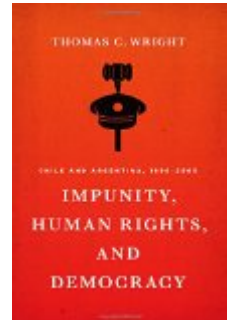


Thomas C. Wright. *Impunity, Human Rights, and Democracy: Chile and Argentina, 1990-2005.* Austin: University of Texas Press, 2014. 206 pp. \$55.00, cloth, ISBN 978-0-292-75926-8.



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Augusto Pinochet, like many dictators before him, expected a secure and cosseted retirement. We know that it was not to be, but he had made thorough preparations, including the usual nest egg abroad. He preserved personal power through a web of institutional constraints in Chile's "protected democracy," and when he finally stepped down after twenty-five years as army commander, he gained parliamentary immunity as a Senator for Life. Although warned before traveling to London in October 1998, he was apparently unable to conceive that his multilayered impunity could be in real danger. His sunset years, of course, proved stormy. Hounded abroad and at home for human rights crimes, he was only rescued in the end by death in 2006. It was a personal drama played out within the surprising global emergence of human rights as a cause with real consequences.

As the early post-Cold War era recedes into the past, scholarship has begun to reach more general judgments of these remarkable developments. We have an abundant literature on the

successes of the international human rights movement, the expansion of international law (such as universal jurisdiction), and the creation of new institutions (such as the International Criminal Court and various ad hoc tribunals). This body of work, which reflects the internationalist perspectives in the Global North, often lacks serious analysis of *national* developments at the time.[1] This is particularly unfortunate in the matter of impunity, because a few countries made exceptional advances in bringing their former rulers to justice through their own institutions. Their stories should be part of the larger history and are critical to genuine progress on the ground, because it is there, within national institutions, that human rights are actually realized and protected—or not.

Impunity, Human Rights, and Democracy: Chile and Argentina, 1990-2005, by Thomas C. Wright, is a welcome and significant step toward a more integrated understanding of how the exemption of powerful leaders from legal punishment—impunity—was dismantled. His book rightly takes account of important international influ-

ences and developments, but his focus is on illuminating the achievements of Argentina and Chile, which are considerable. Each has used its own laws and ordinary national courts to investigate, prosecute, and punish not just a former dictator or a handful of minions but many *hundreds* of those responsible for violating the fundamental human rights of their fellow citizens (table 1, p. 126). Other Latin American countries have convicted former rulers for human rights crimes—Alberto Fujimori in Peru in 2009, Juan María Bordaberry in Uruguay in 2010, and Efraín Ríos Montt in Guatemala in 2013—but Wright argues that these prosecutions represented selective, emblematic justice (like that of Greece against the colonels in 1975). What Argentina and Chile have accomplished, he believes, is unique in “volume, duration, and indigenous character” (p. 117). Whether they are judged globally or within their own national histories, he is right.

A number of features stand out in their efforts to address impunity. The first is their prolongation in time, far beyond what scholars of democratic transitions had anticipated.^[2] Argentina returned to elected rule in 1983, Chile in 1990, but in both cases real breakthroughs only occurred much later. Beginning in the mid-1990s in Argentina and reinforced by the Pinochet case, both experienced a second burst of rapid advance—a historical process that continues even today, with many cases still proceeding through their justice systems. Wright judges that “the eclipse of impunity” was achieved by 2005, in the sense that accountability for human rights crimes was established as a matter of principle, law, and judicial practice. The events and different forces involved in this unexpected second season of justice are well described by Wright, drawing on the substantial literatures on transitional justice and historical memory.

Their historical paths to address impunity were also winding, sporadic, and often ambiguous rather than linear. This was particularly true of

Argentina, which began with an official truth commission and trials of the military juntas but then stalled in the face of military rebellions and a series of measures under Presidents Raúl Alfonsín (1983-89) and Carlos Saúl Menem (1989-99) that effectively reinstated legal impunity. In Chile even the conviction and jailing of the head of Pinochet’s dreaded secret police in 1995, under President Eduardo Frei Ruiz-Tagle (1994-2000), was simultaneously a major achievement and a demonstration of the more general impunity still reigning at the time. The subsequent breakthroughs there and in Argentina were affected by a wide range of new factors, domestic and international, that still make confident historical interpretation difficult.

Finally, it is striking how much the quest to end impunity was affected by the fundamental political context of fragile, imperfect, “transitional” democracies. Argentines and Chileans themselves—particularly those associated with the cause of human rights—were often critical of their failings. Nevertheless, the fact that both countries had elected governments and some measure of the rule of law did permit them, eventually, to confront the problem of impunity. And their accomplishments depended on political processes, led by elected politicians who could be turned out of office by popular vote. Argentina’s political institutions proved less robust than Chile’s—particularly during the deep economic crisis of 2001-2002—but they displayed surprising resiliency and possessed the fundamental legitimacy to avoid military intervention, the remedy to so many crises throughout the twentieth century. Teasing out impunity from the whole range of political issues these countries faced is a complex and challenging task.

Wright has given us a comprehensive and concise account of the factors—national human rights movements, related international developments, political leaders, the armed forces, public opinion, a range of individuals, and particular

events—at play. His analysis is consistently informed by well-considered judgments and a historian's eye for shifts in context and turning points. Out of the multiple factors that made justice possible, he ultimately highlights the strength of their national movements for human rights, buttressed by the standards and practices of an evolving international human rights regime. As he writes in his brief conclusion, "In this study I have attempted to explain how Argentine and Chilean human rights advocates, in conjunction with the international human rights lobby, accomplished ... [the] ending of impunity for all those implicated in human rights violations committed under past repressive regimes" (p. 117).

In many ways, this is a persuasive interpretation. He is right that civil-society activism for human rights—particularly in court systems which were notably accessible to citizen initiative—was the motor that drove historical processes for justice in this period. The extraordinary scope of Chile's and Argentina's advances against impunity would never have been possible if they had depended completely on pragmatic and often reluctant democratic politicians—or for that matter, solely on international innovations in human rights, which had to be translated and utilized by domestic activists to have real effect. As a matter of law and legal justice (which is Wright's focus), it is difficult to imagine what these two countries would have accomplished without their human rights movements evolving new strategies to challenge, over and over, the rules of limited democracies, constricted by authoritarian legacies inherited from their military regimes (and particularly in Argentina, a longer political history).

If human rights movements were a necessary condition, however, they were clearly not a sufficient one. Wright is fully conscious of this, and yet his account does not really communicate the utter *novelty* of the human rights movement as a political actor. The movement had no real precedent in either national history, and its morally grounded

demands presented unique challenges to even the most sympathetic practical politicians. A more political reading of these histories might emphasize how different elected leaders (with their own values, flaws, idiosyncrasies, and self-interest) dealt with these tensions within the constraints of partially democratized polities. To Wright's great credit, he provides abundant evidence to allow such an alternative interpretation.

Consider, for example, the politics of asserting civilian control over the armed forces and of carrying out fundamental reforms of the judiciary. Both were critical to ending impunity, but in neither case did politicians envision that as their primary goal. Civilian supremacy also proved crucial to the emergence of an independent judiciary capable of tackling human rights cases, but this was a complementary objective, subordinated when necessary to what presidents judged politically realistic or desirable.

Elected presidents in both countries tended to judge reining in the military a preeminent task, vital to their own authority and to democratic governance. In Argentina, the Alfonsín and Menem governments chose to appease the armed forces on impunity, as already noted, but also drastically cut military budgets and even abolished conscription (Menem, with *peronista* legislative majorities). The major advances on impunity under Néstor Kirchner (2003-2007) were possible because his predecessors had already succeeded politically in establishing civilian supremacy. (Kirchner, though a strong leader on human rights and historical memory, was remarkably ungracious in acknowledging what Alfonsín and Menem accomplished.) In Chile, Presidents Patricio Aylwin (1990-94) and Frei were more cautious toward Pinochet's army than their Argentine counterparts and failed in their legislative efforts to appease military anxieties. But socialist Ricardo Lagos (2000-2006) succeeded in subordinating the armed forces to civilian author-

ity, which gave judges political reassurance that they could proceed with human rights cases.

Judicial reforms also contributed to ending impunity, but that goal was not what drove the political processes that made them possible. Already in 1983 Alfonsín strengthened habeas corpus and made torture a capital offense, and Menem (whom no one would mistake for a human rights champion) continued institutional reforms during his rule. In Chile, sidelined democratic politicians had begun studying judicial reform in the late 1970s (the very high noon of Pinochet's power) and after transition forged a broad reformist coalition that included the Right and in 1997 realized the most sweeping changes in a century. But since the Chilean courts continued to use their old system of investigating magistrates in human rights cases, rather than reformed procedures, their new independence and political weight is probably best understood within a broader political dynamic. In both countries, judicial reforms were part of a wave of justice-system "modernization" that swept Latin America in these decades for many reasons distant from protecting human rights and ending impunity—even when it eventually served both (p. 74).

These different framings remind us that we are still close to these developments and events. Although they are part of "the past," historicizing them more fully remains a challenge. And the problem of impunity for past human rights crimes is, alas, still very much with us. Wright's book offers no simple "lessons" to be drawn from the Argentine and Chilean experiences. He has written, instead, a remarkably comprehensive, compact, and thoughtful account about how it was possible to achieve a measure of justice under the rule of law. In its focus on national historical processes, his volume significantly advances our existing understanding of international human rights. And it should find readers concerned with transitional justice, historical memory, democratic politics, and legal impunity. These are

stories that deserve to be known and debated beyond their own citizens.

Notes

[1]. The influential study by Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge: Belknap Press, 2010)—which is notably deficient in its analysis of Latin America—is a leading example of this larger literature.

[2]. For example, Guillermo O'Donnell and Philippe C. Schmitter, *Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies* (Baltimore, MD: The Johns Hopkins University Press, 1986); and Jon Elster, *Closing the Books: Transitional Justice in Historical Perspective* (Cambridge: Cambridge University Press, 2004).

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