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# The Politics of Measurement: The Contested Count of the Disappeared in Argentina

Alison Brysk\*

[T]he statistical analysis of human rights must always be informed by political analysis.<sup>1</sup>

## INTRODUCTION

Measurement is a critical first step in assessing human rights violations, comparing cases, and designing appropriate international and domestic policies. But measurement is not a neutral technical exercise; in public policy, information is contested terrain. Sensitive scholars of human rights have often discussed the political difficulties of collecting and interpreting data on human rights violations.<sup>2</sup> These analysts focus on political obstacles to the academic production of data—but political factors also influence the policy consumption of data. Debates on the level and nature of human rights violations shape international and domestic public policy. Measure-

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1. Michael Stohl et al., *State Violation of Human Rights: Issues and Problems of Measurement*, 8 HUM. RTS. Q. 592, 598 (1986).
2. See Robert J. Goldstein, *The Limitations of Using Quantitative Data in Studying Human Rights Abuses*, 8 HUM. RTS. Q. 607 (1986); Robert J. Goldstein, *The Limitations of Using Quantitative Data in Studying Human Rights Abuses (revised)*, in HUMAN RIGHTS AND STATISTICS: GETTING THE RECORD STRAIGHT 35 (Thomas B. Jabine & Richard P. Claude eds., 1992); Stohl et al., *supra* note 1; Andrew D. McNitt, *Some Thoughts on the Systematic Measurement of the Abuse of Human Rights*, in HUMAN RIGHTS: THEORY AND MEASUREMENT 89 (David L. Cingranelli ed., 1988); cf. Christopher Mitchell et al., *State Terrorism: Issues of Concept and Measurement*, in GOVERNMENT VIOLENCE AND REPRESSION: AN AGENDA FOR RESEARCH 1 (Michael Stohl & George A. Lopez eds., 1986) (referring specifically to state terrorism).

ment must be treated as a component of—not a precursor to—the politics of human rights.<sup>3</sup>

The politics of measurement begin with politically driven obstacles to assessment and interpretation. Using Stohl's multidimensional approach, we can map the barriers to determining the intensity/frequency, scope/severity, and range of abuses.<sup>4</sup> Frequency (numbers affected) is the most common comparative indicator. But dictatorial regimes often establish a clandestine, repressive apparatus to enhance the chilling effects of a "culture of fear,"<sup>5</sup> and state terror has an impact not captured by a body count.<sup>6</sup> Secrecy—and especially the use of forced "disappearance"—is also a deliberate state strategy to thwart human rights monitoring and evade accountability.<sup>7</sup> Scope (types of violations) and range (victims' characteristics) are rarely incorporated in aggregate quantitative assessments, but may change the social and political impact of abuse and influence subsequent debates on human rights policy.<sup>8</sup> Accurate political analysis of the impact of human rights violations requires a context-sensitive and morally distressing assessment of social values: What is the impact of a "disappearance" in Argentina as compared to the appearance of a mutilated corpse in El Salvador? Why does the assassination of one foreign clergyman generate as much protest as the killing of 100 peasants?

The consumption of human rights measurement has an impact on domestic human rights reform, foreign aid, and international policy. During transitions to democracy, the widespread establishment of investigatory commissions on past abuses is a testament to the social value of information in the democratization process (such as those in Argentina, Chile, Brazil, Germany—and even Uganda). Beyond its historical/interpretive function, investigation often catalyzes a *politics of information*, in which various political forces in the subject state use the figures to argue for their own

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3. Although there is a wide and normatively important debate on the character and definition of human rights, this essay will concentrate on a narrowly-defined core set of *rights of the person*: freedom from state-sponsored torture, arbitrary imprisonment, and deprivation of life.
  4. See Stohl et al., *supra* note 1; George A. Lopez & Michael Stohl, *Problems of Concept and Measurement in the Study of Human Rights*, in *HUMAN RIGHTS AND STATISTICS: GETTING THE RECORD STRAIGHT*, *supra* note 2, at 216.
  5. Juan E. Corradi, *The Culture of Fear in Civil Society*, in *FROM MILITARY RULE TO LIBERAL DEMOCRACY IN ARGENTINA* 113, 120 (Monica Peralta-Ramos & Carlos H. Waisman eds., 1987); see Mitchell et al., *supra* note 2.
  6. See Mitchell et al., *supra* note 2.
  7. Goldstein, HUM. RTS. Q., *supra* note 2, at 618. On working with missing data, see Douglas A. Samuelson & Herbert F. Spirer, *Use of Incomplete and Distorted Data in Inference about Human Rights Violations*, in *HUMAN RIGHTS AND STATISTICS: GETTING THE RECORD STRAIGHT*, *supra* note 2, at 62.
  8. Goldstein, in *HUMAN RIGHTS AND STATISTICS: GETTING THE RECORD STRAIGHT*, *supra* note 2, at 49–53.

preferred human rights policies. At a bilateral level, the assessment of abuses influences the level and type of foreign aid a state will receive.<sup>9</sup> Finally, international judgments on a regime's repressiveness shape international policy. For example, measurement of the scope of the Holocaust inspired the Nuremberg trials, UN human rights mechanisms, and the founding of the state of Israel.

These issues generated by the political sources and implications of measurement will be examined more concretely through the debate over the number and nature of human rights violations under Argentina's last military dictatorship (1976–1983).<sup>10</sup> The Argentine case illustrates these issues especially clearly for several reasons. First, the level of contestation was exacerbated by a high level of indeterminacy because repression in Argentina was heavily concentrated in disappearances. Second, scarce information was politically salient as Argentina's transition to democracy allowed for significant human rights reform and concomitant policy debate. Contestation and political salience were multiplied by the presence of a strong domestic human rights movement which used the politics of information as one of its strategies. Finally, the Argentine military's use of unusual, repressive tactics, such as the illicit adoption of the children of women pregnant when kidnapped, highlights the role of qualitative factors in generating domestic protest and international condemnation.

The essay will begin by describing the nature of repression under the Argentine military regime. Inherent difficulties in measuring repression will then be discussed. The article will chronicle the use of contested information by various parties to advocate different human rights policies under the successor Alfonsín administration (1983–1989). The contribution of qualitative factors will be explored. In conclusion, the Argentine case will be assessed in terms of implications for future comparative research.

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9. See LARS SCHOULTZ, *HUMAN RIGHTS AND UNITED STATES POLICY TOWARD LATIN AMERICA* (1981); DAVID P. FORSYTHE, *HUMAN RIGHTS AND U.S. FOREIGN POLICY* (1988); David L. Cingranelli & Thomas E. Pasquarello, *Human Rights Practices and the Distribution of U.S. Foreign Aid to Latin American Countries*, 29 AM. J. POL. SCI. 539 (1985). But see James M. McCormick & Neil J. Mitchell, *Human Rights and Foreign Assistance: An Update*, 70 SOC. SCI. Q. 969 (1989) (citing national security as a major consideration); David Carleton & Michael Stohl, *The Role of Human Rights in U.S. Foreign Assistance Policy: A Critique and Reappraisal*, 31 AM. J. POL. SCI. 1002 (1987) (criticizing Cingranelli & Pasquarello).
  10. This analysis will draw on field research conducted in Argentina during 1987 and throughout 1988, in addition to the usual documentary sources. The author interviewed a total of 96 persons, representing human rights activists, government officials, officials of political parties, unions, and other social organizations, academics, journalists, and military officers. This research was supported by the Mellon New Directions Fund, Institute for the Study of World Politics, and the Tinker Foundation.

## HUMAN RIGHTS IN ARGENTINA

Between 1976 and 1983, Argentina was ruled by a succession of military juntas which engaged in gross and systematic human rights violations as part of a policy of state terror designed to intimidate and demobilize Argentine society. Under a bureaucratic authoritarian regime, the military pursued a sweeping political program oriented by structural transformation of the economy and the extension of an anti-insurgency campaign to all areas of political life. Civil and political rights were denied: the Constitution was suspended, Congress was closed, unions were terrorized, and the judiciary was silenced.<sup>11</sup>

The fundamental rights of the person were also violated extensively and repeatedly. Tens of thousands of people were direct victims of repression in Argentina. The characteristic technique was disappearance, in which unarmed citizens were kidnapped by gangs of armed men, often in the middle of the night from their family homes.<sup>12</sup> Disappearance was followed by forced removal to clandestine detention centers, extensive torture, and, almost always, murder. While the fate and even the existence of the disappeared was not acknowledged, as many as ten thousand more Argentines were held as official political prisoners. Political prisoners generally suffered torture, lack of due process, and extremely inhumane conditions. During this period, Argentine citizens were also subjected to temporary kidnapping, torture, rape, and extortion by military, police, and other state-sponsored forces.

The Argentine military even introduced a new form of human rights abuse: the kidnapping of missing children. Pregnant women were detained, tortured, and mistreated until they gave birth. The mothers were killed, while the children were taken and illicitly adopted by friends and relatives of the torturers. Human rights violations in Argentina have been extensively documented by Argentine and international investigations.<sup>13</sup>

One reason that measurement of these abuses mattered so much in Argentina was that Argentina was one of the few countries in the world to attempt sweeping human rights reforms following its transition to democracy. In each reform attempt, information on human rights abuses played an

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11. See generally JOHN SIMPSON & JANA BENNETT, *THE DISAPPEARED AND THE MOTHERS OF THE PLAZA* (1985); DAVID ROCK, *ARGENTINA, 1516–1987: FROM SPANISH COLONIZATION TO ALFONSÍN* (1987); JUAN CORRADI, *THE FITFUL REPUBLIC* (1985).

12. ARGENTINE NATIONAL COMMISSION ON THE DISAPPEARED (CONADEP), *NUNCA MÁS 11* (Writers & Scholars Int'l Ltd. trans., 1986) [hereinafter CONADEP].

13. See AMNESTY INT'L, *ARGENTINA: THE MILITARY JUNTAS AND HUMAN RIGHTS: REPORT OF THE TRIAL OF THE FORMER JUNTA MEMBERS, 1985* (1987); AMERICAS WATCH, *TRUTH AND PARTIAL JUSTICE IN ARGENTINA: AN UPDATE* (1991); INTER-AMERICAN COMM'N ON HUMAN RIGHTS, *ORG. OF AM. STATES, REPORT ON THE SITUATION OF HUMAN RIGHTS IN ARGENTINA* (1980); CONADEP, *supra* note 12.

important role. When democratically-elected President Raul Alfonsín assumed office in December 1983, he appointed a blue-ribbon commission (the Argentine National Commission on the Disappeared, CONADEP) to investigate the nature and level of the forced disappearances practiced by his military predecessors. Information gathered by this commission, along with the records of human rights groups, formed the basis for the prosecution and conviction of the former military rulers in unprecedented trials. Developments in the judiciary and further efforts by human rights organizations resulted in an attempt to extend these trials to hundreds of military officers implicated in the repression. After a series of military uprisings under Alfonsín, these wider trials were limited to a handful of particularly egregious violators. In 1989–1990, Alfonsín's successor Carlos Menem pardoned all officers accused or convicted of human rights violations.

Human rights reform in Argentina was spearheaded by a shifting coalition of nine human rights organizations. While some—like Las Madres de Plaza de Mayo (Mothers of the Disappeared)—mobilized public support through symbolic protest, others—such as the Permanent Assembly for Human Rights (APDH)—collected information which contributed directly to public policy. On the issue of missing children, the Grandmothers of the Plaza de Mayo (whose pregnant daughters or daughters-in-law had been kidnapped) combined moral appeals and information-gathering with great success. Despite tremendous inherent obstacles and the suspension of wider trials, the Grandmothers were able to locate hundreds of missing children and legally restore several dozen to their biological families. Although the human rights movement as a whole was frustrated in its attempt to establish universal and irrevocable legal accountability for human rights abuse in Argentina, the human rights movement educated and transformed Argentine society in many important ways.<sup>14</sup> Human rights investigation, reform, and mobilization in Argentina also had an impact on US foreign policy, international organizations, and human rights movements in other countries.<sup>15</sup>

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14. ALISON BRYSK, *THE POLITICS OF HUMAN RIGHTS: SYMBOLIC PROTEST, SOCIAL CHANGE AND DEMOCRATIZATION IN ARGENTINA* (1994); Mark Osiel, *The Making of Human Rights Policy in Argentina: The Impact of Ideas and Interest on a Legal Conflict*, 18 J. LATIN AM. STUD. 135 (1986).
  15. See IAIN GUEST, *BEHIND THE DISAPPEARANCES: ARGENTINA'S DIRTY WAR AGAINST HUMAN RIGHTS AND THE UNITED NATIONS* (1990); Alison Brysk, *From Above and Below: Social Movements, the International System, and Human Rights in Argentina*, 26 COMP. POL. STUD. 259 (1993); Kathryn Sikkink, *Human Rights, Principled Issue-Networks, and Sovereignty in Latin America*, 47 INT'L ORG. 411 (1993).

## MEASUREMENT PROBLEMS

Within the developing world, Argentina should present a promising case for the accurate measurement of human rights violations. Argentina is highly urbanized, its citizens are literate and educated, and government records are well-established. As noted above, the Argentine situation has been widely investigated. State terror ended in 1983—long enough to allow for a period of research, but not so long that records and memories should fade. Yet the level of indeterminacy is very high.

Complicating this, information is unevenly distributed—and interdependent. While the scope (form) of human rights abuse in Argentina is relatively clear, the intensity (level) and range (persons affected) are more difficult to determine. However, intensity is the measure which predominates in comparative studies of human rights. An accurate count also affects the interpretation of scope and range because a total (or at least an overview) is needed to determine how reported types of victims and types of abuse fit into overall patterns. Why is a tally of victims so difficult in Argentina?

First, the predominant tactic of disappearance is inherently difficult to document and even to define. Because state terror in Argentina followed a period of internal conflict, some irregular executions of regime opponents were reported in the press as “guerrilla shootouts.”<sup>16</sup> Because the figure for disappearances focuses on unresolved cases, most of the victims of acknowledged irregular executions are not counted as disappeared—nor are they included as official political prisoners. On the other hand, many of the official political prisoners initially disappeared and then “reappeared” in prison after a period of clandestine detention. This also creates problems of categorization and the possibility of double-counting some cases (although the CONADEP did cross-check prison records). Another mode of resolved disappearance which is not included in the total is temporary disappearance. Temporary disappearance always involved kidnapping and torture, sometimes included rape and extortion, but did not result in murder or imprisonment. In this regard, context bias hampers the basis of comparative data. Incidents of kidnapping and torture which would register as human rights violations elsewhere did not count in Argentina. The volume of worse abuses set a perverse benchmark and absorbed monitoring capabilities.<sup>17</sup>

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16. AMNESTY INT'L, *supra* note 13, at 26. It is likely that many of the victims of these encounters were unarmed or previously disarmed. Some corpses were found handcuffed and blindfolded; others were not wearing belts or shoelaces, which was significant because such items were always confiscated from detainees. RICHARD GILLESPIE, *SOLDIERS OF PERON: ARGENTINA'S MONTONEROS* 235 (1982).

17. This may present a general problem for weighted indices of human rights performance. Dipak K. Gupta et al., *Creating a Composite Index for Assessing Country Performance in*



Setting aside these uncertainties and limitations, even a narrow attempt to tally unresolved cases of permanent disappearance (to be subsequently matched by totals in the other areas discussed) encounters immediate problems in locating and using data sources.<sup>18</sup> Possible data sources for disappearances include reports of witnesses or relatives of the missing, military records, accounts of survivors, records of cremations, and exhumations of unidentified burials. Each of these is potentially flawed. Reliance on reports will overlook victims whose abduction was not witnessed or whose relatives were intimidated, distrustful, or socially or geographically isolated. The existence of military records at clandestine detention centers was established at the Argentine trials of the juntas. But survivors also reported massive destruction of records preceding the 1983 transition to democracy, and the CONADEP received no response to hundreds of requests for information from the military and police.<sup>19</sup> Accounts of the hundreds of survivors of clandestine concentration camps can help to establish the fate or location of specific individuals who disappeared; the CONADEP identified 1300 individuals in this way. But the number, proportion, and representativeness of survivors is too low to permit an overview of the repression.<sup>20</sup> Conversely, sudden increases in cremations can indicate a range of total deaths to be investigated, but cannot identify individuals or trace the murder of individuals to state-sponsored forces. Systematic exhumations can provide information both on individuals and patterns, but cannot address cases in which victims were cremated or dumped at sea,<sup>21</sup> which may reflect important patterns, such as the branch of the military involved.<sup>22</sup> Combining data sources will alleviate some of these problems, but others are irremediable.

Thus, we see that there is no clear way to determine definitively how many people disappeared permanently in Argentina or who they were. The

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*the Field of Human Rights: Proposal for a New Methodology*, 16 HUM. RTS. Q. 131 (1994).

18. The human rights organization Asamblea Permanente por Los Derechos Humanos (APDH) has established a preliminary set of totals in these categories. The APDH lists "definitive disappearances" at 8910; subsequently freed (survivors or official prisoners) at 889; and acknowledged deaths at 2462—for a combined count of 12,261. ASAMBLEA PERMANENTE POR LOS DERECHOS HUMANOS, LAS CIFRAS DE LA GUERRA SUCIA (1988).
19. CONADEP, *supra* note 12, at 436–37.
20. For example, a disproportionate number of survivors were from the Naval Mechanics School clandestine detention center. The Navy under Admiral Massera engaged in behaviorist experiments designed to create a cadre of "rehabilitated" dissidents loyal to the Admiral's unorthodox political program and personal ambitions.
21. Clyde C. Snow & Maria J. Bihurriet, *An Epidemiology of Homicide: "Ningun Nombre" Burials in the Province of Buenos Aires from 1970 to 1984*, in HUMAN RIGHTS AND STATISTICS: GETTING THE RECORD STRAIGHT, *supra* note 2, at 328, 331.
22. See CHRISTOPHER JOYCE & ERIC STOVER, WITNESSES FROM THE GRAVE: THE STORIES BONES TELL (1991).



most comprehensive attempt to date has been the report of Alfonsín's CONADEP, which collected reports from witnesses, relatives, and survivors in 1984. The CONADEP issued a multi-volume report and listing of the documented disappeared, resulting in a self-identified preliminary figure of 8960.<sup>23</sup> The CONADEP Secretary and human rights activist Graciela Fernandez Meijide reports that the Commission was able to process less than half of the material received during its nine-month tenure.<sup>24</sup> Another indication of the problems with the CONADEP figure is the receipt of scattered, new reports of disappearances under the dictatorship from rural areas as late as 1988 (which were not added to the completed CONADEP report). Grassroots activists in poor, urban neighborhoods also reported local figures which far exceeded those officially registered for their area. One bishop alone tracked 2800 cases for a single diocese in Greater Buenos Aires—nearly a quarter of the CONADEP's total for the entire country.<sup>25</sup> Yet the 1984 CONADEP figure has been widely adopted by researchers, foreign observers, and domestic political forces in Argentina. The scholar's plea to couple multi-dimensional reporting with multiple and labeled sources of information<sup>26</sup> has been ignored in both policy and academic venues when studying Argentina.

International sources are also limited and controversial.<sup>27</sup> The most commonly cited sources—Amnesty International, Freedom House, and State Department annual reports—have a diachronic rather than a summary mandate. Freedom House makes no attempt to quantify intensity (number of victims); Amnesty International and the State Department simply report totals compiled by Argentine human rights groups in a given year. The concentration on trends can also distort these reports. In trying to build a case for “improvement” in Argentina's human rights record to justify resumption of multilateral lending, the State Department reported only twenty-eight new cases of disappearance for 1980 (and only twelve of these were said to be “credibly documented”).<sup>28</sup> For the same period, Argentine

23. CONADEP, *supra* note 12, at 447.

24. See ASAMBLEA PERMANENTE POR LOS DERECHOS HUMANOS, *DERECHOS HUMANOS, DEMOCRACIA Y EL FUTURO DE LA APDH* 15 (1985).

25. Interview with Bishop's Office in Buenos Aires (Nov. 23, 1988).

26. See Stohl et al., *supra* note 1, at 604–05; McNitt, *supra* note 2, at 99; Lopez & Stohl, *supra* note 4, at 228–29.

27. See Goldstein, in *HUMAN RIGHTS AND STATISTICS: GETTING THE RECORD STRAIGHT*, *supra* note 2; Lopez & Stohl, *supra* note 4.

28. DEP'T OF STATE, *COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: REPORT SUBMITTED TO THE U.S. SENATE COMMITTEE ON FOREIGN RELATIONS AND THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON FOREIGN AFFAIRS* 329 (1981). For an assessment of State Department reports that stresses improvement since the period discussed, see Judith E. Innes, *Human Rights Reporting as a Policy Tool: An Examination of the State Department Country Reports*, in *HUMAN RIGHTS AND STATISTICS: GETTING THE RECORD STRAIGHT*, *supra* note 2, at 235.

human rights organization records showed seventy-nine cases—a figure later confirmed by the CONADEP investigation.<sup>29</sup> Similarly, in 1978—at the height of the repression—Freedom House ranked Argentina as low but with a “positive outlook”<sup>30</sup> (the basis for this assessment is unexplained). The following year, when new disappearances had declined, Argentina received a better score for civil liberties (but not political freedom), and the outlook had been demoted to neutral!<sup>31</sup> Freedom House comparative rankings are also unjustified: in 1978, Argentina was rated “as free as Uruguay”<sup>32</sup>—a country with a higher proportion of political prisoners but a fraction of the disappearances of its southern neighbor.<sup>33</sup>

These general problems are exacerbated for particular categories of human rights abuse of special interest for public policy. As mentioned above, the illicit adoption of the children of kidnapped, pregnant women represented a new and particularly reprehensible form of abuse, which generated high levels of condemnation. Under the Alfonsín administration, the measurement of the phenomenon of missing children attained new policy significance because the Grandmothers’ human rights group sought to trace missing children and have them legally restored to their biological families. This is one of the few categories of human rights abuse in which some form of reparation is still possible. But tracing the children required a set of difficult determinations: How many women (and which ones) were pregnant when kidnapped? How many maintained the pregnancy under horrendous conditions and survived long enough to give birth? Where did they give birth, and what were the characteristics of the infants? How many infants survived malnourished pregnancies, traumatic and sometimes unattended births, and illicit adoptions which often involved several changes of location and periods of institutionalization?

Sources for this information are similar to those for the determination of disappearances, but even more problematic. Reports of early pregnancy can be obtained from victims’ conversations, correspondence, or medical records. But only survivors’ accounts or exhumations can establish that a

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29. AMERICAS WATCH, *HUMAN RIGHTS IN ARGENTINA: A REPORT FROM CELS IN BUENOS AIRES* (1983).

30. RAYMOND D. GASTIL, *FREEDOM IN THE WORLD: POLITICAL RIGHTS AND CIVIL LIBERTIES 1978*, at 10 (1978).

31. RAYMOND D. GASTIL, *FREEDOM IN THE WORLD: POLITICAL RIGHTS AND CIVIL LIBERTIES 1979*, at 16 (1979).

32. Gastil, *supra* note 30, at 226.

33. Amnesty International reports avoid these problems by carefully spelling out the scope of abuse and refusing to engage in comparative rankings. Scholars of comparative human rights should also be aware of intermittent qualitative errors in the Freedom House data. For example, the 1978 report contains the statement that “[t]he church continues to play a strong opposition role, as do the trade unions.” *Id.* In fact, the acquiescence of both institutions in the repression shocked Argentine society and catalyzed the establishment of the human rights movement.

particular woman carried a pregnancy to term. Some medical personnel have provided evidence concerning births—but some who did were themselves victimized.<sup>34</sup> Falsified adoption records must be tracked through chaotic courts and complicit judges. Finally, the identity of an infant must be correlated to that of a school-age child. This can be definitively established through genetic blood-typing for grandpaternity, but the procedure requires the cooperation of the putatively illicit adoptive parents.

Similar problems exist for transient forms of abuse such as rape and other forms of torture which did not necessarily result in death. The determination of rape victims assumed potential policy significance in Argentina. One phase of the legislation which progressively limited the liability of military officers for human rights violations exempted rape and thus permitted prosecutions for this form of abuse. Under the 1987 Due Obedience legislation<sup>35</sup> which followed the first military uprising under democracy, kidnapping, torture, and murder were considered plausible means to carry out legitimate counter-insurgency orders, but rape was recognized as an aberrant act. However, prosecutions for rape were rare and difficult. Most rapes of detainees were anonymous, many were committed by groups of repressors, and most were associated with exempt acts of torture in a way that confounded legal definition. By the time survivors were released, no physical evidence was available. Most of the victims did not survive to testify.

## THE POLITICS OF MEASUREMENT

Given this background, it is not surprising that the count of the disappeared was highly contested by political forces seeking to strengthen, weaken, or reshape human rights reform during a conflictual transition to democracy. The contested count was embedded in a nexus of controversial information about the qualitative aspects of human rights violations, which had an important influence on the debate in Argentina.

The Alfonsín administration generally accepted and sought to bolster the CONADEP figure of nearly 9000 disappeared. The administration's convictions, electoral mandate, and the requisites of the transition combined to shape a human rights policy of exemplary reform—restructuring and reorientation with clear numerical and temporal limits. The CONADEP

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34. CONADEP, *supra* note 12, at 294.

35. The Due Obedience legislation of 1987 limited the prosecution of lower and middle ranking officers, who were presumed to be just following orders. See Kathryn Lee Crawford, *Due Obedience and the Rights of Victims: Argentina's Transition to Democracy*, 12 HUM. RTS. Q. 17 (1990).

figure was high enough to justify sweeping reform, such as trials of military officers; it was not on the same scale as the mass murders which have inspired external intervention, civil war, and national collapse, such as the Holocaust or Khmer Rouge Cambodia. For example, the prosecution at the trials of the juntas cited the CONADEP figure to frame the accusation as representing the 9000 disappeared.<sup>36</sup> But Presidential advisors also justified the limited and exemplary trials strategy by favorably comparing the ratios of victims prosecuted in Argentina with that of the Nuremberg trials.<sup>37</sup> The Nuremberg analogy held special significance because several key advisors had spent the dictatorship in exile in (then) West Germany.

The human rights movement, on the other hand, never accepted the CONADEP figure and has argued for a total of 15,000 to 30,000 disappeared. Some human rights organizations appear to base their count on a rough multiplication of sample grassroots reports not captured by the CONADEP. Others retain the estimates they had made prior to the CONADEP investigation, which drew on human rights movement records plugged into formulas suggested by international human rights organizations.<sup>38</sup> In either case, the contested count fueled resistance by some sectors of the human rights movement to the establishment of the CONADEP (in place of their own proposed bicameral investigatory commission with wider powers and indefinite mandate). Precisely because many human rights activists feared that the CONADEP investigation would lead to premature closure and an officially sanctioned undercount. Similarly, the Argentine human rights movement objected to low Reagan-era State Department figures which might soften Congress' stance on aid to the juntas during their later years.<sup>39</sup> Furthermore, the human rights movement has argued for and emphasized range and scope rather than a simple body count: identifying and personalizing the disappeared, chronicling the nature of abuses, and linking specific violations to their perpetrators.

Conversely, the military and social forces supportive of military rule (such as right-wing political parties) have sought to minimize the number of disappearances and reframe them. Military sympathizers seek to deflate the CONADEP figure: they tend to cite the CONADEP figure loosely as "thousands" and often assert that some of those counted as disappeared had actually joined the ranks of the millions of Argentine exiles in Europe and

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36. EL LIBRO DEL DIARIO DEL JUICIO 243 (Editorial Perfil, 1985) (collection of transcripts from the trials of juntas).

37. Interview with Presidential advisor in Buenos Aires (July 28, 1987).

38. JULIO C. STRASSERA & LUIS M. OCAMPO, *SERA JUSTICIA: ENTRE VISTAS* 157 (1986); Interview with human rights movement activist in Buenos Aires (July 25, 1988).

39. AMERICAS WATCH, *THE STATE DEPARTMENT MISINFORMS: A STUDY OF ACCOUNTING FOR THE DISAPPEARED IN ARGENTINA* 3–4 (1983).

Mexico.<sup>40</sup> Deflation is usually coupled with reframing, as references to victims are generally followed by attempts to equate disappearances with military casualties in the counter-insurgency campaign of the late 1970s.<sup>41</sup>

These positions have had broad implications for the key issues of human rights reform in Argentina. The first question addressed by the figures is a historical issue with social, legal, and ethical ramifications: Were human rights violations in Argentina part of a Dirty War? The Argentine military's defense of its role in documented human rights abuses has consisted of the claim that the counter-insurgency campaign of the late 1970s continued during the early years of military rule—such human rights violations represented unfortunate and excessive tactics necessary in an unconventional war. This position was taken by the defense at the trials of the juntas, but rejected on qualitative grounds by both the prosecution and convicting judges because the acts involved also violated military codes and war crimes treaties. Human rights advocates have attempted to discredit the Dirty War hypothesis in quantitative terms. Analysts have shown a significant decline in guerrilla forces before the military took power,<sup>42</sup> an improbable disproportion among (alleged guerrilla) victims relative to military forces and military casualties,<sup>43</sup> and an increase in the proportion of disappearances to executions over the course of the dictatorship.<sup>44</sup> The importance of this issue for the climate of public opinion can be seen in military mutineers' insistence on the recognition of a Dirty War as a key demand during each of the four military uprisings under democracy.<sup>45</sup>

Beyond using figures to establish the basis and patterns of abuse, the Argentine human rights movement struggled with the Alfonsín administration over whether and how investigations and data-gathering should continue. The new democratic government sought to close the book on human rights investigations with the CONADEP report. The raw CONADEP records were closed, filed with an Executive branch Under-Secretary for Human Rights, and sealed to all but government officials and a handful of designated representatives of human rights organizations. The original CONADEP files are not available to scholars, journalists, or international

40. The CONADEP consulted with Argentine embassies and exile communities and visited each of the countries with a significant exile presence.

41. See ISMAEL MONTOVIO, *DERECHOS HUMANOS Y TERRORISMO* (1980); Interview with military officer in Buenos Aires (May 26, 1988).

42. MARTIN E. ANDERSEN, *DOSSIER SECRETO: ARGENTINA'S DESAPARECIDOS AND THE MYTH OF THE DIRTY WAR* 234 (1993).

43. AMNESTY INT'L, *supra* note 13, at 27.

44. See DANIEL FRONTALINI & MARIA C. CAIATI, *EL MITO DE LA GUERRA SUCIA* (1984); ASAMBLEA PERMANENTE POR LOS DERECHOS HUMANOS, *supra* note 18; ANDERSEN, *supra* note 42.

45. See ERNEST LOPEZ, *EL ULTIMO LEVANTAMIENTO* (1988).

organizations, and it is unclear whether records have been preserved outside of Argentina.<sup>46</sup>

Another avenue of investigation, exhumations of unidentified corpses supervised by forensic anthropologists, also generated conflict. The human rights movement split over the desirability and political meaning of exhumations.<sup>47</sup> Those favoring the practice called in a training team from the American Association for the Advancement of Science, led by Clyde Snow.<sup>48</sup> The Argentine team trained by Snow was then rejected by the Under-Secretary for Human Rights, which had its own rather inactive group certified by Argentine courts. The revelations produced by exhumations have influenced policy debates in favor of human rights reform during several key periods, notably during the establishment of human rights policy in 1984. This was accomplished through testimony at the trials of the juntas, and during several trials for the restitution of missing children.<sup>49</sup>

## QUALITATIVE ISSUES

A further challenge to the scholarly focus on highly variable and contested aggregate data is the political impact and interdependence of qualitative characteristics. Stohl's multi-dimensional model adds to the measurement of intensity a recognition of the types of abuse and characteristics of the victims.<sup>50</sup> Scholarly discussions of state terror and research on Argentina suggest that another key variable affecting the political impact of human rights violations is the identity of the perpetrators.<sup>51</sup>

Two features of the types of abuse were especially influential in Argentina: the newly widespread use of forced disappearance, and the illicit adoption of missing children. While the tactic of disappearance was designed to thwart monitoring and resistance, it ironically stimulated higher

46. Interview with Human Rights Secretary in Buenos Aires (Nov. 23, 1988).

47. Human rights activists who opposed exhumations contended that technical issues would overshadow the more important political determination of responsibility. As one movement leader put it, "We want to know who the murderers are; we already know who the victims are!" Interview with leader of Mothers of the Disappeared in Buenos Aires (Aug. 7, 1987).

48. Clyde Snow & Maria Julia Bihurriet, *An Epidemiology of Homicide: Ningún Nombre Burials in the Province of Buenos Aires from 1970 to 1984*, in *HUMAN RIGHTS AND STATISTICS: GETTING THE RECORD STRAIGHT* 328–63 (Thomas B. Jabine & Richard P. Claude eds. 1992).

49. See JOYCE & STOVER, *supra* note 22; Equipo Argentino de Antropología Forense, *Comunicación: El Aporte de la Antropología Forense al Esclarecimiento de las Desapariciones Forzadas*, in *LA DESAPARICIÓN: CRIMEN CONTRA LA HUMANIDAD* 249 (Asamblea Permanente por los Derechos Humanos ed., 1987).

50. See Stohl et al., *supra* note 1.

51. See Mitchell et al., *supra* note 2.

levels of international attention and domestic protest. The methodology of disappearance focused attention on the Argentine case in the international media, and the Argentine situation largely inspired the formation of a new international forum—the United Nations Working Group on Forced Disappearance.<sup>52</sup> While disappearances initially paralyzed domestic resistance, the unresolvability of personal loss later perpetuated a high level of mobilization by victims' families in the human rights movement (to the extent that the movement resisted a later military attempt to simply declare the disappeared dead).

The unprecedented issue of missing children also exercised an influence unexplained by the numbers involved. The Grandmothers' human rights group has identified several hundred cases of missing children. This relatively small proportion of human rights violations in Argentina played an important role in human rights monitoring, protest, and reform. The mere existence of a separate Grandmothers' organization speaks to the differential mobilization potential generated by this tactic. No other group in Argentina represents such a small number of victims, and few groups anywhere are organized around a specific type of abuse. The international community responded strongly with aid, monitoring, and technical assistance. The Grandmothers have received a high level of financial support from foreign governments, churches, and foundations, while the American Association for the Advancement of Science created a new technique of blood-typing for genetic grandpaternity specifically to assist the Grandmothers. The United Nations investigated this issue with special vigor and exerted strong diplomatic pressure for extradition on countries harboring allegedly illicit adoptive parents who had fled Argentina following the transition to democracy. Domestically, prosecutions for child-stealing were exempted from closure under the Due Obedience Law. After lobbying by the Grandmothers, the Alfonsín administration even created a Special Prosecutor to investigate missing children and established a National Genetic Data Bank to provide records for future cases of this sort.<sup>53</sup>

The issue of missing children resonated so strongly because it actually combined a specific type of abuse and type of victim. The ethical basis of human rights insists that the status and behavior of victims is irrelevant, but political analysis demands that we recognize that missing children were politically privileged in Argentina because they were unequivocally *innocent* victims. Other aspects of victims' characteristics also shaped the

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52. See GUEST, *supra* note 15.

53. See GRANDMOTHERS OF PLAZA DE MAYO, MISSING CHILDREN WHO DISAPPEARED IN ARGENTINA, BETWEEN 1976 AND 1983 (1988); Ramón Torres Molina, *La Problemática Específica de los Niños Desaparecidos*, in *LA DESAPARICIÓN: CRIMEN CONTRA LA HUMANIDAD*, *supra* note 49, at 137; JULIO E. NOSIGLIA, *BOTÍN DE GUERRA* (1985).



assessment of human rights abuse and the course of human rights reform in Argentina. As human rights scholars, we tally all deaths equally. But political systems do not just ask *how many*, but *who* is affected by human rights violations.

Who were the disappeared? In keeping with the Dirty War debate, the military and right-wing have claimed that most of the disappeared were guerrillas—or more broadly, *subversivos*. The juntas were ultimately tried and convicted by a civilian court because the military tribunal originally assigned to the case refused to rule on the basis of this characterization: the tribunal claimed that if the alleged victims were guerrillas, the abuses claimed were not crimes.<sup>54</sup> The human rights movement and the CONADEP report attempted to counter these claims in several ways. One was the tactical characteristic of disappearance: most of the documented disappeared were taken from family homes and, by the military's own account, offered no resistance. Another was demographic: to show that a number of victims were too old, too young, or too disabled to be physically capable of guerrilla activity. Of the documented disappeared, almost 150 were children under the age of fifteen, 125 victims were over sixty years old, and 268 were pregnant women.<sup>55</sup> The CONADEP also documented a number of cases in which physically incapacitated persons were kidnapped, including the blind, paraplegics, and convalescents taken from hospital beds.<sup>56</sup> These victim characteristics raised the level of international condemnation and strengthened the trials' prosecution.<sup>57</sup>

Two other kinds of victim characteristics had great political impact internationally and domestically: *cause celebres* and the effect on workers. Internationally, the disappearance of just one citizen—newspaper publisher Jacobo Timerman<sup>58</sup>—elicited disproportionate attention and heavy diplomatic pressure from the United States and Israel, which ultimately resulted in his release. The juntas' relations with France and Sweden were also damaged by the victimization of a small number of individuals, including two French nuns and a Swedish teenager; the status of foreign citizenship, clerical function, and youth turned these into *cause celebres*.

Domestically, the assessment of the incidence of repression on organized labor was politically significant. The CONADEP provided an occupational breakdown of the disappeared which showed that about one-third of

54. HORACIO VERBITSKY, *CIVILES Y MILITARES: MEMORIA SECRETA DE LA TRANSICIÓN* 107 (1987).

55. CONADEP, *supra* note 12, at 285.

56. *Id.* at 332–37.

57. SIMPSON & BENNETT, *supra* note 11; *EL LIBRO DEL DIARIO DEL JUICIO*, *supra* note 36, at 241–327.

58. For an autobiographical account of Timerman's arrest and imprisonment, see JACOBO TIMERMAN, *PRISONER WITHOUT A NAME, CELL WITHOUT A NUMBER* (Toby Talbot trans., 1981).

the victims were blue-collar workers;<sup>59</sup> other reports analyzed the patterns of repression of union leadership.<sup>60</sup> The occupational distribution of disappearances argued for an interpretation of repression as an instrument of economic restructuring rather than counter-insurgency.<sup>61</sup> By highlighting the labor-based Peronist opposition's failure to defend its own members, dissemination of these demographics also strengthened the ruling Radical Party's mandate. The impact on workers also influenced the formation of internal union reform movements, some of which subsequently established union human rights commissions.

The final politically consequential demographic factor not apparent from aggregate quantitative analysis is the identity of the perpetrators of human rights abuse. Human rights groups published studies identifying specific repressors and attempted to delineate institutional, regional, and hierarchical patterns in order to apportion responsibility.<sup>62</sup> The relative participation of military, police, and civilian personnel influenced debates on the scope and shape of military and police reform measures. Inter-service differences in levels of repressive behavior were recognized by differentiated sentences at the trials of the juntas. The lesser implication of the Air Force in the repression led to its Commander's sentence of only four and a half years imprisonment for eight counts of torture—but also to the loyalty of the Air Force in every subsequent military uprising. The witness of, or complicity in, torture by civilians in positions of trust, notably doctors and Church officials, also had a disproportionate social influence. Alfonsín suppressed a list of suspected repressors compiled by CONADEP because of controversy surrounding one name among 1500—the Papal Nuncio.<sup>63</sup> A handful of doctors shown to have participated in torture were tried and convicted even as more numerous military trials involving more serious abuses were suspended under the Punto Final legislation.<sup>64</sup> Even after all perpetrators were pardoned, the human rights movement sponsored campaigns of social repudiation aimed at medical and clerical human rights violators.

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59. CONADEP, *supra* note 12, at 448.

60. See PABLO POZZI, *OPOSICIÓN OBRERA A LA DICTADURA: 1976–1982* (1988).

61. See DAVID PION-BERLIN, *THE IDEOLOGY OF STATE TERROR: ECONOMIC DOCTRINE AND POLITICAL REPRESSION IN ARGENTINA AND PERU* 97–123 (1989).

62. See CENTRO DE ESTUDIOS LEGALES Y SOCIALES (CELS), *TERRORISMO DE ESTADO: 692 RESPONSABLES* (1986); FEDERICO MITTELBACH, *INFORME SOBRE DESAPARECIDORES* (1984).

63. *EL PERIODISTA* (Buenos Aires), Nov. 3–9, 10–16, 1984.

64. The Punto Final legislation of 1986 limited human rights prosecutions to cases brought within 90 days of passage of the law.

## CONCLUSION

What are the implications of this exploration of the Argentine case for comparative research on human rights and public policy? Above all, the politics of measurement in Argentina show that information is not neutral or value-free. The measurement of human rights violations is politically framed, limited, and deployed. Furthermore, the most common indicators of human rights violations—aggregate body counts—may not reflect demographic and qualitative factors which significantly influence public policy. The Argentine experience suggests that the role and weight of the politics of measurement in a given situation will be influenced by the level of inherent indeterminacy in the data, the political space available for its use in policy debates, and the presence of information processors and advocates (such as a human rights movement). Finally, this case reminds us of an ethically disturbing political truth: some lives count more than others.

What does all of this mean for future quantitative research? In general, it argues for the importance of careful specification of the political processes being modelled through measurement and explicit justification of the use of particular measures to represent those processes. This may result in a reduction of the scope for comparative quantitative study, but it should improve its accuracy. More concretely, this essay reinforces the suggestions of other scholars for the use of clearly labeled multiple sources, acknowledgement of sources and ranges of uncertainty, and the construction of multi-dimensional measures of human rights behavior.<sup>65</sup>

In terms of methodology, this may involve disaggregation of overall country-rank measures to reflect types of abuse and ordinal classification rather than a falsely precise human rights score.<sup>66</sup> Another possible approach is the use of typologies in combination with quantitative measures to capture important qualitative distinctions, such as Cingranelli and Wright's classification of legal systems.<sup>67</sup> The idiosyncracies of the Argentine case also suggest that cross-national comparative indices should be cross-checked with country specialists to insure that local political conditions are not in some way distorting or hindering the availability of the data.

Above all, the dynamics of the consumption of data presented here demonstrate the need for more systematic treatment of the implicit, dependent variable of many comparative studies—the impact of human rights behavior and policy on political conditions and processes.

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65. See Stohl et al., *supra* note 1; Goldstein, 8 *HUM. RTS. Q.*, *supra* note 2; McNitt, *supra* note 2; Mitchell et al., *supra* note 2.

66. Neil Mitchell & James McCormick, *Global Human Rights and the Reagan Administration* (1991) (paper presented at the International Studies Association, Vancouver).

67. David L. Cingranelli & Kevin N. Wright, *Correlates of Due Process*, in *HUMAN RIGHTS: THEORY AND MEASUREMENT*, *supra* note 2, at 154.