

Notes from the Field: Justice beyond Borders: The Operation Condor Trial and Accountability for Transnational Crimes in South America

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ABSTRACT¹

This article focuses on the so-called ‘Operation Condor’ trial currently taking place in Federal Criminal Tribunal 1 in Buenos Aires. The court is prosecuting human rights violations perpetrated across South America between the 1970s and 1980s against 106 victims – the majority Uruguayans, Chileans and Paraguayans. Those atrocities were committed within the framework of Operation Condor – a secret transnational network of intelligence and counterinsurgency operations set up by the dictatorships of Argentina, Chile, Uruguay, Paraguay, Bolivia and Brazil, targeting political opponents in exile. This article discusses the significance of this prosecution of transnational crimes in the region through interviews with prosecutors, lawyers, survivors and human rights activists, as well as attendance at trial hearings. It combines reflections from my personal experience as a researcher in the field with a preliminary evaluation of the trial’s importance for transitional justice.

KEYWORDS: Operation Condor trial, South America, transnational crimes, dictatorships, impunity

The four judges² composing Federal Criminal Tribunal 1, escorted as always by their police guard, walk into the artificially illuminated basement courtroom inside the majestic building that hosts the criminal and economic tribunals on Comodoro Py

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2 The Tribunal is composed of three judges, Oscar Ricardo Amirante, Adrian Federico Grünberg and Pablo Gustavo Laufer, and a substituting judge, Ricardo Angel Basílico.

Avenue in downtown Buenos Aires. The technicians recording the proceedings are in place. The Tribunal's assistants, the prosecutors, private prosecutors (*querellantes*) and defence lawyers sit on their respective sides of the room, ready to begin whenever the magistrates take their seats. A new day in court is about to start.

The image I just described is nothing astounding in Argentina where, since the 2006 reopening of criminal trials into the atrocities³ of the 1976–1983 dictatorship, 142 trials have already been completed, with 592 individuals condemned and 53 acquitted.⁴ This is a new daily routine for me as a researcher in the field observing the Operation Condor trial. I feel privileged to be seeing justice in the making in such a momentous trial and, especially, hearing first hand the direct testimonies of survivors, experts and witnesses of these unspeakable crimes.

The Operation Condor trial began on 5 March 2013 and has been unfolding ever since. It entered its final phase on 5 June 2015, when the first *querellante* delivered the final statement before the court. The sentence is expected in October/November 2015. This article combines reflections from my experience as a researcher monitoring this prosecution since late October 2014,⁵ with a preliminary assessment of the trial and its relevance in advancing justice for the transnational crimes committed in South America in the 1970s and 1980s, as well as transitional justice (hereafter TJ) more broadly. Some may wonder what is left to say about prosecutions for dictatorship crimes in Argentina, a country labelled not long ago a 'global protagonist' of TJ.⁶ Yet, Argentina is again breaking new ground in accountability with this trial – just as it did when it established the first internationally recognized truth commission, CONADEP (*Comisión Nacional sobre la Desaparición de Personas*), in 1983; prosecuted the military commanders in 1984–1985; pioneered the truth trials in the 1990s and overturned democratically sanctioned amnesty laws and pardons since 2005.

This article highlights how the Operation Condor trial is challenging traditional TJ approaches and methodologies, and questioning dominant understandings of territorial jurisdiction in accountability for human rights crimes. The occasion of this

3 These encompassed 12,890 political prisoners, 2,286 extrajudicial executions, 250,000 exiles, 500 babies illegally adopted and a contested number of disappearances, between 9,000 and 30,000. See, Emilio Crenzel, 'Introduction: Present Pasts: Memory(ies) of State Terrorism in the Southern Cone of Latin America,' in *The Memory of State Terrorism in the Southern Cone: Argentina, Chile, and Uruguay*, ed. Francesca Lessa and Vincent Druliolle (New York: Palgrave Macmillan, 2011).

4 Ministerio Público Fiscal, Procuración General de la Nación, 'A diez años del fallo "Simón". Un balance sobre el estado actual del proceso de justicia por crímenes de lesa humanidad,' <http://www.fiscales.gob.ar/lesa-humanidad/wp-content/uploads/sites/4/2015/06/20150612-Informe-Procuradur%C3%ADa-de-Cr%C3%ADmenes-contra-la-Humanidad.pdf> (accessed 5 July 2015).

5 I attended trial hearings on 17, 20 and 26 September 2013 and on 25 March 2014. Since 31 October 2014, I have been regularly attending all the hearings. I also conducted 36 interviews with survivors, lawyers, judges, prosecutors and experts on Operation Condor in Argentina, Chile and Uruguay. Further, I carried out archival research in three archives in Uruguay: the archive of the nongovernmental organization (NGO) Mothers and Relatives of Uruguayan Disappeared Detainees, the Archive of Diplomatic History and the Administrative Archive of the Ministry of Foreign Affairs in Montevideo. I will also examine documents in these archives: the online archive of the US NGO National Security Archive; the Archives of Terror in Asunción, Paraguay; the archive of the Argentine Ministry of Foreign Relations; and the DIPBA police archive in La Plata, Argentina.

6 Kathryn Sikkink, 'From Pariah State to Global Protagonist: Argentina and the Struggle for International Human Rights,' *Latin American Politics and Society* 50(1) (2008): 1–29.

trial requires TJ scholars and practitioners to face transnational crimes and, in particular, consider the questions of whether and how to respond to crimes transcending borders. This is a difficult question. States, borders and territories have been at the heart of international relations for 400 years and the state (and its borders) is the foundation of the human rights system. The state is the entity tasked with promoting and protecting human rights and providing redress when they are violated. So, what happens when crimes cut across borders? Who is responsible? What remedies, if any, are available?

The Operation Condor trial is no blueprint or model to be replicated unquestionably. Rather, it is the beginning, not the end, of the discussion on transnational crimes, a complex theme that has been marginalized within TJ. This Tribunal is pioneering something truly unparalleled and worth exploring further. This article may raise more questions than it answers but it at least begins a discussion on accountability for transnational crimes.

A DAY IN THE COURTROOM

As I walk down the long and crowded corridors in the Comodoro Py tribunals, I wonder why so little attention has been devoted to transnational crimes, especially since borders have always been permeable. Transnational crimes such as the abhorrent violations by the Islamic State of Iraq and Syria (ISIS) or the smuggling of migrants across the Mediterranean Sea make media headlines on a daily basis. The inviolability of borders has been more fictitious than real: transnational crimes are hardly new. Yet, it has been a powerful fiction around which the system of international relations and the international human rights regime have been built. Surprisingly, however, in this largely state-centric world, responding to transnational human rights atrocities has for the most part been neglected. In South America, the legacy of fear left behind by the dictatorships, together with the tradition of impunity, also helps account for why transnational crimes were overlooked for so long.

As a field of study, TJ has been dominated by states. In the 1980s and 1990s, the dominant analytical focus was on single or small-N analyses of emblematic countries, such as South Africa and Guatemala. Recently, studies have assessed the impact of TJ mechanisms, empirically testing claims – derived from single case studies – through large-N datasets, resulting in theories such as Tricia Olsen, Leigh Payne and Andrew Reiter's 'justice in balance' and Kathryn Sikkink's 'justice cascade'.⁷ Over the decades, different accountability venues have been employed: truth commissions, domestic courts, international tribunals and even indigenous practices. Except for the ad hoc tribunal for the former Yugoslavia that tackled cases across borders due to the country's disintegration, none of these mechanisms ever adopted a transnational focus.

Thus, so far, the focus has been 'primarily on offences within a single state' perpetrated 'by national actors of that state'.⁸ Indeed, the scholarly literature and

7 Tricia D. Olsen, Leigh A. Payne and Andrew G. Reiter, *Transitional Justice in Balance: Comparing Processes, Weighing Efficacy* (Washington, DC: United States Institute of Peace Press, 2010); Kathryn Sikkink, *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics* (New York: W.W. Norton and Company, 2011).

8 Amy Ross and Chandra Lekha Sriram, 'Closing Impunity Gaps: Regional Transitional Justice Processes?' *Transitional Justice Review* 1(1) (2012): 3.

policy responses to atrocities have conformed to the national boundaries within which they occurred, neglecting consideration of how to address transnational crimes. Foreign trials and universal jurisdiction cases may seem exceptions to this trend, yet they still focus on crimes committed inside – not across – borders, such as a domestic court in Spain prosecuting violations perpetrated in Chile. The Operation Condor trial is charting new terrain in TJ by investigating human rights violations carried out by an international joint criminal conspiracy of six states against political opponents across South America. The crimes investigated cut across borders. They always encompass at least two countries: the country of the victim's nationality and that where the crime was executed. The disappearances under consideration were perpetrated by taskforces composed of local security forces and counterparts from the victim's country. They also always entailed a crossing of borders – the crime began in the country where the victim had escaped to and continued in the victim's home country, where they were illegally returned to against their will.

ATROCITIES BEYOND BORDERS

What was Operation Condor? Beginning in 1954 with Paraguay, many South American countries fell to the wave of authoritarian takeovers ideologically inspired by the National Security Doctrine and the Cold War. Political violence engulfed the region in a snowball effect, with coups occurring in Brazil (1964), Argentina (1966, 1976), Uruguay and Chile (1973) and Bolivia (1971, 1980). Those regimes brutally and systematically repressed all forms of opposition, perpetrating thousands of human rights violations, including torture, extrajudicial executions, enforced disappearances and sexual violence against members of left-wing armed groups, politicians, teachers, students, trade union leaders and political activists. By the 1970s, repression acquired an additional and sinister transnational dimension through Operation Condor.⁹ This transnational terror network complemented the repression these dictatorships were unleashing at home. Operation Condor originated from existing forms of bilateral cooperation between the region's armed forces in the early 1970s. For instance, in September 1972 the intelligence services of Argentina and Paraguay signed a secret agreement to coordinate actions 'in the struggle against subversion,' exchanging information and arresting 'elements of subversive groups.'¹⁰ Similar formal or informal arrangements existed with Chile and Uruguay as well. A Brazilian expert at the trial highlighted that this cooperation in intelligence and prisoner exchange possibly began earlier, citing cases of Brazilians kidnapped in Buenos Aires in 1970 and 1971.¹¹ Cooperation, exchange of information and joint operations before the 1975 formalization of Operation Condor are often categorized as 'pre-Condor.' One of the most well-known instances of this embryonic transnational

9 John Dinges, *The Condor Years: How Pinochet and His Allies Brought Terrorism to Three Continents* (New York: The New Press, 2004).

10 Document presented by National Security Archive analyst Carlos Osorio to the Tribunal on 6 March 2015. The document is from Paraguay's Archives of Terror, dated 12 September 1972, number 00186F1573, <http://nsarchive.gwu.edu/NSAEBB/NSAEBB514/docs/Doc%2001%20-%20r186f1573%20-%201580.pdf> (accessed 5 July 2015).

11 Trial hearing, Buenos Aires, 31 October 2014.

terror is the Chilean secret police's assassination of exiled General Carlos Prats and his wife in September 1974 in Buenos Aires.¹²

Operation Condor was formally established during a meeting of the security forces organized and hosted by the Augusto Pinochet regime in Santiago between 25 November and 1 December 1975.¹³ The meeting was attended by representatives of Argentina, Bolivia, Chile, Paraguay and Uruguay, while Brazil participated as observer and joined formally in 1976. Operation Condor was 'a secret intelligence and operations system' that allowed for the sharing of intelligence and seizing, torturing and executing of political opponents across South America.¹⁴ This 'shadowy Latin American military network' particularly permitted the establishment of 'combined transnational operations' to murder.¹⁵ Operation Condor consisted of three phases: close coordination and intelligence exchange; operations in the pursuit of political opponents in South America; and surveillance and assassinations outside South America.¹⁶

Operation Condor completely disregarded traditional international law principles on refugees and the long custom of protecting asylum seekers. Political activists who thought they had found safe havens in neighbouring countries, having fled repression and military coups back home, became victims of 'deathly traps,'¹⁷ facing persecution abroad by the transnational repression. Victims ranged from renowned politicians such as Uruguayan legislators Zelmar Michelini and Héctor Gutiérrez Ruiz to political activists, guerrilla members and refugees under the mandate of the United Nations High Commissioner for Refugees. But, Condor even travelled beyond South America, with operations in the US and Europe. Chilean politician Bernardo Leighton and his wife survived an assassination attempt in Rome on 5 October 1975, while former Chilean diplomat Orlando Letelier was killed with his assistant on 21 September 1976, in Washington. Condor operations entailed agents from both the interested country and the country in which the target was located. Due to the large number of political exiles living in Buenos Aires since the early 1970s, a major theatre of crimes was the Argentine capital. Operation Condor's operative base was the

12 General Carlos Prats was a former commander-in-chief of the army, and former vice president of the republic under Salvador Allende. Prats was guest of the Argentine army and President Juan Perón. He received several death threats and, despite requests to consular authorities, his passport was never issued, sealing his fate in Buenos Aires. In November 2000, DINA (*Dirección de Inteligencia Nacional*; National Intelligence Directorate) agent Enrique Arancibia Clavel was sentenced by a Buenos Aires court to life imprisonment for the double first-degree murder of Prats and his wife and for being a member of an illicit association.

13 Peter Kornbluh, *The Pinochet File: A Declassified Dossier on Atrocity and Accountability* (New York: The New Press, 2013).

14 J. Patrice McSherry, *Predatory States: Operation Condor and Covert War in Latin America* (Lanham, MD: Rowman & Littlefield, 2005), 1.

15 J. Patrice McSherry, 'Operation Condor: Clandestine Inter-American System,' *Social Justice* 26(4) (1999): 144.

16 Dinges, supra n 9. See also, a report presented by Carlos Osorio to the Tribunal on 6 March 2015, written by assistant secretary of state for Latin America, Harry Shlaudeman, to Henry Kissinger on the coordination in South America. US Department of State, 'The "Third World War" and South America,' 3 August 1976, <http://nsarchive.gwu.edu/NSAEBB/NSAEBB416/docs/0000A02E.pdf> (accessed 5 July 2015).

17 Personal interview, Sara Méndez, Montevideo, Uruguay, 8 October 2013.



Figure 1. Automotores Orletti, view from outside, December 2009 (Photograph by Francesca Lessa)

clandestine detention centre known as Automotores Orletti (Figure 1) in Buenos Aires' Floresta neighbourhood, from which Argentine, Chilean and Uruguayan agents operated.¹⁸ Automotores Orletti functioned between May and November 1976 and over 200 people were illegally detained there. The majority were foreigners (Uruguayans, Chileans, Brazilians and Cubans) apprehended in Buenos Aires and many later illegally returned to their country. Argentines who had fled the country were kidnapped abroad – in Bolivia, Brazil, Peru and Uruguay – and returned to Argentina for detention in Orletti or elsewhere, to later be disappeared.

Through Operation Condor, a borderless area of terror and impunity was established in South America. Perpetrators of human rights violations acted with absolute impunity at the time. Their impunity was later guaranteed by self-amnesty laws sanctioned by the dictatorships or amnesties by successor democratic governments. So how has this trial been possible?

ACCOUNTABILITY BEYOND BORDERS

Although investigations into Operation Condor atrocities turned into key strategies to push for accountability in South America since the 1990s, victims and activists had already denounced in the 1970s the perpetration of transnational crimes. Uruguayan Enrique Rodríguez Larreta, detained in Buenos Aires and forcibly returned to Montevideo in July 1976, gave a pioneering testimony on those horrors to Amnesty International in London in March 1977 – just three months after being freed and at great personal risk to himself and his family, the latter still living in Uruguay. Later,

18 Chileans forcibly returned to Santiago via Operation Condor were held in Villa Grimaldi, as with Jorge Fuentes Alarcón in 1975. Uruguayans kidnapped in Argentina and returned to Uruguay in 1974 and 1976 were detained in the Punta Gorda clandestine centre in Montevideo.

Rodríguez Larreta and other survivors gave their testimony at the historic 1985 trial of the military juntas in Buenos Aires.¹⁹ The role of foreign security agents operating on Argentine soil was so well established that one of President Carlos Menem's 1989 pardons even included four Uruguayan officers.²⁰

As more information and archival evidence about the transnational network emerged during the 1990s, Operation Condor crimes were skilfully employed by human rights lawyers, activists and organizations to challenge impunity across the region. These lawsuits strategically questioned the scope and validity of amnesty laws. Since Operation Condor offences encompassed foreign nationals and were carried out extraterritorially, they did not fit within the remit of domestic amnesties. Therefore, investigations and criminal proceedings could prosper. For instance, Uruguay's first sentence relating to dictatorship crimes, in 2009, was linked to the 1976 murder of 28 Uruguayans in Buenos Aires. These crimes, committed by Uruguayan security officers outside of Uruguay, could not be amnestied.²¹ Similarly, Chilean judge Juan Guzmán was able to indict General Pinochet in 2004 for 10 Operation Condor crimes, notwithstanding the 1978 self-amnesty law.²²

The initial criminal lawsuit (*querella*) that led to the Operation Condor trial was originally filed in Buenos Aires on 8 November 1999 by six relatives of victims and their lawyers, David Baigún and Alberto Pedroncini. In it, Chilean Dora Gladys Carreño Araya, Paraguayan Idalina Wilfrida Radice Arriola de Tatter, Uruguayan Sara Rita Méndez and Argentines Elsa Pavón de Grinspon, Claudia Mabel Careaga and Ana María Careaga denounced the joint criminal enterprise set up through Operation Condor and the illegal deprivation of liberty suffered by their relatives. The seven victims – four Argentines, two Paraguayans and one Chilean – were detained and disappeared at different moments between 1976 and 1978 in Buenos Aires and Montevideo.²³ The *querella* bound together these cases, since the disappearances all entailed more than one country each and were all committed partly in Argentina. For instance, Paraguayan Federico Tatter, detained in 1976 in Buenos Aires, was handed over to the Paraguayan police, while the Grinspon-Logares family, kidnapped in 1978 in Montevideo, was forcibly returned to Argentina.

The criminal investigation could progress since the Argentine amnesty laws (the 1986 Full Stop Law and 1987 Due Obedience Law) were inapplicable. The defendants were either foreign individuals or Argentine military commanders who could

19 See, Rodríguez Larreta's testimony, 17 June 1985, <http://www.desaparecidos.org/nuncamas/web/testimon/rodlarre.htm> (accessed 5 July 2015).

20 Decree 1003 of 6 October 1989 pardoned José Nino Gavazzo, Jorge Silveira, Manuel Cordero and Hugo Campos Hermida for criminal trial no. 42.335 bis: 'Rodríguez Larreta Piera, Enrique s/Denuncia.' See, 'Boletín Oficial, De la Republica Argentina,' 10 October 1989, <http://www.boletinoficial.gov.ar/DisplayPdf.aspx?s=01&f=19891010> (accessed 5 July 2015).

21 Francesca Lessa, 'Barriers to Justice: The *Ley de Caducidad* and Impunity in Uruguay,' in *Amnesty in the Age of Human Rights Accountability: Comparative and International Perspectives*, ed. Francesca Lessa and Leigh A. Payne (Cambridge: Cambridge University Press, 2012).

22 Larry Rohter, 'Judge Declares Pinochet Fit to Face Human Rights Charges,' *New York Times*, 13 December 2004.

23 Text of the original *querella*, copy on file with the author, provided by Dr Jaime Nuguer, emailed to the author on 21 November 2013.



Figure 2. Jorge Videla (middle) at the opening day of the Operation Condor trial, 5 March 2013 (Photograph by H.I.J.O.S. Capital)

not benefit from the due obedience clause available to lower officers.²⁴ Thus, in September 2001, federal judge Rodolfo Canicoba Corral charged former Argentine dictator Jorge Rafael Videla and requested the extradition of Pinochet, the head of the Uruguayan armed forces Julio César Vadora, the former Paraguayan dictator Alfredo Stroessner and the former head of the Chilean DINA secret police, Manuel Contreras.²⁵ The judge also demanded that Uruguay detain and extradite to stand trial in Argentina, four of its military officers (José Nino Gavazzo, Manuel Cordero, Jorge Silveira and Hugo Campos Hermida) accused of kidnapping and disappearing at least 24 Uruguayan citizens in Buenos Aires.²⁶ Over the next decade, the lawsuit progressed slowly in the *etapa de instrucción* (pre-trial phase), with other alleged crimes added to the original complaint, as well as new perpetrators.²⁷ Most defendants are high-ranking officers, such as former dictators Videla (1976–1981), who passed away in May 2013 (Figure 2), and Reynaldo Benito Bignone (1982–1983), as well as the commander of the Fourth Army Corps, Santiago Omar Riveros.

Together with the investigation into the systematic kidnapping (*plan sistemático*) of babies born to women in clandestine detention, likewise initiated by lawyers Baigún and Pedroncini in 1996, the Operation Condor trial was the only other criminal proceeding that – albeit slowly – could move ahead in the 1990s and early 2000s in Argentina. Lawyers and activists used the Operation Condor and *plan sistemático*

24 Naomi Roht-Arriaza, 'Prosecutions of Heads of State in Latin America,' in *Prosecuting Heads of State*, ed. Ellen L. Lutz and Caitlin Reiger (Cambridge: Cambridge University Press, 2009).

25 Lourdes Heredia, 'Operación Cóndor: Videla procesado,' BBCMundo.com, 27 September 2001, http://news.bbc.co.uk/1/hi/spanish/latin_america/newsid_1567000/1567495.stm (accessed 5 July 2015).

26 Centro de Estudios Legales y Sociales (CELS), *Informe Anual 2002*, section '2.1.5. La querrela por el Plan Cóndor,' <http://www.cels.org.ar/common/documentos/ia2002.pdf> (accessed 5 July 2015).

27 CELS, 'Plan Cóndor + Automotores Orletti II,' <http://www.cels.org.ar/blogs/plan-condor-automotores-orletti-2/> (accessed 5 July 2015).

cases as part of their strategy to exploit the loopholes within the amnesty laws to push for justice. As Judge Daniel Rafecas put it, human rights organizations and victims associations with their lawyers 'found cracks and holes in the wall of impunity [*muralla de impunidad*] and, that way, Operation Condor and the systematic kidnapping of children could proceed.'²⁸

The Argentine political context and the existence of amnesties nonetheless affected the case in three respects: the crimes charged, the type of responsibility and the defendants' hierarchy. The case only encompasses victims of enforced disappearance that, as continuing crimes, could be investigated. Furthermore, most of the 18 defendants are high-ranking commanders and officers, excluded from the Due Obedience Law.²⁹ Sixteen of them are charged as *autores mediatos* (perpetrators by means)³⁰ for occupying decision-making posts during the dictatorship and giving orders. Only Uruguayan Manuel Cordero and Argentine Miguel Angel Furci are prosecuted as *autores materiales* (direct perpetrators) for participating in kidnappings, torture and murders.³¹ Despite these restrictions, from the beginning the original allegation embodied the desire of 'doing something, starting to investigate.'³² The investigation subsequently suffered delays and deferrals due to the complexities associated with receiving information from neighbouring countries, pending extradition requests and the large numbers of trials that resumed in Argentina since 2006.

JUSTICE FOR TRANSNATIONAL CRIMES

The Operation Condor trial is innovative for capturing for the first time the complexity of political repression across South America. It differs in four respects from existing prosecutions in Argentina. First, it is the only one to have a foreign military officer, Uruguayan Manuel Cordero (Figure 3),³³ sitting in the dock along with 17 Argentine defendants.³⁴ Secondly, the crimes investigated took place across the six Operation Condor countries, effectively tackling the whole terror network in its geographical scope. Thirdly, the majority of the 106 victims are foreigners, mainly Uruguayans (48) and Chileans (22). Fourthly, the court is prosecuting the defendants for the crime of *asociación ilícita* (the establishment of a joint criminal

28 Personal interview, Daniel Rafecas, Buenos Aires, Argentina, 30 October 2013.

29 Personal interview, Pablo Ouviaña and Mercedes Moguilanski, Buenos Aires, Argentina, 26 September 2013; Personal interview, Miguel Angel Osorio, Buenos Aires, Argentina, 26 September 2013.

30 As Jo-Marie Burt argues, 'there is no equivalent to *autoría mediata* in English-speaking legal systems.' Jo-Marie Burt, 'Guilty as Charged: The Trial of Former Peruvian President Alberto Fujimori for Human Rights Violations,' *International Journal of Transitional Justice* 3(3) (2009): 397n55. Querellante Jaime Nuguer, litigating the original Condor lawsuit, told me that the *autoría mediata* did not emerge from the Argentine criminal code but was a jurisprudential construction disseminated in Argentina by Professor David Baigún – the lawyer filing the original complaint – based on the work of German jurist Claus Roxin. Email communication to the author, 11 June 2015.

31 'Los crímenes coordinados por el Plan Cóndor,' *Página12*, 23 April 2013, <http://www.pagina12.com.ar/diario/elpais/1-218592-2013-04-23.html> (accessed 5 July 2015).

32 Personal interview, Daniel Rafecas, Buenos Aires, Argentina, 30 October 2013.

33 Cordero became the first Uruguayan to be prosecuted in Argentina for dictatorship crimes upon being extradited there in January 2010, after the authorization of the Supreme Federal Court in Brazil, where he had absconded to in 2004.

34 The trial includes a fourth branch, called Automotores Orletti II, with one defendant, former intelligence agent Miguel Angel Furci, charged with the kidnapping and torture of 67 victims.



Figure 3. Manuel Cordero (right) at the trial's opening hearing, 5 March 2013 (Photograph by H.I.J.O.S. Capital)

conspiracy). For the first time, a court dealing with dictatorship crimes is using this legal categorization to conceptualize the international criminal enterprise set up by Operation Condor.³⁵ The focus is on high-ranking defendants, as they are considered most responsible in this conspiracy. The charge of *asociación ilícita* is commonly used to investigate cases relating to local criminal gangs or mafia groups. Here, the court is unearthing instead a planned and systematic political persecution across borders.

Due to its complexity, the trial has been arranged in *binomios* (dyads) of countries, by pairing up countries to receive witness and expert testimonies. The phase of *recepción de prueba* (presentation of proofs and testimonies) began in May 2013 with the Argentina–Uruguay dyad tackling cases of and receiving testimonies relating to Uruguayans disappeared in Argentina and Argentines disappeared in Uruguay. The Tribunal then examined all the dyads of countries until all were considered. The *recepción de prueba*, finalized in mid-April 2015, was instrumental in reconstructing the circumstances surrounding each disappearance but, especially, in offering elements to prove the secret cross-national collaboration. As Pablo Ouviaña, chief prosecutor, affirmed:

The 106 cases . . . are a sample of what happened with Condor . . . we are not only seeing if in the case of each victim we can prove that a ‘crime’ has been committed, but we are also seeing something else: the very existence of Condor. In this way, we seek evidence for the existence of the illicit association [between the repressive forces], and then evaluate if each person who stands accused in the trial participated or contributed to the unlawful association and how he did so.³⁶

For someone like me who had never sat through a trial or even walked into a courtroom before, the most poignant moments are the testimonies of survivors and

35 Personal interview, Pablo Llonto, Buenos Aires, Argentina, 26 September 2013.

36 Alejandra Dandan, ‘Segunda etapa del Cóndor,’ *Página12*, 14 December 2013.

victims' relatives. Listening to their tales of terror and fear is both a humbling and an inspirational experience. Despite 40 years having elapsed, their commitment to truth and justice has never faltered.

Many testimonies highlight how the transnational coordination of terror was already evident at the time, clearly exposing its extent and operating methodology. The testimony of Jorge, the son of Uruguayan Washington Pérez – involved in the failed negotiations for the release of disappeared Uruguayan trade union leader Gerardo Gatti in 1976 – showed how there was no attempt to hide that Argentine and Uruguayan security forces were working together. Jorge recounted how his father had been a trade union leader in Uruguay for several years. After suffering political persecution, he decided to move to Argentina between 1972 and 1973. Soon after, his family joined him there, where they all lived in the city of Morón, province of Buenos Aires. Past midnight on 13 June 1976, a 10-man-strong taskforce of both Argentine and Uruguayan officers broke into the Washington's home. Jorge did not recognize any of them. They offered him a Nevada cigarette that 'was a Uruguayan brand, you did not have that type of cigarette in Argentina.'³⁷ Jorge's testimony was a tale of fear: their kidnapping took place just a few weeks after Uruguayan politicians Michelini and Gutiérrez Ruiz had been assassinated in Buenos Aires. Washington and Jorge – who asked to accompany his father – were taken, hooded and in separate vehicles, to a clandestine detention centre, which they later identified as Automotores Orletti. Washington subsequently told Jorge he had been able to recognize several Uruguayan policemen in that centre, including Cordero, Gavazzo and Gilberto Vázquez. Jorge narrated how, after several hours that 'felt like an eternity,' both he and his father were freed, dropped off at a train station. The same agents returned to pick up Washington five more times over the following weeks of negotiating Gatti's release until León Duarte (another Uruguayan trade union leader, also held in Orletti and later disappeared) warned him: 'Perro [Washington's nickname], escape because these are killers [*Perro, tomatela que estos son asesinos*].'³⁸ Washington and his family fled Argentina, taking refuge in Sweden.

Similarly, the sister of Luis Enrique Elgueta Díaz (member of the Chilean guerrilla group Revolutionary Left Movement, or MIR) described the circumstances surrounding his disappearance in 1976, as well as her own detention in 1977 in the Club Atlético secret detention centre in Buenos Aires. Laura recounted how her left-wing family suffered a home raid in Santiago in late September 1973, soon after the Pinochet coup. Her parents decided to move to Buenos Aires in April 1974, where they lived in the San Cristóbal neighbourhood and ran a grocery store. In January 1975, their house was raided by the immigration branch of the Argentine Federal Police. Her father was detained for a day and the policemen were looking for one of her brothers, Luis. In June 1976, her brothers, Luis and Carlos, both arrived from Chile because of the deteriorating situation there. During a family meeting, it was decided that they should leave Argentina too and travel to Mexico. They were completing these travel arrangements when Luis was kidnapped in Buenos Aires on the night of 26 July 1976, never to be seen again. Carlos managed to escape to Mexico,

37 Trial hearing, Buenos Aires, 27 September 2013.

38 Ibid.

while the rest of the family decided to move house within Buenos Aires. Almost a year later, the night of 12 July 1977, the family home suffered a third raid. Laura and her sister-in-law Sonia, who was visiting from Mexico, were taken away by joint forces operatives. Upon arriving at the clandestine centre, Laura and Sonia could see a contingent of Chileans awaiting them and asked them, 'Why are you here?' to which they responded: 'Because Pinochet so wants it [*así lo quiere*].'³⁹ She was tortured and repeatedly interrogated about Luis, even though her interrogators seemed to already know the answers to their questions:

Did your brother belong to the MIR?

Yes, he did.

You are not lying, I see.

Do you have my brother?

No, I do not anymore. They took him back to Chile because he had too much to pay back for [*porque allí tenía muchas cuentas por pagar*].⁴⁰

Laura and Sonia were later released and warned that they should abandon Argentina and stop looking for Luis. They immediately escaped to Mexico.

For the survivors and victims' relatives, the opportunity to give testimony before the Tribunal constitutes a form of reparative justice, in addition to the retributive element intrinsic to the criminal justice process. Often highlighting the impunity surrounding the crimes in their native countries, witnesses frequently thanked the judges for listening and asserted that they treasured the chance to relate their stories and were grateful for the judges' work in establishing what had happened to their relatives.

CONCLUDING REMARKS

The verdict is expected in October/November 2015. Nonetheless, some preliminary conclusions about the trial can be attempted. Notwithstanding the verdict, the trial's significance is noteworthy in four respects. First, together with the *plan sistemático*, the Condor prosecution was key in undermining the impunity surrounding past crimes in Argentina, leading to the reopening of trials in 2006. Secondly, the case is unprecedented for endeavouring to account for the complex and interrelated layers of political repression in South America, exposing its national and transnational dimensions. Thirdly, for the first time a criminal court is probing the whole Operation Condor transnational terror network, which persecuted exiles and activists beyond borders. The trial revolves around 106 cases of disappearances that are representative of the terror network's *modus operandi* and crimes. In this way, the trial is the first to ever probe the existence of this transnational joint criminal enterprise to perpetrate human rights violations across South America. Lastly, activists and lawyers remain hopeful that the trial will have an impact on neighbouring countries, especially those that have lagged behind in providing accountability, such as Brazil, Paraguay and Uruguay. A former lawyer in the case raised a parallelism with what happened in

39 Trial hearing, Buenos Aires, 25 March 2014.

40 Ibid.

the 1990s when European courts began to investigate and prosecute Argentine military officers for dictatorship-era abuses. Those foreign trials had a positive impact in Argentina: they 'hurt the pride of local judges,' pushing them to investigate the crimes at home. A similar reaction could be envisaged with Uruguay because of the proximity to Argentina,⁴¹ but also because the only foreign defendant in the trial is Uruguayan.

As I prepared for fieldwork months before travelling, I often found myself longing to be inside the courtroom. Now, after sitting through numerous and long sessions of the trial, that feeling of anticipation has been vindicated. Exactly forty years since the creation of Operation Condor in 1975, this trial is indeed a historic occurrence. Nationally, this court is investigating atrocities committed on Argentine soil by international taskforces, which murdered political opponents with complete impunity. Regionally, the Tribunal is exposing the way in which the dictatorships collaborated to perpetrate unspeakable atrocities against women, men and children, borders notwithstanding, thus revealing how the national and transnational dimensions of political repression were deeply intertwined in South America. Globally, the court is pioneering a new focus in accountability for human rights violations: transnational crimes. This first attempt to obtain accountability for transnational atrocities may help generate useful lessons and models that could catalyze further accountability efforts for transnational crimes. In the aftermath of the sentence, other Condor countries – Brazil, Chile and Uruguay – may feel compelled to investigate and prosecute such atrocities too, since the present trial only tackles a fraction of Operation Condor crimes and is not exhaustive. Furthermore, this unprecedented experiment in accountability for transnational atrocities may push TJ and human rights scholars, activists and practitioners to consider how redress can be provided to victims of contemporary transnational crimes, such as trafficking of women or migrants and extraordinary renditions of alleged terrorists.

41 Personal interview, Marcos Kotlik, Buenos Aires, Argentina, 19 September 2013.