

Justice beyond Borders: Combining Scholarly Research and Activism in Transnational Trials

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I begin this article with the story of Agustín Goiburú, an exiled Paraguayan doctor. In many ways, Goiburú's tale is unique, since it closely reflects his personal trajectory and struggle against the brutal dictatorship of Alfredo Stroessner in his native Paraguay. At the same time, the ordeal that Goiburú and his loved ones endured speaks to hundreds more similar stories of other Latin American exiles, who suffered an analogous pattern of persecution, torture, and murder at the hands of Operation Condor. Condor was the continent-wide covert network of terror set up in the mid-1970s to eliminate political opponents to South America's dictatorships.¹

The Disappearance of Agustín Goiburú

Doctor Agustín Goiburú, married and father of three children, was illegally detained on February 9, 1977, in the city of Paraná, northeast Argentina, after enduring decades of persecution from the Stroessner's dictatorship (1954–1989). Agustín Goiburú has not been seen since that fateful day.

As a young doctor, Goiburú worked at the Police Hospital "Rigoberto Caballero" in Asunción. In 1958, he was one of the founders of the Colorado Popular Movement, a political group opposing the dictatorship. Together with colleagues, Goiburú denounced the torture and inhumane treatment suffered by regime opponents. Eventually, he was forced to resign from his job for refusing to sign false death certificates of political prisoners who had died under torture. Despite his resignation, the dictatorship's harassment continued and the doctor sought refuge in the Uruguayan embassy. In 1959, he moved to Posadas, a frontier city in the province of Misiones, Argentina.

From exile, Goiburú continued denouncing Stroessner's atrocities. In the Paraná River, Agustín saw firsthand the floating bodies of young men, marked by brutal torture, which had been dumped from Paraguayan Army planes.² Simultaneously, the Stroessner dictatorship still pursued Agustín. In November 1969, the Paraguayan Navy detained him while he was fishing in the Paraná River in Argentine territorial waters with his son Rolando and two friends. Goiburú was immediately flown to Asunción, where he disappeared for three months.³ Due to international pressure, he was moved to a police station. In December 1970, the doctor and fellow prisoners successfully escaped after digging an underground tunnel. Securing asylum at the Chilean embassy, the doctor was later reunited with his family in Argentina. His escape from prison constituted a further embarrassment for Stroessner and turned Goiburú into the regime's number one enemy.⁴

Persecution worsened even further after Goiburú was accused of being the mastermind behind a foiled attempt to murder the Paraguayan dictator in 1974. In December 1974, the doctor survived yet again an attempt on his life, as two armed men entered the family house in Posadas. Rogelio, Goiburú's oldest son, together with his brother and some neighbors apprehended on that occasion Paraguayan police officer Leonardo Cocco, who subsequently confessed that the head of the Paraguayan Police had hired him to kill the doctor. Goiburú knew that Stroessner "offered a reward for his head"⁵ and no longer felt safe in Posadas. He even recorded in a diary all the cars and individuals that followed him.⁶ Therefore, in early February 1975, the family moved to Paraná, 780 km away from Asunción. The distance, nonetheless, was

no obstacle to Stroessner's obsession. In 1975, another attempt to kidnap the doctor failed at the last minute.

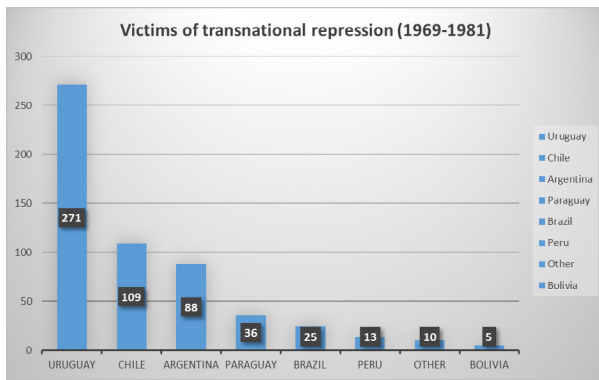
After the formal establishment of Operation Condor in late 1975, Goiburú's situation became more precarious. The doctor and his family were permanently under surveillance. Indeed, the Argentine security forces, as well as the Paraguayan consul in Posada, Francisco Ortiz Tellez, closely scrutinized every move of the Paraguayan exile community in Argentina.⁷ In light of several previously failed attempts, in early 1977 a new plan to detain Goiburú, codenamed Operation Safari, was crafted paying meticulous attention to details.⁸

Around midday, on February 9, 1977, a green Ford Falcon crashed against Goiburú's car, parked on the street. When the doctor got out of the house to assess the damage, he was immediately detained and forced into the car, which took off toward an unknown destination. His family straightaway began a desperate search. They received several versions about Agustín's possible fate.⁹ Over the years, they confirmed the initial rumors about his illegal transfer to Paraguay. After a short detention, the Argentine security forces had in fact quickly handed over Goiburú to the Paraguayans. A former political prisoner, Domingo Rolón Centurion, saw the doctor inside the infamous Police Investigations Department in Asunción in March 1977. The doctor asked him who he was and introduced himself, telling him he had been transferred there from Argentina.¹⁰ A coronel from the Argentine Intelligence Services moreover confessed to Goiburú's wife that Agustín had been taken to Paraguay.¹¹ Rogelio Goiburú, a doctor himself, is leading the search for the location and identification of victims of enforced disappearance in Paraguay, in the hope to also find his father's remains. So far, Rogelio and his team have recovered 37 bodies and positively identified 4, 3 of which belonged to Argentine and Paraguayan victims of Operation Condor.¹²

Transitional Justice and Transnational Crimes

Over the past ten years, criminal prosecutions investigating Operation Condor atrocities, such as Goiburú's disappearance, are the latest manifestation of Latin America's pioneering role in transitional justice and human rights. Until recently, transitional justice had largely failed to engage with extraterritorial human rights violations, being influenced by a dominant state-centric frame of analysis. Many transitional justice scholars have noted how Latin America has repeatedly broken new ground in accountability for past human rights violations on a global level.¹³ When it comes to accountability for transnational terror, Latin America is once again leading the way. But shedding light onto the crimes committed by a transnational terror network that encompassed by 1978 eight countries in South America is no small feat. What remedies are available to victims, when human rights violations cannot be squarely contained within the border of one state? Which state or states are responsible for providing redress in such complex cases of extraterritorial crimes? What role can transitional justice play in this respect?¹⁴

Since 2015, I have been closely researching transnational terror in South America by mapping the victims of the *coordinación represiva* between 1969 and 1981, and by recording all the criminal trials that endeavored to probe these extraterritorial human rights violations. I created the "Database on South America's Transnational Human Rights Violations," which has so far recorded 557 victims. Transnational terror particularly targeted Uruguayans, who amount to 49 percent of the total, followed by Chileans, 20 percent, and Argentines, 16 percent.



Furthermore, I have documented at least 34 criminal investigations, at various stages of the judicial process, in nine countries: Argentina, Chile, Uruguay, Italy, the US, Paraguay, Brazil, France, and Peru. Courts have dictated a first instance verdict in 21 cases; two lawsuits were shelved, one is currently at the trial stage, and another ten are under investigation. Until now, 87 military, police, and civilian state agents from Argentina, Bolivia, Chile, Peru, Paraguay, and Uruguay have been sentenced for transnational crimes against 214 victims.

Justice in the Making

After decades of impunity and seemingly unbreakable amnesties, since the mid-2000s criminal prosecutions for past human rights violations have been unfolding in Latin America. Scholars have labeled this phenomenon the “justice cascade” and the “age of human rights accountability.”¹⁵ From Argentina and Uruguay to Guatemala and El Salvador, perpetrators of atrocities are finally sitting in the docket. The existence of such proceedings across several countries generates at least two noteworthy opportunities for scholars. First, the possibility to conduct trial observation offers researchers an extraordinary chance to gather primary data on the ground, close to the victims, legal professionals, and policy-makers. Trial observation should be considered as a research practice in its own right, as advocated by Professor Jo-Marie Burt, the editor of this *LASA Forum* dossier. Such trial ethnographies have generated a rich and solid scholarship, unpacking justice in the making.¹⁶

I stumbled upon trial observation almost by chance. In late 2012, a dear Uruguayan friend alerted me to the impending start of the Operation Condor trial in Buenos Aires, scheduled for March 2013. She was elated that, after awaiting justice for almost 40 years, her case would finally be included in those proceedings. I had recently finished my PhD and, as soon as I read more about Operation Condor, I was spellbound. For me, an international relations scholar specialized in human rights, Condor brought together, albeit in a perplexing way, state borders, sovereignty, and human rights.

In September 2013, as spring was making its way to the Rio de la Plata, so was I, landing in Buenos Aires. The first encounter with the federal courts in downtown Retiro was, in some ways, a surreal experience. I had never stepped into a courtroom before and I was not sure what to expect. Guided by Pierre, my research assistant, who had been my eyes and ears in Buenos Aires until then, I did not realize then how that first day in court was about to change my life. Seeing justice in the making captivated me completely, and I decided that, as soon as I could, I would trade the dreaming spires of Oxford for the hustle and bustle of Buenos Aires. I landed there again on October 30, 2014. That time, unlike my previous frequent trips, I was there to stay.

Between that summer day in 2014 and May 27, 2016, when the verdict was dictated condemning 15 of the 17 defendants, I attended 74 hearings of the Operation Condor trial. I sat through countless hours of testimonies, listening to the harrowing tales of survivors of unspeakable crimes, to relatives who never faltered in their quest for justice, and analysts explaining hundreds of archival documents proving the existence and inner workings of Condor. I was unable to speak at times, overwhelmed by what I heard. I smiled when meeting familiar faces in the courtroom, or when I saw them through the videoconferencing system

for testimonies from abroad. I cried the day of the sentence, overcome by emotions in the courtroom, which had never been as packed as that day.



*Relatives listening to the verdict in Buenos Aires, May 2017.
Photo: Francesca Lessa*

Overcoming Impunity across the Atlantic

The second opportunity for transitional justice scholars relates to the contributions we can make in support of ongoing criminal justice processes. Some may be critical of this viewpoint, contending instead that activism contaminates research and prevents researchers from being impartial observers. I disagree in two respects. First, when it comes to investigating human rights violations, I believe that impartiality may be counterproductive and may make us inadvertent accomplices to enduring impunity. Second, as transitional justice scholars, we possess exceptional expertise and knowledge that can make positive contributions to unfolding criminal proceedings and their successful completion. Rather than being confined to ivory tower university offices, academics can use their research to make a difference on the ground. I was given such a chance, unexpectedly, back home in Italy.

In the late 1990s, taking advantage of their Italian nationality, many relatives of Uruguayan victims of Condor turned to the courts in Rome to obtain some form of justice. At the time, impunity was near absolute in Uruguay and, despite several attempts to obtain accountability, none seemed within reach.¹⁷ Building on a preexisting pattern of strategic litigation unfolding in the Southern Cone since the late 1990s and inspired by the “Pinochet effect,”¹⁸ these relatives—supported by the Uruguayan trade unions and human rights organizations, as well as a network of individuals and groups in Italy—filed the lawsuit in Rome. After a lengthy pretrial investigation, the Italian Operation Condor trial unfolded before Rome’s Assize Court almost in parallel to the one in Buenos Aires, lasting between 2015 and 2017.

I started working on the Italian trial in late 2017. As lawyers were preparing for the crucial appeal phase, I started collaborating with some of them in light of my five-year-long research project on Operation Condor and the two-year monitoring of the Argentine trial. In this collective effort, lawyers aimed to produce an additional corpus of novel archival evidence to be presented to the Appeals Court for inclusion during this second phase of the proceedings, complementing in this way the existing proofs already gathered during first instance. Owing to my project, I had conducted extensive archival research in Uruguay, Argentina, Paraguay, Brazil, and the US, collating over 3,100 documents directly relevant to Operation Condor. Lawyers are neither historians nor archivists. Nor did they possess the comparative knowledge I had built on Condor over the years, which spanned over 300 cases. The Italian trial focused on 43 victims. Thus, I had a wealth of knowledge and privileged viewpoint that allowed me to advise the lawyers and identify novel documents released after the January 2017 first instance sentence to offer to the tribunal. In December 2018, the judges accepted 12 of the 13 new documents, considering them relevant and novel for the appeals’ phase: I had identified and submitted two of those 12 documents. In July 2019, the Court confirmed sentences dictated in first instance and, furthermore, overturned 18 acquittals, sentencing

all the defendants to life imprisonment for the murder of 18 Italian citizens and 20 Uruguayans committed between 1973 and 1980.¹⁹



The Italian Appeals Court, July 2019. Photo: Francesca Lessa

Concluding Thoughts

Latin America is once again a pioneer in transitional justice, leading the way with unparalleled human rights trials and the innovative focus on extraterritorial atrocities. Transnational human rights trials are, by their very nature, extremely complex. Four decades later, reconstructing extraterritorial crimes is a convoluted effort. Victims and perpetrators often are of different nationalities, and the crimes usually began in one country and ended in another. Accordingly, all these cross-border dynamics had to be reassembled in the courtroom, to carefully unpack the transnational terror machinery in all its intricacies. Moreover, the extraterritorial nature of the crimes means that courts have to gather testimonies and archival documents from several countries. Putting together the pieces of this difficult puzzle can be particularly time-consuming: international judicial cooperating requests usually face significant delays in being processed, taking months if not years to be resolved. In particular, international cooperation between judges, lawyers, prosecutors, victims, and human rights activists in gathering the necessary evidence is a crucial precondition for the success of such investigations. Without their efforts, justice is much more difficult to achieve. This is where academics can also make crucial contributions, owing to their specialized and distinctive expertise. The benefits of such collaborations are inescapable. The Argentine Public Prosecutor office has recently hired a historian as a permanent member of its

team, to assist with archival investigations and contribute with distinctive skills that neither lawyers nor prosecutors have for the benefit of criminal trials. Similar interactions should be fostered in the future.

Despite operating in testing scenarios, both the Argentine and Italian courts delivered two historic verdicts that set new precedents regarding the investigation of past transnational crimes. Furthermore, these verdicts provide useful lessons that might apply to other contemporary manifestations of extraterritorial human rights violations, including human trafficking or the extraordinary rendition of alleged terrorists. Scholars and policy-makers working on the many manifestations of transnational crime can be inspired by these two trials as they seek to help more victims achieve accountability for the horrors they have experienced.

Notes

- ¹ Francesca Lessa, "Argentina's Operation Condor Trial Opens Up New Paths to Accountability for Past Atrocities in South America and Beyond," *LSE Latin America and Caribbean Blog*, August 1, 2019, <https://blogs.lse.ac.uk/latamcaribbean/2019/08/01/argentinas-operation-condor-trial-opened-up-new-paths-to-accountability-for-past-atrocities-in-south-america-and-beyond/>.
- ² Alfredo Boccia Paz, *Goiburú: La odisea del insumiso* (Asunción: Servilibro, 2014).
- ³ Alfredo Boccia Paz et al., *En los sótanos de los generales: Los Documentos ocultos del Operativo Condor* (Asunción: Servilibro, 2002).
- ⁴ Francesca Lessa, "La obsesión de Stroessner," *Pucheronews*, October 29, 2015, <https://www.pucheronews.com/la-obsesion-de-stroessner/>.
- ⁵ Boccia Paz, *Goiburú*, 291.
- ⁶ Author interview with Rogelio Goiburú, son of Agustín, Asunción, Paraguay, September 9, 2016.
- ⁷ Buenos Aires Federal Criminal Court no. 1, Sentence in the Operation Condor trial (cases n. 1.504, 1.951, 2.054, and 1.976), August 9, 2016.
- ⁸ I/A Court H.R., *Case of Goiburú et al. v. Paraguay*, Merits, Reparations and Costs, Judgment of September 22, 2006, Series C No. 153.
- ⁹ Author interview with Rogelio Goiburú.
- ¹⁰ Author interview with Domingo Rolon Centurion, Asunción, September 8, 2016.
- ¹¹ Boccia Paz, *Goiburú*, 353.

- ¹² Pedro Servín, "Paraguay sigue sin hallar los desaparecidos de la dictadura," *AP*, February 2, 2019, <https://apnews.com/503043fd75214db68071356106338631>.
- ¹³ See for instance Jo-Marie Burt, "Guilty as Charged: The Trial of Former Peruvian President Alberto Fujimori for Human Rights Violations," *International Journal of Transitional Justice* 3, no. 3 (2009): 384–405; Francesca Lessa, Tricia D. Olsen, Leigh A. Payne, Gabriel Pereira, and Andrew G. Reiter, "Overcoming Impunity: Pathways to Accountability in Latin America," *International Journal of Transitional Justice* 8, no. 1 (2014): 75–98; Elin Skaar, Jemima García-Godos, and Cath Collins, eds., *Transitional Justice in Latin America: The Uneven Road from Impunity towards Accountability* (New York: Routledge, 2016).
- ¹⁴ I addressed some of these question in a recent article: Francesca Lessa, "Operation Condor on Trial: Justice for Transnational Human Rights Crimes in South America," *Journal of Latin American Studies* 51, no. 2 (2019): 409–439.
- ¹⁵ Kathryn Sikkink, *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics* (New York: W. W. Norton, 2011); Francesca Lessa and Leigh A. Payne, eds., *Amnesty in the Age of Human Rights Accountability: Comparative and International Perspectives* (New York: Cambridge University Press, 2012).
- ¹⁶ Jo-Marie Burt, "Gender Justice in Post-Conflict Guatemala: The Sepur Zarco Sexual Violence and Sexual Slavery Trial," *Critical Studies* 4 (2019): 63–96; Jo-Marie Burt, "From Heaven to Hell in Ten Days: The Genocide Trial in Guatemala," *Journal of Genocide Research* 18, nos. 2–3 (2016): 143–169; Francesca Lessa, "Justice beyond Borders: The Operation Condor Trial and Accountability for Transnational Crimes in South America," *International Journal of Transitional Justice* 9, no. 3 (2015): 494–506; Susana Kaiser, "Argentina's Trials: New Ways of Writing Memory" *Latin American Perspectives* 42, no. 3 (2015): 193–206.
- ¹⁷ Jo-Marie Burt, Gabriela Fried Amilivia, and Francesca Lessa, "Civil Society and the Resurgent Struggle against Impunity in Uruguay (1986–2012)," *International Journal of Transitional Justice* 7, no. 2 (2013): 306–327.
- ¹⁸ Naomi Roht-Arriaza, *The Pinochet Effect: Transnational Justice in the Age of Human Rights* (Philadelphia: University of Pennsylvania Press, 2006).
- ¹⁹ Lorenzo Tondo, "Italian Court Jails 24 over South American Operation Condor," *The Guardian*, July 8, 2019, <https://www.theguardian.com/world/2019/jul/08/italian-court-jails-24-over-south-american-operation-condor>. //