

“It was a Vindication of the Whole Society”

A Minor Field Study on the Relationship between Trials and Trust  
in Transitional Justice

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# Abstract

After authoritarian periods of human rights abuses by the state, trust in institutions is likely to have eroded among most citizens.

One way to try to re-establish this trust – which many researchers believe is essential to make democracy work – is to hold those responsible accountable in criminal trials. But to what extent do such trials affect public confidence, and how does the role of trials relate to other trust-building measures?

These questions were examined by looking at institutional trust in Argentina, where there have been several different periods after the dictatorship with distinct approaches to criminal accountability. Surveys measuring the trust in different institutions from 1984 until 2015 was analysed, and in-depth interviews were conducted with strategically selected citizens, in order to explore the possible reasoning behind the responses in the surveys.

The results indicate that trials may have a significant positive influence on institutional trust. The trust is supported by a sense of vindication among the affected citizens, as well as by the fact that the state has acknowledged that the past abuses were unacceptable.

Yet, successful institutional reforms seem to be an important precondition in order for this effect to develop and maintain itself.

*Key words:* trials, transitional justice, Argentina, institution, trust, democracy

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# 1 Introduction

During the dictatorship in Argentina thousands of people were murdered or "disappeared" – something which usually meant that the body was thrown into the sea or buried in an unmarked mass-grave. Torture, arbitrary detentions and the kidnapping of babies were other common methods used in order to "eliminate" the guerilla and its suspected sympathizers (Sikkink 2008 p. 3-5, Mc Guire 1996 p.178).

Even though the military junta was primarily responsible for the abuses, other institutions, such as the police, the judiciary and the media, were also complicit – in some cases to a great extent.

How can the trust – which, according to many researchers, is crucial to make a democracy work – be restored after such violations?

A scholarship from SIDA gave me the possibility to examine this question by doing a field study in Buenos Aires in the spring and early summer of 2015.

## 1.1 Aim

During and after a societal trauma, such as the human rights abuses in Argentina, the trust of citizens in the public institutions is likely to have decreased significantly<sup>1</sup> (See Sztompka 1999 p. 149).

As the journey towards democracy begins, several measures are usually recommended in order to restore the trust, respect for human rights and rule of law, under the label of *transitional justice* (Lessa 2011 p.27).<sup>2</sup>

One of those measures is the criminal prosecution of human rights crimes. Even though earlier research has indicated that such proceedings constitute a crucial contribution to democracy<sup>3</sup>, there is also an influential body of research arguing *against* criminal trials or at least against the importance of criminal accountability (Thoms et al. 2010 p. 333-334). My impression is that this research

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<sup>1</sup>Even though this lack of trust obviously varies among the citizens, depending for example on moral conceptions, to what extent they are informed about the abuses, to what extent the institutions took part in the abuses, and the seriousness of the crimes.

<sup>2</sup>Which will hereby be named as TJ.

<sup>3</sup>See for example Olsen et al. 2010 p. 980.

often tends to overlook the perspective of the victims, as well as that of other affected citizens, thereby also overlooking the issue of trust in this context.

The basic aim of this thesis is to empirically examine how criminal prosecutions for human rights violations may influence the level of institutional trust.

The primary research question may be stated as follows:

*How may trials for serious human rights violations, committed in the past, affect the citizens' trust in key democratic institutions?*

In order to be able to try to answer this question, intensive and extensive methods will be combined within this case study of Argentina (Teorell & Svensson 2007 p. 13, 267, 272). The objective here is to investigate whether the empirical data supports the claim that criminal prosecutions influence the level of institutional trust, as well as contribute to a richer understanding of the underlying reasons and mechanisms.

Earlier research has suggested that prosecutions may help restore institutional trust, since they help re-build norms that were violated in the past, as well as demonstrating that no-one is above the law. It has also been argued that trust is brought about by giving the victims, as well as other citizens, their sense of dignity back (Roht-Arriaza 1995 p. 9, De Greiff 2014 p. 25, Van Zyl 2011 p.211, Malammud-Goti 1995 p.200).

The question here is to what extent this holds true for Argentina, and how much other, less expected factors have to be taken into account.

Based on previous research, it is reasonable to expect that the effects of criminal proceedings will have an immediate effect, as they contribute to the replacement of key figures, demonstrating that everyone is accountable for serious human rights violations.<sup>4</sup> At the same time, norm change within the institutions, as well as the increased sense of dignity among citizens, are effects which can be expected to come about more gradually.

Similarly, when trials are no longer possible because of amnesty laws, this should be expected to have a negative effect. But this effect is probably rather slow and gradual.

Different TJ measures relate closely to each other, and they often complement each other, according to many researchers and TJ practitioners (Leebaw 2008 p.103, ICTJ 2016).

Therefore, even when focusing on the trials, other TJ measures will also, to some extent, be analysed in this thesis, such as especially the purging of former perpetrators, structural reforms of institutions together with truth commissions and other truth-seeking measures.

The purging of former human rights abusers, as well as others reforms created in order to prevent that the repetition of past abuses are thought to create trust by demonstrating that the concerned institutions are committed to human rights

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<sup>4</sup>A certain effect might be visible already before the actual trials, as people are being investigated and prosecuted, or simply because many citizens are aware that some form of criminal proceedings will take place.

values, and that “the state officials are public servants” (De Greiff 2014 p. 3, 26). While the purging is a measure that very directly affects the functioning of an institution, other reforms intended to change its role, will probably have a more gradual influence on the level of trust, corresponding to the gradual change.

Truth commissions, and similar truth-seeking measures, have been thought to create trust, not only by revealing the true facts, but also by promoting reconciliation and by valuing and including the stories of the victims (Horne 2014 p. 231). Since this process usually comes about gradually, the effects on the trust are likely to be fairly gradual as well.

Economic compensation may create trust since it provides a clear recognition of past abuses (See Roht-Arriaza 1995 p. 9). Yet, as this measure in itself normally doesn't meet the victims' demand for justice, the positive influence is expected to be limited (See Böhmer 2014 p. 127). Since the process of getting compensation can be slow, the expected effect on the trust is also expected to be gradual.

Even if very schematic, the table below illustrates some general expectations about the influence of some TJ measures on the restoration of trust in an institution (given, of course, that the measures are implemented properly).

|        | Trial     | Truth commission | Purging   | Role-Change | Economic reparations |
|--------|-----------|------------------|-----------|-------------|----------------------|
| Time   | Immediate | Gradual          | Immediate | Gradual     | Gradual              |
| Effect | Medium    | Medium           | Medium    | Medium      | Low                  |

## 1.2 Structure of the thesis

After the chapters on theory and methodology, the role of each institution during the dictatorship will be presented, as well as to what extent each institution has been able to break with the past.

In relation to those parameters, the trust in key democratic institutions in Argentina from the fall of the dictatorship 1983 until 2015 will be estimated and analysed.

Argentina is rather unique in that there have been several distinct periods after the dictatorship with different approaches to the issues of criminal accountability (ICTJ 2008).

The focus will therefore be on the corresponding periods of changes.

Finally, the results will be analysed and discussed more generally with regard to previous research and possible future studies.



## 2 Theoretical background

### 2.1 The importance of trust to make democracy work

Margaret Levi (1998 p. 78) has defined trust as “a variety of phenomena that enable individuals to take risks in dealing with others, solve collective action problems, or act in ways that seem contrary to standard definitions of self-interest.”

Its relation to democracy is a complex one (Warren 1999 p.1). On the one hand, a certain distrust, is a healthy and natural part of democracy. Yet, a society with little or no willingness to cooperate will have severe difficulties to make democracy work in practice (See Putnam 1993 p. 191-192, 208, Letki 2009 p. 162-163, Sztompka 1999 p. 140, 147-148).

Even though there is no complete consensus, many scholars have stressed that not just inter-personal, but also trust in the key institutions is necessary in a democratic society.<sup>5</sup>

Since democracy requires participation as well as information, a certain amount of trust is required in the political regime, in the fairness of the rules, as well as a belief in the general credibility of the media (Sztompka 1999 p. 147-148). According to Levi, trust in the state seems to generate inter-personal trust which in turn will increase the chances of cooperation and compliance (Levi 1998 p. 85, 89).

This trust is created if the state demonstrates fairness: by having institutions that are impartial and keep their promises, that conditions are created so that everyone comply with the rules, and that citizens can participate in the making of decisions (Levi 1998 p. 90).

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<sup>5</sup>See for example Sztompka 1999 p. 147, Warren 1999 p.6, Hetherington 1998 p.792.

## 2.2 Transitional justice

Transitional justice has been defined as “the conception of justice in periods of political change” (Teitel 2000 p.3). Often, this change has implied a transition to democracy (Leebaw 2008 p.102). Yet, also other goals have been pronounced such as reconciliation, peace and non-repetition (Bonner 2009 p. 237, Leebaw 2008 p. 96, Laplante 2009 p. 917).

The phenomena is not new: Jon Elster mentions the transitions to democracy in Athens 404 and 411 before Christ as examples of TJ (Leebaw 2008 p. 98-99). Yet, the term itself was not invented until in the middle of the 1990's, as a result of that the debate emerged on how countries in transitions during the 1980's and the beginning of 1990's should deal with the violations made in the past (Lessa 2011 p. 27).

Even though many have claimed that the goals of TJ are possible to achieve in practice, others have also claimed the opposite (Thoms et al. 2010 p. 330). According to Thoms et al. (2010 p. 330) more empirical evidence is needed concerning the effects of TJ since many claims “appears to be based more on faith than on facts” (2010 p. 331).<sup>6</sup>

Yet, some empirical studies have obviously been made, and most of them seem to point in the direction that TJ measures have positive effects or no effects at all – at least on the state-level.<sup>7</sup> Yet, there is not yet enough support for strong and general claims in either direction (Thoms et al. 2010 p. 351).

## 2.3 Human rights trials

As mentioned above, trials have been thought to, among other things, promote democracy and respects for human rights besides the fundamental principles of rule of law. They have been believed to do so for a number of reasons: by the deterrence effect it might have, which would prevent similar crimes in the future, by breaking the cycle of impunity, by moderating the desire for revenge and by making victims feel more secure (Roht-Arriaza 1995 p. 8, Mihai 2010 p. 112).

But many difficulties have also been recognized within the research literature. One such difficulty is that the justice system in a transitional country, probably lacks both independence and strength, as Roht-Arriaza (1995 p. 286) writes:

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<sup>6</sup>See also Olsen et al. 2010 p. 981.

<sup>7</sup>Olsen et al. (2010 p. 980) found that trials in combination with amnesties and truth commissions had a positive effect on democracy and human rights. Kim and Sikkink (2010 p.939) found that countries where trials had been made were less repressive than those where no trials had been made. Sikkink and Walling (2007 p. 427) found results that indicated that human rights trials had no negative effect on democracy and human rights.

“A transitional government may take years to build – or rebuild – a judiciary and courts with both the ability and the independence to render respected decisions in human rights cases, especially where there may be so many as to overwhelm the system.”

The citizens might perceive the trials as politically influenced in countries where there has been no tradition of independence in the judiciary, she writes. This is a dilemma since the trials at the same time should be done soon after the return of democracy in order to be effective (Roht-Arriaza 1995 p. 286).

Another issue, which has often been discussed, is that trials may threaten the stability of an often fragile transitional regime, e.g. by new coup-attempts (Roht-Arriaza 1995 p. 286). This has led some to argue against the use of trials altogether (Thoms 2010 p. 334). This debate, about whether to “punish or pardon”, was very much present during the third wave of democratization in Latin America, and amnesties were many times seen as a way to negotiate peace as well as democracy (Laplante 2009 p. 916).

## 2.4 Trust within the context of transitional justice

As mentioned before, several scholars have argued that trials have an effect, which indirectly influences, or is closely related to, the issue of trust. Some scholars have also explicitly claimed that trials, as well as other TJ measures, may, more or less directly, create or improve the institutional trust in a society dealing with past human rights abuses (Goti-Malamud 1995 p. 200, De Greiff 2014 p. 25, Horne 2014 p. 226).

At the same time, this potential for creating trust clearly does not necessarily mean that this will actually happen in practice. The lack of empirical studies concerning the effects of TJ measures mentioned in the previous section is even more salient in relation to institutional trust, even though some such studies have been made. For example Cardenas et al. (2015 p.515) found results that indicated that those in Chile who approved of the work of the National Commission of Truth and Reconciliation were also more trustful of institutions. Cynthia M Horne (2014 p. 225) could similarly see a positive relationship between “lustration” and trust in institutions in Central and Eastern Europe.

## 2.5 Democratic institutions

As Richard Rose writes, not only a freely elected government and parliament are necessary in a democracy. A precondition for a democracy to actually function is also the rule of law which will impede the governors to “act according to their whims and interests” (Rose 2009 p. 12).

“In a rule of law state the constitution not only sets up what governors can do but also what they cannot do – and it is enforced” (Rose 2009 p.12).

In addition, many scholars, such as e.g. Robert Dahl, have stressed the importance of freedom of expression and alternative sources of information in a functioning democratic state (Bernhagen 2009 p. 28-29). An important institution is therefore an independent media. How can fair and free elections be held if there is no trustworthy information about what different political alternatives there are? (Veltmer and Rawnsley 2009 p.234-235).

## 3 Methodology

### 3.1 The case study

Argentina was chosen for this case study since it has gone through different political periods with radically different approaches to the issue of criminal accountability in relation to human rights abuses during the dictatorship (ICTJ 2008, Teorell & Svensson 2007 p. 152).

The aspect which is of primary interest here: i.e. trials for past human rights abuses has been a common thread in many countries in transition or post-transition to democracy (Kim & Sikkink 2010 p. 939). The history of Argentina may from that perspective be seen as a fairly typical case, in the sense that general conclusions about the effects of trials should be valid for many other countries as well (see e.g. Teorell & Svensson 2007 p.151- 152).

### 3.2 Combining extensive and intensive methods

For this study, it was not practically possible to do extensive statistical investigations as a complement to the more detailed case study. Nor did I find any extensive study which could be explicitly connected to the research question. Instead, survey data from several different sources concerning public trust in the Argentinian institutions have been aggregated and used.

By also using extensive survey data, the aim is to *estimate* the general level of institutional trust among the citizens in Argentina and how it has varied over time (see Teorell & Svensson 2007 p. 267, Esaiasson et al. 2012 p. 229).

Based on the results from those surveys, 15 people were interviewed, in order to get a richer understanding about the thinking behind the survey answers, as well as being able to further investigate the role of the trials and the trust in this context (see Esaiasson et al. 2012 p. 229).

### 3.3 The surveys

The survey data mainly derives from the database World Values Survey, since they had comparable data from the different periods from 1984 until nowadays, and from Latinobarómetro, which has detailed data from almost every year during the period 1995-2015 (World Values Survey 2016, Latinobarómetro 2016).

In addition different surveys made by companies such as Gallup and Graciela Römer y Asociados were used.<sup>8</sup>

In order to be able to compare the different surveys, I have simplified the answers<sup>9</sup> and put them into one chart for each institution.<sup>10</sup> Some surveys posed different questions though, and were therefore not directly comparable with the other data. Because of that they were analysed separately.

Unfortunately, data wasn't available for every year and institution between 1983 and 2015. Yet, by putting different surveys together it is still possible to get a sufficiently clear picture.

The survey data indicates the public trust in different institutions, but does not directly indicate the possible relationship between that trust and the trials. Even though it will not be possible to isolate the possible effect of the trials from other variables, it should be possible to at least see some possible patterns and indications (See Teorell & Svensson 2007 s. 64).

### 3.4 Interviews

Qualitative semi-structured interviews have been used in this study. The aim of this method is to be able to see possible patterns since all interviews will be organized around the same, already prepared, questions. At the same time, this method gives the possibility to also get unexpected answers, and to pose further questions when needed (Di-Cicco-Bloom & Crabtree 2006 p. 315-316).

The choice of the interviewees was made strategically, based on the information from the surveys (see Esaiasson 2012 p. 260-262). After having made a preliminary investigation of the survey data, interviewees were chosen with respect to different social backgrounds, political views and ages, since the survey material indicated that the answers differed depending on those characteristics.<sup>11</sup>

When it comes to age, I wanted the majority to be at least 45 years, so that they

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<sup>8</sup>The surveys used as a complement to the data of World Values Survey and Latinobarómetro were: Gallup 1996a, Gallup/CIMA 2001, Gallup/La Nación 2001, Graciela Römer y Asociados 1996a, Nueva Mayoría/La Nación 1996

<sup>9</sup>Some surveys had different alternatives for those who trusted an institution, such as "quite a lot" and "a lot". These two were put together in order to be able to compare them with those surveys which only had one alternative for those who trusted the institution.

<sup>10</sup>In the survey from Graciela Römer there was sometimes different data from the same year. In order to be able to compare it to the other data, I used their mean value. (Graciela Römer y Asociados 1996a)

would be able to remember the dictatorship. Apart from that, I also wanted variation concerning whether the interviewees had been affected by the dictatorship or not.

This is mainly a so-called “respondent study”; it's the thought and reasoning of the interviewees which is the focus of interest here, not to use them as sources of information in an objective sense (Esaïasson et al. 2012 p. 227-228).<sup>12</sup>

At the same time, it's obviously important that the answers really correspond to how the respondents thought and felt in the past. This can be a challenge, as Tove Lindén (2008) states in the thesis *Explaining Civil Society Core Activism in Post-Soviet Latvia*. Her method to try to overcome these difficulties, which was also used here, was to start by asking more general questions; such as where the interviewee was doing and where she or he lived during this time (Lindén 2008 p. 72).

There are also other difficulties that deserve mention. One is that the researcher takes a role in the process when doing interview in another way than when one makes a survey, that “the knowledge produced in a research interview is constituted by the interaction itself” (Kvale 2007 s. 14).

In my case for example, the fact that I come from a context which culturally is slightly different and that Spanish is not my mother tongue might have effected the answers I got.<sup>13</sup>

The ethical aspect is obviously also important. This is perhaps especially true when the theme of the interview, as in this case, can awake painful memories.

I had decided to keep some distance and be careful not to ask too sensitive questions. In the end, no such situations occurred though (see Di Cissi Bloom & Crabtree 2006 s. 319, Kvale 2007 s. 29-30).

### 3.5 Definitions

The definitions are based on the theoretical background mentioned above, and they have been adopted as functional analytical tools for this specific study (Teorell & Svensson 2007 p. 40).

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<sup>11</sup>This conclusion was made after having made a “pilotstudy” of data from World Values Survey. The trust in the armed forces, the press and the parliament during different periods were crosstabulated with variables such as age, selfposition on a political scale, region, size of town, habitat, education and social class.

<sup>12</sup>Some expert interviews were also made. With those interviews I obviously had another aim.

<sup>13</sup>In order to prevent misinterpretations because of the language, all interviews were recorded.

### 3.5.1 Democratic institutions

My choice of key democratic institutions are the following:

- The government.
- The parliament.
- The judiciary.
- The armed forces
- The police.
- The media.

This choice is primarily based on the theoretical discussion about democracy above. Not only representatives of the people are necessary in order to make democracy work. Institutions that ensure that the rule of law is enforced are just as important. Here the judiciary, the police, and to some extent also the military play a key role.

The media must also be seen as a key democratic institution as it informs people about the different political alternatives as well as the behaviour of the other institutions.

### 3.5.2 Institutional trust

With the theoretical discussion above in mind, it is important to leave the definition of institutional trust somewhat open, since slightly different perceptions may exist among respondents. This should not be a problem for validity, since the intuitive understanding of “trust”, will usually be sufficient (see Esaiasson et al. 2012 p. 59).

Also it is worth noting that in the World Values Survey, the word “confidence” was used instead of trust. Yet, as the question is likely to have been posed in Spanish from the beginning, it is probable that the word “confianza” was after all used in all surveys.<sup>14</sup>

### 3.5.3 Trials

The word “trials” in this study refers to the criminal prosecution of serious human rights abuses. Unless explicitly stated, proceedings within the national judiciary are implied, since the role of international tribunals is beyond the scope of this study.

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<sup>14</sup>“Confianza” in Spanish may mean “trust” as well as “confidence” (Blank et al. 2002 p.116).



## 4 Different periods of criminal accountability

After an increased activity by right wing death squads, as well as by leftist guerilla groups, the government of María Estela Martínez de Perón was overthrown by the military in 1976. A program was initiated where many forms of inhumane methods were used in a systematic manner in order to repress opposition (Sikkink 2008 p.3-4). According to the truth commission, almost 9000 deaths and disappearances took place between 1975 and 1983,<sup>15</sup> while several organizations have estimated the number to be even higher (ICTJ 2008 p.1, Sikkink 2008 p. 3-4).

Before leaving power, the military tried to give itself amnesty for the crimes committed. But those amnesties were declared invalid shortly after the new civil government had taken power in 1983 (Zalaquett 1995 p. 23).

### 4.1 The fall of the dictatorship and the first trials 1983-1985

Raúl Alfonsín (from the party *Union cívica radical*) who during his election campaign had promised to bring to justice those responsible for human rights crimes, came to power in 1983. The same year he passed a decree that the top military commanders would be put on trial <sup>16</sup> <sup>17</sup> Two years later, five of them were sentenced to prison (Zalaquett 1995 p. 23, Sikkink 2008 p.6-10).

The truth commission *Nunca Más* was also created in 1984, which became “the public truth” about the system of disappearances that had been in place during the dictatorship (Crenzel 2014 p. 43).

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<sup>15</sup>Most of them took place in 1976 and 1977 (Sikkink 2008 p.3).

<sup>16</sup>He also ordered a decree declaring the necessity to prosecute the leaders of the left-winged guerilla groups *Montenaros* and *ERP* (Zalaquett 1995 p. 23).

<sup>17</sup>Data from 1983 also indicates that the majority of the citizens wanted the crimes to be investigated (Crenzel 2015 p. 87).

## 4.2 The amnesty laws and the pardons of sentenced commanders (1986-1991)

Pressure from the military led to the passing of two amnesty laws, while Alfonsín was still in power.

The first law, *punto final*, (“Full Stop”) was adopted in 1986. This law meant that prosecutors had a deadline of sixty days – starting from the implementation of the law – to bring a case of those already accused of human rights abuses. After that deadline, this was no longer possible ( ICTJ 2008 p.1-3).

The second one, adopted in 1987, was called *Obediencia Debida* (“Due Obedience”). This law provided that most people involved, except the highest commanders, could not be prosecuted because they had only obeyed orders and that they had been acting in the belief that what they did was legal.

The two amnesty laws did exclude kidnapping of children and falsification of their papers, and *Obediencia Debida* also excluded the rape of children.

Hundreds of persons, who had been denounced and in several cases also prosecuted for crimes against human rights during the dictatorship, benefited from these laws (Abuelas de playa de Mayo et al. 1988 p. 7).<sup>18</sup>

Despite the adoption of the amnesties, the discontent from the military continued. Therefore, in January 1991 the new president Carlos Ménem issued pardons for the sentenced top commanders, as well as for the few individuals who were still being investigated ( ICTJ 2008 p.1-3, Filippini 2011 p.24).

The new laws in combination with the pardoning of perpetrators, meant that the 90:s was an era of relative impunity (ICTJ2008 p.1-3). Yet, some important accountability measures were taken, which were many times consequences of the continued work of the human rights movement. During the second half of 1990, “truth trials”<sup>19</sup> were being held and two former members of the first military junta were arrested, since they had committed crimes which were not covered by the amnesty laws (Sikkink 2008 p.12-13).

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<sup>18</sup>The big majority of those persons belonged to the military and the police. (Abuelas de Playa de Mayo et al.1988 p. 15-21)

<sup>19</sup>The aim with these trials was to get information about what had happened to the victims, even though it was not possible to sentence the perpetrators (Filippini 2011 p. 24).

### 4.3 The repeal of the amnesty laws and the re-opening of trials (2001-2006)

From the beginning of 2000, a new era began with regard to criminal accountability.

In 2001 a federal judge declared the amnesty laws unconstitutional, since they were said to be incompatible with international obligations. Two years later, the congress passed a law abrogating the earlier amnesty laws.<sup>20</sup> Finally, in 2005, the Supreme Court affirmed the earlier decision by the federal court and one year later, the first trial was held (Felippini 2011 p. 46, ICTJ2008 p.1-3).

Since then, many hundreds have been sentenced (Sydsvenskan/TT 2015). In distinction to the trials during the years of Alfonsín, the aim this time is not only to put the responsible on the highest level in the military on trial, but also to charge many civil actors, such as ex-ministers and judges (Felippini 2011 p. 26, CELS 2016b).

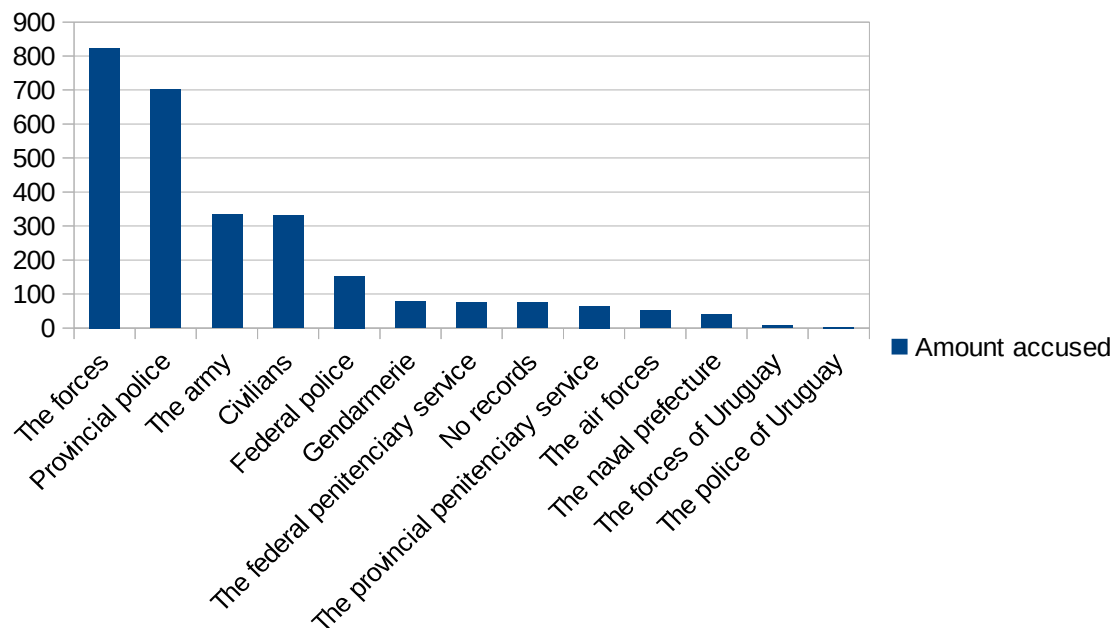


Figure 1: Accused by role

<sup>20</sup>Several cases where re-opened the same year as a result of that. (Human rights watch 2014)

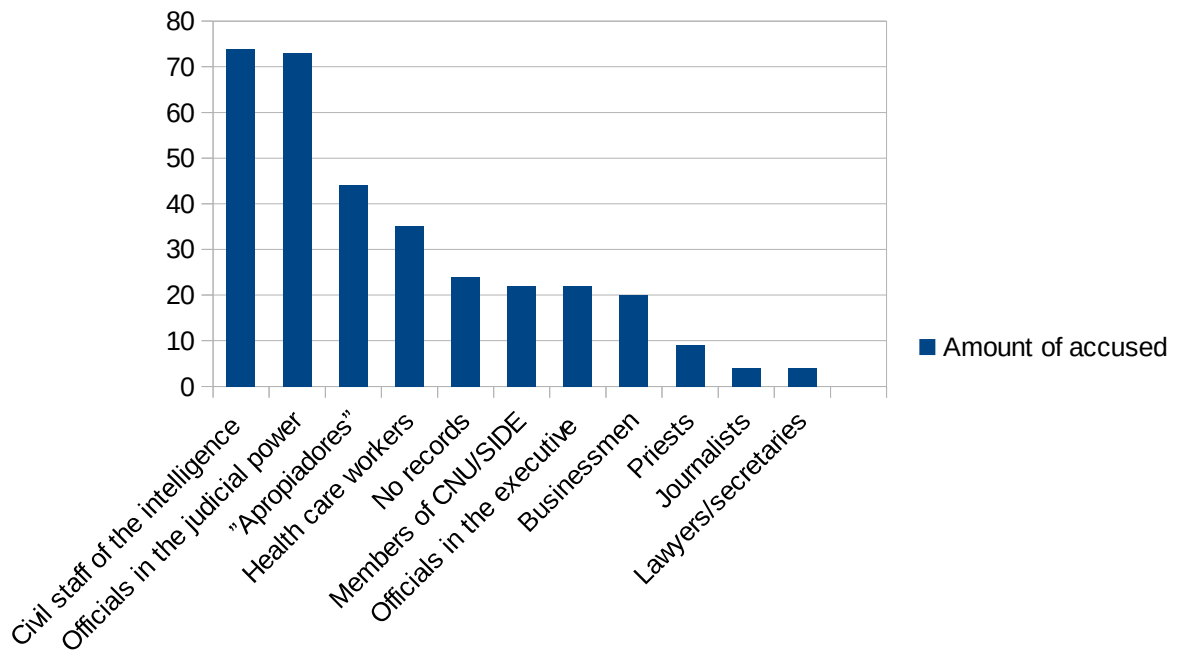


Figure 2: Civilians accused by role. "Apropiadores" refer to those who adopted kidnapped children. CNU was a group on the extreme right. SIDE was Argentina's intelligence secretariat.

## 5 The institutions before and after the return to democracy

In order to estimate the possible trust-building effect of trials and other measures, it is necessary to examine the extent to which the different institutions were complicit in the human rights abuses during the dictatorship.

It is also important to see when and to what extent each institution was reformed and reconstructed from a TJ perspective.

Although these issues are clearly quite complex and a task for historians, for the purposes of present study the following brief overview should be sufficient.

### 5.1 The political institutions

The members of the constitutional government of Perón were replaced by military officers and officials “delegated” by the military junta after the coup in 1976 (Canelo 2013 p. 3).

The political institutions during the dictatorship did not only consist of military officers; the junta also chose civil ministers, such as the economic minister José Alfredo Martínez de Hoz, who had earlier been minister under the leadership of José María Guido from *Unión Cívica Radical* (La Nación 2013, Unión Cívica Radical 2015).<sup>21</sup>

Even though a lot was done by the new political institutions in order to break with the repressive past immediately after the return to democracy, it is also true that the military continued to exercise a large political influence for several years (Canelo 2015). Also, even though the attempts of some of the highest top commanders to make a political career under democracy were rejected, several of the former members of the military provincial governments continued their political careers during the '90s and in the beginning of the '00s, both at the provincial and national level (Canelo 2015, Canelo 2013 p. 14).

Despite the TJ measures since the return to democracy, different human rights abuses, such as abuse by the police and the failure to protect indigenous rights, have continued during the leaderships of democratic regimes (Human Rights Watch 2014, Lessa 2011 p. 26). Some have even suggested that the TJ measures taken in recent years are used by the government to detract attention from the ongoing human rights abuses (Sikkink 2008 p. 2).

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<sup>21</sup> Martínez de Hoz was later found responsible for the kidnapping of two businessmen (La Nación 2013).

## 5.2 The judiciary

The judiciary in general did little to prevent the human rights abuses committed during the dictatorship (Lessa 2011 p. 35). While some judges simply tried to adapt to the new circumstances, others also supported the dictatorship more actively by constantly rejecting habeas corpus, and by allowing interrogations made under torture (Gandulfo 2015 p. 120-121, CELS 2015 p. 135-137).

After the return to democracy, the legitimacy of the judiciary was questioned by many citizens, because of their role during the dictatorship. In 1984, all members of the supreme court, as well as many lower court judges, were replaced (Canelo 2015, Acuña & Alonso 2015 p. 5). Yet: even today functionaries who have been accused of complicity in human rights crimes during the dictatorship, remain in positions within the judiciary (CELS 2015 p. 137).

As well as having been complicit in the human rights abuses, the judiciary, naturally, also have had an important role in the general process of criminal accountability. For example, before the amnesty laws, partly because of the role of the judiciary, the investigations could advance a lot more than what had ever been the intention of the government (Canelo 2015). Yet, the second wave of trials have also been criticized for being “subject to delays” (Human rights watch 2014).

## 5.3 The armed forces

A big part of the accused of crimes against humanity during the dictatorship belonged to the armed forces (as seen in Figure 1 above). Also, according to Paula Canelo, a very large percentage of the military were in some way involved in tortures and other human rights violations (Canelo 2015).

Yet, not only trials but also other measures were taken soon after the transition to democracy in order to permanently change the role of the armed forces. Already in the middle of the 1980's, Alfonsín reduced the role of the armed forces by retiring at least half of the high command and creating a new structure, where the elected president of the country became the commander-in-chief and the defense minister was the highest commander of the armed forces (Lessa 2011 p. 34).

In 1988 a law was adopted, which provided that the task of the armed forces would be clearly defined as national defence only, and that the armed forces

would not be allowed to become involved in questions concerning internal security. Later, in 1991 and 2001, additional laws with similar objectives were adopted.<sup>22</sup> Finally in 2006, the role of the armed forces was further specified and limited, for example in several aspects concerning international matters (Lessa 2011 p. 34-35, CELS 2015 p. 371-373).

In 2003 44 high officers, who had been in charge during the dictatorship, were also replaced (Nationalencyklopedin 2013). In addition to the measures made by the government, there have also been initiatives to deal with the past made by the members of the military themselves, such as a confession made on television by the army Chief of Staff, Martín Balsa, in 1995 (Canelo 2015, La Nación 1995).

Yet, there have also been tendencies in the other direction: César Milani, who is accused of having been involved in human rights abuses during the dictatorship, was until recently the head of the army in the country (Foxnews 2015).

## 5.4 The police

Even though the dictatorship was led by the military junta, the police participated actively and to a great extent in killings and torture (Glanc 2014, CELS 1988). According to one high official, the police were used by the military as “cheap labour for their worst activities” (Hinton 2005 p.80).

But unlike in the military, no reforms were carried out of the police forces at all until the end of the 1990's, and the attempts to reform the police have in general not been particularly successful (Glanc 2014 p. 479, Lessa 2011 p. 39-40, Hinton 2005 p. 76).

The attempts that later took place during the governments of Ménem and De la Rúa, such as human rights training, increasing the number of the police and the purging of corrupt elements, all had the problem that they were “largely ephemeral and palliative in nature, given that they did not address structural problems”, according to Hinton (2005 p. 84).

In 2003, as Kirchner became president, 80 percent of the high police command was also purged (Hinton 2005 p. 85).

Yet, ever long after the return to democracy, police violence has remained a large problem in Argentina, and it includes several severe cases of torture, murder and disappearances (Bonner 2009 p.227, CELS 2015 p. 24).

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<sup>22</sup> Even though the law in 1991 did allow the armed forces to get involved in the internal security as a last resort, in extreme circumstances. (CELS 2015 p. 371-373)

## 5.5 The media

The media has had a diverse role both during the dictatorship and afterwards, with regard to human rights abuses committed in the past. While some journalists were themselves among the victims of the repression, others were in different ways complicit with the crimes committed (Borelli&Saborido 2008 p. 53). While there was media that was directly linked with the junta (Borelli&Saborido 2008 p. 74), major national newspapers such as Clarín and La Nación were also complicit in the sense that they did not report about many of the abuses committed by the regime. They also benefited from various businesses with the junta (Feld & Franco 2015 p. 394).

At the same time, the media has also had a role in the accountability of the human rights abuses committed in the past.

For many people, it was in 1984, when the media started to report more about the testimonies of the victims, and the camps, that they became informed about what had happened during the dictatorship. Yet, according to Claudia Feld, a lot of the media was not able to explain *why* the violations had occurred and many times a sensationalistic approach was adopted. It was not until after the truth commission had released their report and the criminal trials had started that the abuses were acknowledged more widely. After those key events, a lot of the media also adapted this discourse (Feld 2015 p.274-275, 310-311).

Since then, part of the media has had an important role in holding actors accountable for crimes against human rights, for those in the present as well as those committed during the dictatorship <sup>23</sup>(Peruzzotti & Smulovitz 2002 p. 214,221, 226, CELS 2015 p. 130).

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<sup>23</sup> One clear example of this is when newspapers published lists in 2010 with the names of thousands of persons who had different functions during the dictatorship (CELS 2013 p.130).



## 6 Institutional trust 1983-2015

In this section the institutional trust in Argentina will be analysed. The expected result, assuming that trials *do* have a significant influence on the level of trust, will be compared to the actual survey data.<sup>24</sup> These results will also be compared with the answers from the interviews.

### 6.1 General observations about the material

Before analysing the survey data, some general observations should be mentioned:

- The levels of trust in the Latinobarómetro are constantly higher than in other surveys from the same years. When comparing Latinobarómetro to World Values Survey, the methodologies appear to be similar, but one possible reason could be that the available alternatives differ a little bit and could therefore be interpreted differently. While the available positive answers expressing confidence in the World Values Surveys are "a great deal" and "quite a lot" the corresponding answers in Latinobarómetro are "a lot" and "some" (Latinobarómetro 2016, World Values Survey 2016).
- Some of the results from Gallup (1996a), Gallup/La Nación (2001) and World Values Surveys (2016) are so similar so that it's reasonable believe that they actually derive from the same survey, even though this was not confirmed.
- In the results from Gallup/CIMA (2001) the respondents who did not answer were not included when the percentage of people that trusted an institution was calculated.

### 6.2 General patterns of institutional trust

Before analysing each institution, some of the more general patterns will be described. What is to be said about the general institutional trust during the different periods of accountability?<sup>25</sup>

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<sup>24</sup>The media is an exception here, since the trust in this institution is not expected to be significantly influenced by the trials.

- Between 1984 and 1991 there was a significant decrease in the parliament as well as in the judiciary and in the media. The trust increased in the armed forces and remained basically the same in the police.
- There is also an up-going trend in all the institutions from 2002 until 2006. This trend was especially clear between 2003 and 2005 in many institutions.
- A continued increase after 2006 was only seen in relation to the armed forces and the police.

Many interviewees described how the first years of democracy were filled with hope and a general trust in democracy and in the institutions:

“[...] all the confidence, absolutely. [...]In all the institutions, sure. It was the expectations that everything was going to reform, everything was going to work better and so on. [...]I believed a lot in what was coming.”<sup>26</sup>

This was in clear contrast to the years after the amnesty laws and pardons, where many respondents experienced a widespread pessimism and disappointment in the institutions, irrespective of political view.

”I was very angry[...] in the sense of not believing in anything”<sup>27</sup>

“[...]we entered [a process where the institutions deteriorate] from the beginning of the decade of the nineties. There is a marked increase in the levels of corruption in all areas.”<sup>28</sup>

Talking about the present, the answers differed a lot more concerning the institutional trust. The trust in the political institutions, the media and the armed forces varies a lot, while trust in the police and the justice system has continued to be low among most of the respondents, irrespective of political opinion and social background.

But it may be important to take into account that trust isn't always based only on the performances of the institutions, but also on expectations, as one woman said:

“After having lived so many years of dictatorship[...] a democratic government puts a lot of expectations[...]as the time goes by[...]one ‘gets used’ to the democracy so to speak[...]one starts to get to be aware of about other kinds of errors and problems.”<sup>29</sup>

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<sup>25</sup>One reason to do this is that the respondents many times talked about the institutions as a whole, rather than as separate units. “The institutions are together, aren't they?”, as one respondent

[A6] put it.

<sup>26</sup> [A7]

<sup>27</sup> [A15]

<sup>28</sup> [A1]

<sup>29</sup> [A10]

## 6.3 Trust in the political institutions

Given that very similar trends in confidence is seen in relation to the government and the congress, and that most of the interviewees tended to associate the political establishment with the government and the president, they will be analysed together in the same section.

- As mentioned previously, there was a huge decrease in the trust in the parliament between 1984 and 1991 just as would be expected, even though there is no data from the years in-between.<sup>30</sup>
- A gradual decrease in the trust in the parliament as well as in the government was expected from 1991 until the years of the re-opening of the trials, when trust was expected to increase gradually.
- This pattern was confirmed in the data for the parliament until 2011, the same year as Cristina Kirchner became president. Then the trust decreased, even as the trials continued. The expected pattern was seen for the government only until 2003. After that year it begins to fluctuate in a way that the congress does not.

When trying to remember how they felt about the political institutions during the first years of democracy, many of the interviewees seemed to associate their high expectations with the new political institutions in general, and with the president in particular. Many also expressed their satisfaction with that the top commanders were going to put on trial.

Yet, after the first time of euphoria, several respondents described how they started to realize that a democratic leadership also has its failures, such as an alleged inability to handle the economy, which was an important reason why many of the respondents now started to trust the institutions less than before.

Another important factor that influenced the political trust negatively were the amnesty laws:

“It was terrible, [...] I felt that this was a betrayal on the popular cause, I felt that at this moment the government stamped on the memory of the 30 000 disappeared comrades. [...] a slap in the face towards the dignity of The Argentine people.”<sup>31</sup>

The low level of political trust during the 1990's, as the economical problems continued, was also visible in the answers from the respondents. Corruption, lack of influence from other political parties than the Peronists, and dependence on the US were other reasons mentioned.

In the current situation, the opinions differed a lot more: people were many times very much in favour of the political institutions or very much against them, and depending on that either optimistic or pessimistic about the situation in the

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30 Unfortunately I have not found any comparable data about the trust in the government during the 80's and the beginning of 1990's. Yet, surveys from the 1900's about how much people believe in the ability of the president and the government to govern the country and solve problems, show an escalating discontent until 1996. This discontent seems to have at least some connection with the economy, which, according to the surveys were among the greatest concerns on the citizens. (Gallup 1996b, Gallup 1996c, Graciela Römer y Asociados 1996b, 1996c, Centro de estudios de opinión pública/Clarín 1994)

31 [A13]

country. Many of those who were in favour of the government said that they had “taken back what Ménem sold” and that they represented the people in a way that earlier governments had not been able to.

Among those who did not trust the government and other political institutions much, forms of corruption was perhaps the most common reason, and many also said that they did *not* think that politicians represented the people. This was especially true when talking to the two respondents from the indigenous communities, who said that they felt totally excluded and discriminated by all the institutions, but perhaps by the government in particular:

“Children will soon be dying of hunger[or]because they have cancer[...]Argentina is in a military dictatorship.[...]in 1978 the[...]military killed you, now Cristina kills you with a slow death”<sup>32</sup>

The trials – and other transitional justice reforms, were also very much associated with the government: those who were in favour of the government were in general also those who were in favour of the trials. One woman, whose uncle disappeared during the dictatorship, said she trusted the government a lot, and that the trials were the major reason for this. But there were also exceptions. Some respondents were in favour of the trials, but thought that the government also used them as a way to improve their image.

“[...]it bothers me that this government uses[...]the human rights as politics. I don't think it's politics, it's something natural[...]You do it because it's right, and not in order to fish for votes.”<sup>33</sup>

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32 [A11]

33 [A2]

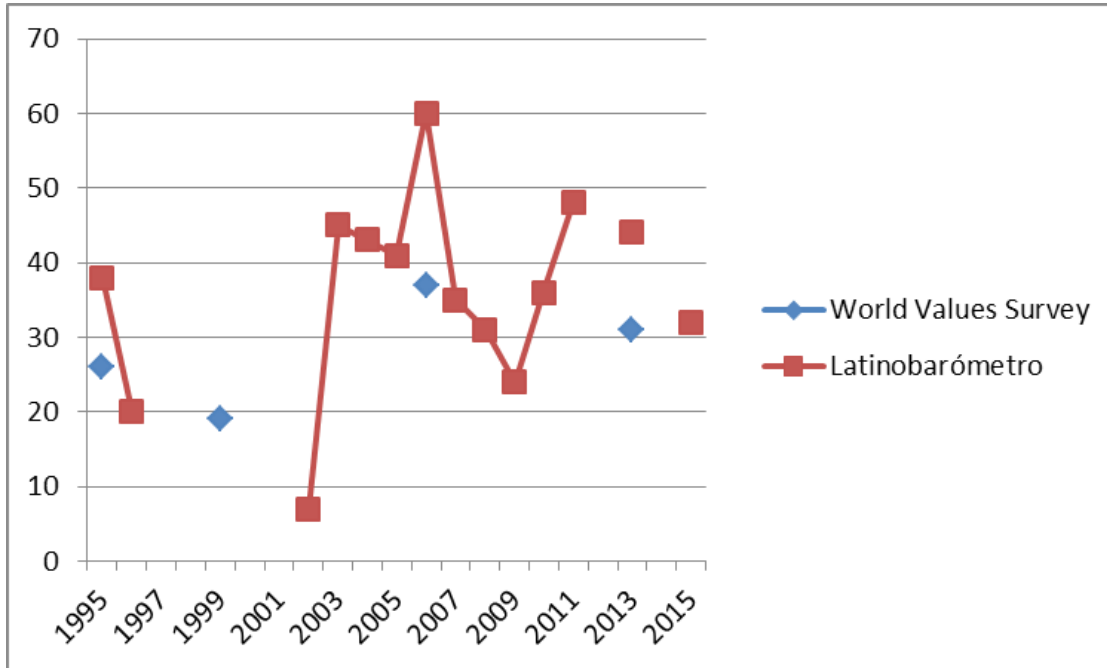


Figure 3: Percentage of respondents that trust the government

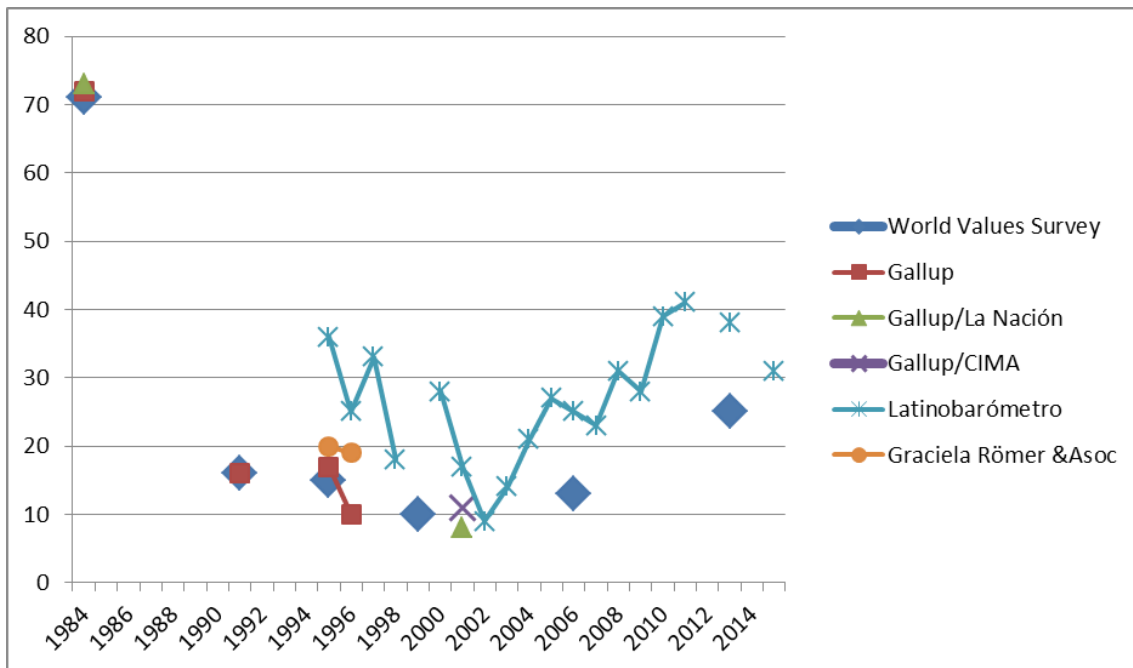


Figure 4: Percentage of respondents that trust the congress

## 6.4 Trust in the judiciary

- The significant decrease in trust in the judiciary between 1984 and 1991, was as could be expected.
- The trust would also be expected to gradually decrease even more during the 1990's, while increasing gradually to some extent from the middle of the 1990's, as the truth trials started. The trust was then expected to gradually increase further, as the re-opening of the trials begun.
- The expected pattern was to be seen in the data until 2010. After that, the trust started to decrease, despite the fact that the trials continued.

When talking to my respondents, different kinds of corruption was the main reason mentioned for the lack of confidence during the 1990s.<sup>34</sup> as well as today.

“It got too politicized and it really remains the same as during the dictatorship”<sup>35</sup>

“The justice for the poor person is very unfair.[...] For us it's a lot more difficult to gain even a minimum of justice.”<sup>36</sup>

“The justice is absolutely biased.”<sup>37</sup>

“The justice is a justice for...The powerful ones.”<sup>38</sup>

That some judges from the dictatorship was still in charge was another reason mentioned.

It's worth to note that even some of those who were in favour of the government and the reopening of the trials, did not trust the judiciary in general. They rather seemed to associate the trials with the government than with the judiciary. Also, one woman explicitly said that the trials had nothing to do with the confidence in the justice system, even though she was in favour of them:

“It has nothing to do with it for me.[...]The lack of confidence is because of the things that daily happen since long ago and which haven't been solved.[...]”<sup>39</sup>

In one case when the trials *were* closely associated by the interviewee with the justice system, the level of trust was affected negatively. This person said he knew an accused military, who had been detained for eight years without that his case had been tried:

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<sup>34</sup>The low trust during the 1990's was also visible in other surveys from this period: When people were to rank the different institutions in 95 and 96, the justice system was in the bottom. (Graciela Römer/La Nación 1996)

<sup>35</sup> [A14]

<sup>36</sup> [A8]

<sup>37</sup> [A1]

<sup>38</sup> [A12]

<sup>39</sup> [A2]

“[...]even people that in general are considered to be descent, like for example some members in the supreme court[...] In front of this situation they haven't done anything, nor said anything.”<sup>40</sup>



Figure 5: Percentage of respondents that trust the judiciary

<sup>40</sup>[A1]

## 6.5 Trust in the armed forces

Not very surprisingly, the confidence in the armed forces was very low one year after the fall of the dictatorship.

- Since important reforms were made in the military in 1989, it is also not surprising that the trust was higher in 1991, even with amnesty laws and pardons. Yet, this increase was probably higher than expected, given that the amnesties to a great extent was a result of threats by the military.
- During the 90s, trust was expected to remain on the same level until the second half of the 90s, when the trust was expected to gradually rise, due to the rise of different accountability measures, and official confessions made by the military. This trust was expected to gradually increase further from the beginning of 2000, as the trials were re-opened and further reforms were made.
- Counter to the expected result, trust seems to have decreased during the beginning of the 1990's. As expected there is an increase from 1995, but the trust after that fluctuates a lot.
- From 2003, there seems to be a gradual increase in the trust, as would be expected.

From the interviewees explanations, it became clear how people's trust in an institution is based on experiences from the past and the present, as well as expectations about the future. Some – especially those who had personal experiences from the dictatorship – still found it difficult to trust the armed forces because of the past.<sup>41</sup> The fact that Milani, who has been accused of taking part in the abuses during the dictatorship, still was the highest leader in the armed forces when these interviews were being conducted, was also mentioned.

But others didn't know weather to trust the armed forces or not, since their power has decreased dramatically. Because of that, many interviewees expressed their (very different) opinions about the *role* of the armed forces rather than its performances nowadays:

“There isn't any institution of the armed forces any more[...]it may exist as name but not with the function that the armed forces should have to defend the country.”<sup>42</sup>

“The big advantage is that like [...] repressive apparatus, the [...]armed forces have in practice disappeared.”<sup>43</sup>

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<sup>41</sup>The war of the Malvinas was also mentioned by several respondents and seemed to influence the trust in both a negative and positive way, depending on how the acting of the military during the war was perceived by the respondent.

<sup>42</sup> [A2]

<sup>43</sup> [A14]



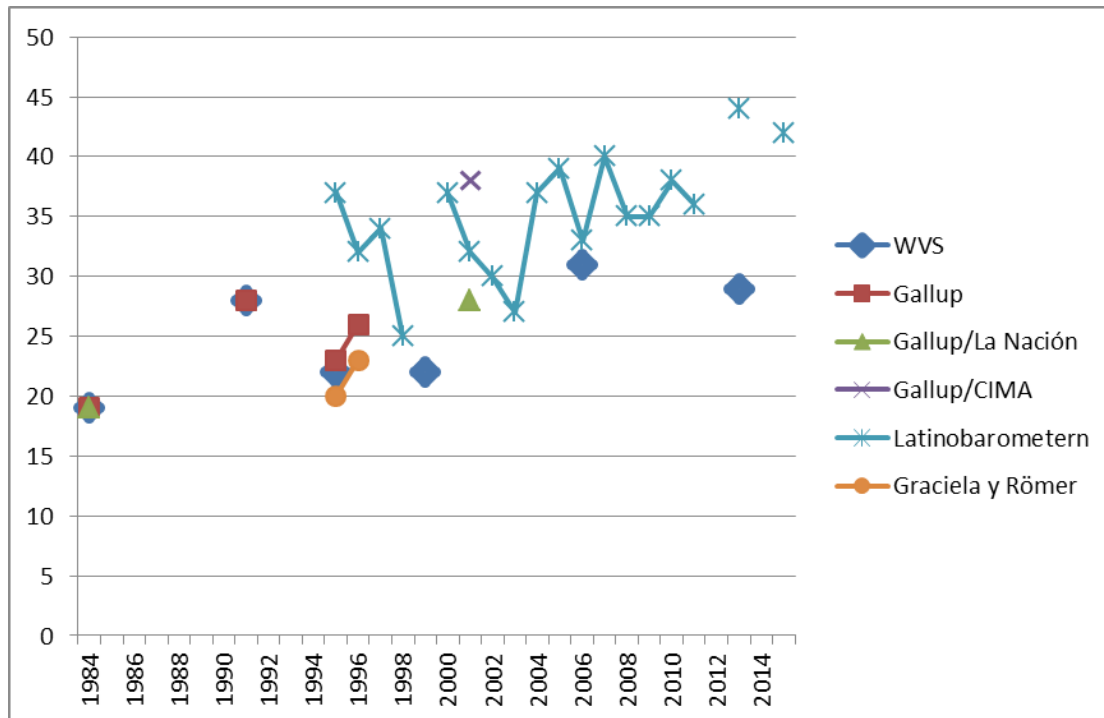


Figure 6: Percentage of citizens that trust the armed forces

## 6.6 Trust in the police

- Trust was expected to be lower in 1991 than in 1984, because of the combination of amnesties and lack of reforms in the police. Instead, the level of trust was almost the same in 1991.
- The trust was then expected to gradually decrease further during the 1990's. From the beginning of 2000 the trust was expected to gradually increase, due to the combination of reforms and re-opening of trials.
- As expected, the trust did continue to decrease during the 1990's- even though this decrease was a lot more dramatic than expected.<sup>44</sup>
- From 2003, there is a gradual increase in the trust, as expected, even though it continues to be very low.

All the interviewees said that they had very little or no trust in the police. While a few of them distrusted the police as a phenomenon,<sup>45</sup> regardless of the performance, most based their distrust on their own experiences. Corruption and

<sup>44</sup> In the end of the 1990's and the beginning of 2000, the results fluctuate a lot though.

<sup>45</sup> One respondent said that he police was the same everywhere in the world while a woman said that she didn't trust any institution in the capitalist system.

involvement in different crimes were the most common reasons for the distrust. Another reason mentioned was the experienced inefficiency of the police and its alleged inability to protect its citizens:<sup>46</sup>

“They see the children, they are robbing in the street. They [the policemen] are just half a step away and they do nothing, nothing.”<sup>47</sup>

Some also mentioned an inability of the police to break with their role during the dictatorship. One woman said the police would have to “abandon the practices that they have always had” if order to become more trustworthy:

”We all know that here in Argentina in the prisons[...]People are killed.[...] ill-treated[...]I suppose that they are probably still torturing in some cases.”<sup>4849</sup>

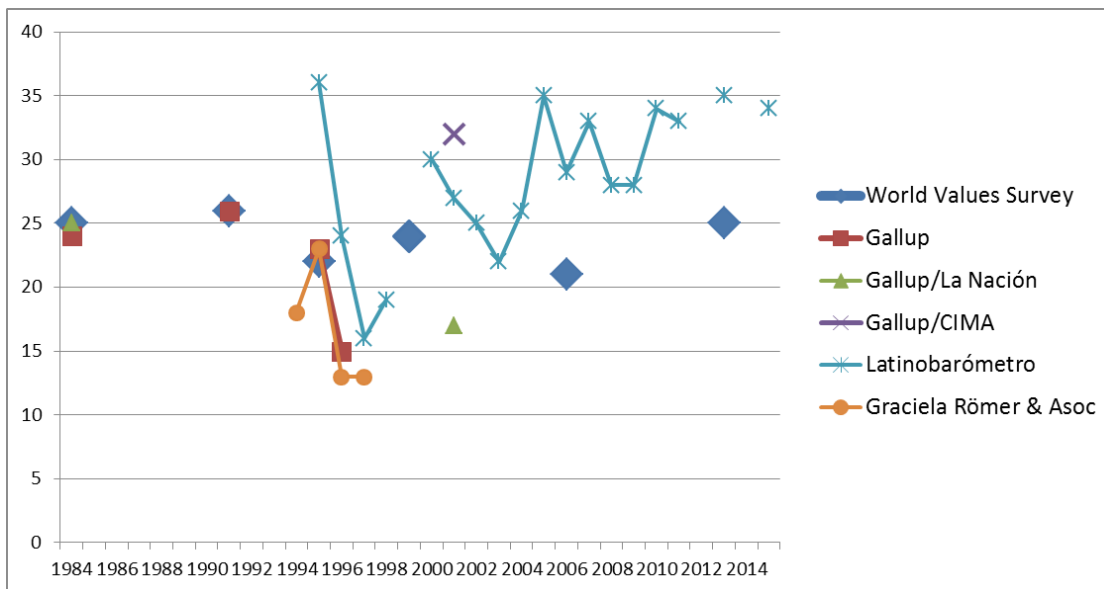


Figure 7: Percentage of respondents that trust the police

<sup>46</sup>Similar patterns were to be seen during the 1990's. 85 percent said that they did not feel protected and 44 percent of them said it was because of corruption or that they did not trust the police. (Centro de estudios de opinión pública/Clarín 1996).

<sup>47</sup> [A5]

<sup>48</sup> [A10]

<sup>49</sup> Similar answers were to be find in the surveys from the 1990's. Among those who had no or little confidence in the police, the majority said it was because of abuse of authority. (Graciela y Römer 1996d).The continued existence of torture in Argentina does not seem to have been unfamiliar to the citizens during the 1990's either: about two thirds of the asked people thought that torture was still used, while the majority did not think that it was justified. Even though this survey did not specify if the torture was being used by the police (Página 30)

## 6.7 Trust in the media

- The confidence in the press decreased significantly between 1984 and 1991, Since then, the confidence has been re-established to some extent, but is still low. This is also true concerning television, where there weren't many trends to be seen, since 1995, when the question was first asked.
- Another observation done was a clear pattern that the confidence in both the television and the press increased to a great extent between 1995 and 1996, while decreasing in the political institutions, the judiciary and the police.

The answers from the interviewees did not give many clues to explain the patterns of trust in the media.. Rather, their answers indicated the difficulty in even trying to analyse the media as one institution, as there is such a great diversity. Yet, some other patterns were to be seen, e.g. that many had the perception that media in general was tendentious, biased or even lied, and some also expressed that they trusted media less now than before.<sup>50</sup>

The media was also perceived to be very politicized nowadays, and the trust or distrust was very much connected to whether the interviewee sympathized with the government, the opposition or with no clear political ideology.

A few of the respondents also mentioned Clarin's role during the dictatorship as a reason as to why they did not trust media in general.

Despite the general distrust in media, few people seemed to disbelieve in *all* media. As one man said:

“[...]if one knows who to listen to, one can become well-informed.”<sup>51</sup>

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<sup>50</sup> Some expressed this without specifying exactly when their trust in the media decreased. But one woman expressed clearly that she believed in the media in the 1980's, unlike what she did nowadays.

<sup>51</sup>[A1]

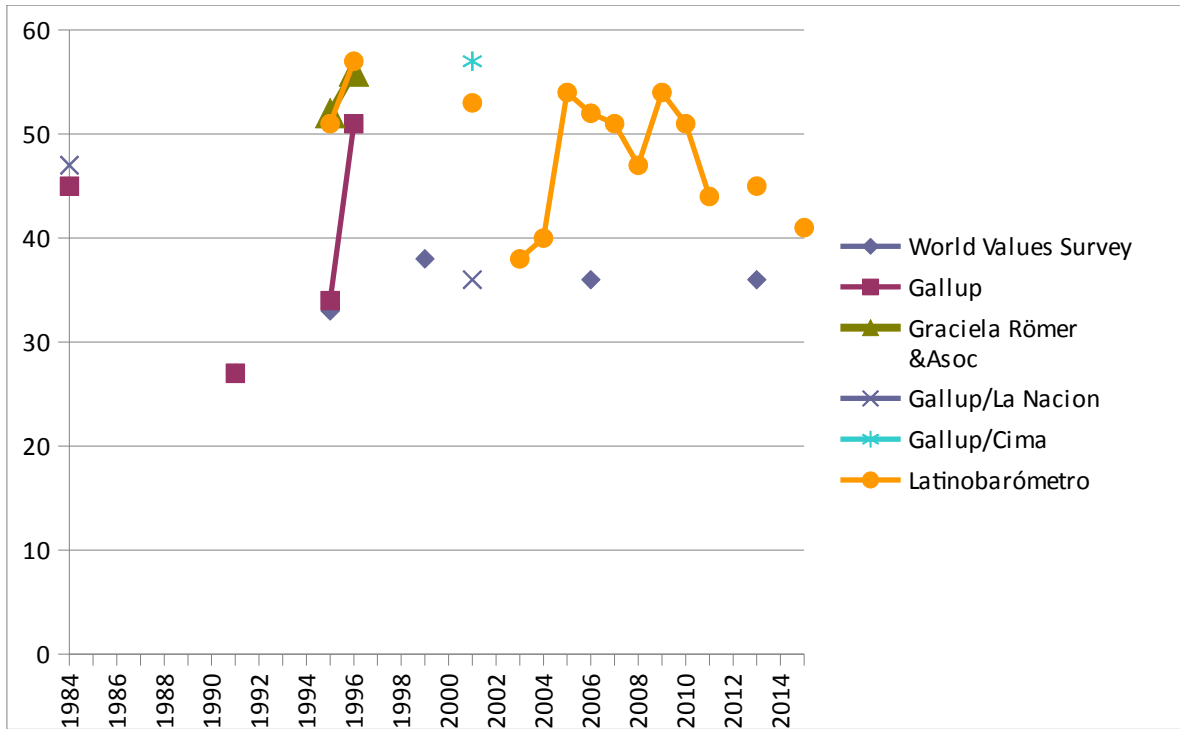


Figure 8: Percentage of respondents that trust the press

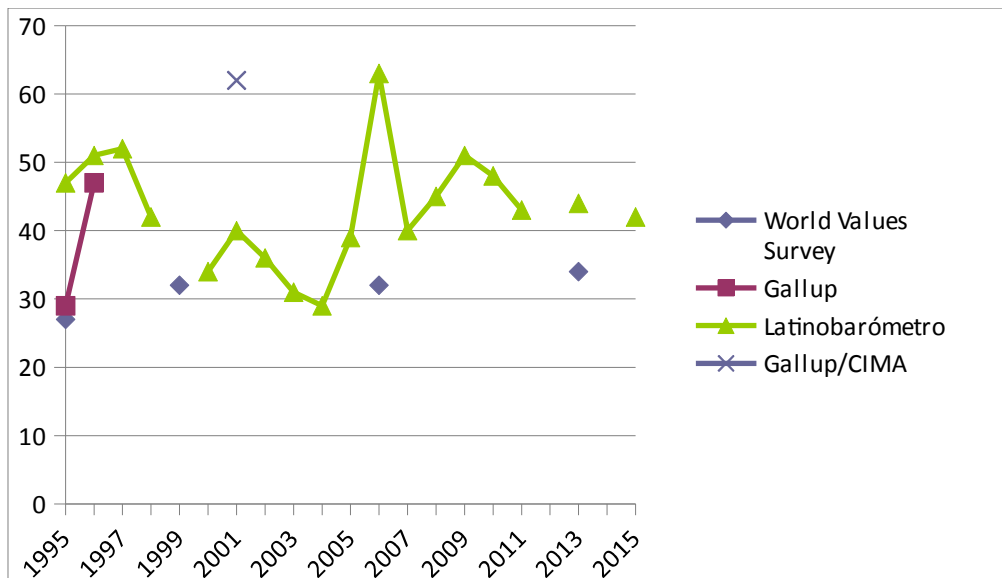


Figure 9: Percentage of respondents that trust the television

## 6.8 First trials and institutional trust

Though the relation between the trials and institutional trust has already been mentioned several times, its relation to the general level of institutional trust needs to be considered. Factors such as moral conceptions and information about the abuses will also be taken into account.

Most of the interviewees who were old enough already knew a lot about the abuses when the dictatorship ended.

Yet, the truth commission and some reports from the media confirmed the information that had already been circulating, and gave more details about it. At the same time, not everyone found the information credible.

One person, born in a military family, said that he thought the information in the truth commission was very exaggerated. While most of the others in the study totally condemned the acts of the state during the dictatorship, his attitude was also more ambiguous: after a summary judgement of a military tribunal, you can shoot a person who have committed “horrible blood crimes” he said, but the body should always be returned to the family:

“You don't make [him/her] disappear[...] I'm not saying that I would have been less hard, but I would have done some things differently[...] I'm talking about other methods.”<sup>52</sup>

Others, while condemning the human rights violations of the military still rather viewed the dictatorship as a war between two parts<sup>53</sup> or/and stressed that human rights crimes were committed by the left-wing guerilla too, and that they should also be punished.

Irrespective of conceptions about the abuses during the dictatorship, there was a deep consensus that the trials of the military were at least necessary.<sup>54</sup> Several also said that it had influenced their trust:

“It was something fantastic[...] It was what the whole society had been asking for.”<sup>55</sup>

“I felt good, because it was a vindication of the whole society. [...]It was very important.”<sup>56</sup>

Some were more neutral, while no one believed the trials had affected their confidence in a negative way.

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52[A1]

53Also [A1] perceived it rather as a war.

54Even though some thought that the amount of trials were too limited.

55 [A8]

56 [A13]

## 6.9 The amnesties and institutional trust

Many described how the amnesties and the pardons had affected their trust negatively. This was especially true among those who were directly affected during the dictatorship, but also among several others:

“It was horrible[...]a lot of anger a lot of[...]impotence[...] But well, it was not surprising that it happened [...]what surprises here is the justice”<sup>57</sup>

”You are legalizing something which is illegal as a concept from the beginning. If it's bad to torture and kill [...] and you violated these rules and then you put other rules which say that you forgive this...That's so mad [...] so that it's opposite to be able to understand it or believe in the institutions.”<sup>58</sup>

Some were more neutral, while none of the respondents said that it had affected their trust in a positive way.

## 6.10 The re-opening of the trials and institutional trust

The interviews showed no consensus about the second waves of trials, such as about the trials in 1985.

Those who said that they had affected their trust positively all had political opinions to the left. This was sometimes also very directly connected with the government, while others talked about a more general confidence in society.

”[...]when these questions were regulated from the institutions it gives you a lot more confidence to be able to talk about them[...] It gave you permission to be able to speak about it more openly[...]”<sup>59</sup>

A man also said that rather than trust in the institutions, the trials created self-confidence in the people:

“Yes, the trust was re-established but in the sense of the capacity of the people to demand things”<sup>60</sup>

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57 [A10]

58 [A15]

59 [A10]

60 [A13]

For others, the ability of the institutions to deal with the past was not connected to their trust at all:

“They were already very old people.[...]I saw it as if it was because of revenge[...] as if all this meant going back to the same, fighting once more[...] And to always remain in the same place”<sup>61</sup>

“They [the trials] don't work because they [the representatives of the institutions] are all bought”<sup>62</sup>

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61 [A3]

62 [A11]

## 7 Analysis & suggestions for further research

As mentioned before, this study is not extensive enough to allow definite conclusions about the relationship between trials and trust to be drawn. Yet, the results provide strong support for the hypothesis that trials *do*, under certain circumstances, play a crucial role in restoring or creating institutional trust.

An interesting pattern can for example be seen when comparing the level of trust between 1984 and 1991, as the trust in the parliament and the justice system decreases dramatically in only a few years.

Another pattern that would be interesting to investigate further, is the gradual increase of trust in several institutions from the beginning of 2000, when the trials were re-opened and also other TJ measures were implemented.

There may obviously be many incidental factors that influence the level of institutional trust here. The economy is one factor that, according to both the interviews and surveys, seems to be of importance. Knowing that Argentina was in a huge economic crisis in the beginning of 2000, means we must be cautious about drawing conclusions about the specific effect of the trials. Yet, the fact that the trust also increased in other institutions, which are not probable to be primarily associated with the economy, does suggest that the trials, in combination with the reforms, may have had a significant effect as well.

The importance of the trials was also frequently emphasized in the interviews, as we have seen above. Yet, the possible influence seem to differ greatly between the different institutions, depending – it seems – to what extent each institution has been able to reform and break with its repressive past in more general terms.

This pattern is perhaps especially visible with regard to the justice system. Even though the level of trust was very high during the years of the first trials, this trust has eroded and remained continuously low after 1991, despite several measures taken by the judiciary in order to hold the former perpetrators accountable also after the first wave of trials.

Furthermore, as even those who were in favour of the trials expressed little trust in the judiciary, this trust – at least nowadays – does not seem to have been very influenced by the trials, in opposite to what was the case in the political institutions, according to the interviews.

This illustrates the difficulties mentioned in much of the research literature, when institutions which still are not thoroughly democratically reformed, and which are not conceived as independent, are made responsible for holding actors accountable for serious human rights crimes. The risk that the trials in these cases are suspected of having been politically influenced, was also seen in several of the interviews concerning the re-opening of the trials. The fact that part of the judiciary was also complicit in crimes during the dictatorship is a factor which



could further increase this risk. This raises the question if a certain amount of trust in the institutions which are responsible for the accountability is perhaps also a pre-condition in order for the trials to create further trust in those institutions.

When looking at the institutions which were directly involved in the abuses – the police and the armed forces – it is interesting to see that the trust nowadays is higher in the armed forces, which were primarily responsible, than in the police.

The general trend is also that the trust in the armed forces appears to gradually increase since the end of the dictatorship (despite being continuously low) while the trust in the police was even lower during the 90's than shortly after the dictatorship. This, again, seems to point towards the importance of reforms in order to re-establish the trust.

Since the reforms have been stressed so much here as a mean to create trust, and since the media, which can exercise another kind of accountability, is at least partly trusted: Could it be criminal accountability isn't necessary?

The findings from the interviews indicate that the criminal accountability do fill needs of affected citizens which are not easily substituted by other TJ measures or other forms of accountability. One of those is the need of vindication, or, which is closely related, "to get the dignity back" as written in the literature.

It is also important to observe that several interviewees made clear that the *absence* of criminal accountability had effected their trust.

Finally, some words should be said about why the trust in the judiciary and the parliament appears to have been much higher during the first wave of trials than during the second one, which is confirmed by the interviews which showed that the first trials were widely accepted. Why does the perception of these two waves of trials seem to differ?

The passing of time is clearly one factor to take into account: the time since the abuses were committed, but also the experience of living in a democracy. The recurrence of human rights abuses and impunity during democracy is another factor which make later trials for crimes in the past appear less significant or sometimes even hypocritical. The number of trials is another issue to take into account.

There are also several general patterns that would be interesting to examine further. First of all, the indications that trials may influence the institutional trust would be interesting to test empirically on a greater number of countries, as well as to further investigate how institutional reforms and trials may be related. How the trials may influence inter-personal trust is another relevant question, as well as to more in detail examine how trust may be affected when former perpetrators remain in powerful positions.

Since trust in key institutions, more than 30 years after the return to democracy, continues to be at such low levels in Argentina, this issue requires further study from different angles, and should also provide some concern; even though a certain distrust in the democratic institutions should be natural and healthy, the levels in Argentina seem to imply that democracy in its wider

definition – though significant improvements has been made – still isn't quite working.

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# Appendix 1: Guiding questions in the interviews

## The institutions today:

How much do you trust the political system? What are the reasons for the trust/ What are the reasons for the lack of trust?

How credible do you find the politicians in the parliament and the government? Why do you think that a lot of people don't believe in the politicians?/ Was there anything in particular that made you believe less in the politicians?

How much do you trust the police? Was there anything that the police did that made you get more confidence? /What could the police do in order to make you trust the institution more?

Do you have the same opinion about the whole justice system? Why?

How much do you believe in the media in general? What does the media do which is good? Do you think the same about all media?/ Was there anything in particular which made you believe less in the media?

## The institutions 1983-1986

After the dictatorship fell, where did you live? Where did you work?

When the truth commission came and the media had more possibilities to report about the abuses done during the dictatorship, do you remember how you felt and what you



were thinking? Was this new information to you?/How did you get to know about the abuses?

During this time, the trials against the military also started. What did you think when you heard of them? How did this affect your confidence in the institutions that we were talking about before?

## The institutions 1986-1991

When they created the amnesty laws, do you remember what you thought?

And when they pardoned ex-perpetrators like Videla, how did you feel?

How did this affect your trust in the institutions that we were talking about before?

## The institutions 2001- 2006

When they took away the amnesty laws and the trials started again, what was your reaction? Why?

## General questions

Is there anything else about this subject which you would like to add?

Where are you from?

Are you married? What does your wife/husband do?

What is/ was the profession of your parents?

On a political scale where 1 would be very much to the left and 10 very much to the right, what would be your position?

What is your level of education?

How much money do you approximately earn each month?

## Appendix 2: List of respondents

A1 Man, 65 years old. Married, children and grandchildren. Is engineer and has also worked as a political advisor. Comes from a military family. Political opinions to the center-right.

A2 Woman, 34 years old. Not married. Works in external business. University degree. Parents worked at a journey and car agency. No clear political ideology.

A3 Man, 67 years old. Widower with children and grandchildren. Retired, used to work as accountant in a consult company. Father worked as a milkman, mother was a housewife. Political opinions to the center-right.

A4 Woman, 34 years old. Not married. University degree. Father lawyer and mother an academic. Uncle disappeared during the dictatorship. Political opinions to the center-left (Peronist)

A5 Woman 33 years old. Not married. Works as a secretary. Political opinions to the right.

A6 Man, 46 years old. Married. Works as a publisher and as an English teacher at the university. Father businessman, mother academic. Political opinions to the left.

A7 Woman 55 years old. Married. Works at a culturalcenter. Father businessman, mother housewife. Political opinions to the centre.

A8 Man 63 years old. Divorced with children. Lives in the slum. Political opinions to the left.

A9 Man 55 years old. Leader of one of the indigenous communities in a province of Argentina.

A10 Woman 61 years old. Divorced with daughter. Works as a nurse. Was forced into exile during the dictatorship. Political opinions to the left.

A11 Man 43 years old. Belongs to the indigenous community.

A12 Woman 60 years old. Married with children. Works as an architect. Political opinions to the left.

A13 Man 65 years old. Works as a sociologist. Was forced into exile, sister got kidnapped and was tortured during the dictatorship. Working class-background. Political opinions to the left.

A14 Man 60 years old. Married with children. Works as an architect. Political opinions to the left.

A15 Woman 45 years old. Divorced with children. Works as a psychologist. Political opinions to the left.



