all three versions manifest themselves in different ways. However, all are dependent on the significantly different conceptualizations of one thing: justice

Already from looking at the variation in definitions of justice, it can be seen how rhetoric is important. Restorative justice in particular puts an emphasis on dialogue and communication, and all three set a precedent for how a nation will view justice’s purpose and how it will look as a process. How a state defines justice and attempts to pursue it in the immediate aftermath of widespread violence can have lasting effects on how justice is viewed and carried out going forward. For example, if justice is viewed as punishing perpetrators in a court of law, then policies and norms will reflect that. With definitions of justice as an example, it is clear how rhetoric regarding human rights more broadly can have a similar impact on long term understandings.

The second transitional justice topic to look at is closely related to justice: the subject of truth. Clark (2009) observes that “truth after conflict relates to people’s understandings of what occurred during periods of mass violence” (203). Truth in this context does not just mean having a clear, agreed upon understanding of *what* happened, but to also understand *how* it happened the way it did, and *why* it happened in the first place. It also means making clear what did not happen; in the case of Argentina, this meant refuting that the human rights violations instigated by military were in any way justified. Truth in the context of transitional justice is difficult in the sense that there are problems in trying to identify a single, all-encompassing truth that includes the memories and experiences of all those involved: “...attempts to produce an account of the past that will adequately represent, and be acceptable to, all individuals and groups who engage in the post-conflict truth process are inherently limited and likely to prove acrimonious” (Clark 2009, 203). The problem of defining the truth of a period of mass violence is that the story itself is based on senseless violence; to try and derive meaning or come up with explanations for horrendous human rights violations will always prove exceedingly difficult if not altogether impossible. What’s more, many of the Truth Commissions in the Southern Cone—state-organized groups tasked with creating a unified truth—have relied on aggregated testimony from thousands of individuals. To try and create a national facts-centered narrative based on the deeply traumatizing and emotional experiences of thousands of people is an incredibly difficult task to take on, and one that will most likely be contested by many.

There are three areas of truth as transitional justice according to Clark (2009): truth-telling, truth hearing, and truth-shaping. Truth-telling is rather self-explanatory, as it involves the public recitation of what happened with the ultimate goal being to provide legal evidence and/or serve as a mode of catharsis (204). Truth-hearing refers to the willingness of the public to receive

the truth that is being told, as different groups or sectors of society will have different responses to the emotional accounts that are part of the evidentiary and cathartic processes (204). Lastly truth-shaping refers to “the ways in which parties external to the initial truth-telling and truth hearing receive and re-mold evidence” (204). This aspect of truth can be misused and manipulative depending on who is using these narratives and how. In particular, historians and political officials may use these testimonies and personal histories to reconstruct the truth to serve their own interests, contrary to what the original participants may have wanted regarding the use of their testimony.

Perhaps the most complex part of transitional justice is reconciliation. Clark (2009) remarks that, broadly, “reconciliation involves the rebuilding of fractured individual and communal relationships” focused on “encouraging meaningful interaction and cooperation between former antagonists” (194). Reconciliation is more than a peaceful cohabitation of the same space, a situation in which the parties may simply avoid each other and the topic of conflict rather than attempt to mend and reconstruct relationships; it requires “individuals and groups to interact and cooperate in often difficult circumstances” as it must “honestly and directly address the root causes of conflict, and the overwhelming feelings of grievance and anger” (194). Much transitional justice scholarship views reconciliation as the ultimate and most difficult goal to be achieved in the transitional justice process, and indeed it requires a lot of time and energy. Reconciliation aims to bring perpetrators, victims, and bystanders together to acknowledge what happened and the emotional effects of violence, both individual and collective, and incorporate that understanding into the reconstruction of social relationships. The best way to achieve reconciliation will vary; reconciliation may mean leaving certain aspects in the past in order to

not reopen old wounds, or it may mean confronting all aspects of the past despite the emotional turmoil of doing so.

The last three aspects of transitional justice are similar, though they differ in key ways: peace, healing, and forgiveness. It is generally understood that peace is a prerequisite to most transitional justice processes, as the continuation of violence inhibits most other processes, reconciliation especially. Healing focuses on the well-being of “traumatized individuals” who “may need to overcome feelings of anguish, loss, or hatred toward others before they can feel ready to reconcile with them” (195). Healing is a predominantly personal and individualized experience based on the traumas that each person experienced. However, groups and communities can go through processes of healing together based on mutually experienced traumas. Forgiveness is one of the more controversial transitional justice topics. There is a fear that, besides having predominantly Christian overtones to it that isolate many sectors of the world, forgiveness makes way for amnesty, impunity, and intentional forgetting. To be conducive to the rebuilding of a post-conflict society, forgiveness in the context of transitional justice “requires active, sometimes public acknowledgement of crimes committed, [that] leaves open the possibility that victims will seek redress from perpetrators and perhaps insist on punishing them” (Clark 2009, 202). How forgiveness is meant to operate in the context of a post-conflict society, then, is that it is meant to give power and agency to the victims: it is ultimately up to them as individuals to forgive or not forgive perpetrators, nor can it be forced, and forgiveness does not in any way mean that they are absolved of their crimes or free from punishment. What’s more, it is important to acknowledge that forgiveness in no way requires or guarantees that parties will reconcile.

From these understanding of the two concepts, transitional justice and transitional democracies are very closely intertwined. By operating with each other, transitional justice and transitional democracies are able to strengthen the integrity and long-term staying power of each other through the principle of liberty. MacAuliffe (2017) observes that “democracy was conceived as tolerant, rights-based and protective of economic and political freedoms, and transitional justice was believed to help usher it in by drawing a line in the sand between the regimes” (36). Transitional justice is able to demarcate between the previous oppressive regime and the new democratic regime by setting a precedent for what the latter intends to center itself on: rights. Furthermore, democracy acts as a platform for transitional justice methods to be implemented with input from the civic body it intends to serve. In this way, the two processes are reliant on one another in the shared goal of a future that has a central focus on undeniable rights.

Rhetoric

Knowing what we know about transitional justice and transitional democracy, we can see that norms and conceptualizations are central underlying components of both processes. However, not much has been done to explore such a relationship. The goal should not be to make an assertion or claim that transitional processes and the establishment of certain norms are inherently related; rather the goal is to show that there is a symbiotic relationship developed between them that comes from a state and society’s assumptions about democracy and human rights’ relation to each other.

Campbell and Burkholder (1997) define rhetoric as “persuasive discourses, written and oral, encountered face-to-face or through the electronic or print media, that seek to affect

attitudes and actions” (3). Throughout this thesis, this is the definition that will be used when discussing rhetoric. A key element particularly relevant to this essay is the fact that rhetoric focuses on “the values that individuals should adopt, the implications of those values, and the means or policies individuals and societies should enact to express or attain those values” (4). Rhetoric is utilized with the intention of influencing norms of behavior and perception, something that is central during a transitional political period. A transitional democracy must outline why democracy is the preferable style of governance, explain what democracy aims to do and how it will effectively do so, and convince various sectors of society that adhering to the rules of the democratic game is in everyone’s best interest. In the wake of brutal authoritarianism, this is especially important when trying to convince a society to have faith in their state at all; this faith in democracy can in part be established by connecting it to a dedication to human rights.

Krebs and Jackson (2007) observe that rhetoric has tended to play a secondary role in political analysis, although there is beginning to be a shift. They observe that much of political analysis is focused on ideas, with rhetoric being largely ignored beyond how the words “reflect actors’ true beliefs, with private statements seen as more revealing than public pronouncements,” (37). This is problematic due to the fact that rhetoric is the fundamental base for the communication of thoughts, ideas, and conceptualizations between individuals and groups of people. As Finlayson (2004) explains, “In order to explain some aspects of political and policy change within and around government, one needs to understand the role of ideas” (530). He advocates for a world in which political science “[conceives] of politics through, rather than in spite of, its rhetorical nature” (Finlayson 2004, 529). Understanding, discussing, and analyzing politics within the field of political science is undeniably predicated on having common

definitions for terms; this is true not only for political science but for all realms of academia and indeed for basic human communication. It is with this understanding that rhetoric must be included not only as a methodology but as an explanatory variable as well in the political analysis of human rights and democracy.

Rhetoric deconstructs, constructs, produces, and reproduces the world as experienced by the orator and their audience. The words, phrases, definitions, and ideas that make up a social lexicon are responsible for creating the concepts and actions they aim to describe. Rhetoric can be used to erase certain experiences or ideas by limiting how they are discussed; similarly, rhetoric can open up the way certain events and notions can be understood and acknowledged by broadening the terminologies and conceptualizations that are available in the discourse. Thinking of this as applied to post-conflict societies, this is especially important when creating a narrative of truth in transitional justice.

Much of political analysis especially in the realm of transitional justice and transitional democracy theory has been primarily concerned with institutional function and maintenance. This aspect of transition, when compared to rhetoric, is more accessible in terms of measurability and its effects are more easily observable, perhaps lending to its popularity as the primary explanatory variable for the types of human rights policies enacted by states. Finlayson (2004) makes the case that much of modern political science has defined “political phenomena [as] only outputs of social interactions, rather than inputs, and institutions primarily bargaining arenas for individuals or collectives concerned with optimization and whose moral, philosophical, ideological or other, normative, motivations are of minimal importance to analysis” (532). The function of ideas is not “necessarily to be accurate or even adequate” in the way they portray the world, leading to ideas and rhetoric standing at odds with political science’s preference for

objective, measurable, so-called truths (Finlayson 2004, 535-536). There has, however, been an important shift in recent work in political science, particularly when tying rhetoric to norm construction and policy choice (Bolsen 2013; Payne 2001; Finlayson and Martin 2008; Nelson 2004). This is reflective of how rhetoric does in fact prove useful to the analysis of politics, not just as a byproduct but as a causal variable as well.

As stated above, the aim of this paper is not to discredit the role that institutions play in the development of democracy and post-conflict justice, but both can be better understood through rhetoric. Arabella Lyon (2013) makes that case that “rights...are acts of participation formed in conversations among community members and carried out in repeated behaviors or actions which re-enforce them as norms” (6). The conceptualization of rights and specifically human rights, for both democracy and transitional justice, is developed through “performative deliberation” that set the stage on which political institutions will operate (Lyon 2013, 6). These conceptualizations and norms will ultimately have an impact on institutional goals and consequently whether an institution will be deemed effective at reaching them.

It is with this understanding in mind that this paper aims to shift the scholarly dialogue towards rhetorical analysis to better understand how patterns in human rights policy can be tracked from the immediate aftermath of the post-conflict period to the present day. By analyzing the rhetoric surrounding human rights, justice, and democratic responsibility, I aim to show how definitions of these ideas that are developed during the transitional democracy and transitional justice periods, ultimately becoming foundational to a nation’s understanding of them and the states relationship to them.

Another reason supporting the inclusion of rhetoric in studies of transitional justice and transitional democracy is that these authoritarian regimes did not draw their authority solely from

institutional power, but also through rhetoric that reinforced the culture of terror and justification of repression and state terror. As the case study of Argentina will show, these regimes and the military officials that led them used an array of dehumanizing language to paint their opponents—in these cases, real and imagined communist subversives—as subhuman and thus undeserving of human rights. Dehumanizing language was a common tactic used to create distance between the ideal citizen and subversives or enemies of the state. Language that depicted state opponents as pests that needed to be exterminated, parasites that need to be removed, or cancers that needed to cut out of society worked in two ways: firstly, it made a compelling argument to the rest of society that these opponents were degrading the nation as a whole which in turn was meant to dissuade people from joining their ranks; and secondly, by removing any notion of humanity from these opponents, the terrors enacted against them could no longer be considered violations of *human* rights. The use of this type of language, of saving the society from a detrimental pestilence and preserving the integrity of a nation, represents the powerful influence of rhetoric in regards to human rights. The military in Latin American history has played a heroic role in the region's pursuit of independence. By playing on this narrative and invoking the traditional imagery of the military protecting the nation's future against enemies who want to bring it down, the military regimes were able to use rhetoric to further justify their abuse of human rights. It is with this understanding that if the military regime utilized rhetoric to dehumanize their opponents and thus justify their repression, then rhetoric would have just as much of a significant role in the transitional regime the succeeded it.

Rhetoric plays a central role in how the transitional regime sets the ideological foundation for how human rights and democracy are conceived in the aftermath of authoritarianism. Part of the transition process involves redefining the new regime and making a

clear distinction between it and the previous one. Each new democracy must wrestle with the very definition of what it means to be a democracy, as well as how becoming a democracy is intertwined with how human rights are imagined and in turn how justice is imagined. This process becomes even more crucial in the wake of dictatorships like those in the Southern Cone. What makes them undemocratic, anti-human rights, and unjust also contributes to the definitions of democracy, human rights, and justice. These definitions are created by internal circumstances as well as external ones. Democratic governance, upholding human rights, and sustaining justice are performative acts in and of themselves, particularly in a globalized world where human rights have been universalized and transnationalized. It is for this reason that the study of political rhetoric in this context especially serves a great purpose.

CASE SELECTION AND METHODOLOGY

The case study I have selected comes from the Southern Cone of Latin America: Argentina. Argentina differs in several important ways from other parts of Latin America. The country's demographics reflect a primarily white populace of European, due in part to the heavy influx of European immigrants and cultural influence throughout the colonial and post-colonial periods. In addition to this fact, the countries of the Southern Cone such as Argentina have exhibited historically different relationships to the indigenous Amerindian populations when compared to other Latin American nations. Quijano (2008) observes that in Argentina in particular, European immigrants preferred to maintain their European identities and "cultural differences, while at the same time explicitly rejecting the identity associated with Latin America's heritage and, in particular, any relationship with the indigenous population", which kept the two groups separate in addition to keeping Amerindian populations from being included in the national identity later on (563). In a similar vein, the percentage of the national population that identifies as being of African or Afro-Latino descent is extremely low in comparison to other Latin American countries, particularly Brazil. This is not to say or make any such claim that the rhetoric and policies enacted by these states later on is predicated the populations being homogenous or predominately white; rather, it is to acknowledge that Latin America is in no way uniform, and historical, cultural, and sociological differences such as these should be taken into account when considering how state terror was practiced and how transitional justice responded to it.

Argentina also had a specific dictatorial experience.³ This bureaucratic-authoritarian regime was led by a repressive military junta that operated under the mission statement that the

³ Though in no way was this experience completely unique.

Christian and Westernized way of life that had been cultivated in the region was being threatened by communist and Marxist subversives. The dictatorship's reaction to the supposed threat was infamously excessive, and was characterized by suspicion, threats, kidnappings, illegal imprisonment, sequestration in military detention, tortures, disappearances, killings, and a general cultural of fear. The regimes of Argentina and many other Operation Condor member nations would work together to detain, interrogate, torture, and disappear suspected political dissidents that were considered threats to Latin America's integrity during the Cold War. As mentioned in the section on democratic transition, Argentina experienced a pacted transition which reinstated civilian rule; nevertheless, the military was able to maintain significant review and input on the transition itself.

Country Case Selection

The decision to make Argentina the central case for this study is twofold: first, the amount of time that has passed between the end of the dictatorship and the present, and second, the trailblazing role that Argentina has played in the transitional justice and transitional democracy wave of the late 20th century. While many other nations in Latin America underwent similar repressive periods at around the same time, Argentina's transition was able to serve as a model for many of these countries.

Argentina's democratic transition began in 1983 with the election of Radical Party candidate Raúl Alfonsín. Since then, Argentina has had four different long-term presidents. The phrase "long-term" in this case is meant to exclude Fernando de la Rúa, Ramón Puerta, Adolfo Rodríguez Saá, Eduardo Camaño, and Eduardo Duhalde, who were all appointed head of the

executive branch during the height of the economic crisis from December 2001 to January 2002. The reason these individuals are excluded is that, with the exception of Duhalde⁴ and de la Rúa⁵, each of their appointed terms lasted on average two days, and at most a week. It is for this reason, in addition to the fact that the economic crisis was the central point of concern during this period, that these individuals will not be included in this analysis.

Nevertheless, Argentina has had 35 years to cultivate policy and rhetoric surrounding the principles of democracy and human rights and the way they overlap. Indeed, many of the long-term presidents have made both these topics central points of their election platforms and eventual policy positions. This expanse of time allows the end of the dictatorship and the transition period to still be fresh in the nation's mind, but has also allowed democratic consolidation to take place (Schamis 2002). With full democratic consolidation having occurred nearly 20 years ago today, there has been plenty of time for Argentina to establish clear norms on how democracy and human rights should and do interact with one another and develop policies and political positions that reflect this.

The second point, that Argentina was a pioneer of transitional justice practices, refers to the fact that many other countries would use Argentina as a model for their own transitional justice processes, especially in terms of creating Truth and Reconciliation Commissions. Argentina made truth commissions and the idea that reconciliation could not transpire without truth a fundamental part of transitional justice for many nations going through their own transition processes, including Uruguay, Chile, Ecuador, El Salvador, Guatemala, Honduras,

⁴ Duhalde would go on to be President of Argentina for the next two years after his appointment, but like de la Rúa, was primarily focused with recovering from the economic crisis.

⁵ de la Rúa was primarily concerned with the sharp economic downturn that hit Argentina at the turn of the century and the subsequent riots that ultimately led him to resign in 2001. For this reason, there is very little of his positionality on human rights or democratic consolidation.

Haiti, Panama, Peru, Paraguay within Latin America, and Nigeria East Timor, Germany, and South Africa beyond the regional level (Wright 2007, 145-6). As the rhetorical analysis will show, Argentina was keenly aware on their global impact on how post-conflict societies thought about human rights and democracy. The fact that Argentina had such a widespread and lasting effect on the way multiple regions went about their transitional justice processes and thought about the relationship between truth and reconciliation is truly demonstrative of the exceptional place that Argentina holds in this area of academic research.

In addition to the dissemination of truth and reconciliation committees, Argentina is also well known for its bold decision to go forward with trials against the military organizers and perpetrators of violence. Many political scientists specializing in democratic transition and transitional justice theory at the time cautioned against the use of trials for fear that causing any extraneous tension between the incoming and outgoing regimes could undermine the trajectory of democratic transition and consolidation. It was widely believed that trials and the undoing of self-imposed amnesty laws from the previous regime could potentially instigate another military coup. This belief that the pursuit of truth and justice during a transition was “letting [the nation’s] convictions undermine their long-term goals” of democratic consolidation (Sikkink and Walling 2007, 429). Sikkink and Walling (2007) have found that contrary to this belief, at least within Latin America, “there is not a single case of a country where democracy has been undermined because of a choice to use trials” (442). Although there is now evidence proving this, the fact that trials were believed to be a danger to democracy in transition at the time signifies Argentina’s boldness and their commitment to justice as a requisite for reconciliation.

Document Selection

For the purpose of this study, I emphasized regime-centric sources for analysis. This includes written works, public speeches, laws, and other demonstrative political acts officially sanctioned and presented by the democratic regime. Primarily, these statements and acts come directly from the various Argentine presidents, or in the case of the *Nunca Más* report, specifically commissioned by the president. The choice to use these official, regime-based documents rather than pieces from the media or statements from civil society stems from the interest in how the regime views itself and the role it plays in upholding justice and democracy, and how it attempts to project itself to its citizenry as well as the rest of the world.

It should be noted that the media and sectors of civil society, particularly human rights groups within the country, both play very important roles in creating and establishing a national conversation on democracy and human rights and the way they overlap. As MacAuliffe (2017) describes it, “civil society can employ soft power, persuading governments to adopt ideas or change behaviors through attraction, exhortation and example... civil society and victim mobilization can effect [sic] shifts in agency and power relations over time even in the face of official opposition due to long-term participation, constituency building and new patterns of engagement” (56). Despite a change in administration or official government position, an established collective of people with a certain body of ideas and concepts regarding human rights can keep governments in line with civil society’s concept of human rights and the responsibility democratic institutions have to them. The influence from these two sectors are so important that they each require their own works solely dedicated to their own analysis. Even just looking at the interactions between civil society, the media, and the government would require its own separate research. For this reason, this paper deals only with rhetoric directly from the democratic regime.

Beyond domestic documents from the regime, this analysis also deals with statements on human rights from the most salient non-domestic document to this analysis: UN Universal Declaration on Human Rights, which predated the transition by several decades. Additionally, as it had been signed by Argentina at the time of its ratification, it can be assumed that this document was influential in how people generally thought about human rights prior to the full transition period. The importance of using international documents in addition to domestic ones is based in the idea of human rights as being universal and, in a sense, globalized. If human rights are in fact thought of as being universal, then there would have to be a set of transnational concepts about them. Because of the international nature of human rights, it is necessary to look externally as well as internally to find the roots and patterns of use surrounding human rights rhetoric. The goal of using these international documents that predate the transition is to look for any ideas that potentially appear later in Argentina's rhetoric. Additionally, as Argentina did not have a specific country case to model its own transition after, it would make sense that they would turn to international documents to construct their ideas and goals for transition.

Method of Analysis

The overall method for approaching the rhetorical analysis of these documents centers on finding patterns in the usage of certain words, phrases, associations, and ideas relating to democracy and human rights. The most important ideas and concepts to be analyzed concern: 1) humanity, such as what it means to be human or certain inalienable properties of being human; 2) justice, including preferred types of justice as outlined in the section on transitional justice theory, the relationship between justice and reconciliation; 3) rights, such as the overlap between universal human rights and the specific rights afforded by democracy; 4) democracy, specifically its characteristics and its relationship in upholding and respecting human rights; and 5) truth, its

relationship to justice and reconciliation, its implications for the transitional justice process, and its role in creating the foundations of democracy.

These fundamental terms are traced throughout relevant speeches and acts, focusing on the rhetorical carbon dating of specific terms, individual words, or greater points related to the key concepts of humanity, justice, rights, democracy, and truth. The analysis attempts to see how the state has constructed and maintained a specific pattern of rhetoric outlining the ways that democracy and human rights are deeply intertwined.

The documents selected were also chosen based on the language in which they could be acquired. When collecting these speeches, I looked specifically for documents that were in the original Argentine Spanish. The purpose of this was to avoid the problems that accompany multiple translations. Translations of certain words or phrases from Spanish to English will vary and change depending on the translator and the context in which the work is translated. With this in mind, I aimed to find the original documents to better support my argument that certain rhetorical norms (through words, phrases, and ideas) can be traced across time. With the exception of some particular speeches or quotes, all these speeches were in the original Argentine Spanish.⁶

⁶ Or as Argentines prefer to call it, *castellano*.

RHETORICAL ANALYSIS

Source Selection

The pool of primary sources that are drawn from are a critical part of rhetorical analysis. For this particular study, the rhetorical analysis was done specifically on regime-guided documents. The term “regime-guided” refers to rhetorical acts that were presented by a figurehead of the regime (e.g. the president or a member of the president’s cabinet) or by a collective/organization that was commissioned or created by the regime to carry out specific tasks (e.g. Truth and Reconciliation Commissions). Because this paper aims to analyze how the transitional period is handled by an incoming regime, it stands to reason that the documents being studied are ones composed and performed by the regime. This is not an attempt to ignore the influential effects of civil society, but rather to narrow the focus onto how the regime imagined itself and attempted to transmit that imagination to the national and international community.

This section also requires an investigation into the source of certain ideas and principles that the new regime was trying to demonstrate an affinity for. This entails looking at domestic and international documents and rhetorical acts that predate the transitional period. This includes international documents that assert the universality of human rights and rhetorical acts made during the dictatorship that the transitional regime actively tries to counteract with their own rhetorical acts.

United Nations Universal Declaration of Human Rights

Part of the rhetorical analysis of human rights policy requires understanding where the ideas and conceptualizations of human rights originate in the first place. It is important to

recognize that the policies taken on by Argentina were not solely domestically significant, but performative on an international and transnational level as well. The United Nation's Universal Declaration of Human Rights (1948) set forth the idea that there were, in fact, a collection of universal human rights that had to be respected. This document is still significant in the study and definition of contemporary human rights. With this in mind, it should be considered how positions on human rights laid out by international organizations influenced the rhetoric used and policies implemented in Argentina.

The fundamental notions of how the United Nations viewed what human rights were, how they could be violated, and how they were to be protected can be seen very clearly in the preamble of the declaration:

“Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world...” (United Nations 1948)

The repeated use of the word “inherent” throughout the document is important. There is an acknowledgement and idea that to be human is to have rights. Rights, specifically human rights, are not constructed by states or based in ideologies, but rather are connected to human existence in a more biological sense of inherency. The same goes for the use of the term “inalienable”, which also appears throughout the text at various points. Inalienable evokes a similar sense that these are rights that cannot be taken away or undermined in any way, by any state or individual actor. The idea that these rights are inherent and inalienable come up often in Argentine rhetoric on human rights. The phrase “all members of the human family” plays to the pathos of the reader as well as to the UN members who drafted the declaration. By referencing a human *family*, there is an overt implication that everyone is connected by love and by blood as well, once again

bringing to mind the idea of biology and strict, inviolable laws of science. Also by evoking the image of a family, it again rejects the idea that humanity in terms of human rights are connected by states and laws. The first paragraph closes with an emphasis on “the foundation of freedom, justice and peace in the world”. The ordering of these three fundamentals implicate that there is an ordering and linearity to how respect and protection of human rights develops: to have peace, you must have justice, but to have justice, you must have freedom. Again, this logic appears in Argentine rhetoric many times over.

Another important aspect to take into consideration is the versions that would have been referenced by Argentina. The nation would have referenced the official Spanish translation version of the document which, while making the same statements, is not a direct translation. The following is the same excerpt as above, but in the Spanish translation version:

“Considerando que la libertad, la justicia y la paz en el mundo tienen por base el reconocimiento de la dignidad intrínseca y de los derechos iguales e inalienables de todos los miembros de la familia humana;” (Naciones Unidas 1948) ⁷

Though similar, this version differs in significant ways from the English version. While the English version closes with a reference to “freedom, justice and peace”, the Spanish language version instead opens with these three fundamentals. The reader of the English language version is first asked by the document to consider the “recognition” of universal “dignity” and “rights”, whereas the reader of the Spanish language version is first presented with the ideas of liberty, justice, and peace first. The English version is structured to first present the answers to the

⁷ A more direct translation of this version back to English would be: “Considering that liberty, justice and peace in the world are based in recognition of the intrinsic dignity and of the equal and inalienable rights of all members of the human family;” *Libertad* could also be translated as “freedom”. *Considerando que* could also be translated as “Whereas”.

question of “What is the foundation of freedom, justice and peace in the world?” while the Spanish version opens with the question itself. It follows that the reader of the Spanish version may proceed through the document thinking about the importance of freedom, justice and peace while the English version’s reader focuses on inherent and inviolable nature of human rights. The differences in how these two languages write the same thing relates to the general language rules for each language when it comes to what sounds the most “normal”. This is why direct translations, though understandable, may feel somewhat disjointed compared to how they flow in their original language.

There is also a frequent appeal to the idea that respect of human rights is associated with a more civilized society. Early on in the preamble, the document states that “disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind,” and that human rights being respected through various freedoms are “the highest aspiration of the common people” (United Nations 1948). This appeal to the idea of civilized vs. uncivilized is evident in the use of the word *barbarous* to describe the characteristics of human rights violations. There is an indication that if a state or collective is to be considered modern, it cannot infringe upon these universal rights. Such an idea appears briefly throughout Argentina’s rhetoric, indicating that the rhetoric of the UN document and documents like it most likely influenced Argentina’s conceptualizations of human rights.

There are two other concepts that take center stage in the depiction of rights laid out by the United Nations: the rule of law and democracy. The preamble to the Declaration states that “it is essential...that human rights should be protected by the rule of law” (United Nations 1948). The use of the term “rule of law” brings a very litigious element to the conceptualization of human rights as well as justice. From the perspective of rule of law, human rights are debated

within the confines of a court of law according to prewritten rules; it is through these rules and regulations that human rights are protected and the violators of these rights are prosecuted. This in turn implies a retributive image of justice; violators will face punishment according to guidelines laid out by the law. Articles 6 and 7 elaborate on the idea that the law is the ultimate defense for human rights, as “everyone has the right to recognition everywhere as a person before the law”, “all are equal before the law”, and everyone is given “equal protection of the law” (United Nations 1948). Litigious, rule of law based rhetoric is very prominent in transitional Argentina, especially in the rhetoric originating from the early transitional period. This rhetoric demonstrates that the law is the ultimate protector and arbiter of human rights and humanity. Thus, the *rule* of law creates a reality in which the law—both in the sense of undeniable, fixed principles as well as the agreed upon regulations set by a collective—is the method by which human rights and their violations are defined in resolute and determinate way. In this interpretation, human rights are defined and held up by laws, not people. This frame ignores the unavoidable role that people as individuals and groups undeniably have in the defining of human rights. Argentina pushes back in this regard, as much of the rhetoric from the transition period deals with the importance of civil society’s participation in the democracy and transitional justice processes.

Rule of law is also closely associated with democracy. Through this association, it is evident how the United Nations’ Declaration implies that democracy itself is a human right. Article 21 is explicitly about democracy without outright referring to it by name. This article explains that everyone is allowed to participate in government, “directly or through freely chosen representatives”, and that government should be a direct reflection of “the will of the people” which will be “expressed in periodic and genuine elections” that are based on principles of

“universal and equal suffrage” (United Nations 1948). This is the most basic outline for democracy, stating that to have any other form of governance that is not a liberal democratic one is to immediately violate human rights. This can be interpreted as saying that should a nation uphold all the other prerequisites for the maintenance and respect of human rights, then democracy is an expectable outcome. Regardless of the direction of causality, there is most certainly an assertion that human rights and representative democracy are correlated so strongly and that the former cannot exist without the latter.

The purpose of analyzing the UN Declaration is not to assert that this was a foundational text or framework for Argentina’s understanding of human rights; rather, it serves to demonstrate that judicialized conceptualizations of human rights that were foundational to Argentine rhetoric preceded the transition. It also appeared in other documents such as the 1978 Pact of San Jose.⁸ Although the use of judicialized rhetoric was not new at the time of the Argentine transition, Argentina was able to further develop it and apply it to their particular situation. This is demonstrative of two fundamentals: first, the dynamic and ever changing nature of human rights within international understanding, and second, the role that Latin America has played in informing the conversation on universal human rights. The many nations of Latin America and Argentina in particular have contributed to the global discussion and interpretation of what it means to respect and uphold human rights through the pursuit of their own transitional justice processes and the construction of their own rhetoric and policy. As the following analysis will demonstrate, the rhetoric produced and reproduced in Argentina demonstrates how the nation contributed to an international discussion through development of their own understandings of human rights.

⁸ Also known as the American Convention on Human Rights.

Speeches from President Alfonsín

President Raúl Alfonsín was elected Argentina's first post-authoritarian president on October 30, 1983 on a platform centered on the creation of a democracy that would have "real power to defend the rights of all" and a promise to bring an end to Argentina's "historic cycle of impunity" (Wright 2007, 142). Within the first few days after his inauguration, Alfonsín dove into multiple initiatives aimed at establishing respect for human rights under Argentina's new democratic regime. Among these initiatives, he "met with human rights organizations; submitted a bill to rescind the military's amnesty decree...began freeing political prisoners...He also pushed for quick approval of international human rights instruments that Argentina had not previously ratified" (Wright 2007, 142). Alfonsín was aware that since Argentina had no country on which it could model its transition, it would have to proceed into mostly uncharted waters. This also meant, however, that Argentina could serve as a model for other nations in Latin America and across the globe during their transitions. With concern for respecting human rights and the establishment of democracy in mind, Alfonsín's regime set off to redefine democracy and its responsibility to upholding human rights.

President Alfonsín's inaugural speech is a representative example of how the transitional regime wanted to conceptualize democracy and human rights going forward. There is an awareness throughout the speech that the task of reestablishing democratic norms and creating an environment in which human rights are respected in the wake of dictatorial repression is difficult. However, it is made clear that each and every member of Argentine society has a role to play in producing and reproducing these norms: "It will be difficult, because we have the enormous responsibility today and for all time to ensure respect for democracy and the dignity of

man on Argentine soil”; “We will create the country that we deserve” (Alfonsín, December 10th, 1983)^{9,10}. Both of these statements imply that by being democratic citizens, each individual plays a valuable role in developing democracy and that is by nature highly participatory. What’s more, it is also implied here that democracy and respect for human rights go hand in hand; the period of transition should be utilized to ensure respect is cultivated for both human rights and democracy, rather than just to establish democratic transitions and wait for consolidation. Similarly, by saying that the democracy Argentina deserves must be created, it can be reasoned that democracy and human rights are not simply established once and remain fixed; they must constantly be reaffirmed and reestablished. The best way that this can be achieved is through the reproduction of certain ideas about democracy and human rights; this can be achieved through specific patterns of rhetoric.

The idea that democracy must constantly be reproduced and reaffirmed by the citizenry comes up throughout the speech. It is clear through this speech that the new regime is attempting to create a democracy that truly reflects the will of the civil population, something that was outright ignored during the military dictatorship. Later on, Alfonsín states: “We are going to [make the country we deserve], not through the work and grace of enlightened rulers, but rather for that which the plaza is singing, because ‘the people united will never be defeated’” (Alfonsín, December 10th, 1983). Through explaining that democracy must come from the will of the people, what the citizenry is saying and believes in, rather than the behind the scenes actions of politicians demonstrates the early establishment of norms of participation in democracy.

⁹ “Será difícil, porque tenemos todos una enorme responsabilidad de asegurar hoy y para los tiempos la democracia y el respeto por la dignidad del hombre en la tierra argentina.”

¹⁰ “Vamos a hacer el país que nos merecemos.”

Evident also through Alfonsín's earliest speeches is that the rule of law is an equally important aspect of upholding democratic norms. Respect for the rule of law inhibits impunity. Alfonsín explains, "Such impunity would signify the giving up of certain fundamental ethical principles, putting the prevention of future [human rights] violations at risk" (Alfonsín, December 13th, 1983). Again, one of Alfonsín's goals enumerated in his campaign platform was to make accountability a cornerstone of Argentina's new democracy, something that can be achieved through the rule of law. From the perspective of human rights and retributive justice as outlined by transitional justice theory, the rule of law refers to a system in which individuals are consistently held accountable for their crimes in accordance with specific rules and laws that attain validity in that they have been "sanctioned following previously and carefully dictated procedures" (O'Donnell 2004, 33). Without a respect for the rule of law, there is no standard by which people are judged in a court or tribunal, and there is subsequently no formal, legal deterrent to violating human rights. Alfonsín goes so far as to conclude his speech with a reminder that "democracy must be defended" and in doing so, the government "will not be neutral towards the enemies of [the] democracy, nor inert nor impotent to combat them" (Alfonsín, December 13th, 1983). The image that the regime is trying to paint here is clear: defending democracy means going beyond neutrality towards human rights violations, neutrality in this case being a stand in for impunity.

This of course brings into play a significant topic in transitional justice literature: whether conceptualizing justice in a retributive way may be too focused on "getting equal" with perpetrators and thus serves as a hindrance to eventual reconciliation (David and Choi 2009). Similarly, a retributive perspective on justice may overlook the benefits of deterrent and restorative justice mechanisms. However, as O'Donnell (2004) argues, "the rule of law is among

the essential pillars upon which any high-quality democracy rests”, an idea that is also seen in the UN Universal Declaration on Human Rights (32). With this idea in mind, it is fitting in a period of transitional justice and particularly in a period transitional democracy that retributive justice would be utilized as a way to promote respect for the rule of law, and correspondingly promote norms of democratic behavior. In this way, Alfonsín’s speech on the rule of law serves both to demonstrate the new regime’s acknowledgement and denouncement of the dictatorship’s human rights violations; simultaneously, democratic norms are established within the legal system.

From the specific viewpoint of asserting norms of human rights, the speech on the rule of law serves an important purpose as well: “It is necessary to do justice with those who...have treated men like mere manipulable objects to obtain certain ends, thus the de facto law of ‘pacification’ or ‘amnesty’ should be repealed and declared null and void” (Alfonsín, December 13th, 1983).¹¹ In reference to the self-amnesty law that the military dictatorship granted itself prior to stepping down, Alfonsín goes on to say that upholding the law would be “morally unacceptable” as well as “politically irresponsible” (December 13th, 1983). Repealing the amnesty law serves a double purpose in regards to instating democratic and human rights related norms. First, repealing the law boosts adherence to democratic norms, as the law was put in place by de facto powers rather than through the proper legal channels. Such a perspective is reinforced when Alfonsín calls the amnesty law “legally vicious” and points out that it lacks legitimacy due to the fact that laws of de facto power are inherently illegitimate (December 13th, 1983). An amnesty law also serves to bolster impunity, something that the new regime made

¹¹ “Es necesario hacer justicia con quienes...han tomado a los hombres como meros objetos manipulables para obtener ciertos fines, implica que debe derogarse y declararse insanablemente nula la ley de facto llamada ‘de pacificación’ o de ‘amnistía’”.

clear was counter to the goals of the new democracy. Second, the act of repealing the law makes it clear that amnesty for crimes that so blatantly dehumanized Argentine citizens cannot be allowed to occur if the new regime is to demonstrate its unceasing respect for human rights. A precedent is set in this act. Alfonsín states that regardless of the fact that many military perpetrators were “just following orders”, many of the acts perpetrated by military members went beyond what was dictated by the de facto law. However, the de facto laws “were in and of themselves repressive instruments that did not recognize the limits imposed by elementary principles of liberal criminal law: the pains they inflicted, especially that of death, were draconian, of a criminal nature, imprecise and open, their procedures violating basic guarantees” (Alfonsín, December 13th, 1983).¹² By describing the de facto laws in this way, there is a very significant implication regarding respect for human rights. To only prosecute those who went above and beyond what was asked of them by the de facto laws would be to disregard the appalling nature of what the laws themselves called for. Although the crimes against humanity committed by the military were at the time “legally” sanctioned, they still violated human rights and the “dignity of man”, which, from the perspective of the UN Declaration, are inalienable and inherent, and thus transcend any one nation, time frame, or legal framework.

Throughout this speech, Alfonsín reiterates how human rights, the rule of law, and democracy are interconnected. In describing the new regime’s conception of democratic legal order, he explains that “this conception makes compatible the plainest respect for the rights and fundamental guarantees for human beings, with the firmness, zeal and efficiency in the prevention of acts that violate these rights and assault the constitutional order that protects them”

¹² “Sin embargo, esas leyes de facto eran de por si instrumentos represivos que no reconocían límites impuestos por elementales principios del derecho penal liberal: sus penas, sobre todo la de muerte, eran draconianas, sus tipos penales, imprecisos y abiertos, sus procedimientos, violatorios de elementales garantías.”

(Alfonsín, December 13th, 1983).¹³ Human rights, democracy, and justice are plainly united here. The phrase “constitutional order” evokes images of an established collection of goals and rules aligned with the democratic process. Referencing “the rights and fundamental guarantees for human beings” refers back to the conceptualization that human rights are inalienable and inherent, and truly one of the most deeply engrained aspect of humanity. A forward looking perspective through the reference to “prevention of acts that violate these rights”, implies that part of democracy’s responsibility to human rights is not only to see that justice is done to those who have violated said rights, but to further ensure that such violations never reoccur. This is a primary example of the new regime working to unite concepts of democracy to concepts of human rights through the utilization of the rule of law.

Evidence indicates Alfonsín is appealing to an international audience as well as a domestic one early on in his presidency. In order to “ensure the integral protection of human rights”, the UN “Covenant on Civil and Political Rights, the Covenant on Economic and Social Rights...and the Pact of San José, Costa Rica that establishes the compulsory jurisdiction of the Inter-American Court of Human Rights” was sent to Congress to be ratified as quickly as possible (Alfonsín, December 13th, 1983). He goes on to state that “Argentina must participate jointly” with the international community to become a “guarantor of the protection of human rights on [Argentine] soil” (Alfonsín, December 13th, 1983). The ramifications of pushing for the approval of these international human rights instruments are significant: for one, by ratifying internationally organized documents, there is an acknowledgement that the protection of human rights is a transnational project, in that human rights transcends national borders. Additionally,

¹³ “Esa concepción hace compatibles el más pleno respecto de los derechos y garantías fundamentales de la persona humana, con la firmeza, el celo y la eficacia en la prevención de actos violatorios de esos derechos y atentatorios contra el orden constitucional que los ampara.”

sending the documents to Congress to be ratified rather than *declaring* them approved as the head of state exemplifies respect for the democratic process and the utilization of proper democratic channels.

Alfonsín frequently alludes to the interconnectedness between truth, reconciliation, the rule of law, and democracy in his speeches, particularly during the early phases of his presidency. Upon receiving the completed report *Nunca Más* from the Truth and Reconciliation Committee, CONADEP, the president spoke on what truth meant to Argentina's national identity moving forward: "This country...needed to know the truth about what happened, because we cannot construct a national unity on the basis of lies or ignorance. Only on the basis of truth and justice can we encounter reconciliation" (Alfonsín, September 20, 1984).¹⁴ Truth and an accurate portrayal of the nation's recent history are foundational to Alfonsín's conceptualization of reconciliation. As Grandin (2005) explains, truth can partially serve to heal the psychological damage of conflict by acknowledging the various experiences of repression and declaring them the official history of the dictatorship (47). Such a process of truth telling not only serves as a method of psychic healing, but is a symbol of the new regime rejecting everything to do with its authoritarian predecessor, including its version of historical events. Both of these phenomena help to contribute to the process of reconciliation particularly in its ability to "honestly and directly address the root causes of conflict" (Clark 2009, 194). The rejection of the dictatorship

¹⁴ "El país...necesitaba saber la verdad acerca de lo que pasó, porque sobre la base de la mentira o de la oscuridad no podemos construir la unión nacional. Solamente sobre la base de la verdad y de la justicia es que podemos encontrarnos en la reconciliación tomados—por qué no—de la mano de la bondad." Note here that *oscuridad* most directly translates to darkness. However, it makes more contextual sense here in referring to the state of being kept in the dark, thus the use of the word *ignorance* in the translation above.

and assertion of democratic rule is a trademark aspect of Alfonsín's presidential rhetoric, as is evident from the speeches analyzed so far.

Under Alfonsín, truth was the first step necessary to enacting justice through the rule of law, as can be seen from other sections of his speech upon receiving the *Nunca Más* report. Once the truth is found and made known, justice can be achieved; it is through the rule of law, however that procedural, democratic justice that is achieved, and not through vengeance: "Justice is going to act as it should in Argentina, through due process and within the framework of the rule of law" (Alfonsín, September 20, 1984). Once again, the rule of law is hailed as integral not only to the future of democracy, but to the future of human rights as well. On a speech regarding the Inter-American Institute for Human Rights, Alfonsín conceived of the rule of law having been fully achieved "when all can live a dignified life, when men can freely choose their path because the state has made sure that they have the means, the education and the health necessary to do so" (Alfonsín, October 4, 1984). Referring to education and health both being human rights as well is demonstrative of Argentina taking steps towards a forward looking, positive conceptualization of human rights. In this way, Alfonsín goes beyond merely a negative of framework of human rights (e.g. right to *not* be tortured) and instead incorporates a positive framework (e.g. right to *have* education). This allusion to the rule of law as a reflection of the respect of human rights also helps to connect democracy and human rights once again: if the rule of law is a pillar of democracy, and the rule of law is where human rights are respected, then a pillar of democracy is the respect for human rights. Collectively, this is all reflective of the highly judicialized framework of human rights under democracy that begins to take hold in Argentina under Alfonsín.

In a continued effort to reinforce the judicialized and procedural view of human rights and democracy, Alfonsín also frequently refers to the principle of legitimacy. In this framework, legitimacy is attained through respecting the inherent dignity of human beings: “It is only through enhancing the dignity of a human person that a government can fully justify exercising its power. When...the fundamental rights of man are tragically violated in a systematic way, a government loses legitimacy” (Alfonsín, October 4, 1984). As described here, legitimacy can only be attained when a government acts with an underlying respect for human rights. Thus, as a fundamental property of Argentine democracy is its respect for human rights, it governs its citizens legitimately.

The drive to create a legitimate democracy that respects human rights is also not a solely Argentine directive for Alfonsín. The rhetoric of the transitional regime is aware of the international impact that its transitional choices have, both in serving as a trailblazer for other nations as well as contributing to the transnational protection of universal human rights. Much of Alfonsín’s rhetoric within the transitional regime describes his ethic in which “men, solely for being men, deserve to be treated with dignity and respect” (Alfonsín, October 4, 1984).¹⁵ Alfonsín views Argentina’s dedication to human rights as part of a transnational effort of promoting “the full validity of human rights, which is only imaginable when the borders of different nations are crossed, and respect and peace are thought of as universal” (Alfonsín, October 4, 1984). There is an awareness in this rhetoric that what Argentina does has international implications for how the rest of the world may view and treat human rights, both within the confines of nations and across international borders. Furthermore, Argentina serves as

¹⁵ The word “men” is a direct translation from the word “hombres”. This is in no way focusing on male-identifying individuals in either language, but is rather a reference to “mankind”, which is another way of translating “hombres”. However, the choice of “men” makes more sense in the English version above.

the litmus test for the establishment of democratic norms and respect for human rights for the Latin American region. From this perspective, Argentina is aware of the standard it is setting through its transition processes.

One of the most central aspects of Alfonsín's rhetoric is the emphasis on democracy being extremely participatory phenomena. Frequently throughout his speeches, Alfonsín reminds the Argentine public that true, functioning democracy depends primarily on the ability of the citizenry to participate in the democratic process and make their voices heard. This becomes an especially prominent point towards the end of his presidency and in the passing of the Full Stop and Due Obedience laws. The Full Stop law, passed in 1985, imposed a two month time limit on law suits brought against the military for human rights violations during the dictatorship, after which a statute of limitations would prevent any further judicial action;¹⁶ the Due Obedience law, passed two years later in response to an extremely tense, attempted military mutinee, stated that anyone of a certain rank or below could not have a lawsuit filed against them for perpetrating human rights violations during the dictatorship as they were simply following orders (Romero 2002, 263). Neither law was popular with Argentine citizens in any sector of society, reflective of how belief in justice through the rule of law and the avoidance of impunity as fundamental to democracy and human rights had already established themselves as fundamental principles in the Argentine imagination.

The emphasis on participation from the regime's end can thus be interpreted as a reinforcement of these norms in an attempt to ensure that once the military became less of an imminent threat, there would once again be a push for legal action against the dictatorship's

¹⁶ It should be noted that the intention of the Full Stop law was to stem the flow of cases against the military. However, it had the unintended effect of increasing the number of subpoenas and lawsuits as civil society made a mad dash to file their cases before the deadline.

perpetrators. This is especially evident in Alfonsín's reiteration that democracy is far more than the inner workings of institutions and the work of politicians: "Living in democracy requires admitting that the country of today is the result of the actions or omissions of all citizens and that the well-being desired for the future can only be achieved by the joint effort of all of them" (Alfonsín, June 27, 1984). There are frequent reminders of this nature through Alfonsín's later speeches, insinuating that in order to achieve certain democratic outcomes, civil society must continue to call for action and push their government to act as instructed by the governed. As early as the eve of the first year of democracy, Alfonsín stated that Argentina's new democracy wants to govern with public opinion that "supports ideas, participates, questions acts of government, criticizes harshly and makes suggestions" (Alfonsín, December 17, 1984). A highly participatory model of democracy is important in ensuring that norms for the democratic process and democratic accountability are upheld going forward, even though certain political concessions such as the Full Stop and Due Obedience laws may serve as momentary obstacles in achieving certain transitional justice goals.

Additionally, as a final measure, Alfonsín calls on Argentines to continue to have faith in the democratic process, in part because there still remains strong memories of what life is like when democracy is forgotten and cast aside. Threats of a military coup and refusal to cooperate from the Armed Forces remained a constant point of contention during the transitional regime. Especially given the judicialized transitional justice mechanisms implemented (such as repealing the amnesty law, creating the Truth and Reconciliation Commission, and taking the junta leaders to trial), there was concern that there was a higher chance of a military takeover in retaliation that would destroy the beginnings of democratic rule (Sikkink and Walling 2007, 428). However, Alfonsín argues that Argentina was able to disprove this political theory by demonstrating that

not only was democracy superior to authoritarianism, but it was additionally able to “heal the wounds” that it had left behind (Alfonsín, October 30, 1985). Taking this into consideration, Alfonsín asks the transitional regime and society to continue to have faith in what democracy is capable of in order to keep its spirit alive in troubling times: “I know that faith is not sufficient, but I also know, just as much as you all, that nothing can be built without faith” (Alfonsín, December 17, 1984). Alfonsín asks the people of Argentina to continue to have faith in democratic principles and democracy’s ability to uphold human rights through justice given everyone participates in upholding these norms; by combining the norm of democracy as participatory with the insistence that democratic process will regain strength based on the continued adherence to democratic principles, the end of the transitional government solidified the possibility that certain transitional justice mechanisms could be implemented later.

CONADEP’s Truth and Reconciliation Report

In the first several days of his presidency, Raúl Alfonsín commissioned the creation of Argentina’s Truth and Reconciliation Commission, known by its acronym CONADEP (Comisión Nacional sobre la Desaparición de Personas, or the National Commission on the Disappearance of Persons). The establishment of CONADEP was a reflection of Alfonsín’s commitment to truth as “a necessary precondition to justice and reconciliation” (Wright 2007, 143). CONADEP was by no means created with the intention of castigating any specific military members; that would be the goal of the trials against the military juntas, demonstrative of the newfound dedication to the rule of law in Argentina. Rather, CONADEP was commissioned with the intention of reflecting the new regime’s dedication to principles of democracy and deep-seated belief in truth as a precondition to justice, and justice an essential prerequisite to

reconciliation as it had been conceptualized through a legal framework. The dedication to democracy is reflected in the very nature of what the commission sought out to do: create a historical truth of the dictatorship based on civilian testimonials. This act of going to the citizenry to create a narrative of the true horrors that occurred under direct orders of the dictatorship and speaking out against the history constructed by the military¹⁷ demonstrated the dedication the new regime had to upholding the most basic principles of democracy, namely, to create a government that was reflective of the people. Truth is similarly held in high regard as evidenced by the very creation by the commission. Seeing as one of the earliest steps taken by the new regime was to organize a group solely dedicated to rewriting history and exposing the details of the dictatorship as seen through the eyes of the citizenry, it is clear that truth was at the forefront of the new democracy's mind in terms of norms it associated with democracy and justice.

The commission was given only 180 days to complete its task of collecting victim testimony and investigating the sites of former detention centers. In addition to this time constraint, the commission was limited to looking at disappearances rather than all of the human rights violations committed by the dictatorship, such as arbitrary detention, torture, rape, theft of infants belonging to the detained, or extrajudicial execution that were not preceded by disappearance (Wright 2007, 143). Additionally, CONADEP was not given subpoena powers, reflecting Alfonsín's tentativeness in regards to potentially provoking any rash retaliation on the part of the military. However, besides the institutional limits placed on CONADEP, their

¹⁷ The military repeatedly argued that the crimes committed by the dictatorship were necessary in their "just war" against "subversion" that threatened the civilized, Western, Christian way of life in Argentina (CONADEP 1984, 9).

published report, *Nunca Más*, is a prime example of the power of rhetoric in reflecting and further establishing certain norms.

The report's audience is multifaceted. Within the confines of Argentina, the audience of the report is threefold: the government, the military, and the general public. The government as audience is reflected in the report's suggestions for achieving reconciliation; the end of the report lists out suggested transitional justice mechanisms that would be best for achieving justice, and thus reconciliation. To the military, the creation of the report is a direct rejection of the military dictatorship's version of historical events, and thus a rejection of allowing any sort of impunity. Lastly, the Argentine public, is an extremely important audience for the report. The report itself as a rhetorical act demonstrates the democratic regimes' expressed dedication to discovering the truth as constructed by the citizenry, but its contents also serve as a direct way to communicate the norms that the regime intends to establish. Apart from the Argentine audience—and something that is important to consider in context of the transnationalization and universalization of human rights—is the international audience that Argentina's new democratic regime is simultaneously trying to reach.

The *Nunca Más* report is an exceedingly demonstrative example of the rhetorical and discursive norms that Argentina was aiming to establish at the time of transition. A central idea that the text engages with are the concepts of humanity and what it means to be human. When referring to the individuals who suffered trauma at the hands of the dictatorship, the phrase “ser humano” or “human being” is used very frequently. They are not “víctimas”, “personas”, or “gente”;¹⁸ they are more than people or citizens or byproducts of the human rights violations that they experienced; nor are they subversives, as the dictatorship called them (Wright 2007, 141).

¹⁸ “Victims”, “persons”, or “people” respectively.

Rather, they are full-fledged human beings, and thus deserving of human rights solely on that basis. Although there are moments in which they are referred to as victims, they are not limited this; they are more frequently described as humans and human beings. An example of the text's reiteration that these people were human can be seen in a rather poetic passage describing situations frequently experienced by those who had their human rights stripped away:

From the moment of the kidnapping, the victim lost all of their rights; deprived of all communication with the outside world, confined in places unknown, subjected to hellish torments, ignorant of their mediate or immediate destiny, susceptible to being hurled into the river or the sea, with blocks of cement on their feet, or reduced to ashes; *beings that were, however, not things, but rather retained attributes of the human creature [emphasis added]*: the sensitivity for the torture, the memory of their mother or of their child or of their wife, the infinite shame for public rape; beings not only possessed by infinite anguish and supreme fear, but rather, and perhaps for that very reason, guarding in some corner of their soul some outlandish hope (CONADEP 1984, 9-10).¹⁹

This passage makes it clear how important it was for CONADEP to rehumanize the victims of human rights violations. Firstly, this was aimed at undoing the dehumanizing language utilized by the dictatorship that portrayed the victims, or “subversives”, as a cancer or pest that needed to be eradicated to preserve the wellbeing of the Argentine nation. Secondly, this humanizing language worked to prevent the disappeared from becoming blank, unidentifiable bodies. Throughout every stage of torment, the individuals in question remained human beings. This serves to emphasize the true, horrifying nature of the human rights violations. Once the reader is able to identify with the victim—through shared images such as memories of loved ones, physical as well as emotional pain, and despite everything, fragments of hope—it becomes

¹⁹ “Desde el momento del secuestro, la víctima perdía todos los derechos; privada de toda comunicación con el mundo exterior, confinada en lugares desconocidos, sometida a suplicios infernales, ignorante de su destino mediano o inmediato, susceptible de ser arrojada al río o al mar, con bloques de cemento en sus pies, o reducida a cenizas; *seres que sin embargo no eran cosas, sino que conservaban atributos de la criatura humana*: la sensibilidad para el tormento, la memoria de su madre o de su hijo o de su mujer, la infinita vergüenza por la violación en público; seres no sólo poseídos por esa infinita angustia y ese supremo pavor, sino, y quizás por eso mismo, guardando en algún rincón de su alma alguna descabellada esperanza.”

increasingly more difficult to separate the victim from a uniting sense of humanity. In turn, it becomes increasingly more difficult to turn a blind eye to the fact that what was acted out under the dictatorship was unequivocally senseless abuse of human rights.

In addition to reaffirming the humanity of those who suffered human rights abuses at the hands of the military, the report makes it clear that the acts committed by the dictatorship were the antithesis of humanity and human rights. At various points, the dictatorship and the crimes enacted by it are described as wild, barbaric, brutal, and terroristic (CONADEP 1984, 7). This relates back to the UN's rhetorical argument that in order for a nation to be civilized, it must respect human rights. The fact that the report would go so far as to describe the acts of the dictatorship as those of "planned terror" that violated the constitution when the military had been describing subversives as the true terrorist threat to the nation demonstrates how Argentina's new norms regarding human rights were so centrally focused on rejecting and flipping the military's historical narrative. For the new democratic regime, upholding human rights that there would be no impunity under any circumstances, including in how history would be remembered.

The *Nunca Más* report also exemplifies and reaffirms how truth and justice are both interconnected and fundamental principles of the new democracy and upholding human rights. At the beginning of the report, the committee clarifies that they "are not moved by resentment nor by the spirit of vengeance; [they] only ask for truth and justice...for there will be reconciliation only after the repentance of the guilty and there is justice founded in truth" (CONADEP 1984, 10).²⁰ This is the clearest way in which the regime's norms can be expressed: without truth, there can be no justice, and without justice, there can be no reconciliation. No

²⁰ "No estamos movidos por el resentimiento ni por el espíritu de venganza; solo pedimos la verdad y la justicia...entendiendo que no podrá haber reconciliación sino después del arrepentimiento de los culpables y de una justicia que se fundamente en la verdad."

steps can be skipped on the path to reconciliation. The understanding conveyed here is that transitional justice and human rights rely on a rejection of impunity. This is also evident in Alfonsín's choice to bring military leaders to trial in front of a civilian tribunal after nullifying the amnesty law.

Truth, and subsequently justice, as defined by CONADEP are also necessary for the return and maintenance of democracy. The greatest task faced by the new democracy would be to uncover the truth, "reencounter its past", and let the civil community judge those who committed crimes against humanity (CONADEP 1984, 443). It is only through confronting its conflicted history, embracing the truth, regardless of how unpleasant it may be, and upholding the rule of law by bringing the perpetrators to justice through the proper channels that the new democracy will be legitimate. This is a continued effort to break with the past as well; in rejecting impunity, there is simultaneously a rejection of the de facto rule that characterized the dictatorship period.

The Commission states that through its investigation, it found that in every sector of society there came a "demand for truth" (CONADEP 1984, 444). On a more personal level for the members of the Commission, they found that uncovering the truth was more a reflection of their civic duty rather than a requirement of their employment on the Commission (CONADEP 1984, 445). Speaking as democratic citizens, the need to uncover and reveal the truth is revealed to be an integral part of the democratic experience according to the Commission. Thus, the idea that democracy and exposure of the truth are linked becomes reinforced. Moreover, by referring to the task of revealing the truth as a civic duty, it alludes to the idea that upholding human rights is an inherent trait of democracy as well; to be a democratic citizen means exposing the truth to achieve justice, and such justice will serve to uphold the integrity of human rights.

Menem, N. Kirchner, and C. F. Kirchner

Due to the highly judicialized model of human rights and democracy that was established during the primary stages of the democratic transition, it became imperative for Alfonsín to also establish a concept of civil participation as the transitional regime began to face more pertinent threats from the military. Through the establishment of lasting norms of faith in democracy's ability to utilize the rule of law to protect human rights and bring perpetrators to justice, the transitional government was able to ensure that there would continue to be a commitment to truth and justice. This would become evident in rhetoric used by future presidents and the policies they enacted.

In the following discursive acts and policies undertaken by the following presidents, it becomes clear how deeply impactful the rhetoric utilized by transitional government was at founding the way that democracy and human rights were understood.

On May 14, 1989, Carlos Menem of the Peronist party was elected president. Although the Constitution stated that he was to take office in December of that year, he was instead sworn in two months after winning the election on July 8, 1989 when Alfonsín resigned to hasten the transition of power (Romero 2002, 283). Menem's presidency and rhetoric proved to be quite different from that of his predecessor. His preference for forgiveness and leaving the past in the past became apparent almost immediately during his inauguration, and would become even more evident when he would grant presidential pardons to several hundred people accused of violating human rights during the dictatorship. This included the military leaders of the authoritarian regime who had been found guilty of their crimes in the famous Trial of the Juntas. Despite this

being a near complete turnaround from everything that Alfonsín had advocated for, the political acts and rhetoric that characterized Menem's approach to democracy and human rights did not undermine the impact made by the rhetoric and policies from the early transitional period. If anything, by looking at the resurgence of these norms and ideas under Presidents Nestor Kirchner and Cristina Fernandez de Kirchner, Menem's presidency and rhetoric instead demonstrates the longevity and resilience of the rhetoric utilized during Alfonsín's presidency.

From the very beginning, it is clear that President Menem had different conceptualizations regarding how democracy was responsible for upholding human rights, particularly in the definition of upholding human rights. Menem's vision for reconciliation was primarily entrenched in leaving the horrors of Argentina's dictatorship in the past where it belonged, and looking forward with the goal of recreating a sense of brotherhood between all Argentines. In his inaugural address, he states: "The moment has arrived in which us Argentines stop looking at each other like enemies and begin seeing each other as true brothers before God, before the Fatherland and before this glorious people" (Menem, July 8, 1989).²¹ He later goes on to say, much more directly, that "[we Argentines] cannot once again make the mistake of living in other eras and other times" (Menem, July 8, 1989). This is, rather directly, arguing Argentina's need to move past the gritty details of the dictatorship and start living in the present if Argentina's people and democracy are to develop. Menem urges the nation to reevaluate the people they have viewed as perpetrators for so long, and instead reflect on them simply as fellow countrymen; essentially, to forgive and forget. However, as Clark (2009) points out, forgiveness is meant to be a form of agency for victims, who can ultimately decide whether to forgive their

²¹ The use of the word *pueblo*, or as it is translated above as *people*, is often difficult to communicate properly in the English language. *Pueblo* can mean *people*, *community*, *town*, or *nation* among many others. The complexity of this term should be taken into account when reading the above statement.

perpetrators (202). Menem's image of reconciliation as based on coerced forgiveness and a preference to leave the past behind does not match with Alfonsín's definition of reconciliation. Alfonsín's definition of reconciliation argues that it is an "incessant dialogue between Argentines", otherwise it is "nothing more than an easy forgetting" (Alfonsín, December 17, 1984). While Alfonsín's definition of reconciliation promotes constant discussion and reflection on the truths of the past, Menem's definition promotes impunity, the very antithesis of democracy and human rights proposed during the early transitional period. As the theory on transitional democracy suggests, it follows that Alfonsín's rhetoric and ideas would prove more enduring, due to the importance of and legacy set by the transitional government (Smith 2012, 46).

Menem reaffirms his definition of reconciliation again in his comments on the decision to pardon the dictatorship's leaders: the minds behind the most egregious acts of the authoritarian regime. Menem argues that the pardons are necessary for achieving national reconciliation and strengthening Argentina's democracy, stating that "Argentina lived through a dirty war, but the war is over. The pardons will definitively close a sad and black stage of Argentine history" (qtd. in Marx 1990). This desire to bring the anger of the dictatorship to a close is also evident in his address to Congress upon his inauguration: "The hour...of pacification, of love, of patriotism has arrived. After six years of democratic life, we have not managed to overcome the cruel confrontations that divided us more than a decade ago" (Menem, July 8, 1989). In this statement there is an implied association between democracy and the ability to overcome differences and reconcile. Although does prove to be a connection to the rhetoric utilized by Alfonsín in the early moments of the transition by uniting reconciliation to democracy, it is weak and distant. While Alfonsín's rhetoric implies that democracy brings about reconciliation via the rule of law,

justice, and thus a respect for and ability to protect human rights, Menem's perspective is clearly that of an assumption concerning democracy's ability to pacify and unite a divided populace.

It should also be noted that the pardons granted by Menem to high ranking members of the military were still not considered sufficient for the Armed Forces. As Huser (2002) describes it, "Pardon was not vindication...[Much of the military] felt that their institutions had done nothing wrong and that neither persecution nor forgiveness was right" (127). The issue of a slighted military remained; granting pardons still rhetorically implied that a crime had been committed of which the perpetrators should be absolved. This was evident in continued military unrest and attempted uprisings during Menem's presidency (Huser 2002, 128). From this perspective, the democratic regime under Menem was still acknowledging that crimes had in fact been committed by the military dictatorship, with pardoning differing significantly from exoneration; however, the act of pardoning them effectively declared the crimes forgivable, a definitive break with Argentina's earlier conceptualization of human rights as inalienable and inviolable.

It is under President Nestor Kirchner's presidency that the lasting impact of the early transition's rhetoric becomes more readily observable. Upon assuming the position of the presidency in 2003, it became immediately clear that President Kirchner adhered to Alfonsín's principles of eradicating impunity and democracy's responsibility to uphold respect for human rights by instituting justice via the rule of law. In his inaugural speech, Kirchner proclaims, "Governability is not nor can it be synonymous with impunity. Governability is not nor can it be synonymous with shady agreements, political manipulation of institutions or spurious pacts behind the backs of society" (Kirchner, May 25, 2003). Kirchner repeats many times throughout his speech that Argentina under his leadership will be unequivocally against impunity in all its

forms, as “legal security should be for all, not only for those with power or money” (Kirchner, May 25, 2003). He also reiterates that “social peace, respect of the law, defense of life and dignity are inalienable rights of all Argentines” (Kirchner, May 25, 2003). By describing these laws as inalienable, referring to the dignity of man, and respect for the law, Kirchner is drawing on the norms established by the transitional government of Alfonsín. From his first rhetorical act directed at the Argentine state and citizenry, Kirchner restates the norms established during the early years of Alfonsín’s presidency: impunity in all forms is unacceptable, and Argentina must abide by the rule of law. He goes so far as to say that the fight against corruption and impunity serves to strengthen democratic institutions on the basis of “eliminating all possible suspicion” of them (Kirchner, May 25, 2003). In this way, Kirchner goes a step beyond declaring impunity as the antithesis of democracy and legitimacy; in addition, the fight against impunity to confront it in any situation in which it arises serves to reinforce faith in democratic principles and institutions. This proactive perspective on fighting impunity becomes evident in Kirchner’s push to annul the Due Obedience and Full Stop laws, political embodiments of impunity.

One of the first political moves of Kirchner’s presidency was the annulment of the prohibition on the extradition of various perpetrators (Roehrig 2009, 737). There was concern that this may pose a threat to Argentine sovereignty as it could reflect on an inability or weakness of Argentina’s legal institutions. However, allowing for extradition served another purpose for Kirchner’s dedication to doing away with impunity—annulling the Due Obedience and Full Stop laws. In reference to allowing extradition, Kirchner states, “If the norms that generated impunity disappear, [the military members] can be tried in Argentina” (qtd. in *El Día*, July 31, 2003). The decision to open up extradition as a possibility for the military perpetrators had a dual purpose: not only did it serve as a potential catalyst for annulling the Due Obedience

and Full Stop laws, but it additionally signified an acknowledgement that human rights were in fact universal and unconfined to national borders. By allowing for the crimes against humanity committed during the dictatorship to be prosecuted in a different country, there is an implicit recognition that human rights transcend borders and ensuring perpetrators are brought to justice is a transnational goal, as is evident in Alfonsín's rhetoric during the earliest stages of the transition.

Kirchner also called for the resignation of many high ranking military officers by appointing junior officer Roberto Bendini to Army Chief of Staff. As is custom in the Argentine Army, when an individual is appointed to this post, "all officers above that rank that are bypassed for promotion are expected to retire" (Roehrig 2009, 737). Again, this political act served a dual purpose for Kirchner. First, by getting high ranking military officers to retire based on custom, there was less of a direct threat to military sovereignty while still establishing civilian control over the military; second, by having many military officials who still believed in the dictatorship's version of history removed from their posts, these officials were held accountable for their refusal to ascribe to the official, democratic truth.

President Kirchner pushed repeatedly to have the Full Stop and Due Obedience laws repealed, but ultimately left this to the Supreme Courts to make the final decision on their legality. Showing his support for the annulment of the laws was demonstrative of his rhetoric espousing the importance of eliminating impunity in Argentina, but allowing the Supreme Courts to make the final rulings on the amnesty laws was a demonstration of his respect for the democratic process. On June 14, 2005, the Supreme Court found both laws to be unconstitutional by referring to a principle of international law originating during the time of the Nuremberg Trials, stating that there could be no statute of limitations on human rights violations, nor can

such offenses be pardoned (Roehrig 2009, 738). Referring to international law dating back to the Nuremberg Trials further serves to demonstrate the respect for human rights law as a transnational principle in democratic Argentina. In response to revoking these laws, Kirchner responded that the Supreme Court had “given [Argentina] a ruling that renews [the people’s] faith in the system of justice. They have declared unconstitutional [laws] that filled [Argentina] with shame” (Roehrig 2009, 739). This harkens back to Alfonsín’s statement on having faith in democracy and the rule of law’s ability to uphold respect for human rights. Specifically, by saying that faith in justice was renewed rather than restored implies that it never fully deteriorated, but the annulling of the two amnesty laws allowed for a resurgence in dedication to utilizing the rule of law in democratic Argentina. In response to the removal of these two laws, various new cases were brought to trial. This moment is especially significant in such that it demonstrates the enduring nature of transitional justice mechanisms, especially when a nation and a regime have faith in the rule of law. Though many transitional justice scholars believe that transitional justice mechanisms must happen immediately during the transition if they are to happen at all, Argentina proves otherwise (Sikkink and Walling 2007, 428). On the contrary, belief in the long standing ability of democracy and the rule of law to protect human rights and bring perpetrators to justice allowed Argentina to continue its transitional justice processes long after transition had begun and even after the consolidation of democracy.

Beyond the Due Obedience and Full Stop laws, undoing the pardons granted by Menem served as another aspect of undoing impunity in Kirchner’s Argentina. Much of Argentina’s civil society called for the executive branch to use its power to undo the pardons, but Kirchner responded in a way that once again demonstrated his dedication to upholding the rules of the democratic process: “It is up to the courts. That’s the road it should take” (Roehrig 2009, 741).

Although he made his opinion on the matter clear and in accordance with his perspective on extinguishing impunity in Argentina, he remained steadfast to allowing the democratic process to take its course and allow the Supreme Court to make the final decision on the matter. While the Supreme Court began to undo each pardon case by case, a federal appeals case officially overturned the pardons granted to the junta leaders, stating that pardons went against the international human rights treaties that Argentina had ratified since the transition (Roehrig 2009, 742). Kirchner had declared the pardons “unconstitutional” in his opinion, but still insisted on the ultimate decision being within the “definitive jurisdiction” of the Supreme Court (qtd. in Obarrio 2006). This adherence to the democratic process while still demonstrating dedication to undoing Argentina’s history of impunity is demonstrative of the lasting impacts of the norms established during the transitional period.

Another rhetorical aspect that Kirchner adds to the preexisting narrative is that of memory. In his inauguration speech, Kirchner states: “We go forward without rancor, but with memory. Memory not only of the errors and horrors of the other, but also memory of our own equivocations” (Kirchner, May 25, 2003). This statement is referring not only to the errors of the dictatorship in committing grave transgressions against human rights, but also to the errors committed by the new democracy in its attempt to ignore and abandon the memories and truth of the past. This is especially relevant in coming from Menem’s presidency, where the regime’s rhetoric was clearly oriented towards forgiving and forgetting in order to achieve reconciliation. This framing of ignoring the past as erroneous is apparent again in Kirchner’s opening of the Museum of Memory in March of 2004: “I come to ask for forgiveness on behalf of the national State for the shame of having kept silent for 20 years of democracy in regards to so many

atrocities” (Kirchner, March 24, 2004).²² To further demonstrate his regret at the state remaining silent in regards to truly acknowledging the atrocities committed by the dictatorship, Kirchner states that the perpetrators have “only one name: they are murderers repudiated by the Argentine people” (Kirchner, March 24, 2004). This bold rhetorical act of calling the military perpetrators “murderers” harkens back to Alfonsín referring to the crimes against humanity as barbaric and terroristic. By making this strong statement about the military perpetrators, both Kirchner and Alfonsín solidly align the democratic regime with both acknowledgement and rejection of those who committed such atrocities. The creation of the Museum of Memory itself is a powerful rhetorical act; Kirchner had the Navy Mechanics School turned into a memorial site to remember the disappeared victims and keep them in that national memory (Roehrig 2009, 737). The act of transforming a space formerly utilized to train military officials as well as detain and torture human beings into a site of remembrance gives the space an additional level of meaning: much as the space was transformed from one of violence and impunity into one of truth, recognition, and memory, so was the nation of Argentina.

Following Nestor Kirchner’s single term in office, Cristina Fernández de Kirchner was elected the next president of Argentina.²³ Fernández de Kirchner’s rhetoric concerning human rights and democracy reflects that of Nestor Kirchner and Alfonsín, in that it operates on a conceptualization of the two as judicially united and highly participatory. Beginning with her inaugural speech, the rhetorical patterns produced in the transitional government and reproduced by the most recent administration are immediately traceable. The judicialized conceptualization

²² “Vengo a pedir perdón de parte del Estado nacional por la vergüenza de haber callado durante 20 años de democracia por tantas atrocidades”

²³ Cristina Fernández de Kirchner, former wife and current widow of Nestor Kirchner, was first lady during her husband’s term in office. Though it is expected that there would be skepticism about a president’s wife being his successor, the elections were fair and open and her run for office was not prohibited.

of democracy and human rights' overlap is observed in her statements on eradicating impunity in Argentina: "I believe that... the Executive Branch, the Legislative Branch, and also the Supreme Court of Justice...have finally demolished the wall of impunity [through] the annulment of the laws of Due Obedience, Full Stop, and the Pardons... We have contributed to the construction of the democratic system" (Fernández de Kirchner, December 10, 2007). A clear connection is made between the ability for the democratic process and democratic principles to do away with impunity. Alfonsín and Nestor Kirchner's rhetoric make this same connection, once again demonstrating the enduring ability of norms and beliefs established during the transition and beyond.

Furthermore, by using the subject "we", there is again a rhetorical reference to the norm of democracy being highly participatory. In this way, there is a reaffirmation that true Argentine democracy relies on the engagement of every individual member of the nation. Fernández de Kirchner makes this belief even more clear when she says, "You cannot change a country only with good government in its three branches. To change a country requires a good government and a good society, where every citizen knows that every day when he makes decisions, he is also constructing the societal model in which he wants to live" (Fernández de Kirchner, December 10, 2007). Rhetorical support for civil participation as critical to the democratic process harkens back to Alfonsín's own inaugural speech in which he states that Argentina cannot rely on "enlightened leaders" and that each person is responsible for making the country they deserve. Fernández de Kirchner's statement demonstrates a belief that every act or "decision" of democratic citizens can be political ones, again reflecting the ideas from Alfonsín's rhetoric that argued democracy was a way of life in addition to a form of government.

Within her policy proposals, these early rhetorical patterns are evident in her goal of strengthening Argentina's democratic institutions: "I sincerely believe that we have come a long way in these years of democracy and I hope to deepen the role of Congress, where we can discuss and debate...without grievances, with alternative and viable proposals" (Fernández de Kirchner, December 10, 2007). Adherence to the democratic process and the rule of law inherent to it is a central aspect of this statement. The democratic process as conceived by Kirchner and her predecessors involves open discussion and debate. Reflective also in the above statement is belief that democracy has in fact been developing and has "come a long way" since the transition period. One can infer that based on this statement, Fernández de Kirchner demonstrates a faith in the norms of democracy that she is reproducing.

Fernández de Kirchner's rhetoric regarding human rights is also reflective of the norms and beliefs that were produced by Alfonsín and then reestablished under Nestor Kirchner. As mentioned in an earlier quote, Fernández de Kirchner argues that by annulling the Due Obedience law, the Full Stop law, and the presidential pardons for military perpetrators, the democratic governance has made an impressive step in the pursuit of abolishing impunity. Additionally, the act of annulling these acts has contributed to the "construction of the democratic system" (Fernández de Kirchner, December 10, 2007). The fact that these laws were annulled does not only bolster the strength of democratic norms via proper democratic channels; it also serves to strengthen democracy by upholding human rights norms. As earlier rhetoric demonstrates, there is a clear, judicialized link between human rights and democracy. Fernández de Kirchner reaffirms this rhetorical link when stating that the annulment of these laws, which stood in the way of respect for human rights, helped maintain democracy. Put simply, the

annulment of the amnesty laws was a testament to the deep connection between democracy and human rights that Argentina repeatedly aimed to establish.

Fernández de Kirchner also states her desire to continue with the transitional justice mechanisms that were initiated during the transition. In her inaugural address, she asserts that all branches of government have the obligation to “prosecute and punish those who were responsible for the greatest genocide in our history” (Fernández de Kirchner, December 10, 2007). She explicitly mentions that she wants to reinstate the human rights trials and see them through to the end. The rhetoric here is very reflective of a perspective on justice as being retributive and based in the rule of law and procedure. There is also something important to note here; by calling the dictatorship genocide instead of a period of terrorism or conflict as other presidents had in the past, there is a reassertion of Argentina’s willingness to recognize and acknowledge human rights violations for what they are, harkening back to Alfonsín’s rhetoric establishing truth as a necessary mechanism for democracy and human rights.

Fernández de Kirchner’s rhetoric reaffirming norms of human rights and democracy is especially evident in her speech given on the Universal Day of Human Rights. She states that the Argentina that has been collectively built since the transition “[Argentines] have built together, respecting memory, truth and justice...I’m not going to tire of repeating that human rights are neither left nor right; they are simply...human rights, those that distinguish the human condition and those that make us respect the life and personal and moral integrity of every citizen” (Fernández de Kirchner, December 10, 2010).²⁴ This sole statement contains many of the norms

²⁴ “[Los Argentinos han] construido entre todos, respetando la memoria, la verdad y la justicia... Y yo no me voy a cansar de repetir que los derechos humanos no son ni de izquierda ni de derecha; son simplemente... los derechos humanos, los que distinguen a la condición humana y los que no hacen respetar la vida y la integridad personal y moral de cada ciudadano.”

and ideologies that were established during the transition: the Argentina that respects the inherent dignity of human beings through memory, truth, and justice was developed collectively by every individual's adherence to norms and beliefs regarding the symbiotic relationship between democracy and human rights. All of the conceptualizations that were so prominent during the transitional government become reasserted here in a single statement.

Pride for a nation that respects democratic processes and the rule of law in regards to transitional justice and human rights is also evident in another statement of Fernández de Kirchner's. She states that civil societies call for due process rather than revenge in regards to the dictatorship's human rights violations "redoubles [her] conviction that this is the true democratic, libertarian and equal path that a society that calls itself civilized must have to achieve justice" (Fernández de Kirchner, December 10, 2010). The president declares in this statement that Argentina has proven that judicialized conceptualizations of human rights and democracy, as well as respect for the rule of law, is the only way to achieve justice. Such a statement reconfirms that the norms that have been reproduced throughout the transition and consolidation are central to how Argentina should imagine its future.

The president also argues for why the continuation of certain transitional justice mechanisms, specifically human rights trials, are important even after so much time has passed since the dictatorship: "We owe it to those who victims; we owe it to their families...we owe it to the survivors that cannot continue to be subjected to the torture of the permanent story of the tragedy" (Fernández de Kirchner, December 10, 2010). Fernández de Kirchner invokes a sense of civic duty as democratic citizens to continue with these transitional justice mechanisms. This statement also argues that in order for survivors to completely regain their dignity, action must be taken so that the story of Argentina's recent history is one in which a nation rose up against

impunity and brought perpetrators to justice for the sake of human rights and democracy;
Argentina's story can no longer remain one of unfinished business wherein victims, survivors,
and their families are mere reminders of tragedy that went unresolved.

DISCUSSION AND CONCLUSION

As the preexisting literature demonstrated, gaps in the current scholarship prevented a fuller understanding of the ways in which transitional justice and transitional democracy overlap, and more importantly, the way nations and citizens think about them. While institutional strength should still be considered a significant aspect of the way democratic regimes—both in their transitional stages and after consolidation—should be evaluated, the way that democracy and human rights are conceptualized by a nation provide an extra layer of understanding. Particularly in the case of Argentina, it is clear that a more complete picture of the way ideas and definitions democracy and human rights have been produced and reproduced comes from rhetorical analysis as well as institutional evaluation. As the analysis above has shown, certain rhetorical frameworks and patterns have persisted within the Argentine conceptualization of democratic and human rights principles since the onset of the transition.

There are many common rhetorical patterns that can be found starting in the transitional period and going forward. As theorized in the methods section, there were five specific conceptualizations that this thesis sought to analyze: humanity, justice, rights, democracy, and truth. The purpose of this analysis was to see how each of these principles were thought of in relation to each other within the context of Argentina's period of transitional justice and transitional democracy. Through a process of "rhetorical carbon dating" by which these discursive patterns are traced across time, certain trends are found in the way that Argentina's regime produced and reproduced certain norms regarding the overlap between democratic norms and respect for human rights. Particularly in the case of Argentina since its 1983 transition, the interplay between democratic responsibility and human rights has been highly judicialized. It is primarily through rhetoric of the rule of law that these principles have been united and

judicialized, and indeed each of the five original terms fits into this complex web of ideology in this way.

It should be taken into account that democracy and human rights, while similar in some principles, are not inherently tied to one another. As Evans (2001) explains, “Although the imagery of democracy has achieved a high profile in global and international politics in recent years, the discussion here points to a political rationale that has little to do with achieving the conditions for protecting and promoting human rights” (639). Taking this into consideration, it should primarily be acknowledged that Argentina’s ability to unite democracy and human rights through rhetorical norms is not something to be overlooked or considered expected; the proactive uniting of the two concepts is something that must actively be strived for. Not only is this significant for domestic understandings of the relationship between democracy and human rights, but it is also important in how it contributed to the transnational conversation on human rights.

Conceptualizations of humanity fit clearly into Argentina’s framework of the judicialized notion of democracy’s responsibility to human rights. Frequently throughout Alfonsín’s rhetoric, there are many references to the inherent dignity of man, which ensures certain rights and guarantees solely on the basis of being human. Rhetoric of humanity is not typically judicialized in a traditional, courtroom sense of legality, but is rather as a law of nature that is inherent to the individual beyond the confines of man-made positive laws. As the rhetorical analysis section has demonstrated, Kirchner and Alfonsín’s rhetoric often points to the critical responsibility democracy has in protecting the rights that are ingrained in humanity. This responsibility is judicialized in two ways: first, by castigating human rights violations and utilizing the rule of law to enact legitimate forms of retribution; and second, by implementing the rule of law to ensure human rights are upheld in the proactive rather than reactive sense.

Truth and justice as transitional justice mechanisms are also judicialized in Argentine rhetoric. Justice is repeatedly framed as a necessary step on the path to reconciliation. It is through retributive justice, constructed and implemented by the rule of law, that a democracy that is able to take action to protect human rights consistently and legitimately. Retributive justice is additionally linked to eventual reconciliation, the belief being that rejecting impunity in favor of accountability will bring peace of mind to victims and dissuade any future perpetrators. Truth and justice are typically entwined with one another. Truth is seen as a precursor to justice; it is uncovering of the truth that sheds light on the appropriate measures of justice. Truth is also thought of as foundational to the development of democracy and democratic unity. It is only through being honest with all aspects of its past that a democracy is able to attain legitimacy. When working in tandem, truth and justice both contribute to reconciliation by being foundational to both democracy's ability to uphold human rights in a judicialized context.

Rights are conceptualized in two different ways related to the judicialized relationship between human rights and democracy. Reflecting back on concepts of humanity, certain rights are theorized to be inherent and inviolable to each human being. Within Argentina specifically, these inviolable rights innate in every human being include rights to life, liberty, living a dignified life, and the freedom to choose one's own path in life (Alfonsín, October 4, 1984). Considering this perspective of basic human rights, democracy is expected to provide certain means to achieve these rights that are afforded human beings. Additionally, democratic rights can be seen as freedom of association and expression. Through Argentine rhetoric, it is clear that both being a democratic citizen and being a human being come with their own sets of implicit rights, though many of these rights are similar. It is through these overlapping sets of rights that democracy and human rights are joined together in Argentine rhetoric.

Democracy is interwoven with the other principles of humanity, justice, truth, and rights; its understanding in the Argentine imaginary is crucial to interpreting democracy's responsibility to human rights. Throughout much of the rhetoric implemented during the transitional period and beyond, democracy is depicted as a highly participatory process. Democracy is also conceptualized as characterizing all aspects of post-authoritarian life in Argentina, extending to the home and the school as well as to the official political arena. The discursive connection between rule of law and democracy is very strong in Argentina's transitional rhetoric; the rule of law is perceived as a central pillar of democratic governance, as it is through the rule of law that legitimacy is gained in a democratic regime. At the same time, the rule of law within Argentine rhetoric is described as being the process by which the rights inherent to human beings are fully respected. In this way, proactive and reactive rules and measures taken to ensure the establishment of human rights norms are fundamental to the foundation of democracy.

By doing rhetorical carbon dating on all of these discursive concepts, my analysis is able to demonstrate how democratic responsibility to upholding human rights was constructed in post-authoritarian Argentina. The repeated construction and reassertion of the relationship between democracy and human rights framed the use of particular transitional justice mechanisms rather than others in the wake of Argentina's repressive dictatorship. The relationship between democratic responsibility and human rights was fundamentally judicialized, which was then reflected in the conceptualization of reconciliation. Within this rhetorical framework, reconciliation became a reflection of the judicial processes such as the trial of the juntas, the annulation of the various amnesty laws, and declaring presidential pardons as unconstitutional. The publication of the Truth and Reconciliation Report *Nunca Más* and the creation of the Museum of Memory were not as directly judicial as the other transitional justice

mechanisms, but they still reflected judicialized principles evident on the rhetoric regarding impunity; as impunity is a significant blockade to the proper functioning of a democracy that respects human rights, it is the assertion of truth and the memorialization of this truth that puts a stop to this impunity and instead brings about accountability. These conceptualizations, established during the early stages of the transition, established a pattern in the way Argentina understood and conceived of democracy and human rights across time. As is evident from the second president's attempt to reinstate impunity and forgetting, the judicialized conception of democracy's responsibility to human rights formulated during the transition period were strong enough to last well past the point of consolidation and affect related policy and rhetoric in the modern era.

Argentina's rhetoric regarding the overlap between human rights and democracy demonstrates the dynamic relationship and understanding of these two principles. The rhetoric established during the transition has been developed and reapplied to debates on human rights beyond the limits of transitional justice. Much of the rhetoric used by recent presidents focusing on human rights and democracy has shifted its focus to elements of social justice, such as education and health care. One recent policy in particular that has been framed using rhetoric of justice and human rights has been the legalization of same-sex marriage during President Fernández de Kirchner's term in office. Though similar patterns of rhetoric appeared in the framing of this law, it represented a shift towards a more positive view of human rights rather than a solely reactionary one. The way that the passing of this law has been framed as a fundamental step in respecting human rights demonstrates both how human rights and the way they are understood is dynamic, and that Latin America is contributing to these constantly evolving conceptions.

Chile would be another significant place to look to demonstrate the variability in how nations understand and conceive of the relationship between human rights and democracy. Chile's dictatorship and transition was similar to Argentina's, but differed in important ways. Besides the point in time at which Chile transitioned,²⁵ Chile's mode of transition—a plebiscite—and their choice in transitional justice processes differed. Still, the human rights violations committed by the Chilean dictatorship were extremely similar to those occurring at the same time in Argentina, and the ultimate goals of achieving reconciliation and democratic consolidation were the same in both countries. However, as a preliminary look at Chile's transitional rhetoric would suggest, the understanding of the way democracy and human rights overlap differs; an introductory glance would suggest a rhetorical framework based on a less retributive idea of justice and a more central focus on pacification and memorialization (Aylwin, March 4, 1991). However, further analysis is required to fully understand the way rhetoric was used in Chile to frame transitional democracy and transitional justice.

The purpose of this analysis was to demonstrate that particular patterns of rhetoric during the period of democratic transition and transitional justice in Argentina established norms of democracy and human rights in different and significant ways. This analysis also sought to demonstrate how tracing patterns in rhetorical usage—or “rhetorical carbon dating”—from the transitional period to the present demonstrates how norms ratified during the crucial period of transition have long lasting impacts on how those norms continue to be produced and reproduced well after consolidation. This thesis also sought to demonstrate the value of rhetorical analysis to demonstrate lasting trends in ideology and political action regarding certain principles that are

²⁵ 1990, a full seven years after Argentina began its transition.

critical during a period of transition from repressive authoritarianism to human rights respecting democracy.

There are many layers of importance to this research. From a methodological standpoint, it demonstrates the importance of rhetoric and rhetorical analysis in various realms of political science. While much of political science interprets rhetoric as a byproduct of other political processes, this research aims to demonstrate how rhetoric alone can act as an explanatory variable for multitudes of political actions. At a more particular level, this thesis demonstrates the significant importance of rhetoric during the period of regime transition. During the period of democratic transition, especially when occurring in tandem with various transitional justice processes, the way certain principles are conceptualized reflects on what the new regime stands for, what it rejects from its past, and what it intends to uphold going forward. Considering the implications on democracy and human rights, such information can alter the way a transitional regime takes its first steps towards eventual consolidation.

This analysis also seeks to provide hope and alternatives beyond the limits of institutional strength, military threat, and economic viability for a transitioning regime. While much of the previous literature on the topic of transitional democracy and transitional justice have asserted the central value of institutional strength in evaluating a society's long term adherence to principles of democracy and human rights. Suggesting the importance of rhetoric offers an uplifting alternative to this model. Rather than focusing on how lack of funds, presence of a military threat, or most importantly, institutional weakness may threaten a fledgling regime's ability to establish norms of democracy and human rights, the rhetoric-centric model argues that as long as the transitional regime establishes discursive norms in government and society, the crucial understandings of human rights and democracy can last. This lessens the risk of rushing

certain transitional democracy and transitional justice mechanisms in an effort to do as much as possible before the “transitional window” is closed.

Furthermore, by moving away from traditional measurements of institutional strength and instead focusing on rhetorical patterns, transitional justice and transitional democracy theory can be more reflective of reality and represent the dynamism inherent to human rights. By turning to Latin America and other regions with histories of recent transition and analyzing how they view democracy and human rights in the wake of recent regime transitions, there is more room academically and politically for competing notions of democracy, rights, justice, truth, and reconciliation.

Areas for further research include diving into the role that civil society and the media play in producing and reproducing norms of democracy and human rights. The Southern Cone and Argentina in particular are excellent examples of how the demands and conceptualizations of civil society, and in particular human rights groups, are able to affect policy outcomes regarding principles of human rights and democracy. In particular, looking at the way in which civil society and the democratic government interact to continually reshape and redefine these principles together is a significant point that could contribute much to research on the long term implications of transitional periods.

From a transnational perspective, further research could also illuminate the effects of translating rhetoric from one language to another. This could be analyzed directly between languages within a region (i.e. from Latin American Spanish to Brazilian Portuguese), or across multiple languages (i.e. Latin American Spanish to Brazilian Portuguese to American English). As principles of human rights and democracy become more globalized, it would be of

considerable importance to see how losing certain discursive elements in translation may affect how they are transnationally conceptualized.

In conclusion, rhetorical and discursive analysis has much to offer political science, especially insofar as tracing the impacts of certain interpretations and understandings of the way ideas are transferred and reified over time. As ideologies of human rights and democratic governance become more and more transnationalized, the importance of analyzing the construction and maintenance of these ideas becomes ever more significant.

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