

Justice from Below: Corporate Accountability in Argentina

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Abstract

Argentina has taken a protagonist role in corporate accountability for crimes against humanity committed during the past authoritarian regime (1976-1983). This study examines in-depth the factors that allowed for those advances. It highlights the role of victims, human rights groups, and their advocates in demanding justice for gross human rights violations perpetrated by an alliance of economic and state actors involved in them. It considers the role institutional innovators within the judicial realm advanced these demands, translating them into legal actions. This combination of forces 'from below' has made Argentina a leader in corporate accountability, capable of overcoming barriers posed by a powerful veto by the business sector. Not all processes advance victims' rights, however. Using an original database of cases, the article develops an accountability scale to develop Archimedes' lever approach to explain movement along it. Specifically, in the right context and with the right tools, even relatively weak victims in the Global South can lift the weight of corporate accountability. The article concludes by highlighting the tools that are transferable to other country contexts.

Keywords: Transitional justice, corporate accountability, institutional innovators, veto players, Argentina, human rights

Introduction

‘Democracy or Corporations’ were the words that appeared on posters and graffiti in the March 26, 2014 commemoration of the 1976 coup in Argentina. Before that event and following it, societal groups have demanded truth, memory, justice, and guarantees of non-repetition for the role of economic actors in the human rights abuses of the past dictatorship (1976-1983). With the assistance of human rights lawyers and public prosecutors, human rights groups transformed these claims into judicial action in domestic courts. As a result, Argentina, already considered the global protagonist of transitional justice innovations,¹ added a new dimension to its innovations in fighting impunity. With more than twenty judicial cases against economic actors initiated over the past fifteen years, it has become a global leader in corporate accountability in transitional justice (TJ) contexts.²

Argentine cases include dramatic examples of overcoming impunity even for violations committed by powerful multinational corporations, such as the March 2019 conviction of two top officials of the Ford Motor Company for crimes against humanity, upheld on appeal in 2021. Yet, innovative judicial processes do not always succeed. Only three months after the original Ford conviction, the Supreme Court overturned a lower court decision against the *Techint* company. The Court argued that statutes of limitations hold for labour claims against companies even when they are connected to crimes against humanity. Between these two ends of the corporate accountability continuum, the outcome of numerous pending cases remains ambiguous. It shows that these cases do not always win. Nonetheless, Argentina has moved farther than any other country in the world in advancing corporate accountability in judicial processes. Tracking and analysing the full range of cases as they move through courts reveal that Argentina’s protagonism is not only the result of achieving the highest number of corporate accountability outcomes, but also for developing legal innovations to initiate and sustain efforts to challenge corporate impunity.

This study explains how Argentina has achieved that protagonist role. In doing so, it applies the Arquimedes' Lever (AL) framework developed by Payne, Pereira, and Bernal-Bermúdez that identifies four interacting factors to explain accountability outcomes. As Archimedes claimed, *weak actors*, in this case civil society groups in the Global South, require the right tools, in corporate accountability these are the institutional innovators who translate those demands into accountability processes, to lift the weight of the world – corporate accountability.³ Their capacity to do so depends on the placement of the fulcrum, or a favourable political context, and the reduced power of those holding down the corporate

accountability weight, veto players in the business community. The framework applies to the full range of cases underway in Argentina, from the initiation of judicial investigations, to lower court decisions, and final judgments.

This article takes the Archimedes' Lever framework farther than the Payne et al. original formulation. It does so through an in-depth case study of Argentina, the country that according to the Corporate Accountability Database (CATJ) has the highest concentration of corporate accountability cases in the world.⁴ Rather than the broad comparative and global approach taken by Payne et al. in their original analysis, this study focuses in on the internal dynamics that explain outcomes. It holds country variation constant, but recognises that factors vary within the case over time and with political changes. By applying the Archimedes' Lever to this one case, the study allows for the development of a truth-table to consider the interaction of the four factors. While this in-depth study confirms the Archimedes' Lever approach, it emphasises the micro-level processes that the broad comparative and global study could not provide. Furthermore, the specific sets of innovative techniques revealed in this in-depth case study of Argentina contribute models of practice that can be adapted to other cases, such as Colombia, where domestic courts have had a salient role in corporate accountability. This study further enhances the development of the framework itself and outlines the set of specific innovations, or tools, that are adaptable to a range of country contexts.

The study thus contributes to a flourishing literature on corporate accountability. Since the seminal International Jurist Commission on Corporate Complicity and Michalowski's edited volume,⁵ studies from different disciplines have mainly focused on two interrelated elements: corporate responsibility for past human rights violations committed in dictatorships and armed conflicts,⁶ and efforts to hold economic actors accountable using transitional justice mechanisms.⁷ These two components have been simultaneously addressed by the literature, particularly in country case studies such as in Argentina,⁸ Chile,⁹ Colombia,¹⁰ and Uruguay.¹¹ The study builds on, and advances, the analysis of Argentine processes in several ways. Rather than looking at a single or small set of cases, we analyse the full set of judicial processes as they move through the courts, wins and losses for victims. In the process, it adds to the description of these cases an analytical framework to consider explanations for these wins and losses and the capacity of the successful set of tools to advance victims' rights in other contexts.

By looking at these processes ‘from below’, the article challenges assumptions in two bodies of literature: transitional justice and business and human rights. The literature on transitional justice (TJ) has focused almost exclusively on violence carried out by state forces and their paramilitary allies or rebel groups, often ignoring the role of economic actors. In addition, it tends to emphasise the role of international actors in explaining accountability outcomes.¹² Civil society actors, in this approach, depend on international actors to pressure states to investigate and sanction violations.¹³ But international actors have played a minimal role in the case of corporate accountability and transitional justice. Thus, we emphasise the importance of civil society actors facing powerful economic actors without the support of international or foreign support.

The literature on business and human rights investigates the patterns of current abuses or how to prevent them.¹⁴ It examines the sectors of industry, in which set of countries, or regions where these violations occur, and the business, state or global policies and practices most likely to prevent or reduce them. These studies have also left a gap. They tend to overlook the patterns of corporate abuses during non-democratic eras. The pathway toward accountability, moreover, has focused on transnational litigation Global North courts, given that such ‘bottom up’ processes in those powerful institutions are most likely to succeed in holding companies accountable and advancing global business and human rights norms.¹⁵

We show in contrast to these two approaches, that the role of foreign courts and international pressure in ‘bottom up’ business and human rights approaches and ‘top down’ international transitional justice approaches have so far proved negligible in corporate accountability advances.¹⁶ Moreover, our study contends that corporate accountability related to human rights violations committed during authoritarian governments and armed conflicts does not seem to require international actors or powerful Global North domestic courts to advance victims' demands for justice. The dynamism occurring in corporate accountability is in the Global South, initiated by relatively weak victims of such abuses, and advanced through domestic courts. This is the Archimedes’ Lever approach: that even weak actors (victims in the Global South) can, by working with the right tools (institutional innovators) lift the weight of the world (corporate accountability) from under the power of pro-business veto players even without the additional support from international or foreign actors.

What this study of Argentina offers is more understanding of the mechanisms behind that process that has led to the country's protagonism in corporate accountability. We also identify barriers to those accountability processes that may be underplayed in AL’s global

analysis. We further suggest ways that international and foreign pressure could advance these processes further, particularly during inopportune political moments that Argentina has experienced since the dictatorship.

To develop this argument, we first provide a brief background on Argentina's repressive policies between 1975-1983 and the role business played in it. That section also examines the transitional justice processes aimed to address past violations. Then, we present the definition of corporate accountability and situate Argentina within the findings from the CATJ. Next, we use the AL approach to explain the variation in trial outcomes. We then use this framework to analyse Argentine cases. The conclusion summarises the main finding of this work and how it can travel to other country contexts and begin to reduce corporate impunity for past human rights violations.

From the Civil-Military Regime to Transitional Justice in Argentina

Argentina's transitional justice process emerged as a response to systematic human rights violations perpetrated by the state during the last year of the democratically elected government in 1973 and the subsequent repressive dictatorship (1976-1983). Human rights groups and society as a whole call this a period of 'state terror' and refer to it as a 'civil-military' regime. Economic actors' role in the regime's human rights violations constitutes one part of the civil-military repressive alliance.

Authoritarian forces engaged in a concerted and vast human rights violations campaign. Regime opponents were targeted in this 'politicide', including professionals, students, and social activists, and also those affiliated with an armed insurgency. Kidnapping individuals from their homes, workplace or on the street, forced disappearance in the network of 610 clandestine centres, torture, and execution, were the central features of the repressive apparatus in place before and following the coup. The regime cooperated with other Southern Cone

dictatorships in Operation Condor, a repressive cross-border alliance that carried out abductions, rendition, torture, and disappearances of suspected subversives.¹⁷

The workers' movement was a central target of state terrorism even before the 1976 coup. Thousands of labour activists and leaders were murdered, imprisoned, disappeared, or forced into exile.¹⁸ Repressing workers also involved the regime's prohibition of union activity. Among other policies aimed at dismantling the union movement, the regime exerted robust control inside major companies to suppress labour mobilisation. Workers, particularly union members and leaders, were considered to be regime opponents because they mobilised and protested against the draconian wage repression policies, unsafe working conditions, and the absence of basic working benefits.

The move away from the ideals of social democracy to neoliberal authoritarianism and the activism it spawned made labour a key victim for the regime's repression. In Argentina, the dictatorship cannot be characterised only as a mass extermination plan designed and implemented by a small number of state actors for political objectives.¹⁹ State terror in Argentina involved a criminal enterprise to eliminate political opponents, but it went further than that. Its project aimed at social, economic, and political transformation.²⁰ Civil groups -- religious, legal professionals, and economic actors -- allied with the military to carry out this transformation, thereby forming a 'civil-military regime'.²¹

One key transformation on the 'civil' side was the creation of a business-friendly environment. As Basualdo et al point out,²² key national and transnational actors were the natural allies of the right-wing military regimes; military rulers, concerned with 'foreign infiltration' from international communism through labour activism, found common ground with business actors opposing union mobilisation, perceived as a threat to their business profits. This approach is consistent with Guillermo O'Donnell's notion of the 'bureaucratic

authoritarian state' alliance of military, technocrats, and business behind a 'capitalist deepening' development ideology and strategy.²³

In Argentina, the goal of eliminating the political opposition to the regime was linked to the transformation objective, specifically adopting an economic model in which the industrial sector played a leading financial role, growth of external debt, and profound industrial restructuring.²⁴ State terrorism, thus, rested on a political and economic plan with clear winners and losers.²⁵ The restriction of labour rights and the regressive redistribution of income severely affected the working class to the benefit of certain businesses. The reshaping, downsizing, and concentration of the industrial sector benefited large competitive, and particularly internationally-oriented businesses at the expense of small domestic businesses.²⁶

The repressive apparatus – particularly the victimisation of workers and unions – facilitated the transformative process without resistance. The transformative project itself gained support from those who shared the development ideology and who benefited from specific economic advantages such as subsidies and tax exemptions, as well as the market conditions generated by the repression of specific sectors of society.²⁷

Argentina's transition to democracy began with the regime's demise, as each pillar of its support eroded. Its neoliberal economic plan collapsed under a severe economic crisis. Its military prowess was undermined in its disastrous defeat in its war with the United Kingdom over control of the Malvinas [Falkland] Islands in 1982. Argentina also became an international human rights 'pariah' when the regime itself invited international expert observers to the country, prompting outcry heard around the globe in defence of victims.

In 1983, the first democratically-elected president took office, a process that has continued uninterrupted until the present. Under these democratic leaders, Argentina's

transitional justice has evolved. The country held the first truth commission in the world. It also held the first trial of regime leaders since Nuremberg. The country is touted as adopting the most extensive victims' reparation programme. The authoritarian military structure was dismantled with institutional reforms, and vetting. Argentina is also known for the most extensive set of human rights trials in the world.²⁸

These criminal prosecutions did not follow a linear direction, however, and resembled instead an 'ebb and flow' pattern.²⁹ The initial judicial accountability processes for human rights crimes in the 1980s were gradually restricted and eventually foreclosed with amnesties in the 1990s. By the 2000s, however, an unrestricted prosecutorial policy reopened almost 20 years after the beginning of the transition to democracy and has remained in place even when certain presidents have attempted to roll it back.³⁰

These prosecutions have also expanded beyond state accountability alone. Courts have sentenced to prison a priest, medical doctors, and judges for their role as accomplices to crimes committed in torture centres.³¹ Notably, courts have also investigated business collusion in the crimes against humanity during the dictatorship. With more than 20 judicial cases against economic actors initiated over the past 15 years, Argentina has become a global leader in corporate accountability.

These judicial advances did not begin or end the corporate accountability process in Argentina. In the early stages of transitional justice in the 1980s, the *Nunca Más* (Never Again) truth commission report, the first report of this kind in the world, named 11 companies allegedly involved in the authoritarian regime's kidnapping, arbitrary detention, disappearances, and torture. The Argentine National Stock Exchange (CNV) also elaborated a report in 2013 accounting for its own responsibility for human rights violations during the dictatorship. The report revealed that some members had faced illegal detention within the

regime's repressive apparatus after they had been deliberately and falsely denounced by their competitors as 'subversives' so that these competitors could take over their companies.³²

Additionally, the National Ministry of Justice, in partnership with the Latin American Faculty of Social Sciences (FLACSO), and the civil society organisation Centre for Legal and Social Studies (CELS), elaborated a detailed 1000-page report documenting the participation of 25 companies in the commission of crimes against humanity. Human rights organisations have also publicly 'outed' business perpetrators for their past abuses, raising public awareness of corporate responsibility for past human rights violations through the so-called *escraches* and massive rallies and demonstrations.³³ In 2015, the Argentine legislature also passed a truth commission law to specifically investigate economic actors' human rights violations during the dictatorship, although the commission has not yet been implemented.

Each of these stages of recognising the responsibility of economic actors in the crimes of the dictatorship are very local processes with almost no international or foreign pressure. What is more, these processes have received very little attention outside the country until scholars, practitioners, and journalists have begun to reach beyond the country's borders to share experiences. Argentina is only now achieving visibility for its protagonism in corporate accountability despite initiating these processes in the 1980s.

Argentina's Protagonism in the Corporate Accountability and Transitional Justice (CATJ) Database

Argentina's protagonism in the area of corporate accountability is recognised in the CATJ. But before situating Argentina in that global context, certain conceptual clarifications are warranted. First, the CATJ uses the term 'corporate' as shorthand. The types of accountability included in the database is not limited to private corporations, but a full set of economic actors, i.e., individual businesspeople, firms, associations, or groups involved in state, private, mixed, foreign, and multinational enterprises.

Second, the forms of ‘corporate accountability’ included are restricted to crimes against humanity. They fall into four main criminal activities:³⁴ 1) direct participation in criminal violence (e.g., joint criminal enterprise and conspiracy to violence); 2) labour violations (e.g., enslaved or forced labour); 3) financing repression (e.g., bank loans to sanctioned regimes, or odious debt); and 4) illegal activity that knowingly procures or profits from, and thereby perpetuates, violence (e.g., trading in ‘conflict minerals’).

The CATJ tracks the full scope of accountability efforts for economic actors allegedly involved in this set of crimes against humanity during armed conflicts and authoritarian regimes. Judicial processes include international criminal trials, foreign civil and criminal trials, and domestic civil and criminal trials,³⁵ documenting a total of 104 efforts in every type of court and every region of the world.³⁶ The CATJ shows, contrary to assumptions in the transitional justice and business and human rights literature, dynamism in the domestic courts of the Global South, not in international, regional, or powerful courts of the Global North. While cases were brought to these courts, few reached conclusions. Those that did settled out-of-court; none reached final verdicts.

While corporate impunity is the norm in international and foreign courts, more dynamism is evident in domestic courts where judicial investigations have begun and even reached final verdicts. Nearly all of these domestic trials took or are taking place in Latin America (52 out of 54), and in two countries in particular, Argentina (24) and Colombia (19)³⁷.

This dynamism in domestic courts does not refute the existence of a corporate impunity norm, however. The numbers of cases remain small. Only a half of the initiated cases reached a final judgment, and a quarter ended in acquittal or dismissal. The other quarter remain pending.³⁸ Tracking these cases, moreover, shows that they do not follow a linear progression toward justice; earlier decisions in favour of victims are sometimes reversed on appeal.

In the current context of corporate impunity, following close up the full set of cases reveals certain factors that may begin to pave a way toward corporate accountability. The thorough investigation into the small set of cases, may suggest not only what factors contribute to accountability, but also what factors block it. By looking at the small number of Argentine cases in this article, we begin to develop a more systematic study, in other words,

of how the specific set of mechanisms that enable the Archimedes' Lever to elevate corporate accountability, and what prevents it from doing so.

To track the Argentine cases, we use the Payne et al continuum of accountability.³⁹ As set out in Figure 1, it has five stages. At the lowest, or zero stage is final acquittal or dismissal, including those cases that succeeded in lower courts. The final negative judgment annuls all prior accountability effects. The zero-accountability position includes eight (15 per cent) cases in domestic courts, with four from Argentina.⁴⁰

The first level of accountability involves legal claim-making. Preliminary investigations begin in criminal cases or initial court papers are filed in civil cases. By achieving legal and public recognition, a low level of accountability – judicial truth-telling -- is reached.⁴¹ The CATJ's 53 cases in domestic courts all reached this stage, but twenty-six (49 per cent) never made it beyond this phase. Argentina has 15 cases at this stage.

The second level of accountability is achieved when a formal accusation is filed in criminal court or when the fact-finding phase of civil trials begins. At this stage, the defendants are notified of the accusations against them, and evidence is presented in a court of law. In criminal cases, this stage is reached with an indictment; in civil actions, the accused receives judicial notice of the claim filed against them. The degree of accountability is moderate. While fifteen (28 per cent) of the CATJ domestic court cases advanced through this phase, currently only one (2 per cent) has not moved beyond it. That one is in Argentina.

The third level of accountability is a conviction or a civil judgment pending appeal. That is, the court renders judgment against the defendant, but an appeals process is underway. Although this decision provides a high level of accountability by establishing the legal responsibility of the accused, it is sometimes reversed. Our database reveals three convictions (6 per cent) that were reversed on appeal that thus revert to 'no accountability' status. Two of them are from Argentina.

The highest level of accountability is final conviction or adverse judgment. At this stage, final judgments cannot be appealed. The parties either lost their opportunity to do so by failing to appeal within the applicable time period, or the last sentence was upheld at the highest appeals court. The twelve cases of final judgments in our database may seem relatively low in absolute terms, but it represents nearly a fourth of the total cases. Only one case reached this level in Argentina.

One caveat should be raised in relation to how consider the outcome of a case in each level of accountability. In level zero and in the highest level outcomes are final, given that there is no further steps in the litigation process. Also, while in level zero one can say that the outcome of a case is negative in terms of accountability and it is positive in the highest level, there is variation within each of the other three level where outcomes are still preliminary outcome given that the litigation process has not reached to an end. For example, a specific case can reach level 1 at a particular time. That could be considered as a positive preliminary outcome. However, when times passes and the case remain in the same level due to excessive and undue delays, the outcome, initially considered as positive, could be regarded as preliminary negative due to such delays. Determining whether the preliminary outcome of a case within each level of the continuum is positive or negative depends on the contextual circumstances of the litigation process of each case.

Figure 1 - Levels of accountability of Argentine Domestic Cases

Tracking accountability processes improves on zero-sum analyses. It promotes analysis of *how* victims of past corporate human rights violations advance their claims for justice and *when* and *how* the process gets stuck or is reversed, rendering little accountability. While the AL analogy identifies in broad strokes the factors relevant to explaining corporate accountability outcomes across this continuum, this Argentine study allows us to look at the micro-level mechanics allowing or preventing the lever from working.

The Archimedes' Lever Framework

Archimedes is quoted as saying, ‘Give me a lever long enough and a fulcrum on which to place it, and I shall move the world’.⁴² When applied to corporate accountability, this suggests the dynamics set out in Figure 2: relatively weak actors (civil society victims of corporate abuses and their advocates) with the right tools can lift the weight of accountability⁴³. Their challenge is to apply more pressure than the heavy counterweight of strong veto players (i.e., economic actors) attempting to keep accountability down. The right tool is the lever, or institutional innovation.

The placement of the fulcrum – in our adaptation the international or domestic context -- is critical to accountability. When it is closer to the accountability weight, Archimedes showed that less force is needed to lift it. Thus, weak actors require less force to advance

accountability in favourable political contexts. In contrast, when the political context is less propitious – or the fulcrum is farther away from the corporate accountability weight --, weak actors require more pressure to lift it up from under the force of influential veto players.

It is in this context that local actors could greatly benefit from international pressure to lift up the corporate accountability weight, but we have found little evidence that international actors have played that role in Argentina or elsewhere. The absence of international pressure could explain the limited level of corporate accountability in the world since it played a critical role in explaining other forms of transitional justice accountability successes.⁴⁴ Its failure to evolve may be the consequence of the absence of a clear legal binding international framework on corporate responsibility or state's duties to hold economic actors accountable for human rights violations. At best, the international context remains neutral in this realm, thereby failing to help lift the weight of corporate accountability.⁴⁵

Figure 2 - Components of the Archimedes' Lever Framework

Each of the four factors varies in strength across time. That variation shapes the type of interaction among the four factors and, in turn, the pathway along the accountability continuum. In the next section, we discuss such variation, focusing on Argentina during the period under study. Analysing this variation -- portrayed in *Figure 3* -- hints at why Argentina may have led in these processes compared to other countries in the world.

Explaining Pro-Accountability Factors in Argentina

It could be argued that corporate accountability is overdetermined in Argentina. After all, the country has experienced high levels of civil society mobilisation unknown in other transitional situations. Those civil society forces have benefited from allies and advocates in legal and governmental institutions also unique to Argentina. The political context in the aftermath of the dictatorship has led scholars to consider the country a 'human rights protagonist' in contrast to other transitional justice contexts. Yet, powerful veto players have persisted in the post-transition era. Moreover, not all governments have proved equally favourable to human rights mobilisation. Thus, even the country that has moved the farthest

in terms of corporate accountability has faced obstacles along the way. Argentina thus provides lessons in terms of how to overcome those obstacles.

Civil Society Mobilisation

Civil society mobilisation – in the form of victims, their families, and the human rights advocates that support them -- has proved crucial to every analysis of transitional justice in Argentina. Just as these groups mobilised for truth, justice, reparations, and guarantees of non-repetition for authoritarian state violations, they have also mobilised around the demand for accountability for economic actors involved in those violations. Certain actors who are not always associated with transitional justice also prove crucial to corporate accountability demands, specifically unions and workers.

Mobilisation has included the ‘naming and shaming’ strategy,⁴⁶ specifically public denunciation, lobbying, and protests. This mobilisation, when linked to specific judicial processes, serves to both support litigants but also to exert pressure on public prosecutors and judges to advance corporate accountability cases. For example, the annual anniversary of the Argentine coup on March 24 has included banners suspended over the main plaza announcing the names of companies identified with state terror. As mentioned at the beginning of this article, human rights groups have used graffiti and signs for public policies that choose between ‘democracy or corporations’.⁴⁷ Even the Argentine specific *escraches* have publicly outed economic actors, along with their allies in the state, for gross violations of human rights abuses.⁴⁸ The use of powerful civil society symbols – such as the headscarves used by the Mothers of the Plaza de Mayo in seeking truth and justice for the disappearance of their sons and daughters – have been deployed in the call for corporate accountability. Communication campaigns have reached local and national media as a means to exert public pressure for corporate accountability. These strategies were used to varying degrees in all of the Argentine cases.

In addition, civil society groups have advanced two specific forms of legal mobilisation that is also unique to the country in advancing corporate accountability.⁴⁹ First, Argentina allows private parties, or *querellas*, to bring criminal cases and to have an active role in the litigation process.⁵⁰ Thus, workers' organisations, who have not traditionally played a role in advancing human rights trials against state actors, have filed their own *querellas* in several cases against companies, such as ‘Ledesma’ and ‘Molinos’.⁵¹ Second, victims and relatives have reached out to domestic, and in very few cases, and international

civil society organisations to build solidarity and support behind specific cases. They used strategies such as amicus curiae briefs,⁵² monitoring of prosecutorial investigations and trials,⁵³ and expert testimonies in courts.⁵⁴ These two forms of legal mobilisation occurred in a majority of the corporate accountability cases: sixteen or 70 per cent.

When we consider the building of solidarity, we have also noticed the use of dense networks across the country by groups in the capital and provinces in a kind of domestic boomerang that could be said to be used by the weakest of the weak victims of corporate abuses. Particularly, victims in the provinces that are far from the centres of legal, political, or social and cultural power, have little access to the international boomerang in which they can use powerful forces outside the country to pressure the state for change.⁵⁵ Indeed, they are not even heard within the country by local and national media or by the powerful human rights organisations. In a small number of cases, however, these remote mobilisations have achieved support from those powerful advocates in the capital.⁵⁶ These connections amplify provincial demands, making them widely visible through national media outlets and human rights reports, empower isolated groups, and apply pressure on local officials. This type of mobilisation is observed in half the cases -- 11 or 48 per cent. It plays a role in understanding how the demands of the weakest victims of corporate violations in the country have advanced accountability efforts in Argentina in contrast to other countries where the domestic boomerang has not played a significant role.

The use of strategic action allows us to scale the strength of civil society mobilisation. Such efforts are low when only one type of mobilisation occurs, either ‘denunciation, lobbying and public protest’ or ‘legal mobilisation’; medium involves both strategies; and high adds ‘domestic boomerang strategies’. While transitional justice scholars might assume from Argentina’s history that civil society mobilisation would be high behind all of the cases, we reveal more variation. We take into consideration the distance from the capital and organisation’s legal expertise to consider when mobilisations succeed or not in advancing corporate accountability claims. We also contend that civil society mobilisation in Argentina alone fails to provide a full explanation for corporate accountability. Institutional innovators, particularly legal innovators, who translate civil society demands into legal action are also critical for moving cases along the continuum.

The transitional justice literature has emphasised the role of legal innovators who are willing and able to overcome judicial inertia, break with the legal status quo, and advance justice to overcome impunity. Such innovators have developed novel techniques to gather and evaluate evidence supporting victims' claims and to present new legal arguments pushing past status traditional legal approaches to advance justice and overcome impunity together with, and on behalf of, victims and human rights advocates.⁵⁷

Such legal innovation is even more critical to corporate accountability owing to a lack of clear, binding and enforceable international human rights obligations on businesses or on states to hold violating businesses accountable. Because existing human rights approaches have tended to focus on state's and not economic actors' role in crimes against humanity, legal innovators are critical to breaking the impunity barrier to the rights of victims of economic actors' violations.

Argentina offers an example of the establishment of an institutional framework that facilitated the emergence of legal innovators in advancing corporate accountability. Those who legally represented victims, relatives or organisations in litigation, participated in every stage of judicial proceedings.⁵⁸ This institutional framework enabled them to present novel legal arguments to advance corporate accountability, bring forward evidence left out of ordinary judicial investigations, and request innovative investigative measures.⁵⁹

While this provides an institutional advantage over other countries that do not have private prosecution, Argentine legal innovators still face obstacles. As one celebrated human rights activist states, an 'institutional common sense' exclusively recognises the state as a human rights violator, disregarding economic actors' role in crimes against humanity.⁶⁰ Legal doctrines developed over the four decades since the dictatorship are therefore devised to capture the legal responsibility of state officials, not economic actors. Thinking outside the established framework required legal innovators who could play a critical role in adapting existing approaches to state actors to the area of corporate accountability. These legal innovators are present in 22 or 96 per cent of the cases.⁶¹

The National Prosecutor Office was one such actor. This office adopted an explicit corporate accountability prosecutorial policy.⁶² The Prosecutorial Unit for Crimes against Humanity (known in Spanish as PCCH)⁶³ and the Bureau of Economic Research and Financial Analysis (known in Spanish as OFINEC) provided support to individual public prosecutors in issues related to legal doctrine and evidence collection.⁶⁴ They also participated in the prosecutions of 'Las Marías II'; La 'Nueva Provincia'; 'Loma Negra' and

‘Mercedes Benz’.⁶⁵ They also established a protocol outlining the main prosecutorial measures to investigate the economic aspect of crimes against humanity and ran workshops to disseminate it.⁶⁶

Some non-judicial state agencies acted as innovators as well. They brought qualified legal arguments, non-legal analysis, and new evidence to 13 or 57 per cent of the cases. The Financial Information Unit of the Ministry of Finance used the money-laundering law to participate in corporate accountability cases.⁶⁷ Similarly, the human rights office of the National Central Bank compiled classified and non-classified archives related to corporate roles in human rights abuses and handed them to judicial and non-judicial authorities.⁶⁷ Finally, the National Human Rights Secretary, as well as some provincial secretaries, have joined *querellas* in several cases.⁶⁸

Legal innovation can thus be ranked. It is *low* when only private prosecutors develop innovative legal strategies; *medium* when judicial innovators deploy strategies in addition to or in the absence of private innovators; and *high* when (non-judicial) state agencies work together with judicial innovators to bolster the case either with or in the absence of private prosecutors. While our analysis shows the crucial role that legal innovation has played in advancing civil society demands within the judicial system, they are sometimes blocked by powerful veto players.

Veto Players

Following Tsebelis,⁶⁹ veto players in our analysis are those corporate actors able to block accountability initiatives. They are not ‘spoilers’⁷⁰ who block democracy or peace processes, but instead use post-transition democratic institutions and peace processes to deploy strategies to maintain the legal status quo protecting impunity. In this way, economic actors behave no differently from any others accused of crimes against humanity: engaging in standard legal defense to deny accusations, using procedural strategies to block and delay investigations, and developing legal doctrines to question their legal responsibility for certain types of actions. Transitional justice studies have tended to ignore the unique agency of some human rights perpetrators to advance strategies to ‘veto’ justice outcomes.

The veto power of certain wealthy businesses is derived from their capacity to hire high-priced, skilled lawyers to defend their employees in complex legal battles.⁷¹ In Argentina, some companies have hired firms with the know-how to use the legal system to

their advantage who, paradoxically, once acted as institutional innovators in advancing state accountability in crimes against humanity cases.⁷² International figures regarded as human rights champions and institutional innovators in other countries have also assisted Argentine companies in a kind of ‘reversed boomerang’ effect.⁷³

In addition, economic resources allow some businesses to prolong trials and delay judgment. The funds to sustain trials over a long period tend not to be available to victims, their pro bono or NGO advocates, and state prosecutors' offices.⁷⁴ Veto players have used costly delay tactics, such as requesting hearings to dismiss cases or for technical legal clarifications. Lengthy appeals processes have further incurred high legal costs and delayed judgments. Delays also pose problems for accountability given the age of the defendants. Were they to become seriously ill or die, judicial action would be suspended, perpetuating impunity.

Veto players have not only used litigation strategies to avoid judgments. They have engaged in collective mobilisation strategies and public campaigns to protest corporate accountability efforts in 5 or 23 per cent of the cases. Powerful Argentine companies within the Confederation of Industries (*Unión Argentina Industrial*), for example, actively denounced the truth process on corporate responsibility during the period of state terror initiated by President Fernández in 2015. They released a public statement against the creation of a truth commission on corporate accountability, convinced the main media outlets to circulate their views on the government's proposal, and successfully lobbied opposition politicians to vote against the bill discussed in Congress.⁷⁵ Additionally, the dominant media union, Association of Argentine Journalism (*Asociación de Entidades Periodísticas Argentinas, ADEPA*), comprised of the leading Argentine newspapers; the Business Bureau of Independent Mass Media (*Comisión Empresarial de Medios de Comunicación Independientes, CEMCI*), and the influential National Academy of Moral and Political Sciences (*Academia Nacional de Ciencias Morales y Políticas*) issued public statements decrying investigation into corporate involvement in the ‘Nueva Provincia’ case.

Economic actors, in addition, possess linkages that enhance their influence over judicial processes. Ideological viewpoints, shared economic interests, and social connections with key politicians and judges, provide economic actors with social class, culture, and financial proximity to politically powerful individuals and groups that can shape viewpoints and outcomes, increasing their veto power. In other cases, economic actors may use more direct and aggressive veto strategies. In Argentina, undue influence has been exerted in seven

cases, including a case of blatant intimidation. In 2016, Congresswoman Myriam Bregman received a letter from the Director of Legal Affairs of *Ledesma*. Bregman had spoken out in an official congressional meeting about the connection between *Ledesma*'s owner, Carlos Blaquier, and alleged crimes against humanity that had occurred during Argentina's period of state terrorism. The company's letter was interpreted by Bregman herself, human rights lawyers, organisations, journalists, academics, and politicians as an unlawful act of intimidation of an elected official.⁷⁶

The relative weight of veto player power can be ranked, thus, as *low* when only standard legal defense is employed, *medium* for collective mobilisation within the business community, and *high* where exerting undue influence is used together with standard legal defense, with or without collective mobilisation and public campaigns. The outcome of these strategies depends significantly on political context.

Political Context

Executives' political pressure on the judiciary has been largely characterised as a feature of current Latin American politics.⁷⁷ Argentine courts in particular have regularly faced formal and informal attacks launched by the executive branch and their allies,⁷⁸ allowing presidents undue influence over the courts. Indeed, transitional justice ebbs and flows in Argentina have closely reflected the interests of the government in power.⁷⁹

As a result, the political context created by the Argentine president in power plays a crucial factor in corporate accountability. During the period under study (2005-2019), a dramatic political shift occurred creating two dramatic and contrasting political context moments. On one side, a favourable-accountability context for holding economic actors accountable for crimes against humanity occurred during the presidencies of Kirchner and Fernández (2005-2015). On the opposite side, an unfavourable-impunity context emerged during President Macri's administration (2015-2019).

The favourable context corresponds to the transitional justice period in which amnesties for state perpetrators ended and their prosecution began with few political constraints.⁸⁰ This is a period also marked by institutional reforms related to corporate accountability. In 2015, new legislation established that any civil actions connected to crimes against humanity against natural and legal persons were not subject to statutes of limitations.⁸¹ The same year, less than a month before the newly elected President took power, a truth commission on corporate responsibility for past human rights abuses was created by law.⁸² The context was propitious for human rights groups and their advocates to attempt to advance corporate accountability in the courts with at least some expectation of success.

Indeed, this period of time brought some degree of success primarily in the lower stages of the accountability continuum. All but one of the cases in this study was initiated during this period.⁸³ Significant prosecutorial activity occurred in 17 out of 18 of the criminal cases, and two out of four civil cases had substantive litigation activity. Specifically, public prosecutors and investigative judges actively collected evidence and filed formal accusations aimed at moving criminal cases to the next accountability phase in 13 or 76 per cent of the cases. In four cases, prosecutors and investigative judges took relevant prosecutorial measures, although they did not present charges during this period. Only one case had no substantial prosecutorial activity.

Overall, institutional innovators were capable of formally attributing criminal offenses to economic actors. Charges were rejected by first instances judges in only five or 23 per cent of the cases that reached this stage of the litigation process. Eventually, five cases climbed toward higher phases of the accountability continuum, and one of them reached the highest level of accountability in 2013. Only one case reverted to no accountability. The other cases remained in the first stages of the litigation process.

The sharply contrasting unfavourable context began with the election of the Macri government in December 2015. In transitional justice terms, under Macri the scope of truth, memory, and justice efforts were reduced through slashing budgets for financing and salaries for personnel in transitional justice processes, and dismantling processes underway.⁸⁴ Once a leader in global transitional justice accountability efforts, the Argentine Supreme Court also restricted the scope and sanctions in crimes against humanity prosecutions during this era.⁸⁵ Corporate accountability also faced setbacks. The truth commission on economic actors passed by Congress in 2015 was never implemented. The government dismantled the

Argentine Central Bank's human rights unit and stripped the powers of the Financial Information Unit that had begun to investigate corporate roles during the past authoritarian regime.⁸⁶ Top officials of the Macri administration generated negative public rhetoric attempting to delegitimise accountability processes.⁸⁷ Human rights justice efforts were weakened in general and in the specific area of corporate accountability.⁸⁸

Macri's government, moreover, has been characterised as a pro-business administration, and not only related to the freezing of corporate accountability.⁸⁹ One indication of a close relationship between the executive branch and the private sector is the number of critical public office posts in government and regulatory agencies held by high-profile members of the business community, the so-called 'revolving door'⁹⁰. According to a report issued by the *Observatorio de las Élités Argentinas*, the extension, magnitude, and visibility of the revolving door phenomenon in Macri's times is unparalleled in recent Argentine history.⁹¹ Furthermore, some of these officials have links to economic groups known for their alleged direct and indirect support of the dictatorship, including Macri himself.⁹²

During this period, corporate accountability processes came to a near standstill not only owing to corporate lawyers' delay tactics, but also to the political context described above. Seventeen or 74 per cent of the cases remained in the same accountability phase that they had reached in the previous political context. Excessive delays in decisions by judges occurred in the same number of cases. Adverse judicial decisions also increased. Two cases were fully dismissed before trial (without appeal). One conviction was overturned by an appeals court (still pending final review). One acquittal was decided after the trial phase (still pending second review), and another conviction was overturned by the Supreme Court.

In sum, during this unfavourable context, corporate accountability faced challenges it had not previously encountered. The business community did not have to use its veto powers as much as in previous administrations. Civil society groups and the institutional innovators faced a much more challenging judicial environment for advancing corporate accountability.

Political context can thus be scaled from *low* (or unfavourable) during Macri's term. During his first year in office, however, *medium* reflects the continued judicial pro-accountability legacy of the earlier political context. That context under the Fernández's government was *highly* favourable to corporate accountability. Yet, political context alone cannot explain outcomes. Instead, the four factors presented above interact in our explanation.

Figure 3 – Variation of each explanatory factor

Explaining Corporate Accountability In Argentina

It might be tempting to assume that the advances Argentina has made in corporate accountability naturally evolve from its robust transitional justice past. We reject that assumption in part because Colombia has had a very similar outcome in corporate accountability without having completed its transitional justice process. Moreover, if transitional justice were a predictor of corporate accountability success, we would expect to see higher levels of convictions and adverse judgments in Argentina. As Figure 1 shows, only one case achieved full and final accountability, while four have zero accountability. Most cases (18 or 78 per cent) fall in the middle of the spectrum.

Nonetheless, the factors that contributed to transitional justice processes in Argentina also prove significant in its corporate accountability leadership role. The Archimedes' lever (AL) approach recognises these links. Standard TJ approaches, for example, identify factors that overcome impunity as: a high level of civil society mobilisation; the role of institutional innovators; weak veto players; and international pressure.⁹³ Civil society mobilisation and legal innovators are part of the AL analysis for overcoming corporate impunity. Powerful veto players and the absence of international pressure may block those efforts. What the AL approach adds, moreover, is the importance of changing political contexts and its impact on corporate accountability processes and outcomes.

Explaining Argentina's Corporate Accountability Outcomes

To test our AL framework, we employ a 'truth-table' analysis.⁹⁴ We use the different levels of accountability in our scale as outcome variables, and the variation in each explanatory factor, to analyse patterns leading to accountability outcomes. As a result, Table 1 states variation of each factor of our AL approach for the 23 cases and distributes them according to the level of accountability they reached in our accountability continuum.

As discussed earlier, the Argentine cases achieved all five levels of accountability outcomes. The only final outcomes are the four cases in level 0 with no accountability and

the single full accountability case at level 4. In the middle, 18 cases are pending judicial action or appeal. These are cases with preliminary outcomes: fifteen in level 1; one in level 2; and two in level 3. The preliminary outcomes of some of these cases can be regarded as negative since the cases have been pending for several years due to inaction or unjustified delays. Whereas in others, the outcomes are positive as the delays correspond to the complex nature of the litigation process. To indicate where there have been excessive delays that are likely to lead to impunity, in Table 1 we include a ‘outcome level’ column which distinguishes ‘positive outcomes’ from ‘negative outcomes’ for level 1 to 3.

The truth table confirms initial expectations about the interaction of the explanatory factors in producing accountability outcomes. It shows that none of the factors are sufficient to produce accountability/no accountability outcomes on their own. We find 7 possible combinations that explain different outcomes, also included in Table 1.

Table 1 - Corporate Accountability in Argentina (2005-2019).⁹⁵

We observe three accountability pathways. **Accountability Pathway #1** involves mobilisation and innovation in a positive political context where veto power is low. **Accountability Pathway #2** shows that even in negative political contexts, high levels of mobilisation and innovation can produce positive outcomes, even convictions, when veto power is low. **Accountability Pathway #3** refers to all the cases as they show that even powerful veto players fail to block the initiation of new judicial investigations.

Conversely, we find four impunity pathways. **Impunity Pathway #1** requires only low or medium levels of veto power in negative contexts to block accountability, as long as accountability mobilisation is also low or medium. **Impunity Pathway #2** shows the need for veto players to apply high levels of pressure to block high levels of civil society mobilisation and innovation. In **Impunity Pathway #3**, veto players can achieve zero accountability, regardless of their power and the context, when they face low level of accountability mobilisation and innovation. **Impunity Pathway #4** reveals that veto players need to exert high levels of power, even in negative contexts, when cases reach the last instance of judicial review to counterbalance moderate to high accountability mobilisation and innovation.

Only one – the Mercedes Benz -- case falls outside these pathways. Despite a high level of accountability mobilisation and innovation, low veto power in a negative political context blocked progress from the first stage along the continuum. The mechanics behind the other pathways are explained through seven case studies.⁹⁶

Level 0: No Accountability

We find two dynamics leading to this outcome. ‘Las Marías I- Navajas Artaza’⁹⁷ shows that veto players can triumph when there are low levels of civil society mobilisation and institutional innovations, even in propitious political environments (Impunity Pathway #3). Meanwhile, ‘Techint’⁹⁸ illustrates how veto powers need to, even in a negative political context, exert their maximum strength to prevail in cases reaching the highest court when facing moderate to strong mobilisation and innovation (Impunity Pathway #4). These cases also underscore the power of political and social linkages between economic actors and judicial authorities to block accountability efforts.

Las Marías is one of the world’s largest yerba mate (the main crop of Corrientes province) agroindustries.⁹⁹ The prestigious Konex Foundation identified the company's owner, Navajas Artaza, as a model businessman in 1998 and 2000.¹⁰⁰ Navajas Artaza also had a noted political career during the country's authoritarian and democratic regimes. He was appointed governor of Corrientes in an earlier dictatorship in 1966-73 and National Minister of Welfare in the 1976-83 dictatorship.¹⁰¹ He was democratically elected as mayor of Virasoro in 1985-87.

The ‘Las Marías I- Navajas Artaza’ case brought against Navajas Artaza in 2006 relates to the disappearance of a rural worker and union leader and the illegal killing of a police officer. The public prosecutor found evidence implicating *Las Marías'* owner and brought charges against him.¹⁰²

Navajas Artaza's political and social connections with judicial authorities became an obstacle to the investigations.¹⁰³ Twenty judges disqualified themselves from prosecuting him owing to a conflict of interest related to family, friendship, or other social connections.¹⁰⁴ The national public prosecutor's office emphasised in a report the unjustified delays in this case.¹⁰⁵ Yet neither the prosecutor nor the judge used an innovative approach to advance the case. In 2008, an ad-hoc judge took the unusual step of dismissing the charges without requesting further evidence collection or taking the accused's testimony.¹⁰⁶ The public prosecutor failed to appeal that decision.¹⁰⁷ This decision also provoked little civil society

outrage. Indeed, we found little mobilisation within civil society before, during, and after the judgment. Political context may partly explain the lack of mobilisation since the case was initiated in an early phase, before the most favourable political context, and prior to the development of civil society and innovators' strategies to advance corporate accountability.

The 'Techint' case, in contrast, moved through all of the accountability phases during a favourable political context and was even successful up until the very last phase. The 'no accountability' occurred when the Supreme Court overturned the decision and when the political context had dramatically shifted against corporate accountability. 'Techint' thus tells the story of success and failure.

The case against Techint began when María Gimena Ingegnieros sought financial compensation from the Argentine steel company for its failure to protect the safety of her father, Enrique Roberto Ingegnieros. According to testimonies presented in court, state actors kidnapped Ingegnieros from his workplace in the city of Campana on 1977 after he had responded to a company call to receive a visitor in the lobby. He was never seen again.¹⁰⁸

Civil society mobilisation around the case did not reach its highest level. Following the end of the dictatorship, former workers and victims' relatives in this provincial area formed the local Comisión de Familiares de Desaparecidos de Zárate-Campana (Committee of Families of the Zárate- Campana Disappeared). They participated actively in public demonstrations demanding justice in several cases, including the Ingegnieros case. Yet even with this engagement, the case did not receive broad support from the human rights community, legal mobilisation, or a boost from domestic boomerang strategies.¹⁰⁹

Legal actors had also innovated, explaining the success of the case up to its reversal by the Supreme Court. They creatively combined standard worker safety legislation in Argentine national codes with international human rights norms regarding disappearances that had been incorporated into national law. By adding international human rights norms, the prosecution challenged the statute of limitations defense under national labour law presented by the defense. The case involved brilliant legal crafting that gained traction until the very end.

During the favourable political context period, the case moved forward. A first instance judge denied the plaintiff's claim, but an appeals court overturned the decision in 2015. By accepting the inapplicability of statutes of limitations in a crime against humanity, the court advanced the case to accountability level 3.

The company then appealed to the Supreme Court where the case sat for four years. During that time, the public prosecutor before the High Court, Victor Abramovich,

recommended confirmation of the second instance appeals court decision. Abramovich thus played the role of legal innovator pushing for accountability. This was not an unusual role for him since before joining the Public Prosecutor Office, he was already a well-known human rights practitioner and legal scholar, former director of CELS, former Commissioner of the Interamerican Commission of Human Rights, and former director of the Human Rights Institute of Mercosur.¹¹⁰

The Supreme Court played the ultimate veto player role blocking this accountability effort. Rather than confirm the appeals court decision, in a split three to two decision, the Supreme Court decided in favour of the company in 2019. Chief Justice Rosenkrantz voted in favour of the company's decision.

The decision reflected changes in the political context. Macri had appointed two new judges to the Court in early 2016.¹¹¹ One of them is Rosenkrantz, viewed as the mastermind behind the Court's roll-back on transitional justice accountability in Argentina. His power on the Court grew when he became Chief Justice in 2018. In addition to his views on human rights prosecution, Rosenkrantz openly admits to a pro-business viewpoint. Before his appointment to the Court, he openly declared that he and his law firm legally represent about 300 companies.¹¹² Clarín, a major media conglomerate whose owners and CEOs were accused of crimes against humanity in the 'Papel Prensa' case, is among the set of clients his firm represented.¹¹³ Rosenkrantz, also enjoys social and political links with the Argentine business community. One relevant tie is to the Blaquier family, associated with the *Ledesma* company, a case discussed below.¹¹⁴ By changing the composition of the Court, the Macri presidency thus restricted its scope from one that had previously advanced, to one that subsequently rolled back, crimes against humanity prosecutions.

'Techint' shows that medium levels of accountability forces are enough to push cases through the accountability continuum in a positive political context. Nevertheless, they are not enough when veto players' power reaches a high level during an unfavourable political context.

Level 1: Legal Claim-making

Four different patterns led cases to this level. Two impunity pathways (#1 and #2) account for twelve cases with negative preliminary outcomes which remained stuck at this level for at least four years, heightening the likelihood of an impunity outcome.¹¹⁵ And two

accountability pathways (#2 and #3) accounts for three cases with positive preliminary outcomes.¹¹⁶

In terms of negative outcomes, a judicial strategy might be to shelve cases indefinitely to avoid pressure or criticism from accountability or impunity forces in society. Where judicial actors share social or political connections with the accused, they may also hope to avoid an anticipated accountability outcome by delaying the process.

The ‘La Fronterita’¹¹⁷ illustrates Impunity Pathway #1. It shows how a medium level of institutional innovation and low civil society mobilisation was not enough to lift up corporate accountability from under even low levels of veto power in a negative political context. In 2015, the Public Prosecutor Camuña initiated an investigation into the 1975-1983 activities of the managers and board members of *La Fronterita* sugar mill in Argentina. According to the prosecutor’s investigation, a clandestine detention center operated on-site at the mill for almost two years, company vehicles were used to kidnap workers, and the accused provided crucial information to the Army that identified the workers who were eventually kidnapped, tortured, killed or disappeared.

The case advanced to the first accountability stage, mainly owing to the innovative strategy deployed by the public prosecutor and the human rights organisation Andhes. Because the crimes occurred prior to the military junta takeover in March 1976, they did not fit a narrow interpretation of crimes against humanity. The prosecutor thus advanced a legal argument against limiting the application of international human rights law to only those violations in the post-1976 coup era and ignoring the historical record of large-scale, widespread, and systematic abuses carried out by military and civil actors in the lead-up to the coup and authoritarian rule. His legal reasoning drew on findings developed during previous human rights trials for state officials, particularly the earlier Operation Independence trial in which ten state officials were found guilty for the human rights abuse of 271 victims. The facts of that case legally confirmed the systematic violation of human rights of the period before the coup. Discovery for the Operation Independence trial revealed the crucial details of *La Fronterita*’s corporate involvement in human rights abuses. Moving from the Operation Independence trial to ‘La Fronterita’ case involved supplementing that discovery with careful investigation of company files and other sources to solidify the case. A further innovation by the prosecutor involved the blending of business law, labour law, and international criminal and human rights law to identify the specific responsibility of the

accused of wrongdoing, their duties to protect the victims as employers, and their degree of involvement in the crimes.

The human rights organisation Andhes participated in 'La Fronterita' case by representing the family of Fidel Jacobo Ortiz, a victim of torture and disappearance at the on-site detention center. Prior to his detention, Ortiz had served as a union leader who had fought for labour rights during the 1970s. Andhes selected Ortiz after analysing judicial files to identify a plaintiff with reliable and sufficient evidence to initiate strategic litigation for the prosecutor's office. It further strengthened the prosecutor's case with key elements of international human rights law.

The work of these legal innovators occurred, however, without high levels of mobilisation from civil society. They faced powerful local veto players who employed one of the most influential lawyers of the province. The standard delay tactics deployed by the defense succeeded in stalling the process until, eventually, the public prosecutor and Andhes requested the indictment of the accused. The first instance judge denied the indictment arguing a lack of evidence. His decision is still pending review.

In contrast, high level of mobilisation and medium level innovation accompanied 'La Nueva Provincia' case¹¹⁸, but still led to Impunity Pathway #2. The level of mobilisation required veto players to exert tremendous efforts to fight accountability forces. The case investigated the company owner Vicente Massot for his alleged role in the disappearance and illegal killings of two Graphic Arts Union (*Sindicato de Artes Gráficas*) leaders, Enrique Heinrich, and Miguel Ángel Loyola. Prior to their disappearances, the two leaders had organised and participated in a workers' strike against the multimedia firm *La Nueva Provincia*.

In 2014, the public prosecutors of the case requested Massot's indictment for deliberately misrepresenting the incident in *La Nueva Provincia* newspaper to cover-up the disappearances.¹¹⁹ This brought a novel element to corporate accountability cases in Argentina: evidence of media cover ups of crimes against humanity and the direct perpetration of those crimes by the media outlets themselves.¹²⁰ The Asamblea Permanente por los Derechos Humanos joined the case as *querellante*. Public demonstrations, such as the *escraches* discussed earlier in this work, denounced impunity. Despite this mobilisation, the case failed to advance beyond claim-making. First and second instance tribunals denied the request for trial; a final decision is pending review.

Impunity resulted largely from veto power. The media business group that represents leading Argentine newspapers, the Association of Argentine News Outlets (*Asociación de Entidades Periodísticas Argentinas, ADEPA*), issued public statements delegitimising the case against Massot. ADEPA's campaign in the mainstream media portrayed the case as part of a series of political attacks on Argentina's news industry.¹²¹ The Comisión Empresaria de Medios de Comunicación Independientes (CEMCI) made a similar claim in defense of Massot. These views resonated in some academic circles, such as the *Academia Nacional de Ciencias Morales y Políticas*, that decried the ideological motives and dogmatic political ideas behind the investigation.¹²² ADEPA celebrated the indictment's rejection by issuing another public statement reaffirming the claim against the investigation as an attack on the national media and depicted Massot as an illegitimate victim of political and judicial forces.¹²³

Preliminary positive outcomes can be observed in three cases in this level. 'Las Marías III –Navajas Artaza' is the only case initiated after December 2015, confirming that veto players and unpropitious political contexts are not sufficient on their own to impede the instigation of legal cases (Accountability Pathway #3). Navajas Artaza avoided justice in the earlier 2008 case, but a new case opened up against him after the tribunal's decision on the 'Las Marías II–Torres Queirel'. Although Torres Queirel was acquitted in 2018, the court opened up a prosecutorial investigation against Navajas Artaza for his role in kidnapping and torture of other workers.

Meanwhile, Accountability Pathway #2 explains 'Molinos' and 'Acindar'. Here, a high level of mobilisation and innovation advanced the cases to prosecutorial investigation despite a negative political context. We illustrate this pathway further in the 'Ford' case below.

Level 2: Accusation

The 'Las Marías II – Torres Queirel'¹²⁴ case also illustrates Impunity Pathway #2. Stuck at Level 2, the delayed criminal procedure and the, still pending, acquittal indicates a likely outcome of impunity. This case is closely connected to the other two 'Las Marías' cases. The accusation against Torres Queirel and Navajas Artaza were jointly brought to court in 2006. Although the accusation against Navajas Artaza was rapidly dropped, the case against Torres Queirel and three other state officers proceeded. They were accused of crimes against humanity committed against 20 workers. Twelve years later, a tribunal acquitted Torres

Queirel in 2018, arguing that there was a lack of evidence proving his participation on the disappearance of the only victim in the trial. That decision is pending review.

High levels of mobilisation and legal innovation moved the case forward. Local human rights groups mobilised at each successive stage in the accountability continuum. By the start of the trial, the domestic boomerang occurred in which large national human rights champions supported local groups' demands for corporate accountability. They used effective naming and shaming strategies, gaining attention in the national mainstream media. The public prosecutor on the case, Flavio Ferrini, possessed the experience and prominence in crimes against humanity cases to build confidence behind the case. The specialised units PCCH and the OFINEC also participated in the prosecutorial stage of the case, providing legal arguments and interdisciplinary analysis of the evidence. The National Human Rights Secretary also participated in the case as *querellante*. Thus, the case enjoyed strong civil society demand and mobilisation that was represented by a consolidated group of legal innovators.

Like Navajas Artaza, Torres Queirel has a prominent profile within the business and political elite of Corrientes province dating back to the dictatorship. He served as mayor of Virasoro during the dictatorship while managing the farm where the crimes were allegedly committed. His business activity expanded during and after the dictatorship leading to a prominent national business profile.¹²⁵

The defense strategy proved effective in delaying the trial for more than four years. The case eventually reached level 2 accountability in 2012 when it moved to trial. The delays weakened the case for the prosecution, however. Two of the accused passed away, and two others became unfit to stand trial due to severe illness. Only Torres Queirel faced trial for an investigation that originally involved twenty victims. The case thus shows how veto players' high levels of pressure in a negative political context can prove effective against high levels of civil society mobilisation and innovation.

Level 3: Pending Conviction or Adverse Judgment

Two cases reached this level of accountability through different pathways. They display different processes and opposite outcomes. 'La Veloz del Norte 1'¹²⁶ is a case with a negative preliminary outcome following excessive delays after the overturning of a conviction. In March 2016, the owner of *La Veloz del Norte* was convicted. More than a year later in August 2017 the Appeals Tribunal overturned the conviction. As of July 2020, the case remains pending in the Supreme Court. Impunity Pathway #2 explains how strong veto

players operating in a negative political context have blocked further accountability advances albeit high levels of mobilisation and innovation, which initially pushed the case to level 3 accountability.

Conversely, Accountability Pathway #2 explains the pending convictions (since March 2018) in the 'Ford' case¹²⁷. Contrary to 'La Veloz del Norte 1', this is a positive outcome since there is a conviction and the timing of the pending procedure is still regular in Argentine judicial practice. The court found aging executives (86 and 90 years old) guilty for their actions as company employees during the dictatorship, sentencing them to ten and twelve years in prison, respectively. The accusations against Ford involved the 1976 kidnapping and torture of twenty-four workers at the General Pacheco plant outside Buenos Aires during the 1976–1983 dictatorship. The plaintiffs claimed that the defendants had provided photographs, home addresses, and other personal information to facilitate their employees' abduction by the military. Evidence also reveals a clandestine detention center inside the factory where the victims' torture occurred.

A standard legal defense employed by top lawyers¹²⁸ proved insufficient against unprecedented levels of civil society mobilisation and institutional innovation. Victims and their families played a crucial role in the trial process, especially the testimony of twelve of the thirteen living victims. The trial was a culmination of a history of mobilisation, from testimony to the CONADEP truth commission, to initiation of a domestic criminal case in 1984 reinitiated in 2002, to pursuit of a civil judgment in US Courts under the Alien Torts Act.

A wide range of actors accompanied the victims' demands for justice, bringing visibility to the trial, monitoring its hearings, and facilitating the collection of crucial evidence. This included the powerful Teacher's Union of the Province of Buenos Aires (SUTEBA) and the Central Union of Argentine Workers (CTA) who carried out a series of public activities.¹²⁹ Also, iconic figures in the national human rights movement embraced the cause.¹³⁰ This alliance across sectors maintained active mobilisation throughout the trial process, packing the courtroom for crucial hearings, attending on-site inspection of the factory, and keeping the public informed at every stage.¹³¹

Legal innovators engaged a multipronged strategy that involved filing cases in many courts using a variety of legal strategies from tort actions in the United States to criminal and civil actions in Argentina. The lawyer for the victims, Tomás Ojea Quintana, possesses vast experience litigating human rights cases, such as the abduction of children during the authoritarian regimes on behalf of the Grandmothers of the Plaza de Mayo. His human rights

career extends beyond national borders and includes the Inter-American Commission of Human Rights and the UN Office of the High Commissioner of Human Rights. Another attorney representing the victims is Elizabeth Gómez Alcorta, the current Minister of Women, Gender, and Diversity. The worldwide renowned organisation Front Line Defenders recognised Gómez Alcorta for risks she faced in her human rights legal advocacy on behalf of victims of state terror during the dictatorship, indigenous movements, and other high-profile human rights cases. Innovators also included the National Human Rights Secretariat and the Buenos Aires Province Human Rights Secretariat involved in private prosecutions. Another key innovator was the public prosecutor assigned to the case, Marcelo García Berro, regarded as one of the most experienced prosecutors for crimes against humanity in the country.¹³²

Academics also joined as institutional innovators, contributing to the evidence-gathering that strengthened the case. A collaboration between the Latin American Faculty of Social Sciences (FLACSO-Argentina), the human rights organisation CELS, the Truth and Justice Programme, and the National Human Rights Secretary from the Ministry of Justice produced a report on the participation of 25 companies allegedly responsible for crimes against humanity during the dictatorship, including Ford.¹³³ The evidence in the report bolstered victims' testimony at the trial. Scholars from diverse fields such as economics, history, and sociology gave expert testimonies in courts.¹³⁴ 'Ford', thus, illustrates how high levels of mobilisation and innovation can produce positive outcomes (e.g., convictions) even in negative political contexts where veto power is limited.

Level 4: Final Conviction or Adverse Judgment

'Siderca'¹³⁵ is the only case reaching the highest level of accountability. This case is very similar in the legal claims as 'Ingenieros', which ended with no accountability. The strength of civil society and legal innovators are the same in both cases. Two other factors – weak veto players and favourable political context – proved significant in producing the full accountability outcome in the 'Siderca' case. The final ruling was rendered in 2013, well before Macri took power. The case, thus, illustrates Accountability Pathway #1.

In 2007, the case against the *Siderca* company (*Techint* economic group) began. Oscar Orlando Bordisso disappeared after he left his job at *Siderca* in 1977. He was never seen again. His wife Ana María Cebrymsky claimed compensation from her husband's employer owing to its violation of Argentina's worker safety law that obliges employers to protect workers on entry and exit from the workplace. The company claimed that the statute

of limitations had run out. The first instance tribunal accepted the claim against the company registering it as a crime against humanity for which statutes of limitations do not apply. On appeal, the company lost in the Provincial Supreme Court on the same grounds. The court ordered compensation to Bordisso's widow.

Blending domestic labour law and international human rights law proved innovative in its recognition of the company's duty to respect and protect human rights and remedy abuses. The argument on the suspension of statutes of limitations for crimes against humanity subsequently became established legal precedent in the Labour Tribunal and the Supreme Court of the Province of Buenos Aires.

Mobilisation was moderate. At the end of the dictatorship, former workers of the companies owned by the *Techint* group and relatives of those detained-disappeared participated in a local human rights group called Comisión de Familiares de Desaparecidos de Zárate-Campana (Committee of Families of the Zarate-Campana Disappeared) to demand justice. They actively engaged in rallies condemning the disappearances workers from the *Siderca* and *Techint* companies resulting from the civil-military repressive alliance. The group provided evidence in the *Siderca* case on behalf of the victim's family. The group failed to achieve national resonance, however. This might have proved significant to the accountability outcome if not for the weak veto power of business – essentially the lack of mobilisation -- and the favourable political context.

Conclusion

The AL analogy is useful in explaining variation in the outcome of Argentine cases. The focus on Argentina demonstrates that different stages of accountability have been achieved. These cases show how factors and how they interact over time produced those varying outcomes. The analysis presented shows that despite prevailing wisdom, civil society actors in the Global South are not dependent on international actors' pressure or powerful international or foreign courts to produce accountability. Argentina, thus, is an example of a 'from below' processes in corporate accountability in TJ contexts.

Argentina is not necessarily unique in its ability to achieve accountability 'from below'. Many factors that might have been explained its distinctive success, do not hold up to scrutiny. Its robust transitional justice experiences, civil society mobilisation, and favourable human rights contexts under democratic governments did not always or by themselves

produce accountability. No single explanatory factor is sufficient. And the combination of factors are not necessarily out of reach for other country contexts. Accountability processes depend on combinations of factors and dynamics. We show that where civil society demand and institutional innovators working to translate those demands into legal action were more potent than veto players, these cases tended to advance along the justice continuum, particularly in a favourable political context. Much of the variation depends on these factors. Where these cases became stuck or reversed, either these forces failed to apply sufficient force, or the context was such that veto players could apply more pressure to keep corporate accountability weighed down.

The civil society demand and legal innovations employed in Argentina are adaptable and transerrable to other Latin American countries and other Global South regions. As long as international human rights norms are incorporated into national legislation, institutional innovation is possible. Blending these international norms with ordinary criminal, administrative, civil, labour and other domestic codes makes it possible to build a case on behalf of victims. Legal innovation is not out of reach even for countries with distinctive histories than the Argentine one. Finding legal actors willing to take on these challenges may prove more difficult. Here is one area where international forces could work alongside underfunded and sometimes undertrained legal advocates to advance the development of innovators.

These legal innovations work best in favourable political contexts. Yet even during Latin America's so-called 'pink tide' of left-leaning governments, economic dependence on the private sector led even those governments to avoid actions that might be perceived as threatening to business, as the Odebrecht and other scandals have shown. Such dependence does not bode well for corporate accountability. Nevertheless, the Argentine case shows that powerful civil society demand, legal innovation, and weak veto power have advanced cases along the accountability continuum even in negative political contexts. The high number of cases in Colombia is further evidence.

One nearly impossible element of the AL model to manufacture is civil society mobilisation. The years of mobilisation and connections with allies in the labour, legal, and human rights communities in Argentina are rarely replicated elsewhere. Yet we see mobilisation behind corporate accountability emerging in other contexts without this same social movement history. In Brazil, a country with historically weak civil society

mobilisation and very little legal innovations with regard to human rights advocacy, an alliance emerged uniting victims and their families, a labour confederation, São Paulo state legislators, truth commissioners, academics, and the state prosecutor's office to bring a civil case against Volkswagen for crimes against humanity during the dictatorship. In Chile, an isolated rural community mobilised and allied with top human rights organisations and lawyers in the capital to win a case against a landholder-carabinero alliance that killed and disappeared rural workers in Paine. Thus, while exceptional in possessing the factors and ranking among the highest numbers of outcomes in the world, the Argentine pathway is not out of reach for other countries in the region and the world.

¹ Francesca Lessa, Leigh A Payne, and Gabriel Pereira, 'Overcoming Barriers to Justice in the Age of Human Rights Accountability,' *Human Rights Quarterly* 27 (2015): 728–754.

² Leigh A. Payne, Gabriel Pereira, and Laura Bernal-Bermúdez, *Transitional Justice and Corporate Accountability from Below: Deploying Archimedes' Lever* (Cambridge University Press, 2020), <https://doi.org/10.1017/9781108564564>.

³ Payne, Pereira, and Bernal-Bermúdez.

⁴ Payne, L. A., et al. (2016). *Corporate Accountability and Transitional Justice*. Oxford. The Corporate Accountability and Transitional Justice (CATJ) database tracks accountability mechanisms addressing economic actors in transitional justice contexts. It is segmented into four discrete data sets of mechanisms. The first set involves the historical data of trials for World War II human rights atrocities committed by economic actors in Nazi Germany and in Japan. Our research reveals 349 companies and their employees who faced charges for crimes against humanity (excluding war crimes) in 35 cases in three waves of accountability processes. The second set of accountability mechanisms data is official truth commissions. We tracked accountability for corporate complicity in 23 truth commissions in 20 countries around the world – half of the 39 truth commissions with accessible final reports. These reports identified 329 economic actors by name for alleged abuses committed in armed conflict or authoritarian rule. The third data set includes judicial accountability for corporate complicity in violations occurring during authoritarian regimes and armed conflicts of the 1960s to the present. As a whole, we found 149 economic actors involved in 104 cases in 18 countries around the world. The data set also includes a fourth accountability mechanism used in Colombia. The Justice and Peace process is a transitional justice mechanism designed in the early 2000s to put paramilitary leaders on trial. In their confessions, they mentioned the role that economic actors had in the violence. This data set includes 439 economic actors allegedly involved in the conflict, with violations including creating and financing paramilitary groups, forced displacement, murder, and torture of union and community leaders.

⁵ International Commission of International Commission of Jurist, 'Report of the ICJ Expert Legal Panel on Corporate Complicity in International Crimes,' 2008; Sabine Michalowski, *Corporate Accountability in the Context of Transitional Justice* (Routledge, 2014).

⁶ Juan Pablo Bohoslavsky and Marcelo D Torelly, 'Financial Complicity: The Brazilian Dictatorship Under the 'Macroscopic,' in *Justice and Economic Violence in Transition*, ed. Dustin Sharp (Springer, 2014), 233–62; Ministerio de Justicia y Derechos Humanos de la Nación et al., 'Responsabilidad Empresarial En Delitos de Lesa Humanidad: Represión a Trabajadores Durante El Terrorismo de Estado TOMO I y II' (Buenos Aires, 2016); Victoria Basualdo, Hartmut Berghoff, and Marcelo Bucheli, *Big Business and Dictatorships in Latin America: A Transnational History of Profits and Repression* (Springer Nature, 2020).

⁷ Raluca Grosescu, 'Transnational Advocacy Networks and Corporate Accountability for Gross Human Rights Violations in Argentina and Colombia,' *Global Society* 33, no. 3 (July 3, 2019): 400–418, <https://doi.org/10.1080/13600826.2019.1598947>; Payne, Pereira, and Bernal-Bermúdez, *Transitional Justice and Corporate Accountability from Below: Deploying Archimedes' Lever*; Dustin N Sharp, *Justice and Economic Violence in Transition*, vol. 13 (Springer, 2014).

⁸ Horacio Verbitsky and Juan Pablo Bohoslavsky, *Cuentas Pendientes: Los Cómplices Económicos de La Dictadura*, 2013.

⁹ Juan Pablo Bohoslavsky, Karina Fernández, and Sebastián Smart, *Pinochet's Economic Accomplices: An Unequal Country by Force* (London: Pinochet's Economic Accomplices An Unequal Country by Force, 460AD).

¹⁰ Nelson Camilo Sánchez León et al., *Cuentas Claras: El Papel de La Comisión de La Verdad En La Develación de La Responsabilidad de Las Empresas En El Conflicto Colombiano* (De Justicia, 2018).

¹¹ Juan Pablo Bohoslavsky, *El Negocio Del Terrorismo de Estado: Los Cómplices Económicos de La Dictadura Uruguaya* (Montevideo: Penguin Random House, 2016).

¹² F. Lessa et al., 'Overcoming Impunity: Pathways to Accountability in Latin America,' *International Journal of Transitional Justice* 8, no. 1 (2014), <https://doi.org/10.1093/ijtj/ijt031>.

¹³ Margaret E Keck and Kathryn Sikkink, *Activists beyond Borders: Advocacy Networks in International Politics* (Cornell University Press, 1999).

- ¹⁴ L Payne et al., 'Can a Treaty on Business and Human Rights Help Achieve Transitional Justice Goals?,' *Homa Publica—International Journal on Human Rights and Business* 1, no. 2 (2017).
- ¹⁵ L.A. Payne and G. Pereira, *Corporate Complicity in International Human Rights Violations*, *Annual Review of Law and Social Science*, vol. 12, 2016, <https://doi.org/10.1146/annurev-lawsocsci-110615-085100>.
- ¹⁶ Payne, Pereira, and Bernal-Bermúdez, *Transitional Justice and Corporate Accountability from Below: Deploying Archimedes' Lever*.
- ¹⁷ Lessa, Francesca (2022) *The Condor Trials Transnational Repression and Human Rights in South America*. Yale University Press
https://www.yalebooks.co.uk/display.asp?K=9780300254099&kyt=ref_no&sort=sort_date/d&sqf=/1:humanitie&m=8&dc=2283.
- ¹⁸ Victoria Basualdo, Hartmut Berghoff, and Marcelo Bucheli, 'Crime and (No) Punishment: Business Corporations and Dictatorships', in *Big Business and Dictatorships in Latin America*, ed. Victoria Basualdo, Hartmut Berghoff, and Marcelo Bucheli (Switzerland :Springer, 2021), 1–33.
- ¹⁹ Horacio Verbitsky and Juan Pablo Bohoslavsky, 'Introduction: State Terrorism and the Economy: From Nuremberg to Buenos Aires' in *The Economic Accomplices to the Argentine Dictatorship Outstanding Debts*, ed. Horacio Verbitsky and Juan Pablo Bohoslavsky (Cambridge: Cambridge University Press, 2015), 7.
- ²⁰ Basualdo, Berghoff, and Bucheli, *Crime and (No) Punishment: Business Corporations and Dictatorships*.
- ²¹ Verbitsky and Bohoslavsky, *Introduction: State Terrorism and the Economy: From Nuremberg to Buenos Aires*.
- ²² Basualdo, Berghoff, and Bucheli, *Crime and (No) Punishment: Business Corporations and Dictatorships*.
- ²³ Guillermo O'Donnell, 'Polyarchies and the (Un)Rule of Law in Latin America: A Partial Conclusion' in *The (Un)Rule of Law and the Underprivileged in Latin America*, ed. Juan E. Méndez, Guillermo O'Donnell, and Paulo Sérgio Pinheiro (Notre Dame, IN: University of Notre Dame Press, 1999), 303–37.
- ²⁴ Basualdo, Victoria. 2021, 'Business and the Military in the Argentine Dictatorship (1976–1983): Institutional, Economic, and Repressive Relations', in *Big Business and Dictatorships in Latin America*, ed. Victoria Basualdo, Hartmut Berghoff, and Marcelo Bucheli (Switzerland :Springer, 2021,) 35–62.
- ²⁵ Verbitsky and Bohoslavsky, *Introduction: State Terrorism and the Economy: From Nuremberg to Buenos Aires*.
- ²⁶ Verbitsky and Bohoslavsky.
- ²⁷ Verbitsky and Bohoslavsky.
- ²⁸ Lorena, Balardini, 'Argentina: Regional protagonist of transitional justice', in *Transitional justice in Latin America: the uneven road from impunity towards accountability*, ed. Elin Skaar, Jemina García-Godos and Cath Collins (New York: Routledge, 2016), 50-76;
Par Engstrom and Gabriel Pereira, 'From Amnesty to Accountability: The Ebbs and Flows in the Search for Justice in Argentina,' in *Amnesty in the Age of Human Rights Accountability: Comparative and International Perspectives*, ed. Francesca Lessa and Leigh A Payne (Cambridge: Cambridge : Cambridge University Press, 2012); Kathryn Sikkink, 'From Pariah State to Global Protagonist: Argentina and the Struggle for International Human Rights', *Latin American Politics and Society* 50.1(2008): 1-29.
- ²⁹ Engstrom and Pereira, 'From Amnesty to Accountability: The Ebbs and Flows in the Search for Justice in Argentina'.
- ³⁰ Engstrom and Pereira.
- ³¹ Procuraduría de Crímenes contra la Humanidad, 'Informe Estadístico Sobre El Estado De Las Causas Por Delitos De Lesa Humanidad En Argentina Diagnóstico 2018' (Buenos Aires, 2018).
- ³² María Celeste Perosino, Bruno Napoli, and Walter Bossisio, 'Economía, Política Y Sistema Financiero : La Última Dictadura Cívico-Militar en la comisión Nacional de Valores', ed. Comisión Nacional de Valores (Ciudad de Buenos Aires, 2013).
- ³³ Ministerio de Justicia y Derechos Humanos de la Nación et al., 'Responsabilidad Empresarial En Delitos de Lesa Humanidad: Represión a Trabajadores Durante El Terrorismo de Estado TOMO I y II' (Buenos Aires, 2016).
- ³⁴ Tarek F. Maassarani, 'Four Counts of Corporate Complicity: Alternative Forms of Accomplice Liability Under the Alien Tort Claims Act,' *New York University Journal of International Law & Politics*, 2005, 39–65; Inés Tófaló, 'Overt and Hidden Accomplices: Transnational Corporations' Range of Complicity in Human Rights Violations,' in *Transnational Corporations and Human Rights*, ed. Olivier De Schutter (Portland: Hart Publishing, 2006), 335–58.
- ³⁵ We use the term 'civil' to refer to cases under non-criminal and non-military procedures.
- ³⁶ The CATJ includes cases found through online keyword search, as well as consultation of secondary sources and human rights reports available online.
- ³⁷ In this article, we focus on Argentina and not in Colombia for several reasons. Apart from the fact it has the highest number of domestic cases, Argentina transitioned from authoritarian rule earlier than Colombia, allowing more time to analyze trial outcomes. Also, the time since transition also allows for analysis of variation

in post-transition political contexts. Furthermore, Argentina's authoritarian past is more typical of the pre-transition context than Colombia's unique armed conflict within a procedurally democratic institutional framework.

³⁸ The CATJ shows that of the 53 domestic judicial actions, twenty-six (49 per cent) reached a final ruling: fifteen (28 per cent) ended in guilty verdicts or adverse judgments for at least one of the business defendants involved (three are pending appeal); eleven (21 per cent)—ended in acquittal or dismissal (seven final verdicts plus three dismissals pending appeal and one acquittal pending appeal).

³⁹ Payne, Pereira, and Bernal-Bermúdez, 'Transitional Justice and Corporate Accountability from Below: Deploying Archimedes' Lever'.

⁴⁰ We exclude from this analysis one of the Argentine cases included in the CATJ because the outcomes do not fit the scale. In 'Minera Aguilar', the accusation against economic actors was dropped as one of the accused died before indictment and the second one was unfit to stand trial due to mental illness.

⁴¹ William L F Felstiner, Richard L Abel, and Austin Sarat, 'The Emergence and Transformation of Disputes: Naming, Blaming, Claiming,' *Law and Society Review*, 1980, 631–54.

⁴² Elizabeth M Knowles and Angela Partington, *The Oxford Dictionary of Quotations* (Oxford [England]: Oxford University Press, 1999).

⁴³ We consider them weak vis-à-vis the power of corporate actors.

⁴⁴ Lessa et al., 'Overcoming Impunity: Pathways to Accountability in Latin America.'

⁴⁵ This is a significant difference in relation to TJ mechanisms accountability addressed towards state or para state actors. In this case, there is a consolidated international pressure owed to the fact that an international binding legal framework has developed in the last decades, which obliges States to prosecute these crimes.

⁴⁶ Emilie M Hafner-Burton, 'Sticks and Stones: Naming and Shaming the Human Rights Enforcement Problem,' *International Organization* 62, no. 4 (2008): 689–716; Mary Robinson, 'Advancing Economic, Social, and Cultural Rights: The Way Forward,' *Hum. Rts. Q.* 26 (2004): 866.

⁴⁷ Abuelas de Plaza de Mayo, '24M: Documento Completo de Los Organismos de Derechos Humanos,' March 24, 2018, <https://www.abuelas.org.ar/noticia/m-documento-completo-de-los-organismos-de-derechos-humanos-966>; Asociación de Docentes e Investigadores de la Universidad Nacional de Tucumán, 'Documento Marcha 24 de Marzo,' ADIUNT, 2012, <http://adiunt.org/2012/03/24/documento-marcha-24-de-marzo/>; La Izquierda Diario, 'Habrà Marcha Independiente de Los Gobiernos El 24 de Marzo En Rosario,' *La Izquierda Diario*, March 14, 2017, <http://www.laizquierdadiario.com/Habra-marcha-independiente-de-los-gobiernos-el-24-de-marzo-en-Rosario>; Página/12, 'Marcha Del 24 de Marzo: El Documento Completo Leído En La Plaza de Mayo,' *Página/12*, March 24, 2019, <https://www.pagina12.com.ar/183043-marcha-del-24-de-marzo-el-documento-completo-leido-en-la-pla>; Resumen Latinoamericano, 'Especial 24 de Marzo,' *Resumen Latinoamericano*, March 24, 2015, <http://www.resumenlatinoamericano.org/2015/03/25/especial-24-de-marzo-fotogaleria/>.

⁴⁸ Payne, Pereira, and Bernal-Bermúdez, 'Transitional Justice and Corporate Accountability from Below: Deploying Archimedes' Lever'. The organizations H.I.J.O.S (comprised of sons and daughters of disappeared), held *escraches* in Buenos Aires to out Vicente Massot, the head of the newspaper *La Nueva Provincia*, and Carlos Blaquier, the former head of the company *Ledesma*, for their 'participation in crimes against humanity during the last civil-military dictatorship' (Dandan and Franzki 2013).

⁴⁹ Catalina Smulovitz, 'La Política Por Otros Medios. Judicialización Y Movilización Legal En La Argentina', in *Desarrollo económico*, vol. 48, (2008). Legal mobilization gives actors a voice, it allows them to expand the visibility and scope of their conflicts, and it allows them- at times- to readdress the orientation of certain policies. It does not always achieve complete victories in courts, but rather raise visibility to activate public debate on issues not central to media attention.

⁵⁰ The presence of private parties and *querellas* does not necessarily mean legal mobilization. Sometimes no group mobilization occurs, as in 'SIDERCA' in which the private party represented the interests of the victims, and not a group.

⁵¹ Infogremiales, 'El Gremio Del Ingenio Ledesma Querellante En Causas Que Investigan a Blaquier | Info Gremiales,' March 15, 2016, <http://www.infogremiales.com.ar/noticia.php?n=19358>; Leónidas 'Noni' Ceruti, 'Aceiteros Desaparecidos y La Federación Aceitera Como Querellante,' March 24, 2018, <http://www.laizquierdadiario.com/Aceiteros-desaparecidos-y-la-federacion-aceitera-como-querellante>.

⁵² Payne, Pereira, and Bernal-Bermúdez, 'Transitional Justice and Corporate Accountability from Below: Deploying Archimedes' Lever'. For example, the claimants in the 'Ledesma' cases resorted to the European Center for Constitutional and Human Rights. It submitted an amicus curiae brief examining *Ledesma's* liability for human rights violations and pointing out that the Argentinian judiciary has a responsibility to investigate and prosecute corporate complicity.

⁵³ Paolo Zaniratto, 'Lesas Humanidad: Causa Contra Los Exdirectivos De La Editorial Atlántida', (2016). Sometime, for example, claimants requested that human rights groups accompany them in official hearings before a judge during the prosecutorial investigations, for example in the 'Editorial Atlántida' case.

⁵⁴ The participation highly renowned figures in different disciplines, particularly social sciences, as expert witness is a very innovative strategy developed in corporate complicity trials. These testimonies provide background information and bring interdisciplinary knowledge to understand both the context and the particular circumstances in which crimes against humanity took place in each case. For example, as discussed below, social scientists had an important role in bringing expert testimonies to the hearings of the 'Ford' case.

⁵⁵ Keck and Sikkink, *Activists beyond Borders: Advocacy Networks in International Politics*.

⁵⁶ The boomerang effect occurs when human rights groups appeal to transnational actors to assert international pressure against national governments in order to enforce compliance with human rights norms.

⁵⁷ Ezequiel Gonzalez-Ocantos, *Shifting Legal Visions: Judicial Change and Human Rights Trials in Latin America* (Cambridge: Cambridge University Press, 2016).

⁵⁸ Verónica Michel and Kathryn Sikkink, 'Human Rights Prosecutions and the Participation Rights of Victims in Latin America,' *Law & Society Review* 47, no. 4 (2013): 873–907.

⁵⁹ As mentioned above, private legal innovators are not always connected to legal mobilization strategies.

⁶⁰ Alejandra Dandan, 'El Poder Económico Detrás Del Poder Militar,' *Página12*, March 21, 2012,

<https://www.pagina12.com.ar/diario/elpais/1-190074-2012-03-21.html>.

⁶¹ Well known professional human rights organizations, such as Andhes and Cels (Chillier 2014) and the most salient human rights lawyers such as Pablo Llonto and Elizabeth Gomez Alcorta, have actively participated in corporate complicity cases. Nicolás Misculin and Cassandra Garrison, 'Ex-Ford Argentina Executives Convicted in Torture Case; Victims May Sue in U.S,' Reuters, December 11, 2018, <https://www.reuters.com/article/us-argentina-rights-ford-motor/ex-ford-argentina-executives-convicted-in-torture-case-victims-may-sue-in-u-s-idUSKBN1OA25H>; Juan Manuel Mannarino, 'Infojus Noticias,' October 21, 2015, <http://www.infojusnoticias.gov.ar/nacionales/analizan-documentos-de-tenaris-para-determinar-su-rol-en-delitos-de-lesa-10263.html>.

⁶² Judith König and Carolina Varsky, 'Protocolo De Medidas Previas Para La Investigación De La Responsabilidad Empresarial En Causas De Lesa Humanidad,' ed. Oficina de Investigación Económica y Análisis Financiero (OFINEC) Procuraduría de Crímenes contra la Humanidad (PCCH) (Buenos Aires: Ministerio Público Fiscal, 2014).

⁶³ Lorena Balardini, 'Argentina: Regional Protagonist of Transitional Justice,' The PCCH developed legal strategies to coordinate trials nationwide.

⁶⁴ Alejandra Dandan, 'La Motivación Económica de La Represión Ilegal,' *Página12*, October 1, 2014, <https://www.pagina12.com.ar/diario/elpais/1-256497-2014-10-01.html>; Judith König, 'Panel: The Argentine Model of Corporate Accountability,' *Conference: Accountability for Corporate Human Rights Violations in Dictatorships and Civil Conflicts: The Argentine Model in Comparative Perspective* (London - Oxford: Latin American Center, University of Oxford, 2014).

⁶⁵ Gabriel Pereira and Josefina Doz Costa, 'Hacia Una Política De Verdad Y Justicia Sobre La Complicidad De Actores Económicos En Delitos De Lesa Humanidad En El Marco Del Terrorismo De Estado En La Argentina: Aportes Desde La Sociedad Civil,' ed. Andhes (San Miguel de Tucumán: Andhes, 2020).

⁶⁶ Pereira and Doz Costa, 'Hacia Una Política De Verdad Y Justicia Sobre La Complicidad De Actores Económicos En Delitos De Lesa Humanidad En El Marco Del Terrorismo De Estado En La Argentina: Aportes Desde La Sociedad Civil'. The protocol, unique in its kind according to our records, recommends finding evidence of mutual collaboration between companies and the repressive forces; personal or financial links between the CEOs and the authoritarian regime; a correlation between the kidnapping and disappearances with the labor union activities of victims; the use of logistic, personal, or ideological means for facilitating or collaborating in the commission of crimes; and the profiting from the reduction in the rights and salaries of the workers.

⁶⁷ Sebastián Premici, 'Huellas De La Complicidad,' in *Página 12*, (2015)

⁶⁸ Pereira and Doz Costa, 'Hacia Una Política De Verdad Y Justicia Sobre La Complicidad De Actores Económicos En Delitos De Lesa Humanidad En El Marco Del Terrorismo De Estado En La Argentina: Aportes Desde La Sociedad Civil'.

⁶⁹ George Tsebelis, *Veto Players: How Political Institutions Work* (Princeton University Press, 2002).

⁷⁰ Leslie Vinjamuri and Jack Snyder, 'Law and Politics in Transitional Justice,' *Annual Review of Political Science* 18, no. 1 (2015), <https://doi.org/10.1146/annurev-polisci-122013-110512>.

⁷¹ Michael Byers, 'English Courts and Serious Human Rights Violations Abroad: A Preliminary Assessment,' *Liability of Multinational Corporations under International Law*, 2000, 241–49.

⁷² Jorge Valerga Aráoz, one of the judges of the historic Junta Trial which convicted the top members of the Argentine dictatorship, represents Blaquier in the *Ledesma* case and Tasselkraut in the *Mercedes Benz* case: Dandan, 'El Poder Económico Detrás Del Poder Militar'; Alejandra Dandan, 'La Estrategia de La Defensa,' June 26, 2012, <https://www.pagina12.com.ar/diario/elpais/1-197240-2012-06-26.html>; La Política Online, 'Blaquier Declaró y Negó Su Responsabilidad En Secuestros Durante La Dictadura,' August 8, 2012, <https://www.lapoliticaonline.com/nota/nota-84301/>; Lucho Soria, 'Mercedes Benz: Juicio a La Represión de

Los Trabajadores | Vove,' March 21, 2019, <https://vove.com.ar/mercedes-benz-juicio-a-la-represion-de-los-trabajadores/>. Similarly, Gabriel Cavallo was part of the legal team representing the *Clarín* media group in 'Papel Prensa'. In 2002, he ruled, as a first instance judge, that the amnesty laws passed at the end of the 1980s were invalid as they contravene constitutional rights and Interamerican human rights standards. His decision inaugurated a new accountability phase in Argentina and was the first ruling of a Latin American country annulling amnesty laws.

⁷³ Richard Goldstone submitted a controversial amicus brief in favour of Blaquier in the 'Ledesma I' and 'Ledesma II' cases. Goldstone is a former judge of the South African Constitutional Court, which dismantled apartheid laws and was crucial for the transition to democracy in South Africa. He was the first chief prosecutor of the United Nations International Criminal Tribunal for the Former Yugoslavia and for Rwanda.

⁷⁴ Daniel Blackburn, 'Removing Barriers to Justice—How a Treaty on Business and Human Rights Could Improve Access to Remedy for Victims,' *International Centre for Trade Union Rights, Centre for Research on Multinational Corporations*, Amsterdam, 2017.

⁷⁵ Ámbito Financiero, 'No Esperaba Esta Reacción de Los Industriales Por La Comisión Bicameral,' October 6, 2015, <https://www.ambito.com/politica/no-esperaba-esta-reaccion-los-industriales-la-comision-bicameral-n3910576>.

⁷⁶ La Izquierda Diario, 'Amplio Repudio a La Carta de Blaquier a Myriam Bregman,' August 29, 2016, <https://www.laizquierdadiario.com/Amplio-repudio-a-la-carta-de-Blaquier-a-Myriam-Bregman>.

⁷⁷ Ezequiel. Gonzalez-Ocantos, 'Courts in Latin American Politics,' in *The Oxford Encyclopedia of Latin American Politics*, ed. G. Prevost and H. Vandem (New York: Oxford University Press, 2019).

⁷⁸ Gretchen Helmke, *Courts under Constraints: Judges, Generals, and Presidents in Argentina*, Cambridge Studies in Comparative Politics (Cambridge: Cambridge University Press, 2005); Gabriel Pereira, 'Judicial Decision in Hostile Environments: Judges, Executives, and the Public in Argentina (2004-2010)' (Thesis (D.Phil.)--University of Oxford, 2014, (Social Sciences Division, 2014).

⁷⁹ Par Engstrom and Gabriel Pereira, 'From Amnesty to Accountability: The Ebbs and Flows in the Search for Justice in Argentina,' in *Amnesty in the Age of Human Rights Accountability: Comparative and International Perspectives*, ed. Francesca Lessa and Leigh A Payne (Cambridge: Cambridge: Cambridge University Press, 2012).

⁸⁰ Argentina's transitional justice process has followed an 'ebb and flow' pattern. The initial opening to judicial accountability of human rights violations in the early 1980s was gradually restricted by two amnesties laws and eventually foreclosed during the 1990's by presidential decrees. It was not until the 2000s that both the Congress and the Supreme Courts repelled those laws and decrees subsequently: Engstrom and Pereira..

⁸¹ Payne et al., 'Can a Treaty on Business and Human Rights Help Achieve Transitional Justice Goals?'

⁸² The commission was not formed during the Macri's administration.

⁸³ The low number of convictions and the high number of cases pending in the first phases of the continuum might cast doubt on the extent to which this period produced positive accountability outcomes. However, reaching the highest levels of accountability was unexpected in the Argentine context. In addition to the deployment of veto players' strategies, the advancement towards accountability faced reasonable and legitimate delays due to evidence collection, procedural, or doctrinal issues. It was not until 2012 that the first steps of corporate accountability process were consolidated (Dandan 2012a). Additionally, the Argentine institutional system was not initially prepared for a new wave of crimes against humanity cases. For example, in 2010, almost five years after the start of the accountability model, the Supreme Court of Argentina identified a series of factors still constraining the development of judicial processes for crimes against humanity which included the lack of enough first and second instances judges, lack of judicial staff, and lack of appropriate physical space for trials: Centro de Información Judicial, 'Delitos de Lesa Humanidad - Informe Sobre La Evolución de Las Causas,' 2010.

⁸⁴ Centro de Estudios Legales y Sociales, 'Derechos Humanos En La Argentina: Informe 2017,' 2017, <https://www.cels.org.ar/web/publicaciones/derechos-humanos-en-la-argentina-informe-2017/>; Francesca Lessa, 'Investigating Crimes against Humanity in South America: Present and Future Challenges,' 2018.

⁸⁵ For example, in 2017, the Court issued the so-called '2 x 1 decision,' to reduce sentences of those convicted of crimes against humanity.

⁸⁶ Centro de Estudios Legales y Sociales, 'Derechos Humanos En La Argentina: Informe 2017.'

⁸⁷ Centro de Estudios Legales y Sociales.

⁸⁸ Procuraduría de Crímenes contra la Humanidad, 'Informe Estadístico Sobre El Estado de Las Causas Por Delitos de Lesa Humanidad En Argentina Diagnóstico 2018,' 2018, https://www.fiscales.gob.ar/wp-content/uploads/2018/12/LESA_informe-estadistico-anual-2018.pdf.

⁸⁹ Graciela Mochkofsky, 'What's Next for Mauricio Macri, Argentina's New President?' | *The New Yorker*, December 15, 2015, <https://www.newyorker.com/news/news-desk/whats-next-mauricio-macri-argentinas-new-president>; Flannery Nathaniel Parish, 'What Can Investors Expect From Argentina's Economy

In 2018?,' *Forbes*, 2018, <https://www.forbes.com/sites/nathanielparishflannery/2018/06/29/what-can-investors-expect-from-argentinas-economy-in-2018/#30417e4a1755>.

⁹⁰ ESCR-Net Corporate Accountability Working Group, 'Corporate Capture: Definition and Characteristics,' accessed June 13, 2019, <https://drive.google.com/file/d/1IQ146Kb8WSj47NpbnrOI-leZlZhVrKZ/view>.

⁹¹ Ana Castellani, '“Cambiamos SA” Exposición a Los Conflictos de Interés En El Gobierno Nacional. Los Funcionarios Con Participación En Empresas Privadas a Junio de 2018' (Buenos Aires, 2018), <http://noticias.unsam.edu.ar/wp-content/uploads/2018/08/Informe-N5-Observatorio.pdf>.

⁹² El País Digital, 'El Grupo Macri y La Dictadura: El Comienzo de La Expansión,' *El País Digital*, March 2018, <https://www.elpaisdigital.com.ar/contenido/el-grupo-macri-y-la-dictadura-el-comienzo-de-la-expansin/15762>.

⁹³ Lessa, Payne, and Pereira, 'Overcoming Barriers to Justice in the Age of Human Rights Accountability.'

⁹⁴ Truth table analysis is based on fuzzy sets Boolean algebra used in Qualitative Comparative Analysis. It allows combining variable-oriented research with case-study oriented research; explores causal complexity and heterogeneity, with the combination of factors to produce an outcome; and, entails in-depth knowledge of cases to construct narratives, but also explores traits and combinations of traits that allows for a middle-level of generalisation: Charles C. Ragin, *Fuzzy-Set Social Science* (Chicago: The University of Chicago Press, 2000).

⁹⁵ The table displays outcomes as of December 10, 2019, when President Macri handed the Presidency to the newly elected President Alberto Fernández. That date marks the end of the period under study in this paper.

⁹⁶ We include the official case reference of each of the cases discussed below. We should warn, however, we include the last available official reference to them. Case reference might change according to particular developments under Argentine law.

⁹⁷ See details of the case in Copani and Jasinski (2018).

⁹⁸ Case reference 'CNT 9616/2008/1/RH1 Ingegnieros, María Gimena c/ Techint Sociedad Anónima Compañía Técnica Internacional s/ accidente - ley especial'.

⁹⁹ Martín Boerr, 'La Pelea Por El Mercado de La Yerba Mate: Las Marías Lidera, Pero Liebig No Para de Crecer y Rosamonte Relegó a Molinos – Economis,' *Economis*, March 19, 2019, <https://economis.com.ar/la-pelea-por-el-mercado-de-la-yerba-mate-las-marias-lidera-pero-liebig-no-para-de-crecer-y-rosamonte-relego-a-molinos/>.

¹⁰⁰ Fundación Konex, 'Adolfo F. Navajas Artaza | Fundación Konex,' Fundación Konex, accessed June 18, 2020, <https://www.fundacionkonex.org/b173-adolfo-f-navajas-artaza>.

¹⁰¹ La Retaguardia, 'Suspendieron El Juicio Por Los Crímenes de Lesa Humanidad En La Yerbatera Las Marías - La Retaguardia,' La Retaguardia, November 5, 2014, <http://www.laretaguardia.com.ar/2014/11/suspendieron-el-juicio-por-los-crmenes.html>.

¹⁰² El Patagónico, 'Buscan Llevar a Juicio Por Delitos de Esa Humanidad a Navajas Artaza,' *El Patagónico*, September 10, 2014, <https://www.elpatagonico.com/buscan-llevar-juicio-delitos-esa-humanidad-navajas-artaza-n667671>.

¹⁰³ Andrea Copani and Alejandro Jasinski, 'Mate Lavado | El Cohete a La Luna,' *El Cohete a la Luna*, April 29, 2018, <https://www.elcohetelaluna.com/mate-lavado/>.

¹⁰⁴ La Retaguardia, 'Más de 40 Años y 20 Jueces Después Hay Juicio Por Lesa En El Establecimiento Las Marías,' *La Retaguardia*, July 5, 2018, <http://www.laretaguardia.com.ar/2018/07/las-marias.html>.

¹⁰⁵ Luciano Benjamín Menéndez et al., 'Algunos Problemas Vinculados Al Trámite de Las Causas Por Violaciones a Los DDHH Cometidas Durante El Terrorismo de Estado,' 2007.

¹⁰⁶ Sur Correntino, 'Reactivarían Causa Por Desaparición de Trabajadores Contra Navajas Artaza - SurCorrentino.Com.Ar,' Sur Correntino, accessed June 18, 2020, http://www.surcorrentino.com.ar/vernota.asp?id_noticia=14799.

¹⁰⁷ Sur Correntino.

¹⁰⁸ The background to this case is the company's emblematic role during the Argentine dictatorship. *Techint* was a leading steel corporation that had experienced an unprecedented boom in the 70's, providing it with substantial economic and political influence. Its director, Agostino Rocca, was considered one of the most influential businesspersons at the time of the 1976 coup. He owned a number of companies, including the steel company *Siderca*, also involved in a corporate accountability case discussed in this article.

¹⁰⁹ The sole major human rights organization involved in the case is CELS. It included the case in a report denouncing 24 corporate complicity cases: Ministerio de Justicia y Derechos Humanos de la Nación et al., 'Responsabilidad Empresarial En Delitos de Lesa Humanidad: Represión a Trabajadores Durante El Terrorismo de Estado TOMO I y II.'

¹¹⁰ UNLa, 'IJDHUNLa,' UNLa, accessed June 18, 2020, <http://ijdh.unla.edu.ar/docente-detalle/9/victor-abramovich>.

¹¹¹ The appointment of these two judges -- Rosenkrantz, and his colleague Justice Rossati -- initially provoked an institutional scandal. Macri appointed them directly through a presidential decree rather than following the ordinary constitutional procedure. Macri's move triggered strong public criticisms from a wide range of

sectors of society. Eventually, Macri resubmitted their nominations through the standard procedure and the candidates were approved by the Congress: Andrés Del Río, 'President Macri and Judicial Independence on the Argentine Supreme Court,' International Journal of Constitutional Law Blog, 2015, <http://www.iconnectblog.com/2016/02/president-macri-and-judicial-independence-on-the-argentine-supreme-court/>.

¹¹² *Ámbito Financiero*, 'Asume Rosenkrantz, Un Ex Abogado de Grandes Empresas Con Extracto Radical,' *Ámbito Financiero*, September 11, 2018, <https://www.ambito.com/politica/assume-rosenkrantz-un-ex-abogado-grandes-empresas-extracto-radical-n4033383>.

¹¹³ Rosenkrantz has failed to recuse himself from cases involving his firm's corporate clients at least ten times, which was seen as a violation of Argentine law: Irina Hauser, 'Rosenkrantz, de Un Lado y Del Otro,' *Página/12*, May 12, 2019, <https://www.pagina12.com.ar/193255-rosenkrantz-de-un-lado-y-del-otro>.

¹¹⁴ The Justice's wife serves on an NGO's board along with the former lawyer and nephew of Blaquier, the director and main shareholder of the company. Rosenkrantz has made public appearances in fundraising events together with the Blaquier family and officers of the *Techint* company. Also, as the president of San Andrés University, Rosenkrantz secured a substantive endowment to the University from the Blaquier family: Sofía Caram, 'Blanquear a Blaquier,' *Página 12*, July 7, 2019, <https://www.pagina12.com.ar/204885-blanquear-a-blaquier>.

¹¹⁵ We discussed above the particular negative effects of time passing on corporate complicity cases in Argentina.

¹¹⁶ As discussed above, one can find variation in outcomes within levels 1, 2 and 3. Cases at the same level can produce negative or positive preliminary outcomes depending on the particular circumstances of the litigation process.

¹¹⁷ Case reference 'Denunciado: Ingenio Fronterita Y Otros S/Averiguacion De Delito. Querellante: Ortiz, Hortencia Y Otro. Expte. N° 7282/2016.-'

¹¹⁸ Case reference 'Massot Vicente Gonzalo María Y Otros S/PrivacionIlegallibertad Agravada (Art.142 Inc.1), Privacion Ilegal Libertad Agravada Art142 Inc 5, Tortura, Homicidio Agravado P/El Conc.De Dos O Mas Personas YasociacionIllicita Victima: Heinrich Enrique Y Otros. Expte. N° 15000158/2012'.

¹¹⁹ Damián Loreti, 'The Media: Uniform Discourse and Business Deals under Cover of State Terrorism,' in *The Economic Accomplices to the Argentine Dictatorship Outstanding Debts*, ed. Horacio Verbitsky and Juan Pablo Bohoslavsky (Cambridge University Press, 2015), 373.

¹²⁰ The accused, according to the public prosecutor, also made material contributions to facilities these crimes against the two victims (Ibid.).

¹²¹ Clarín, 'Preocupación Periodística Por El Allanamiento a La Nueva Provincia,' *Clarín*, April 24, 2014, https://www.clarin.com/politica/Preocupacion-periodistica-allanamiento-Nueva-Provincia_0_H1T4KT65vml.html; El Litoral, 'Adepa Rechaza Allanamiento Al Diario La Nueva Provincia,' *El Litoral*, April 11, 2014, <https://www.ellitoral.com/index.php/diarios/2014/04/11/politica/POLI-02.html>; La Nación, 'Preocupación de ADEPA Por El Allanamiento a La Nueva Provincia,' *La Nación*, April 11, 2014, <https://www.lanacion.com.ar/politica/preocupacion-de-adepa-por-el-allanamiento-a-la-nueva-provincia-nid1679810>.

¹²² Télam, 'El Foro de Convergencia Empresarial Se Reúne En Medio de La Polémica Por Complicidades Con La Dictadura,' *Télam*, April 21, 2014, <https://www.telam.com.ar/notas/201404/60176-el-foro-de-convergencia-empresarial-se-reune-en-medio-de-la-polemica-por-complicidades--con-la-dictadura.html>.

¹²³ *Página/12*, 'Busca La Impunidad de Massot,' *Página/12*, March 10, 2015, <https://www.pagina12.com.ar/diario/ultimas/20-267802-2015-03-10.html>.

¹²⁴ Case Reference 'Reston, Llamil; Sacco, Juan Carlos Y Torres Queirel, HectorMaria S/ Asociación Ilícita, Tortura, Privación Ilegal Libertad Pers. (Art.142 Bis Inc.1). Expte. N° Fct 36001586/1991/To1'.

¹²⁵ Copani and Jasinski, 'Mate Lavado | El Cohete a La Luna'; Alejandro Jasinski, 'Si Esto Es Un Juez | El Cohete a La Luna,' *El Cohete a la Luna*, August 28, 2018, <https://www.elcohetealaluna.com/si-esto-es-un-juez/>.

¹²⁶ Case reference 'Almirón, Víctor Hugo y otros s/recurso de casación. Causa N° FSA 14000695/2011/TO1/CFC1'.

¹²⁷ Case reference 'Müller, Pedro y otros s/ privación ilegítima de la libertad y otros del CP'.

¹²⁸ The accused's legal team are regarded as being part of a select group of lawyers influencing judicial and political affairs in Argentina. Some of them have held influential government positions during authoritarian and democratic governments in Argentina. In the private sector, they have legally represented other powerful multinational companies operating in Argentina, high profile politicians, and businessmen: Alejandro Jasinski, 'La Conexión O'Farrell | El Cohete a La Luna,' *El Cohete a la Luna*, December 2, 2018, <https://www.elcohetealaluna.com/la-conexion-ofarrell/>. (Jasinski 2018f).

¹²⁹ SUTIBA, 'ENCUENTRO DEL SUTIBA, LA CTERA Y LA UNTREF SOBRE GENOCIDIO - Suteba,' SUTIBA, October 22, 2013, <https://www.suteba.org.ar/encuentro-del-suteba-la-ctera-y-la-untref-sobre-genocidio-11398.html>; SUTIBA, 'CAUSA FORD: COMPLICIDAD Y RESPONSABILIDAD

EMPRESARIAL EN DELITOS DE LESA HUMANIDAD DURANTE LA ÚLTIMA DICTADURA - Suteba,' SUTEBA, May 14, 2018, <https://www.suteba.org.ar/causa-ford-complicidad-y-responsabilidad-empresarial-en-delitos-de-lesa-humanidad-durante-la-ultima-dictadura-17640.html>; SUTEBA, 'CAUSA FORD: ¡CÁRCEL COMÚN A EMPRESARIOS CÓMPlices DE LA ÚLTIMA DICTADURA MILITAR! - Suteba,' SUTEBA, December 11, 2018, <https://www.suteba.org.ar/causa-ford-crcel-comn-a-empresarios-cmplices-de-la-ultima-dictadura-militar-18466.html>.

¹³⁰ La Izquierda Diario, 'Nora Cortiñas: 'Invito a Presenciar El Testimonio de Propato En El Juicio Contra Ford,' La Izquierda Diario, March 3, 2018, <http://www.laizquierdadiario.com/Nora-Cortinas-Invito-a-presenciar-el-testimonio-de-Propato-en-el-juicio-contr-Ford>.

¹³¹ Alejandro Jasinski, 'Ford Land | El Cohete a La Luna,' El Cohete a la Luna, October 7, 2018, <https://www.elcohetelaluna.com/ford-land/>; Jasinski, 'Si Esto Es Un Juez | El Cohete a La Luna'; Alejandro Jasinski, 'Fue Ford | El Cohete a La Luna,' El Cohete a la Luna, December 16, 2018, <https://www.elcohetelaluna.com/fue-ford/>.

¹³² Ailin Bullentini, 'El Obrero Fue Transformado En Enemigo,' *Página/12*, July 13, 2014, <https://www.pagina12.com.ar/diario/elpais/1-250641-2014-07-13.html>.

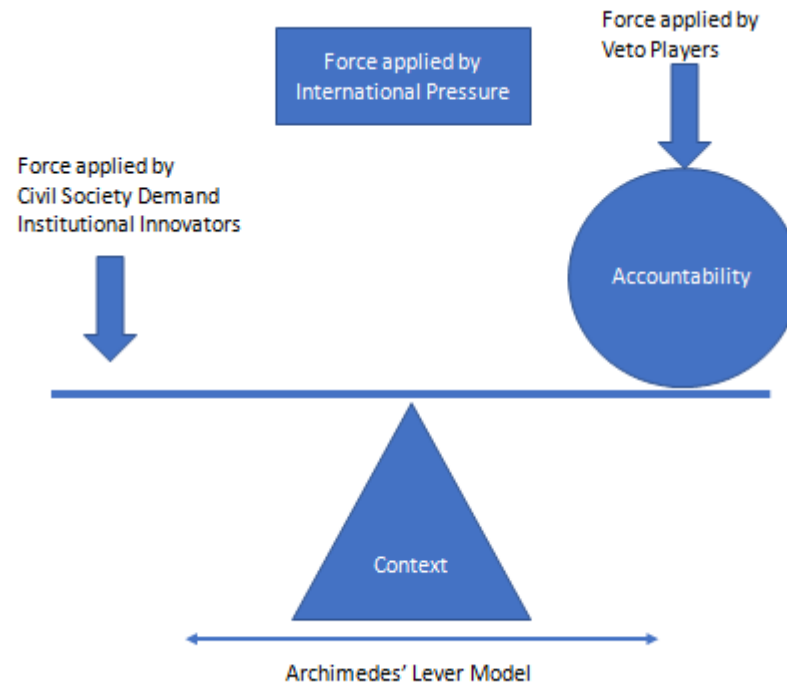
¹³³ Ministerio de Justicia y Derechos Humanos de la Nación et al., 'Responsabilidad Empresarial En Delitos de Lesa Humanidad: Represión a Trabajadores Durante El Terrorismo de Estado TOMO I y II.'

¹³⁴ Alejandro Jasinski, 'La Clase | El Cohete a La Luna,' El Cohete a la Luna, October 21, 2018, <https://www.elcohetelaluna.com/la-clase/>.

¹³⁵ Case reference 'Cebrymsky, Ana María C/Siderca S.A.. IndemnizaciónAccidente In Itinere' 18-04-2007'.

Figure 2 - Components of the Archimedes' Lever Framework

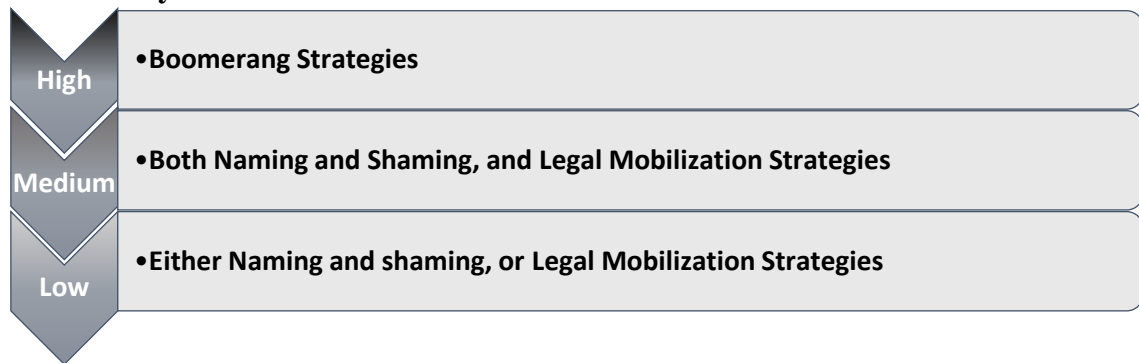
Figure 1.1



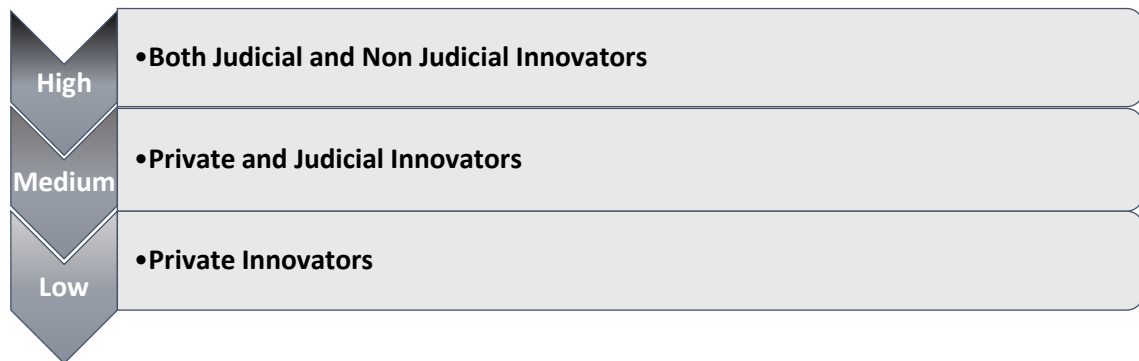
* Weak actors (Global South victims of corporate violations of human rights) clamour for justice; they are aided by tools in the hands of institutional innovators who adapt legal frameworks to advance claims through the judicial process; together these forces attempt to lift up the weight of corporate accountability from under the powerful pressure from veto players within the business community attempting to hold it down; the placement of the fulcrum (political context) determines the necessary use of pressure on either side of these efforts. International pressure could be applied to either side to either lift up or keep down corporate accountability.

Figure 3 – Variation of each explanatory factor

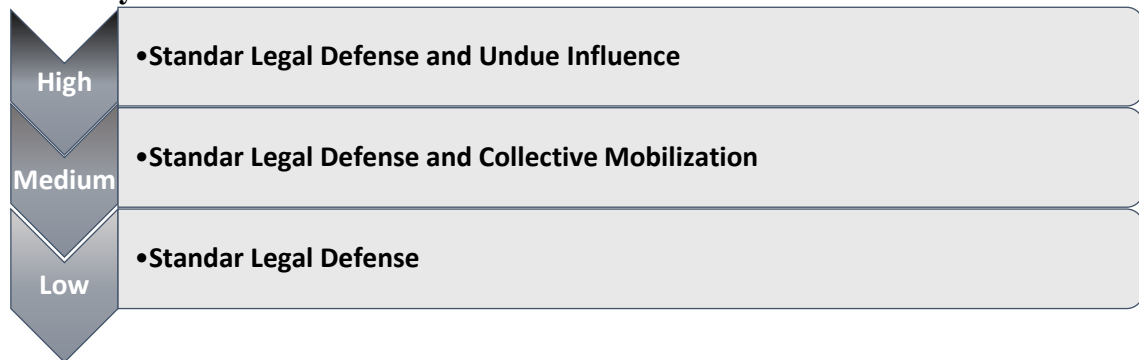
Civil Society Mobilization



Institutional innovators



Veto Players



Political context

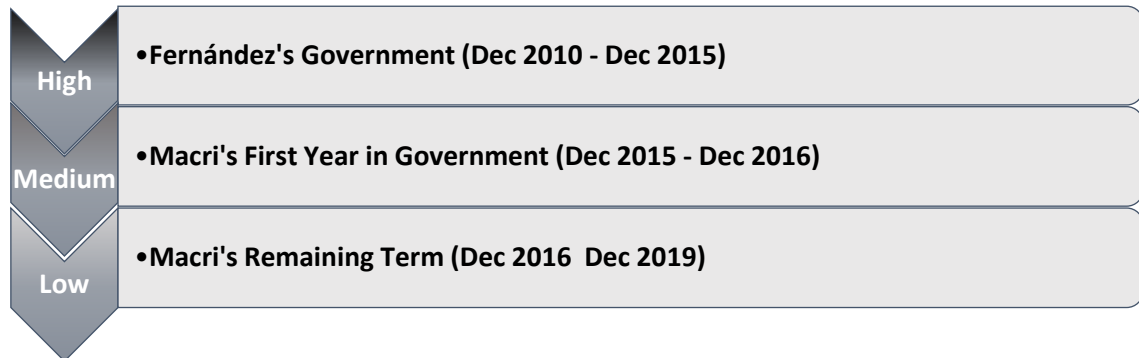
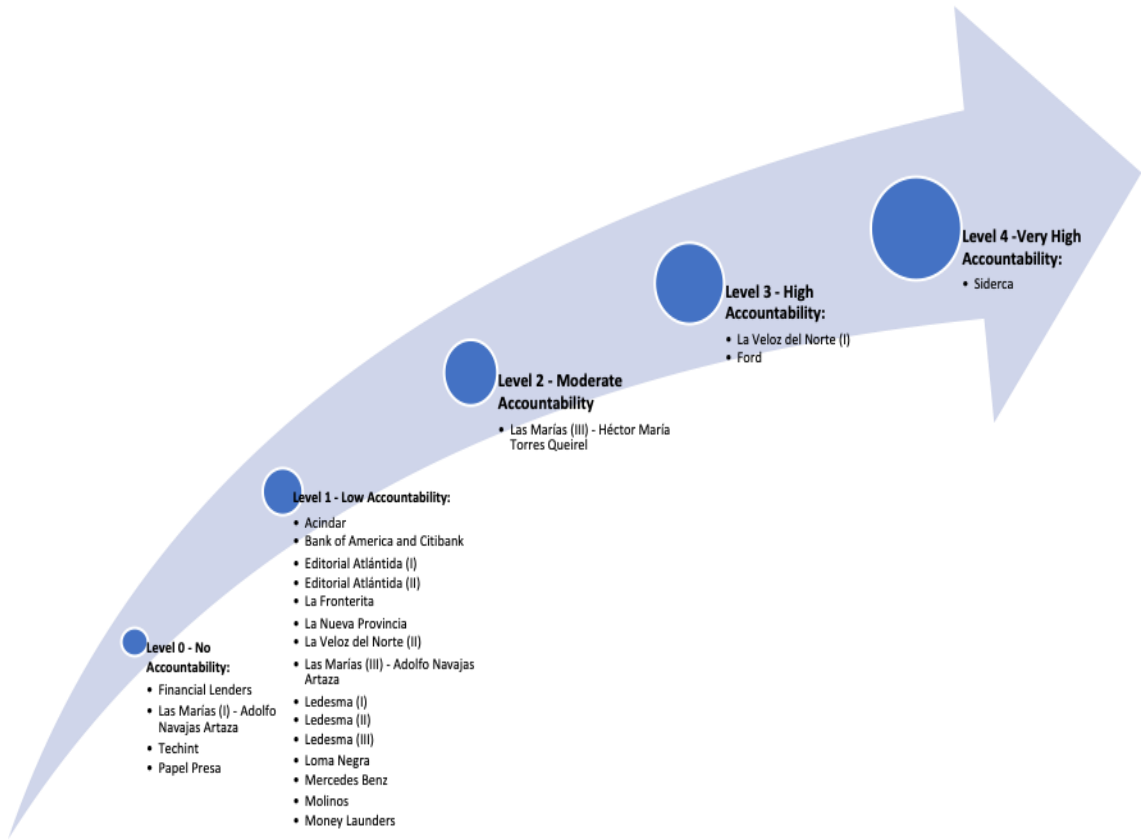


Figure 1 - Levels of accountability of Argentine Domestic Cases



Source: The authors

Tables

Table 1 - Corporate Accountability in Argentina (2005-2019).¹

Case	Mobilization	Institutional Innovators	Veto Player Power	Context	Pathways ²	Outcome Level
Financial Lenders	L	L	L	H	Impunity #3	Level 0
Las Marías I - Navajas Artaza	L	L	H	H	Impunity #3	
Techint	M	M	H	L	Impunity #4	
Papel Prensa	H	H	H	L	Impunity #4	
Bank of America and Citibank	L	L	L	L	Impunity #1	
Ledesma III	M	M	L	L	Impunity #1	
La Veloz del Norte II	M	M	L	L	Impunity #1	

¹ The table displays outcomes as of December 10, 2019, when President Macri handed the Presidency to the newly elected President Alberto Fernández. That date marks the end of the period under study in this paper.

² Accountability Pathway #3 applies to all the cases.

Money Launderers	L	M	L	L	Impunity #1	Level 1 Negative Outcome
Mercedes Benz	H	H	L	L	-	
Editorial Atlántida II	H	M	L	L	Impunity #1	
Loma Negra	M	L	L	L	Impunity #1	
Editorial Atlántida I	H	M	L	L	Impunity #1	
La Fronterita	L	M	L	L	Impunity #1	
La Nueva Provincia	H	M	H	L	Impunity #2	
Ledesma I	H	H	H	L	Impunity #2	
Ledesma II	H	H	H	L	Impunity #2	
Las Marías III - Navajas Artaza	H	M	H	L	Accountabiility #3	Level 1 Positive Outcome
Acindar	H	H	L	L	Accountabiility #2	
Molinos	H	H	L	L	Accountabiility #2	
Las Marías II -	H	H	H	L	Impunity #2	Level 2 Negative Outcome

Torres Queirel						
La Veloz del Norte I	H	H	H	L	Impunity #2	Level 3 Negative Outcome
Ford	H	H	L	L	Accountabiility #2	Level 3 Positive Outcome
Siderca	M	M	L	H	Accountabiility Pathway #1	Level 4