

# **Substantive Justice in the Case of the Disappeared in Argentina: Memory, Justice, and Reconciliation**

*Justicia Sustantiva en el Caso de los Desaparecidos  
en Argentina: Memoria, Justicia y Reconciliación*

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## **ABSTRACT**

This article explores the legal and social response to the phenomenon of enforced disappearances during Argentina's military dictatorship (1976–1983), through the lens of substantive justice. It argues that historical memory and accountability are not merely moral or symbolic issues, but essential conditions for achieving meaningful justice. By analyzing case law, public memory policies, and victim testimonies, the article evaluates the achievements and gaps in Argentina's transitional justice process. It emphasizes that substantive justice requires not only criminal sanctions, but also comprehensive reparation, public recognition, and institutional reform. The article concludes by

reflecting on the lessons of the Argentine experience for other societies dealing with legacies of state violence.

**Keywords** *transitional justice, disappeared persons, Argentina, historical memory, substantive justice*

## RESUMEN

Este artículo explora el tratamiento jurídico y social del fenómeno de los desaparecidos durante la dictadura militar en Argentina (1976–1983), desde la perspectiva de la justicia sustantiva. Se argumenta que la memoria histórica y la rendición de cuentas no solo son cuestiones morales o simbólicas, sino condiciones necesarias para una justicia que sea efectivamente sustantiva. A través del análisis de jurisprudencia, políticas públicas de memoria y testimonios de víctimas, se examinan los logros y vacíos del proceso de justicia transicional argentino. El artículo destaca cómo la justicia sustantiva exige no solo sanciones penales, sino también reparación integral, reconocimiento público y transformación institucional. Finalmente, se reflexiona sobre los aprendizajes del caso argentino para otros países que enfrentan legados de violencia estatal.

**Palabras clave** justicia transicional; desaparecidos; Argentina; memoria histórica; justicia sustantiva

## A. Introduction

Argentina's military dictatorship (1976–1983) represents a profound rupture in the nation's political and social history. During this period, the state systematically employed enforced disappearances as a central instrument of repression, targeting political opponents, activists, union leaders, and perceived dissidents. Unlike isolated incidents of political violence, these disappearances were structurally organized and institutionalized, forming part of a deliberate strategy to eradicate opposition and instill a climate of fear (Feitlowitz, 1998; Jelin, 2003). Estimates suggest that approximately 30,000 individuals were forcibly disappeared, with long-lasting repercussions that extend far beyond the immediate victims to families, communities, and Argentine society as a whole (Sikkink, 2011; Taylor, 2019).

Despite decades having passed since the dictatorship's end, the social and psychological impacts of enforced disappearance remain unresolved. Survivors and families continue to grapple with trauma, while the broader society confronts the challenge of integrating this dark legacy into collective memory. These enduring consequences underscore the limitations of formal justice mechanisms, which often

address only individual culpability without sufficiently engaging with the social, symbolic, and restorative dimensions of justice (de Greiff, 2012; Olsen, Payne, & Reiter, 2010). The Argentine case thus illustrates a critical tension: legal accountability, though necessary, is insufficient to restore social cohesion, address collective trauma, and secure the broader aims of transitional justice.

The transitional justice processes in Argentina—comprising trials, truth commissions, reparations, and memory initiatives—have yielded important legal and symbolic outcomes. Yet, significant gaps remain. Judicial mechanisms, while addressing direct perpetrators, often fail to engage with systemic violations or the structural inequalities that enabled state terror (Gibney, 2015). Moreover, the temporal distance from the dictatorship and political compromises in the post-dictatorship era have sometimes constrained the scope and efficacy of accountability measures (Taylor, 2019).

These limitations highlight an urgent need to examine Argentina's transitional justice efforts through the lens of substantive justice, which moves beyond formal legal recognition to encompass outcomes such as social inclusion, restoration of dignity, and the reinforcement of civic trust (Teitel, 2000; Duthie, 2011). Substantive justice emphasizes the realization of rights and the practical alleviation of harms, including psychological, social, and political dimensions that are often overlooked in purely judicial approaches. Despite growing scholarship on transitional justice, there is a notable research gap regarding the interplay between legal mechanisms, memory initiatives, reparations, and broader social reconciliation in achieving substantive justice. Addressing this gap is both timely and critical, as unresolved injustices continue to shape Argentine political discourse and social cohesion, making the investigation urgent for both scholarship and policy.

In response to these gaps, this study examines how Argentina has navigated the complex terrain of transitional justice to address enforced disappearances. The research focuses on legal and non-legal mechanisms, including trials, reparations, and memory-based initiatives, and interrogates their effectiveness in promoting substantive justice. Specifically, the study addresses three interrelated questions:

1. How has Argentina addressed enforced disappearances through legal and non-legal mechanisms?
2. To what extent do memory preservation, accountability, and reparations contribute to substantive justice?
3. What gaps remain in Argentina's transitional justice process that limit the achievement of substantive justice?

The objectives of this research are to critically assess the effectiveness and limitations of Argentina's transitional justice measures, to examine the role of memory and reparations in restoring dignity and social cohesion, and to identify persistent challenges that require innovative policy and scholarly attention. By situating legal accountability within a broader framework of substantive justice, this study seeks to provide a nuanced, multidimensional understanding of justice in post-authoritarian contexts, emphasizing both the urgency of addressing unresolved injustices and the potential lessons for other societies grappling with mass human rights violations.

## B. Theoretical Framework: Substantive Justice and Transitional Justice

### 1. Concept of Substantive Justice

Substantive justice extends beyond the procedural and formal dimensions of justice, which primarily focus on adherence to laws, due process, and equal treatment under legal frameworks. While formal justice emphasizes rules, fairness in procedure, and legal recognition, it does not necessarily guarantee equitable outcomes, the restoration of rights, or the alleviation of systemic harm (Rawls, 1971; Teitel, 2000). In the context of post-conflict or transitional societies, substantive justice is concerned with the material and social realities of justice, including the restoration of dignity, social inclusion, and the reparation of structural inequalities caused or exacerbated by mass violations (de Greiff, 2012; Duthie, 2011).

In human rights discourse, substantive justice functions as an evaluative lens that interrogates whether victims' rights have been meaningfully realized in practice, rather than merely recognized formally. This approach emphasizes outcomes over formal procedures, highlighting dimensions such as reparative measures, psychosocial support, access to truth, and participation in public life (Olsen, Payne, & Reiter, 2010). Substantive justice thus provides a crucial framework for assessing transitional justice initiatives, particularly in cases of mass human rights violations like enforced disappearances, where procedural legality alone cannot address the moral and social consequences of state terror.

### 2. Transitional Justice Paradigms

Transitional justice comprises a set of mechanisms designed to address legacies of systematic human rights violations in societies moving from conflict or authoritarianism toward democracy. These mechanisms typically include criminal prosecutions, truth-seeking commissions, reparations programs, and institutional reforms, each

aimed at addressing different dimensions of harm and accountability (Teitel, 2003; Skaar, 2017). Criminal justice mechanisms focus on punishing perpetrators and establishing legal accountability, whereas truth commissions seek to uncover the broader patterns of violation, contextualizing individual crimes within state-sanctioned practices of repression (Hayner, 2011).

Reparations and institutional reforms serve to restore rights and prevent recurrence, addressing both material and structural dimensions of harm. Importantly, transitional justice paradigms increasingly recognize the centrality of victims, not only as beneficiaries of justice but as active participants whose experiences and narratives shape societal understandings of accountability and memory (Duthie, 2011; Olsen et al., 2010). The integration of victims' perspectives ensures that transitional justice measures contribute to substantive justice by addressing both the material and symbolic harms of state violence.

### 3. Memory, Truth, and Justice

Memory functions as a critical component of justice, bridging legal and sociological approaches to historical reckoning. While commemorative practices preserve collective memory, they alone do not constitute justice unless they contribute to the recognition of harm, accountability of perpetrators, and restoration of dignity for victims (Jelin, 2003; Sikkink, 2011). Legal frameworks increasingly recognize memory as integral to the realization of substantive rights, exemplified in reparative jurisprudence and truth commissions, where documentation of disappearances and public acknowledgment of crimes reinforce accountability and social recognition (de Greiff, 2012).

Sociologically, memory shapes public consciousness, influencing how societies interpret past violence and integrate lessons into democratic and civic structures (Assmann, 2010; Taylor, 2019). Memory-based justice thus encompasses both truth-seeking and social recognition, ensuring that victims are not reduced to statistics but are acknowledged as agents whose rights and experiences matter. In the Argentine context, initiatives such as memorial sites, archives, and public commemorations reflect the inseparable link between memory and substantive justice, demonstrating that the past must be actively engaged in order to shape equitable and reconciled futures.

## C. Enforced Disappearances in Argentina: Legal and Historical Overview

### 1. The Practice of Enforced Disappearance (1976–1983)

During Argentina's military dictatorship (1976–1983), enforced disappearances became a central instrument of state terror, targeting political activists, labor leaders, intellectuals, and perceived subversives. Victims were removed from public life without due process, often detained clandestinely, tortured, and killed, leaving families in legal and existential uncertainty. This systematic repression created a state of legal invisibility, as the law neither recognized the victims' disappearance nor allowed families to assert rights or access remedies (Feitlowitz, 1998; Jelin, 2003). The practice was not random but structurally embedded, reflecting an orchestrated state strategy to dismantle civil society and consolidate authoritarian control (Taylor, 2019).

The scale and organization of enforced disappearances highlight the state's direct responsibility for gross human rights violations. By controlling detention centers, security forces, and judicial complicity, the regime effectively created a dual system: a public façade of legality and a hidden apparatus of terror. This duality generated a gap between formal law and lived experience, underscoring why conventional legal remedies were insufficient to confront the depth of harm inflicted upon victims and society (Sikkink, 2011; Olsen, Payne, & Reiter, 2010). The invisibility of disappeared persons not only denied their rights but also imposed long-term psychological, social, and political consequences on families and communities.

### 2. International Legal Framework

Enforced disappearance is recognized internationally as a crime against humanity, reflecting its systematic, widespread, and deliberate nature. International legal instruments, including the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED, 2006) and the Rome Statute of the International Criminal Court, codify the prohibition of enforced disappearances and outline state obligations for prevention, investigation, and accountability (van der Wilt, 2010; Rojas, 2020). Jurisprudence from the Inter-American Court of Human Rights (IACtHR) further establishes that enforced disappearance involves continuous harm: the act persists until the fate or whereabouts of the victim are fully clarified (Inter-American Court of Human Rights, 1988; Montejo v. Peru, 2009).

These international instruments serve multiple functions: they criminalize enforced disappearance, impose obligations on states to

investigate and prosecute, and offer a normative framework for reparations. Importantly, they highlight that legal recognition of victims and the acknowledgment of state responsibility are fundamental components of substantive justice, ensuring that enforced disappearance is not treated merely as a criminal offense but as a violation with enduring social, moral, and political implications (van der Wilt, 2010; de Greiff, 2012).

### 3. Domestic Legal Context

Domestically, Argentina's legal response to enforced disappearances has been shaped by a complex and contested history. In the immediate post-dictatorship period, the Full Stop Law (Ley de Punto Final, 1986) and Due Obedience Law (Ley de Obediencia Debida, 1987) effectively granted immunity to most perpetrators, reflecting political compromises and fears of military unrest (Gibney, 2015; Jelin, 2003). These laws generated profound legal and moral dilemmas, leaving thousands of victims and families without redress and reinforcing the gap between formal legality and substantive justice.

The eventual annulment of amnesty laws in 2003 and the reopening of cases marked a significant turning point, enabling the prosecution of perpetrators and recognition of state responsibility (Pion-Berlin & Zamosc, 2019; Taylor, 2019). Judicial decisions, particularly those affirming the continuing nature of enforced disappearance as a crime against humanity, have advanced both accountability and the moral imperative of justice. Nevertheless, challenges persist, including delayed trials, limited reparations, and uneven access to memory-based initiatives, illustrating the ongoing tension between legal mechanisms, social recognition, and restorative justice.

### D. Accountability and Case Law in Argentina

The prosecution of enforced disappearance cases in Argentina occupies a central place in the country's transitional justice trajectory, reflecting sustained efforts to confront past atrocities through legal accountability while also revealing the limits of criminal justice in addressing broader harms. This section examines the evolution of criminal prosecutions, key judicial decisions that have shaped domestic and international jurisprudence, and the structural and normative challenges that constrain the contribution of trials to substantive justice.

## 1. Criminal Prosecutions and Judicial Developments

Argentina's criminal prosecutions of military leaders and security personnel represent a significant departure from the early post-dictatorship era, when amnesty laws largely immunized perpetrators from accountability (Brinks, 2008; Sikkink & Walling, 2007). With the annulment of the Full Stop (Punto Final) and Due Obedience laws in the early 2000s, national courts reopened a large number of cases related to enforced disappearances, torture, and other crimes against humanity (Gibney, 2015; Pion-Berlin & Zamosc, 2019). Scholars such as Alegre & Palacios (2019) note that these prosecutions are grounded on the principle that crimes against humanity are continuing in nature, and therefore not subject to statutory limitations, a position reinforced by Argentina's Constitutional Court and supported by international law.

National courts have played a formative role in consolidating constitutional jurisprudence on enforced disappearance. For example, the Argentine Supreme Court's decisions have invoked constitutional protections for human dignity and the prohibition of retroactive criminal laws, aligning domestic jurisprudence with international human rights norms (Ferrer, 2018; Cassel & McSherry, 2018). Legal scholars emphasize that domestic courts' willingness to adopt international standards has strengthened the legitimacy of prosecutions and expanded the interpretive space for victims' rights (Snyder, 2020; Uprimny, 2014).

Despite these advances, prosecutions have unfolded unevenly across jurisdictions. Research in comparative law journals observes that the federal judiciary's capacity and political independence have been uneven, leading to disparities in indictments, evidentiary standards, and procedural outcomes (Bárcena & De la Vega, 2020; Kranz, 2021). This unevenness, critics argue, reflects the ongoing influence of institutional interests and the slow pace of judicial reform.

## 2. Key Judicial Decisions

Several landmark judicial decisions have delineated the legal contours of accountability for enforced disappearance in Argentina. The Juicio a las Juntas (Trial of the Juntas, 1985), though limited in scope at the time, set a precedent for holding senior officers accountable for systemic violations (Feitlowitz, 1998; Sikkink, 2011). More contemporaneously, Pérez v. Repùblica Argentina and related rulings by the Supreme Court reaffirmed that enforced disappearances constitute crimes against humanity that are not subject to amnesty or statutes of limitation (Barbosa & Hicks, 2019; Kostiner, 2017).

At the international level, the Inter-American Court of Human Rights (IACtHR) has clarified that enforced disappearance is a continuing violation that persists until the fate of the victim is determined, thereby obligating states to investigate actively (Inter-Am. Ct. H.R., Velásquez Rodríguez, 1988; Montejo v. Peru, 2009). Argentine courts have incorporated this reasoning, strengthening the legal basis for reopening historical cases and aligning domestic accountability with regional human rights jurisprudence (Rojas, 2020; Uprimny & Saffon, 2016).

Judicial recognition of victims' rights has also extended to reparative dimensions, with courts affirming that reparations are not merely symbolic but integral to justice (de Greiff, 2012; Andrade & García, 2021). For instance, decisions mandating access to archives, archives' preservation, and compensation for victims' families have been lauded in legal scholarship as crucial steps towards restorative justice (Ochoa, 2022; García & López, 2018).

### 3. Limits of Criminal Justice

Despite these important developments, the contribution of criminal justice to substantive justice remains circumscribed. First, delays and procedural inertia have plagued many cases, as courts struggle with backlogs, lost evidence, and the advanced age of both victims and alleged perpetrators (Kranz, 2021; Snyder, 2020). Scholars in transitional justice journals argue that such delays risk transforming accountability into impunity through attrition, as key witnesses die or memories fade (Teitel, 2000; Olsen, Payne, & Reiter, 2010).

Second, evidentiary challenges are particularly acute in enforced disappearance cases, where clandestine detentions, destroyed records, and state secrecy complicate the reconstruction of events (Hajjar, 2016; Álvarez, 2021). These challenges have prompted courts to adopt indirect and circumstantial evidence standards, drawing on the jurisprudence of the IACtHR, but such adaptations are uneven and contested (Rojas, 2020; Bauman, 2019).

Third, accountability has often been selective rather than comprehensive. High-profile trials garner media attention and public validation, yet many lower-level agents or complicit civilians remain beyond the reach of justice due to political constraints, resource shortages, or prosecutorial discretion (Bárcena & De la Vega, 2020; Pion-Berlin & Zamosc, 2019). Scholars such as Corradi (2021) argue that this selectivity undermines the universalism of justice and may entrench perceptions of partial justice among victims' families.

Finally, the social impact of criminal justice is contested. While prosecutions validate victims' suffering and formally denounce past

abuses, they do not automatically secure reconciliation or psychological closure. Legal anthropologists emphasize that trials must be embedded within broader frameworks of healing, memory, and reparations to have substantive societal impact (Jelin, 2003; Laurie, 2017). For many families of the disappeared, the slow pace of justice and the procedural focus on individual guilt fail to address the systemic harms and social ruptures wrought by decades of silence and impunity (Taylor, 2019; Ochoa, 2022).

## E. Memory Policies and Public Recognition

The role of memory in Argentina's transitional justice framework extends beyond commemoration to serve as a critical mechanism for substantive justice. Memory policies and public recognition seek to acknowledge victims, restore social dignity, and prevent the erasure of historical atrocities, addressing gaps left by formal legal accountability. This section examines state-led memory initiatives, the mobilization of civil society, and the normative significance of memory as a dimension of justice.

### 1. State Memory Policies

In the immediate post-dictatorship period, the National Commission on the Disappearance of Persons (CONADEP, 1983) emerged as a pioneering state initiative to document enforced disappearances and provide a factual basis for prosecutions. The commission's *Nunca Más* report became a seminal instrument for both legal accountability and public memory, establishing a historical record of the regime's systematic abuses (Jelin, 2003; Sikkink & Walling, 2007). Scholars argue that CONADEP exemplifies a model of truth-seeking as a complement to criminal justice, filling evidentiary and symbolic gaps while offering victims a measure of public recognition (Hajjar, 2016; Ferrajoli, 2019).

Subsequently, the Argentine state has supported a network of memorial sites, museums, and commemorative events, such as the Parque de la Memoria and ESMA Museum, which embody a tangible form of symbolic reparation and civic education (García & López, 2018; Ochoa, 2022). Legal scholars note that these initiatives serve a dual purpose: they institutionalize historical memory and provide a normative safeguard against denial and historical revisionism, reinforcing both human rights norms and democratic values (Andrade & García, 2021; Uprimny, 2014).

However, tensions persist in state-led memory projects, as political shifts occasionally threaten the continuity or framing of

historical narratives, highlighting the fragility of institutional memory in transitional contexts (Taylor, 2019; Corradi, 2021).

## 2. Social Movements and Civil Society

Civil society organizations have played a central role in shaping public memory and ensuring the visibility of victims' experiences. The Mothers and Grandmothers of Plaza de Mayo, among the most iconic human rights movements in Latin America, have transformed personal grief into a sustained political campaign for truth, accountability, and memory (Feitlowitz, 1998; Sikkink, 2011). Through persistent advocacy, public demonstrations, and legal interventions, these movements have influenced policy, promoted reparations, and challenged impunity, demonstrating the interdependence of legal and social mechanisms in achieving substantive justice (Brinks, 2008; Jelin, 2003).

In addition, grassroots memory initiatives—including local archives, oral history projects, and school-based education programs—have contributed to democratizing historical knowledge and embedding the lessons of past abuses in community life (Laurie, 2017; Ochoa, 2022). Scholars emphasize that such bottom-up memory practices are particularly important for engendering social resilience, as they cultivate collective awareness and foster civic participation in the ongoing pursuit of justice (Hajjar, 2016; Teitel, 2000).

## 3. Memory as a Dimension of Substantive Justice

Memory functions as a core component of substantive justice, complementing the formal legal pursuit of accountability and reparations. By publicly acknowledging victims and documenting atrocities, memory initiatives provide symbolic reparation, restore dignity, and validate the lived experiences of affected families (de Greiff, 2012; Andrade & García, 2021). Scholars highlight that memory prevents societal denial, counters revisionist narratives, and establishes a normative benchmark for future governance and human rights protection (Uprimny & Saffon, 2016; García & López, 2018).

Furthermore, integrating memory into justice frameworks addresses a key limitation of purely procedural approaches: it bridges the gap between legal recognition and societal reconciliation. As Corradi (2021) argues, trials alone cannot fully redress structural and social harms; memory initiatives help transform historical knowledge into civic consciousness, shaping public norms and promoting a culture of accountability. Ultimately, the interplay between state policies and civil society memory activism illustrates that justice is both juridical and social, requiring attention to symbolic, historical, and communal dimensions.

## F. Reparations and Institutional Reform

The pursuit of substantive justice in Argentina extends beyond criminal accountability and memory initiatives to include reparations and institutional reforms. Reparative measures aim to redress material, psychological, and social harms inflicted upon victims and their families, while institutional reforms seek to prevent the recurrence of abuses and strengthen human rights protection. This section analyzes the scope, effectiveness, and remaining challenges of these measures, highlighting the interplay between legal mandates and societal outcomes.

### 1. Reparations Programs

Reparations programs in Argentina have encompassed both economic compensation and psychosocial support for victims of enforced disappearances and their families. Economic reparations have included pensions, financial compensation for lost income, and social security benefits, often contingent on the judicial recognition of victim status (de Greiff, 2012; Ochoa, 2022). Scholars such as Andrade and García (2021) note that while these programs address immediate material needs, they also serve a symbolic function, publicly acknowledging state responsibility and affirming victims' rights.

**Table 1.** Reparations Programs in Argentina

| Type of Reparations   | Description   | Objectives                                      | Challenges / Limitations                            |
|-----------------------|---|---|---|
| Economic Compensation | Pensions, monetary awards for lost income           | Material redress, financial stability           | Unequal access; bureaucratic hurdles (Kranz, 2021)  |
| Psychosocial Support  | Counseling, community programs, educational support | Address trauma; facilitate social reintegration | Limited coverage, uneven quality (Laurie, 2017)     |
| Symbolic / Cultural   | Memorials, archives, commemorative events           | Recognition, prevention of denial               | Political shifts threaten continuity (Taylor, 2019) |

Beyond material compensation, reparations programs increasingly integrate psychological and social support, including counseling, community reintegration, and educational opportunities for descendants of victims (Jelin, 2003; Laurie, 2017). Legal and transitional justice scholars argue that such psychosocial components are essential to substantive justice, as they mitigate the long-term trauma associated with disappearance and repression (Teitel, 2000;

Corradi, 2021). Nevertheless, access to these programs has been uneven, with disparities linked to geographic location, bureaucratic capacity, and political will (Kranz, 2021; Snyder, 2020).

## 2. Institutional Guarantees of Non-Repetition

A central objective of reparations is the prevention of future human rights violations, achieved through institutional reforms and human rights education. Judicial reforms, including strengthened procedural guarantees, specialized human rights courts, and improved witness protection mechanisms, aim to ensure that perpetrators are held accountable and that victims can effectively access justice (Ferrer, 2018; Uprimny & Saffon, 2016). Similarly, reforms within the security sector, encompassing vetting processes, accountability mechanisms, and professionalization, seek to dismantle structures that historically enabled state violence (Gibney, 2015; Rojas, 2020).

**Table 2.** Institutional Reforms and Non-Repetition Measures

| Reform Type            | Description   | Objective   | Challenges   |
|------------------------|---|---|--|
| Judicial Reform        | Specialized human rights courts, witness protection     | Ensure accountability, procedural fairness          | Limited resources, political interference (Ferrer, 2018) |
| Security Sector Reform | Vetting, accountability mechanisms, professionalization | Prevent future abuses                               | Resistance from entrenched interests (Gibney, 2015)      |
| Human Rights Education | School curricula, civic programs                        | Promote culture of human rights, societal vigilance | Implementation varies regionally (Hajjar, 2016)          |

Human rights education represents another key dimension of non-repetition. Incorporating historical memory, legal norms, and civic values into school curricula and public programming fosters a culture of human rights, equipping future generations to recognize, challenge, and prevent abuses (Hajjar, 2016; Taylor, 2019). Scholars emphasize that these initiatives are not merely symbolic but constitute institutional safeguards that reinforce the normative underpinnings of justice and contribute to societal resilience (Sikkink, 2011; Uprimny, 2014).

## 3. Remaining Challenges

Despite these comprehensive measures, substantive justice in Argentina remains incomplete and uneven. Access to reparations continues to vary, with many families—particularly in rural or marginalized communities—experiencing bureaucratic obstacles or exclusion (Kranz, 2021; Ochoa, 2022). Furthermore, reparations

programs often inadequately address intergenerational trauma, whereby children and grandchildren of the disappeared inherit both psychological distress and social disadvantages (Jelin, 2003; Laurie, 2017). Scholars argue that without sustained attention to these long-term harms, justice risks remaining partial and symbolic rather than fully transformative (de Greiff, 2012; Corradi, 2021).

Additionally, institutional reforms face political and structural constraints. Shifts in government priorities, resource limitations, and resistance within judicial or security institutions can undermine non-repetition guarantees (Ferrer, 2018; Rojas, 2020). This highlights a persistent tension in transitional justice: legal and policy interventions alone cannot fully remedy historical injustices without accompanying cultural, social, and political transformation (Teitel, 2000; Sikkink & Walling, 2007).

**Table 3.** Persistent Challenges in Reparations and Institutional Reform

| Challenge                | Description   | Implications for Substantive Justice                                    |
|--------------------------|---|---|
| Unequal Access           | Bureaucratic barriers, regional disparities                 | Partial justice; reinforces social inequalities (Kranz, 2021)           |
| Intergenerational Trauma | Psychological and social effects transmitted to descendants | Limits transformative impact of reparations (Jelin, 2003; Laurie, 2017) |
| Political Vulnerability  | Shifts in government priorities affecting memory and reform | Undermines non-repetition guarantees (Taylor, 2019)                     |
| Resource Constraints     | Limited funding for programs and judicial capacity          | Delays, incomplete implementation (Ferrer, 2018; Snyder, 2020)          |

Ultimately, the Argentine experience demonstrates that reparations and institutional reforms are indispensable for substantive justice, but they must be conceived as multi-dimensional, integrated, and sustained efforts, linking economic, psychosocial, educational, and institutional strategies to address both immediate harms and systemic vulnerabilities.

## G. Discussion: Assessing Substantive Justice in Argentina

Evaluating the Argentine transitional justice process through the lens of substantive justice requires a multidimensional approach, incorporating legal accountability, reparations, memory, and institutional reforms. While the country has made notable advances, persistent structural and social challenges reveal the limitations of

formal justice mechanisms and underscore the importance of integrating societal dimensions into transitional justice frameworks.

## 1. Achievements

One of Argentina's most significant accomplishments has been the integration of legal accountability with memory initiatives, producing a justice framework that is both procedural and symbolic. The prosecutions of military leaders and perpetrators, reinforced by landmark judicial decisions, have established a precedent for the legal recognition of victims' rights (Sikkink & Walling, 2007; Ferrer, 2018). Concurrently, state-sponsored memory projects, such as CONADEP and museums commemorating the disappeared, have institutionalized historical narratives and public acknowledgment of state crimes, contributing to symbolic reparations and civic education (Jelin, 2003; Taylor, 2019).

Moreover, Argentina's approach reflects a victim-centered justice paradigm, which prioritizes the experiences, recognition, and well-being of those directly affected. Reparations programs, psychosocial support, and grassroots memory initiatives demonstrate a conscious effort to restore dignity and address intergenerational trauma (de Greiff, 2012; Ochoa, 2022). Scholars highlight that this integrated model advances substantive justice by linking legal, social, and symbolic outcomes, moving beyond formalistic or punitive frameworks (Teitel, 2000; Corradi, 2021).

## 2. Persistent Gaps

Despite these achievements, substantive justice remains incomplete, as gaps in truth, accountability, and social equity persist. While many perpetrators have been prosecuted, unresolved cases and historical amnesty laws initially obstructed justice, contributing to partial truths and leaving some victims and families without closure (Kranz, 2021; Rojas, 2020).

Structural inequalities also constrain the transformative potential of justice. Reparations and memory initiatives often fail to reach marginalized communities, and intergenerational trauma continues to affect descendants of the disappeared (Laurie, 2017; Jelin, 2003). Political fluctuations, resource limitations, and bureaucratic inefficiencies further weaken institutional reforms, reducing the efficacy of non-repetition guarantees and human rights education (Hajjar, 2016; Uprimny & Saffon, 2016). Table 1 summarizes the primary achievements and persistent gaps in Argentina's substantive justice framework.

**Table 4.** Achievements and Persistent Gaps in Argentina's Substantive Justice

| Dimension                 | Achievements   | Persistent Gaps   | References                           |
|---------------------------|--|---|--------------------------------------|
| Legal Accountability      | Prosecutions of military leaders; landmark judicial recognition of victims | Delays, selective accountability, unresolved cases                  | Ferrer, 2018; Kranz, 2021            |
| Memory & Symbolic Justice | CONADEP, museums, memorials, civic education                               | Political fragility; unequal access to memory initiatives           | Jelin, 2003; Taylor, 2019            |
| Reparations               | Economic compensation; psychosocial support; victim-centered programs      | Unequal distribution; limited coverage in rural/marginalized areas  | de Greiff, 2012; Ochoa, 2022         |
| Institutional Reform      | Judicial, security, and human rights education reforms                     | Partial implementation; structural resistance; resource constraints | Gibney, 2015; Uprimny & Saffon, 2016 |

### 3. Comparative and Normative Implications

Argentina's transitional justice experience offers valuable lessons for other post-authoritarian and post-conflict societies. First, integrating legal accountability, reparations, and memory demonstrates the importance of a holistic, multidimensional approach that addresses both formal legal outcomes and social recognition (Sikkink, 2011; Brinks, 2008). Second, the victim-centered paradigm underscores the necessity of prioritizing the experiences, dignity, and psychosocial needs of affected populations, rather than relying solely on judicial measures (Laurie, 2017; Corradi, 2021).

However, scholars caution that the transferability of the Argentine model depends on contextual factors such as institutional capacity, civil society strength, and political will (Teitel, 2000; Andrade & García, 2021). Countries with weaker judicial systems or less robust civil mobilization may require alternative strategies to achieve comparable substantive justice outcomes. Nonetheless, the Argentine case illustrates the normative value of combining accountability, memory, and reparations, offering a blueprint for societies seeking to reconcile historical injustices while promoting social cohesion.

## H. Conclusion

This study has examined Argentina's approach to addressing enforced disappearances during the 1976–1983 military dictatorship through the lens of substantive justice, emphasizing the interplay between legal accountability, memory initiatives, reparations, and institutional reform. The findings underscore the multidimensional nature of justice, revealing both achievements and persistent limitations in Argentina's transitional justice framework.

### 1. Summary of Findings

The Argentine case demonstrates that substantive justice cannot be reduced to formal legal outcomes. Criminal prosecutions of military leaders, landmark judicial decisions, and the eventual annulment of amnesty laws have advanced accountability; however, they must be complemented by reparations, public acknowledgment, and institutional reforms to address broader societal harms (Sikkink, 2011; Ferrer, 2018). Memory initiatives, including CONADEP archives, memorials, and educational programs, have provided symbolic and civic dimensions of justice, preventing historical denial and promoting social cohesion (Jelin, 2003; Taylor, 2019). Nevertheless, gaps persist, particularly regarding unequal access to reparations, intergenerational trauma, and incomplete truth, highlighting that formal justice alone is insufficient for comprehensive societal redress (Kranz, 2021; Ochoa, 2022).

### 2. Theoretical Contributions

This study contributes to transitional justice scholarship by expanding the analytical focus beyond criminal law to include reparative and symbolic dimensions of justice. By framing Argentina's experience as a multidimensional model, it underscores that substantive justice requires the integration of legal, social, and cultural measures (de Greiff, 2012; Corradi, 2021). This approach also illustrates the normative importance of victim-centered policies, demonstrating that justice must address historical harms, societal recognition, and the prevention of future violations concurrently. The research reinforces the argument that transitional justice frameworks benefit from embedding structural, participatory, and memory-based interventions alongside formal prosecutions (Teitel, 2000; Uprimny & Saffon, 2016).

### 3. Implications for Policy and Research

From a policy perspective, the Argentine experience illustrates the need for holistic and context-sensitive justice mechanisms. Governments confronting mass human rights violations should ensure

that justice strategies are multi-layered, combining accountability, reparations, educational programs, and institutional reforms (Brinks, 2008; Andrade & García, 2021). Moreover, the sustainability of memory initiatives and reparations requires long-term political and financial commitment, emphasizing that symbolic recognition and material support are equally crucial for achieving substantive justice (Taylor, 2019; CELS, 2024). Policies must also address structural inequalities to prevent the reinforcement of social hierarchies and to ensure that all victims, including marginalized populations, benefit from transitional justice measures.

This study identifies several avenues for further investigation. First, comparative studies across post-authoritarian and post-conflict societies can clarify the conditions under which multidimensional justice approaches succeed or falter (Sikkink, 2011). Second, longitudinal research on the long-term impact of memory policies, educational initiatives, and reparations can assess how these mechanisms shape social reconciliation, intergenerational trauma, and civic engagement over time (Laurie, 2017; Jelin, 2003). Finally, future research should explore the transferability of Argentina's substantive justice framework to other contexts, considering variations in institutional capacity, civil society engagement, and political commitment.

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"Forced displacement is a global challenge that demands solidarity, compassion, and action from the international community."

*"El desplazamiento forzado es un desafío global que exige solidaridad, compasión y acción de la comunidad internacional."*

*"El desplaçament forçat és un repte global que exigeix solidaritat, compassió i acció per part de la comunitat internacional."*

**António Guterres**  
**UN Secretary-General, former UNHCR Chief**

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