

9-1-1989

## The Fragile Bloom of Democracy

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### Recommended Citation

Irwin P. Stotzky, *The Fragile Bloom of Democracy*, 44 U. Miami L. Rev. 105 (1989)

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# ESSAYS

## The Fragile Bloom of Democracy

IRWIN P. STOTZKY\*

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To abolish the fences of laws between men—as tyranny does—means to take away man's liberties and destroy freedom as a living political reality; for the space between men as it is hedged in by laws, is the living space of freedom.

Hannah Arendt<sup>1</sup>

### I. INTRODUCTION

In the past decade, a number of Latin American nations have embarked on a profound experiment. They are attempting to change their political systems from authoritarian, dictatorial regimes, usually in the form of the all too familiar military dictator or military junta, to constitutional democracies. This transition from dictatorship to democracy is a fragile process, and it has met with varying degrees of success. Latin Americans have found that the responsibilities of democracy can be overwhelming. There are more choices in a society that yearns to be free and none of them are easy. Indeed, the wrong choice can often prove fatal to the democracy.

One of the most difficult decisions facing these budding democracies is whether military and police officers should be criminally prosecuted for human rights abuses they committed during the years of

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1. *The Origins of Totalitarianism* 466 (1951).

dictatorship or whether a blanket amnesty should be declared. Either choice can lead to serious problems. In Argentina, the decision to prosecute these government sponsored criminals sparked at least three military mutinies during the last two years of President Raul Alfonsin's term.<sup>2</sup> Brazil, which elected to forgive and forget these atrocities, has kept its enlisted men out of the streets and in the barracks, but the top military officials continue to control many of the major governmental decisions.<sup>3</sup>

Even with these problems, however, Latin America continues to move steadily away from dictatorship towards democracy. Voters in Paraguay recently went to the polls to elect a new president, only three months after the overthrow of one of the most infamous dictators, General Alfredo Stroessner.<sup>4</sup> In December, Chileans will select a new president to replace General Augusto Pinochet.<sup>5</sup> Bolivia's newly inaugurated president, Jaime Paz Zamora, has promised to embark on a path of economic and social stabilization.<sup>6</sup> Nevertheless, the military shadow always remains in the background. Civilian rulers continue to be disturbingly weak when confronted by democracy's inherently difficult choices. To put it another way, there is a very fine line separating democracy and oppression.

If civilian, democratic government is not effective in Latin America, who should be blamed? Much of the fault lies with cowardly, tyrannical military officials who quietly left office instead of facing up to the economic, political, and social disasters they created. Moreover, they stepped aside without any intention of surrendering real power or living within the dictates of a constitutional regime. Rather, these military officials stubbornly refuse to adhere to the rule of law while working for the inevitable collapse of civilian rule so that they can return to power.<sup>7</sup>

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2. See *infra* text accompanying notes 62-64.

3. Viola & Mainwaring, *Transitions to Democracy: Brazil and Argentina in the 1980's*, 38 J. INT'L AFF. 193 (1985).

4. Brooke, *Paraguay General Wins Conclusively*, N.Y. Times, May 3, 1989, at A5, col. 1. On February 3, 1989 a coup overthrew General Stroessner. Ninety days later, the nation held presidential elections even though Paraguay's lack of democratic traditions did not provide optimal conditions for free elections. Although many irregularities did occur during these elections, they were not of a sufficient magnitude to affect the outcome. *Id.* In any event, the holding of elections, however irregular, indicates that Paraguay has entered a period of transition to democracy.

5. Valenzuela & Constable, *The Chilean Plebiscite: Defeat of a Dictator*, CURRENT HIST. 129 (1989); *Chile Rivals Contrast in Age, Style, Ideology*, Miami Herald, Aug. 13, 1989, at 16A, col. 1.

6. See *Bolivian Leftist Sworn In*, Miami Herald, Aug. 7, 1989, at 11A, col. 1.

7. See, for example, the Argentine military and its reaction to the prosecution for human rights violations, *infra* text accompanying notes 62-64; the Supreme Court of Argentina

The new civilian leaders, who either made no real effort to restrain their armed forces and educate them to become responsible members of the new democracies, or were simply ineffective in attempting to do so, also must accept some of the blame. In Argentina, for example, the new government first aggressively prosecuted the military and then appeased it.<sup>8</sup> In Brazil, the government simply appeased the military without any serious attempt to control it.<sup>9</sup>

The newly re-enfranchised citizens of Latin America are also at fault. They have too quickly grown impatient with their democratic leaders. For example, many citizens unjustly blame their leaders for economic crises inherited from the dictators. They appear to want the benefits of a democracy without paying the costs.<sup>10</sup>

The United States and other Western nations cannot escape a great deal of the responsibility for the weakening of these democracies. While claiming to be models for Latin America's fledgling democracies, Western nations hold the major portion of Latin America's multibillion-dollar foreign debt. Indeed, they often push these new democracies into economic chaos by refusing to extend loans or by unreasonably demanding interest payments during critical political and economic moments in the history of these new democracies. These actions, of course, leave the democracies exposed to the

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Opinion on the Junta trials, *Causa originariamente instruida por el Consejo Supremo de las Fuerzas Armadas en cumplimiento del Decreto 158/83 del Poder Ejecutivo Nacional, Corte Suprema de Justicia de la Nacion (C.J.N.), Dec. 30, 1986*, REVISTA JURIDICA ARGENTINA-LA LEY (L.L.) 535, 535-97 (1987-A); the Argentine Appellate Court Opinion, *Causa originariamente instruida por el Consejo Supremo de las Fuerzas Armadas en Cumplimiento del Decreto 158/83 del Poder Ejecutivo Nacional*, 309 FALLOS DE LA CORTE SUPREMA DE JUSTICIA DE LA NACION (Fallos), 5, 5-1923 (1986). This opinion runs approximately 2,000 pages. [Both opinions are referred to hereinafter as *Junta Opinions*]. See also *Human Rights in the World: Argentina*, 31 REV. INT'L COMMISSION OF JURISTS, 1, 5 (1983) [hereinafter *Human Rights in the World: Argentina*]. Regarding the Junta's failed attempt to impose an amnesty law for human rights violations, the Commission stated:

There can be no doubt that the aim of the military junta in passing this law was not so much to extinguish the penal proceedings and sentences imposed for political crimes, with the consequent release of prisoners and the return of exiles, but to prevent any investigation from being made into the extremely serious crimes committed over many years against life and integrity of the human person by officials—military and police—endowed with formal authority to act, and who did so in their official capacity, as is evident from the Final Document of the military junta.

*Id.*

8. See Mignone, Estlund & Issacharoff, *Dictatorship on Trial: Prosecution of Human Rights Violations in Argentina*, 10 YALE J. INT'L L. 118, 142-43 (1984); see also Garro & Dahl, *Legal Accountability for Human Rights Violations in Argentina: One Step Forward and Two Steps Backward*, 8 HUM. RTS. L.J. 283 (1987).

9. See *supra* text accompanying note 3.

10. See *infra* text accompanying notes 71-79.

real possibility of a return to military dictatorships. There is no small hypocrisy in the demands of these Western nations.<sup>11</sup>

Perhaps it is too easy a solution to place the blame on the Latin American civilian governments and their citizenry. As Professor Carlos Santiago Nino points out in his article that follows,<sup>12</sup> the problems in Latin American democracies are extremely complicated, and they are interrelated to one another in incredibly subtle ways. For example, it is clear that, in general, Latin Americans have not internalized the importance and legitimacy of a constitutional system based upon the "rule of law."<sup>13</sup> Moreover, the Latin American culture appears strongly resistant to the internalization of universal standards of achievement and competition necessary to an equitably functioning democracy. Rather, Latin Americans appear to have internalized a belief in the overpowering importance of status and connections, thus crippling the transition to a constitutional democracy. This psychological state of mind is powerful indeed. How does one instill in the hearts and minds of people struggling for their very existence—in the face of harsh economic realities and with the barrel of a gun in the background—that the moral bases of a democracy must be adhered to for their lives to improve? In point of fact, it is a distinct possibility that the problems faced by Latin American democracies may be insoluble.

This possibility, however, has not deterred the legions of extremely brave and dedicated Latin Americans struggling to create

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11. Indeed, there is no small hypocrisy in the attitude of major United States banks that control a large portion of wealthy Latin Americans' investments abroad. While many Latin American nations are trying to lure the flight capital back to their countries, some of the world's leading financial institutions are aggressively working to hang on to the money. Citibank, for example, which has 7.7 billion dollars outstanding in Latin American loans, also holds approximately 20 billion dollars of private Latin American deposits. Thus, it appears that some of the major banks are attempting to cover possible losses on their third world loans by soliciting private Latin American wealth. This, of course, does not have a salutary effect on the repayment of the Latin American debt. By helping to remove the private capital from these countries, the banks are making it extremely difficult for Latin American nations to build up their economies, a prerequisite to the repayment of the debts. Moffett, *Mexico's Capital Flight Still Wracks Economy Despite the Brady Plan*, Wall St. J., Sept. 25, 1989, at A1, col. 6.

12. Nino, *Transition to Democracy, Corporatism and Constitutional Reform in Latin America*, 44 U. MIAMI L. REV. 129 (1989).

13. The rule of law is a major foundation of democratic political systems. It is a call to political justice and has remained, over the centuries, a vibrant ideal of democratic society. The central core of this principle embodies the enduring values of regularity and restraint—of treating like cases alike and inhibiting the arbitrary actions of government officials. These thoughts are traditionally captured in the slogan of "a government of laws, not men." Even with the transcendent importance placed upon this ideal by people from every shade of political position, from the far left to the far right, however, the rule of law has come under increasing criticism in modern society. For a collection of essays describing these attacks, see A. HUTCHINSON & P. MONAHAN, *THE RULE OF LAW: IDEAL OR IDEOLOGY* (1987).

and perpetuate a constitutional democratic system of government. Argentina is a particularly good example of the difficulties inherent in such an undertaking. Carlos Santiago Nino, Professor of Philosophy and Law at the University of Buenos Aires, and one of the principal advisors to President Alfonsin of Argentina during his recent term, is a particularly good example of such an heroic and dedicated person. Before discussing his article, however, it is important to become familiar with some of the recent history of Argentina. Indeed, Argentina is an important model for an understanding of the seemingly never ending cycles of hope and despair and the complexities facing Latin American democracies.

## II. A GLIMPSE OF ARGENTINE HISTORY<sup>14</sup>

The people of Argentina elected Raul Alfonsin President in 1983.<sup>15</sup> This was cause for great celebration and hope by the Argentinian people. The election of Alfonsin, the leader of the Radical Party, came after one of the darkest periods in Argentine history. From 1976 until the election of Alfonsin in 1983, a series of military juntas ruled Argentina.<sup>16</sup> They conducted a so-called "dirty war," allegedly against leftist terrorism, resulting in the disappearances of anywhere between 7000 and 30,000 mostly innocent people,<sup>17</sup> started and lost a war with Great Britain over the Falkland Islands,<sup>18</sup> and left the country almost bankrupt with a staggering forty-five billion dollar

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14. This glimpse of Argentine history has been compiled and distilled from the following sources: *Junta Opinions*, *supra* note 7; the report on the disappeared by the Comision Nacional sobre la Desaparicion de Personas (CONADEP), headed by the novelist Ernesto Sabato, and published as *NUNCA MAS* (9th ed. 1985); J. CORRADI, *THE FITFUL REPUBLIC: ECONOMY, SOCIETY AND POLITICS IN ARGENTINA* (1985) (a succinct and enlightening appraisal of Argentine history); H. HERRING, *A HISTORY OF LATIN AMERICA: FROM THE BEGINNINGS TO THE PRESENT* (1957) (a survey of Latin American history which devotes six chapters to Argentina, primarily its early history); D. ROCK, *ARGENTINA 1516-1982: FROM SPANISH COLONIZATION TO THE FALKLANDS WAR* (1985) [hereinafter *ARGENTINA*] (a scholarly work which combines rich historical detail with incisive analysis in recounting Argentina's turbulent four centuries of existence); D. ROCK, *POLITICS IN ARGENTINA 1890-1930: THE RISE AND FALL OF RADICALISM* (Cambridge Latin American Studies No. 19, 1975) (an analysis of the development of Mr. Alfonsin's Radical Party); A. WHITAKER, *ARGENTINA* (1984) (a book focusing on twentieth century history and Argentina's arrested development); Speck, *The Trial of the Argentine Junta: Responsibilities and Realities*, 18 *INTER-AMERICAN L. REV.* 491 (1987). General historical themes will not be cited to specific texts or sources. Particular statistics and facts will be cited to specific sources.

15. Wynia, *Democracy in Argentina*, 84 *CURRENT HIST.* 53 (1985).

16. See Speck, *supra* note 14, at 497-500.

17. The official estimate is 8960. See *NUNCA MAS*, *supra* note 14, at 16. According to *Human Rights in the World: Argentina*, *supra* note 7, at 1, the number may be as high as 15,000 due to underreporting. Another source estimates the number of disappeared to be as high as 30,000. J. CORRADI, *supra* note 14, at 120.

18. See J. CORRADI, *supra* note 14, at 136-45.

debt.<sup>19</sup> But this intolerable situation was simply one more swing of the pendulum of politics in Argentina.

In the early nineteenth century, after winning its independence from Spain, Argentina experienced alternating shifts in political regimes from anarchy to dictatorship. In the 1860's, however, things changed. At that time, the people of Argentina accepted the responsibilities of a constitution enacted in 1853, and created and lived within an institutional framework that allowed a stabilization of social structures, fostered economic growth and prosperity, and promoted high levels of immigration for approximately fifty years. By the 1920's, Argentina had a constitution that protected individual rights, a vibrant economy, and a highly educated citizenry largely of European origin. The Great Depression, however, changed everything. Taking advantage of the economic misfortune and the weakened civilian government, a group of generals took over the government. For the next fifteen years, the military ruled Argentina. In 1945, the charismatic Juan Domingo Peron, a former general, took control of the government. His movement, consisting of a bizarre combination of fascist and leftist elements, and resting on both his and his wife Evita's strange populist appeal, virtually destroyed the economy and made a shambles of civil liberties. Peron was overthrown in 1955 in a revolution largely supported by the middle class and several Western nations. His popular appeal nevertheless remained strong. From 1955 through the 1960's, civilian and military governments alternated in power. None of these regimes, however, could solve Argentina's economic problems. None of them could win the support of Peron's working class adherents. Furthermore, it was during this period that leftist insurgents gained some notoriety by carrying out assassinations and kidnappings for ransom.

By the early 1970's, the military government allowed free elections in which all parties, including the Peronist, could take part. They excluded only Juan Peron from running in the election. That exclusion, however, turned out to be only a temporary setback to Peron's return to power. A Peron crony, Hector J. Campora, won the election, promising to turn power over to Peron. He lived up to his promise. In March 1973, Campora resigned from office and called for new elections. By October 1973, Juan Peron was back in power as President of Argentina.

Peron attempted to implement economic and social programs similar to those he offered during the 1940's and 1950's. He based his

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19. Passell, *The Long Road to Argentina's Financial Disaster*, N.Y. Times, June 18, 1989, at Y6, col. 3.

reforms on appeals to nationalism and anti-imperialism. The function and meaning of these reforms, however, were quite different than they had been in 1946. The notion of Peronism as a coalition of somewhat immature groups seeking the benefits of industrialization did not ring true in 1973. Indeed, it became increasingly difficult to balance the antagonistic interests of labor and foreign and national capital. His policies, in effect, destroyed the economy. Furthermore, to combat left-wing terrorism, Peron's government undertook brutal repressive measures.

With Peron's death in July 1974, Argentina accelerated its pace towards political disintegration. Peron had failed to create viable institutions which would last beyond his term of office. He held the nation together largely by virtue of his personal charisma. One cannot, however, transfer charisma to the next leader. The precarious institutional arrangements, missing a core of legitimacy, collapsed like a house of cards. Argentina plunged into chaos. Peron's third wife, Maria Estela Martinez, commonly known as Isabel, succeeded him to the Presidency. Unlike Peron, she was neither alert nor responsive to the pressures of the working class. Instead, Isabel and her strange entourage concerned themselves with arcane intrigues, secret conspiracies, and mystical processes.<sup>20</sup> Isabel and her small circle of advisors became totally removed from a political society that had lost almost all regulation. Entrepreneurs pursued their unrelenting search for profits into a degenerating cycle of sacking and plunder, thus committing the country into economic ruin. Trade unions responded by pushing for outrageous demands. Existing social compacts and political understandings disintegrated. Even more alarmingly, people themselves began to be destroyed with increasing regularity. Despite the increase in violence, open warfare did not take place. Extremists of both the right and the left failed in their attempts to capture the hearts and minds of the population. Instead, violence between these factions increased. The established social groups continued their petty bickering, attempting to save themselves in the face of impending doom. In the end, there was nothing left for the majority of Argentines to do but to wait for a return to the authoritarian rule of the military. They did not have to wait long. On March 24, 1976, the armed forces took over the government.<sup>21</sup>

During the period between 1976 and 1983, three separate mili-

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20. J. CORRADI, *supra* note 14, at 110; *see also* Speck, *supra* note 14, at 496 (describing Isabel Peron's reliance on Jose Lopez Rega, the Minister of Public Welfare, who in turn was rumored to rely on astrological signs for government decisions).

21. J. CORRADI, *supra* note 14, at 115.



tary juntas ruled the nation. The first junta, composed of leaders of the Army, Navy, and Air Force, believed that they could transform the very nature of Argentine society. They vowed to destroy all terrorists, revitalize the economy by freeing it from state control, and break the stalemate of social conflict. They failed in all of their goals. Instead, their policies exacerbated the nation's already chaotic state.

The military juntas murdered a large number of "suspected terrorists," and thus the regime itself became the agent of terror. During the most intense government-terror phase, between 1976 and 1979, the junta eliminated somewhere between 7000 and 30,000 persons. The extermination took place under a veil of state secrecy. Most victims simply disappeared. The victims belong to the category of non-persons because most of them were never heard of again. Their remains are missing even today. As one author describes this brutal process:

Each disappearance followed a similar pattern. Civilian authorities, such as the police, were told not to interfere in a certain targeted area. An armed unit would burst into the victim's house or apartment in the early hours of the morning; the attackers carried off the victim in an unmarked car, often ransacking the house, and always warning family members that appeals to the authorities would be useless. The attackers then drove the victim, usually with a hood over his head, to a clandestine detention center where they questioned him or her, usually with torture. Victims were held incommunicado and warned not to expect any help from the authorities or their families. Family members were also kidnapped and often tortured in each other's presence.

Some prisoners were detained for years; others were tortured to death. Most, however, simply "disappeared," prompting the invention of a new transitive verb, "to disappear someone." Bodies were found floating in the Rio de la Plata or buried in mass graves, often with hands and heads cut off to prevent identification. Many of those who died as a result of torture or executions in detention centers were reported by the military, which had instituted press controls, as casualties of "confrontations" between the forces of order and armed bands. Relatives of the missing filed hundreds of habeas corpus petitions and appealed to Argentine and other authorities, but to no avail. Victims included the elderly, children and pregnant women; Argentines, Uruguayans, and citizens of other nations; students, workers, journalists, lawyers, priests, and former cabinet ministers. Many victims disappeared, not because they were suspected of aiding terrorist activities, but because it was hoped that they would denounce family members who had, or because they had submitted habeas corpus petitions or had participated in human rights organizations. Amid growing international

censure, the junta denied committing any violations.<sup>22</sup>

In 1978, a second junta took power. This junta claimed that the war against subversion had finally been won. The number of those who disappeared declined sharply. The economy, however, continued to deteriorate: The national debt had increased substantially and inflation was out of control. Moreover, border incidents with Chile tested the patriotism of the people. In 1981, a third junta took power. This, of course, did not help matters. All of these problems continued to get worse. Unemployment and inflation mushroomed, the currency had to be devalued several times, and the people of Argentina grew increasingly discontent. A majority longed for social consensus and economic solvency. They wished for an end to senseless exterminations. Change was in the air. Indeed, even established social groups began to question the right of the regime to stay in power. Partly as a response to these problems, and partly because of the irrationality of the military leaders, the junta invaded the Malvinas/Falkland Islands in April 1982. The invasion ended in a disaster for Argentina. By June, the war had been lost. The junta stepped down. In October 1983, the people of Argentina elected Raul Alfonsin president.

The election represented not only a symbolic break with the past, but also a reconstitution of political forces favorable to democracy. Extremely difficult problems, of course, faced Alfonsin. He faced the bleak prospects of instituting civilian control over the military, refinancing a monumental foreign debt, finding tolerable solutions to international conflicts, and perhaps most importantly, bringing those responsible for the exterminations to justice while, at the same time, accounting for the disappeared. An assessment of the success of Alfonsin's administration in nurturing democratic changes rises or falls with his proposed solutions to those staggering problems and their implementation. In the short run, however, his administration could not resolve these monumental problems, and his Radical party lost the 1989 presidential election to a Peronist candidate.

The history of Argentina is that of a nation caught in a never ending cycle between hope for democracy and fear of authoritarian rule, between social harmony and social strife. As one commentator has so aptly stated:

Time and again the state does rise above the turmoil of civil society and seeks to assume the agency of this erratic historicity. But each time it seems to falter, to rapidly lose force, and then succumb to

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22. Speck, *supra* note 14, at 498-99. For a stirring, brilliant novel that makes these gruesome facts come alive, see L. THORNTON, *IMAGINING ARGENTINA* (1987).

the tug-of-war between actors that cannot themselves rise to the level of social movements and that remain, strictly speaking, mere pressure groups. Thus no power appears that is great enough to unify the whole society. Too weak to lead, each group is still strong enough to prevent any other from doing so. Hence, though once intellectually brilliant and culturally creative, more emancipated than many other societies from the trammels of traditional authority, Argentina nonetheless easily falls prey to political decay. The state tends to rapidly lose whatever autonomy it may have attained vis-a-vis civil society and to become instrumentalized, not by a ruling class, as Marxists sometimes believe, but by a larger plurality of narrow groups. Things then return to where they started, namely, to the erratic behavior of a malfunctioning political system.<sup>23</sup>

### III. PROFESSOR NINO'S PROPOSED SOLUTIONS

The Alfonsin government had the opportunity to build, enforce, and guarantee a truly democratic state. Many talented and dedicated people worked together on this project under the leadership of President Alfonsin. But the Alfonsin government was only partially successful in promoting democratic changes. The important point, however, is not whether Alfonsin achieved all of his goals, but rather that he followed the moral imperative to make the institutions of Argentina accountable to democratic principles.

Still, the question that haunts every attempt to reform Latin American societies, in general, and Argentina, in particular, and make successful a transition from dictatorship to democracy is this: What are the forces that make a viable democracy so difficult to implement? Professor Carlos Santiago Nino, in his article, *Transition to Democracy, Corporatism and Constitutional Reform in Latin America*,<sup>24</sup> presents an intriguing response and set of solutions to this very question.

His analysis of the problems confronting a nation wishing to make the transition from dictatorship to democracy and his proposed solutions are extremely well thought out. He handles complex questions with intellectual honesty and with a keen awareness of the risks inherent in such an enterprise, but never without hope and commitment. Moreover, throughout his discussion, Professor Nino brings to the task an intimate knowledge of Latin America and the various social and political theories which have been applied to the process of

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23. J. CORRADI, *supra* note 14, at 112-13.

24. Nino, *supra* note 12.

transition. Upon reflection, it is difficult to advance any better solutions to these problems than those suggested by Professor Nino. Nevertheless, there are difficulties with some of his solutions.

Professor Nino begins his article by arguing that one of the major challenges in the process of transition from a dictatorship to a fully consolidated democracy in Latin America is the need to dismantle the network of privileges and relationships that special interest groups have established during the rule of previous political regimes, particularly during authoritarian and populist periods. The first section of his article is, therefore, devoted to providing us with an essential understanding of what he refers to as "corporatism," and its paralyzing effects on Argentina's transition to democracy. According to Professor Nino, the term corporatism, as applied to Argentina, encompasses not only the State's influence on various organizations and interest groups, but also the reciprocal pressures that these organizations and interest groups exert on the state decision-making bodies, such as legislative and administrative agencies, as a price for political support of the regime. These so-called corporations include the military, the Catholic Church, trade unions, the entrepreneurial sector, and the press.<sup>25</sup>

Professor Nino argues persuasively that these corporations, traditionally powerful under both authoritarian and populist regimes, have never relinquished their influence nor their attempts to maintain and increase their status and power, even after the restoration of democracy to Argentina in 1983. In their efforts toward self-preservation, the corporate entities exert an insidious effect on the transition to democracy because they generate distortions in the government's power base and contribute to inflationary crises. Thus, while inhibiting the progress of democracy, they strengthen the hand of authoritarianism.

But Professor Nino does more than make allegations. As evidence for his position, Professor Nino gives concrete examples. He discusses the difficulties encountered by President Alfonsín's democratic government in attempting to punish human rights violations perpetrated by the military during their junta rule. Similarly, he discusses and criticizes the Catholic Church's resistance to liberalization measures affecting divorce, private drug use, and other public moral

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25. Numerous critics have identified similar institutions, organizations, and interest groups in the United States that inhibit the workings of democracy, while contributing to the consolidation of social and economic power. See, e.g., M. PARENTI, *DEMOCRACY FOR THE FEW* (1977). The existence of such groups further undermines Professor Nino's theory on the question of voter apathy in the United States. See *infra* text accompanying notes 28-31.

questions, such as censorship of publications, cinema, and theater. Professor Nino does not, however, stop there. He also attacks the established press, trade unions, and business interests for selfishly opposing various measures necessary to stabilize democratic goals in Argentina.

As the only antidote against these poisonous meddlers, Professor Nino proposes further efforts by the government to encourage popular participation in the political process. He views democracy as a forum for moral discourse where principles, rather than special interests, prevail. He believes that the best means for countering corporative power is to create a polity governed by universal and impersonal principles where individual citizens, who preserve the ability to adopt new interests and are not necessarily identified with any specific interest, make choices in a process of public justification and dialogue. Furthermore, he argues that this equality of opportunity for individual citizens to make such choices can only be achieved through the encouragement of free competition among political parties. Moreover, the political parties must themselves be free of the taint of corruption. They must therefore be run on the bases of principles and programs, with active participatory members, and with an internal party democracy whose results are strictly enforced. From this line of reasoning, Professor Nino derives one of the major premises of his argument: to secure democracy in Argentina it is necessary to promote and strengthen highly participatory political parties.

The validity of this premise, however, rests on several debatable assumptions. As Professor Nino himself points out, political parties are not immune from subversion by corporatist elites. Furthermore, the vitality of political parties depends on their actual or perceived ability to achieve their constituents' goals. These objectives are, by definition, special interests. Moreover, once in power, political parties have a tendency to assume a life of their own; they tend to self-perpetuate. At such a point, even the legitimate desires of their rank and file members may take a back seat to the party's or its leader's crude interest in maintaining the status quo. This occurred in Argentina, for example, when Juan Peron returned to power in 1973. At that time, Peron named his politically incompetent and uneducated wife, "Isabelita," Vice-president, and she succeeded him upon his death in 1974.<sup>26</sup> The political chaos which ensued under Isabelita's rule, which lasted until the 1976 military coup,<sup>27</sup> might have been avoided

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26. Speck, *supra* note 14, at 496-97.

27. *Id.*

if Peron had been more concerned with building institutional integrity and continuity rather than with personality in selecting his successor.

Professor Nino's proposed cure for these corruptive maladies includes increased popular participation, permanent political debates, democratic election of party leaders, and open accounting of funds. This solution, however, suffers from an inherent contradiction: to keep political parties free of corruption, the members must engage in activities which are not feasible unless corruption does not exist.

Professor Nino proceeds in his analysis by expounding a seemingly contradictory minor premise: A strong presidentialist system, as dictated by the Argentine Constitution, is an anathema to the required vigorous popular involvement in the country's political intercourse. Indeed, according to his argument, a presidentialist system of government tends to weaken political parties. The problem runs even deeper. When political parties remain strong, because of diverse cultural and historical factors, the difficulties inherent in the presidentialist system—blockages between powers, erosion of the presidential figure, difficulties in forming coalitions—become increasingly severe. Moreover, the pursuit of the presidential office in these highly charged contests, he argues, leaves the winner politically exhausted. The losers, on the other hand, waste no opportunity during the rule of the new administration to downgrade its image, in preparation for the next electoral battle. These problems, in turn, jeopardize the stability of the entire system of government.

Since the Argentine Constitution of 1853, which is presently in force, has many traits in common with the United States Constitution,<sup>28</sup> Professor Nino finds it necessary to explain the apparent health of the strong American presidential system. For this task, he relies on the theories of Professor Fred W. Riggs, who attributes the survival of the American presidential institution to low voter turnout and general public apathy towards political contests. But, given the corporatist phenomenon, Professor Nino is firm in his belief that Argentina cannot afford voter apathy. Indeed, he would go so far as to support mandatory voting, a legal requirement in Argentina since 1912.<sup>29</sup> This is because, in the absence of strong popular participation, the powerful special interests would simply smother the fragile democratic bloom.

Weaknesses in this premise are immediately apparent. Low

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28. Among these traits are a federal regime, an elected bicameral legislature, an independent judiciary, a bill of rights, and a strong national executive. D. ROCK, ARGENTINA, *supra* note 14, at 123-24.

29. J. CORRADI, *supra* note 14, at 36.

voter turnout is a fairly recent phenomenon in an American society that has prospered through two hundred years of constitutional rule.<sup>30</sup> Moreover, it is likely that low voter turnout is a sign of a decaying, not a vibrant, democracy.<sup>31</sup> Furthermore, the American presidential system has survived episodes of highly charged popular involvement from the post-Civil War period of the mid-1800's to the Vietnam era civil unrest of the mid-1900's. More recently, in the mid-1970's, the American presidential system survived one of its strongest challenges when a vocal citizenry forced a corrupt President, Richard Nixon, to step down from office in the face of impending impeachment proceedings. In point of fact, this event seemed to strengthen, not weaken, democracy in the United States.

It is clear, of course, that many factors, reflecting the whole range of the American experience, have contributed to the preservation of the existing presidential system. Paramount among these is the long-lived respect for the rule of law which pervades American society, and which has clearly been internalized by the citizenry. Conversely, many factors besides vibrant political parties, and therefore strong popular involvement, may conspire to bring down the Argentine presidency, factors which are correspondingly reflective of that nation's unique history.

Professor Nino's elegant solution to the apparent dilemma posed by his premises is a call for constitutional reform. His proposed

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30. In the period from 1840 to 1900 voter participation in United States presidential elections ranged in the 70-80 percentiles. In this century, for the period ending in 1968, the lowest voter turnout reported is 48.9% for 1924 and the highest, 65.4% in 1908. U.S. DEPARTMENT OF COMMERCE, BUREAU OF THE CENSUS, HISTORICAL STATISTICS OF THE UNITED STATES: COLONIAL TIMES TO 1970, BICENTENNIAL EDITION, PART 2, at 1071-72 (Table: Series Y 27-78) (1975).

31. The vitality of a democratic system of government is generally measured by the degree and scope of citizen participation in electoral activity. If that is a correct formula for the measurement of a democratic polity, then the political system of the United States is in deep trouble. Indeed, the United States ranks among the least democratic states of those holding free elections. See W. BURNHAM, *THE CURRENT CRISIS IN AMERICAN POLITICS* (1982); J. COHEN & J. ROGERS, *ON DEMOCRACY* (1983). Further complicating this problem is the lack of equality of participation. The working class voter turnout, for example, is approximately 30 percent lower than middle class turnout. For statistical information about the 1980 presidential election, see U.S. DEPARTMENT OF COMMERCE, BUREAU OF THE CENSUS, *Population Characteristics: Voting and Registration in the Election of November 1980*, CURRENT POPULATION REPORTS, SERIES P-20, No. 370, at 62-64 (Table 12) (April 1982). Perhaps even more disturbing is the fact that black Americans vote approximately 20% less often than whites. *Id.* at 2 (Table A).

There are, of course, a host of other factors which indicate that the American democratic system suffers from serious maladies. These factors include, *inter alia*, serious problems with the American economy, the standard of living, wealth and income distribution inequities, and defense and foreign policy misadventures during the past four decades. For an elaboration and explication of this theme, see J. COHEN & J. ROGERS, *supra* at 15-46.

hybrid presidential/parliamentary system would theoretically be capable of surviving the political confrontations inherent in strong partisan electoral contests. In support of such a system, Professor Nino recounts similar attempts at constitutional modification already undertaken in several Latin American countries including Brazil, Chile, Costa Rica, Haiti, Uruguay, and Venezuela.

If the validity of Professor Nino's premises is granted, his conclusion appears inescapable. Unfortunately, the institution of a parliamentary system is not by itself sufficient to insure or even increase the likelihood that democracy in Argentina will prevail. As Juan E. Corradi argues in comparing the terrible period of military rule to the present democratic state, "[t]he authoritarian state presently undone—or in abeyance—was a particularly bleak compromise solution, not the deep source of the difficulty."<sup>32</sup>

This is not to say, of course, that institutional arrangements are unimportant. Rather, the argument is that they are only the form and not the substance of the problem. The Argentine people's commitment to democracy and their willingness to sacrifice materially for the sake of economic stability are the major factors in determining the country's future. They must be willing to accept in their hearts and minds the moral imperative of democracy, and hence the necessity of structural changes in their political institutions. They must set aside narrow interests for the sake of their children and their nation. Whether and how the powers to govern are shared by a president and a prime minister, therefore, become questions of secondary importance. Indeed, as evidenced by the relatively recent Pakistani<sup>33</sup> and Greek<sup>34</sup> experiences, parliamentary rule is not necessarily a better guard against military coups than presidential systems. Hence, while Professor Nino's advocacy of constitutional reform is praiseworthy,

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32. J. CORRADI, *supra* note 14, at 152.

33. Pakistan had a parliamentary system of government for almost six years under Prime Minister Zulfikar Ali Bhutto. On July 5, 1977, a military coup ousted Bhutto in the wake of civil disturbances prompted by alleged electoral fraud. The leader of the coup, General Mohammad Zia ul-Haq, became President of Pakistan. Subsequently, the new President had Bhutto executed. Zia ruled Pakistan until his death in a plane crash on August 17, 1988. With the election of Benazir Bhutto (Zulfikar's daughter) as Prime Minister on November 16, 1988, parliamentary rule returned to Pakistan. Richter, *Pakistan under Zia*, 78 CURRENT HIST. 168 (1979); Crossette, *Euphoria Turns to Sadness as Bhutto Struggles with Pakistan's Problems*, N.Y. Times, June 5, 1989, at A9, col. 1.

34. Greece had a parliamentary system of government under Prime Minister Panayotis Kanellopoulos. On April 21, 1967, a military junta seized power. The Greek colonels ruled for seven years. In 1974, the junta collapsed in the aftermath of their ill fated intervention against Cyprus and the country returned to parliamentary rule. Evriarides, *Greece After Dictatorship*, 78 CURRENT HIST. 162 (1979).



such a measure, without more, falls short of the primary objective of insuring the preservation of democracy in Argentina.

#### IV. RECENT EVENTS IN ARGENTINA

Professor Nino's article concludes by expressing both hope that the proposed constitutional reform might be implemented and the realization that the Peronist leaders will not necessarily agree with reforms as extensive as he desires. Indeed, since the preparation of the article, several events have occurred in Argentina which make it certain that Professor Nino's reforms will not be achieved in the near future. Moreover, these recent events, which concern electoral results, economic problems, the continued resistance to democracy by the military, and the disastrous responses by Argentine citizens, dramatically demonstrate that the historical reality of the precarious balance between hope for democracy and despair of authoritarianism remains unabated. Wealthy people are once again sending their money to foreign banks, military officials continue to rattle the sabre, the economy continues its downward plunge, and the people allow supposed self-interest to win out over long range democratic goals. Dispassionate analysis of these events conveys this painstaking repetition of collective self-destructive behavior which has been ubiquitous since the founding of the nation.

##### A. *Election Results*

A comparison between the elections that brought President Alfonsín's Radical Party to power, the two intermediate elections held during his term, and the recent elections where the Peronist Party won the presidency, show a steady decline in popular support for the Radical Party. Until such time as it regains a majority of the popular support, the Radical Party is in no position to effectuate constitutional reform.

As a result of the elections held in October 1983, the Radical Party won the presidency with fifty-two percent of the popular vote, compared to forty-two percent for the Peronist Party and six percent for the minority parties.<sup>35</sup> In addition, the Radicals came away with 131 of the 254 seats (52%) in the Chamber of Deputies while the Peronists only obtained 111 seats (43%).<sup>36</sup> The remaining twelve seats (5%) went to minority parties.<sup>37</sup> At this point, the winning party, enjoying a wide margin of support, seemed capable of carrying

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35. Wynia, *supra* note 15, at 53.

36. *Id.*

37. *Id.*

out the reforms needed to restore Argentina to the community of free nations.

Two years later, in the mid-term elections of November 1985, the political parties contested one-half of the 254 seats in the Chamber of Deputies.<sup>38</sup> The Radical Party lost only one seat, down to 130 from 131.<sup>39</sup> The Radicals hailed these results as a victory since they managed to preserve the majority (51%) in the Chamber.<sup>40</sup> By comparison, the Peronist Party lost eight seats, bringing its count down to 103 (41%).<sup>41</sup> The gains went to minority parties, who increased their foothold in the Chamber to twenty-one seats (8%).<sup>42</sup>

By September 1987, however, the tide started to turn against the ruling party. In those mid-term elections, again for one-half of the Chamber seats, the Radicals lost the majority. Their control decreased to 117 seats (46%).<sup>43</sup> At the same time, the Peronists increased their count to 108 seats (43%) and the minority parties continued their upward swing to twenty-nine seats (11%).<sup>44</sup> It is intriguing to note that if the mixed parliamentary system proposed by Professor Nino had been in effect in 1987, President Alfonsín's position would have been jeopardized as a result of these elections. Unless he could have continued to muster wide popular support, he would have been required at this point to cede his policy making duties to a prime minister. Since the Peronist Party did not achieve a majority in these elections either, attempts to form a coalition government with the increasingly powerful minority parties would have been necessary.

The effect of such changes in the government, only two-thirds of the way into the presidential term, will never be known. It is doubtful, however, that scarcely four years after emerging from the shadow of military rule, the Argentine people would have been able to handle the instability of a coalition government. On the other hand, the diminishing popular support for the Radical Party in 1987 foreshadowed its ouster from power in the 1989 presidential elections. An early withdrawal might have spared the country the recent economic and social chaos, details of which are offered below. In any event, the elections held in May 1989 yielded forty-seven percent of the vote for

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38. Wynia, *Readjusting to Democracy in Argentina*, 86 CURRENT HIST. 5, 6 (1987).

39. *Id.*

40. *Id.*

41. *Id.*

42. *Id.*

43. Gleijeses, *The Decay of Democracy in Argentina*, 87 CURRENT HIST. 5, 7-8 n.10 (1988).

44. *Id.*

the Peronist Party.<sup>45</sup> Although not a majority, this result was sufficient to give the Presidency to the Peronist candidate, Carlos Saul Menem, with 310 out of 600 electoral college votes.<sup>46</sup> By contrast, the Radicals could muster only thirty-seven percent of the vote, with sixteen percent going to six minority parties.<sup>47</sup>

### B. *Economic Data*

The economy is presently in shambles. The modest gains initially achieved under the Alfonsin administration have given way to total chaos. In 1983, President Alfonsin inherited a 45 billion dollar foreign debt.<sup>48</sup> By June 1989, the debt had risen to 60 billion dollars,<sup>49</sup> and no interest payments had been made since April 1988.<sup>50</sup> No new loan funds had been disbursed since February 1989.<sup>51</sup>

In 1983, inflation was running at 600% per year.<sup>52</sup> In June 1985, a rise to 1900% prompted the implementation of the Austral Plan.<sup>53</sup> As a result of this austerity program, inflation came down to eighty-two percent per year in 1986.<sup>54</sup> By 1987, however, inflation was back up to 175%.<sup>55</sup> In May 1989, the rate of inflation *per month* was 78.5%.<sup>56</sup> In June, it was 114%, and for the first week of July it hit 45.3%.<sup>57</sup>

Argentina has traditionally had one of the highest standards of living among the nations of Latin America. The ravages of inflation, however, have reduced significantly the Argentine standard of living. The percentage of people in poverty has increased from 7.6% in 1980

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45. Christian, *Argentina's President-Elect in the Shadow of Peron: Carlos Saul Menem*, N.Y. Times, May 16, 1989, at A3, col. 1.

46. *Id.*

47. *Id.*

48. Gleijeses, *supra* note 43, at 5.

49. Golden, *Once-Prosperous Argentina Sinks to Economic Mess*, Miami Herald, June 18, 1989, at 1A, col. 2, 14A, col. 2.

50. Passell, *supra* note 19, at 6, col. 6.

51. Brooke, *Argentine Hints of Early Inauguration*, N.Y. Times, June 6, 1989, at A3, col. 4.

52. Gleijeses, *supra* note 43, at 5.

53. *Id.*; Passell, *supra* note 19, at 6, col. 5-6. The Austral Plan included "a temporary freeze on wages, prices and exchange rates and an agreement from international creditors to stretch out payments, plus a promise to raise taxes, curtail subsidies and resist the temptation to finance budget deficits with the printing press." *Id.* The government named the Austral Plan after the new currency that replaced the peso. *Id.*

54. Gleijeses, *supra* note 43, at 6.

55. *The Coup that Cheers*, ECONOMIST, Jan. 23, 1988, at 32, 33.

56. Golden, *supra* note 49, at 14A, col. 5.

57. Golden, *Argentine Prescribes Painful Economic Cure*, Miami Herald, July 10, 1989, at 1A, col. 1, 6A, col. 1.

to twenty-five percent in 1987.<sup>58</sup> It is currently estimated that this number will climb to thirty percent in 1989, representing 9 million people out of a population of 30 million.<sup>59</sup> The minimum wage stood at 4000 australs per month in May 1989, which represented approximately ten dollars.<sup>60</sup> Even though the government planned an increase at the end of June 1989 to 8700 australs per month, this higher amount is still below the calculated poverty line of \$50.30.<sup>61</sup>

### C. *The Military*

Some elements in the military still do not appear ready to stop interfering with the development and operation of a democracy. Two uprisings led by Lieutenant Colonel Aldo Rico haunted the Alfonsin administration, one in April 1987, and a second one in January 1988.<sup>62</sup> A third mutiny occurred in December 1988, under the leadership of Colonel Mohammed Ali Seineldin.<sup>63</sup> While these uprisings were put down, the general feeling is that many of the military are not repentant for the atrocities committed during the "dirty war."<sup>64</sup> The Military Court, charged with cleaning its own house, refused to find guilty those accused of human rights violations.<sup>65</sup> Subsequently, a civil court tried nine high ranking officers.<sup>66</sup> In the end, four went free, two were condemned to life imprisonment and three received terms ranging from four and one-half to seventeen years.<sup>67</sup> These meager results from prosecutions contrast sharply with the official government report that at least 9000 people "disappeared" under the military rule.<sup>68</sup> Furthermore, they fall short of the hope for vigorous prosecutions envisaged in the early days of Alfonsin's rule.

Moreover, the situation is only getting worse. The power of the military is once again increasing. The new President, Carlos Menem, has resurrected the military by issuing sweeping pardons for officers accused of human rights abuses committed during the military dicta-

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58. Golden, *supra* note 49, at 14A, col. 2.

59. *Id.* at 1A, col. 2.

60. *Id.*

61. *Id.* at 14A, col. 1.

62. *Alfonsin Tames Argentina's Colonels, For Now*, *ECONOMIST*, Apr. 25, 1987, at 33; see also *The Coup that Cheers*, *supra* note 55, at 32.

63. *Is There No End to Argentina's Tumultuous Colonels?*, *ECONOMIST*, Dec. 10, 1988, at 43.

64. *The Coup that Cheers*, *supra* note 55, at 33.

65. Speck, *supra* note 14, at 500-01.

66. *Id.* at 501.

67. *Id.* at 503.

68. *Human Rights in the World: Argentina, The Truth About the Disappeared*, 33 *REV. INT'L COMMISSION OF JURISTS* 1 (1984).

torship. The broad pardons also cleared those officers charged with misconduct during the Malvinas/Falkland War, and those involved in the three military uprisings against President Alfonsín.<sup>69</sup>

But President Menem has not stopped there. He has also mounted a concerted campaign to purge the prosecutors and judges who saved the international reputation of Argentina by bringing to justice the high ranking military officers responsible for the thousands of "disappearances." It would seem that respect for the rule of law is not a high priority for President Menem.<sup>70</sup>

#### D. *The People*

The popular response to the economic crisis has been demoralizing. In May 1989, thousands looted 329 grocery stores for food they could not afford to buy due to prices increasing by the hour.<sup>71</sup> These disturbances have been called "the worst riots in a decade."<sup>72</sup> The disorders resulted in fourteen deaths, dozens of injured people, and 1852 arrests.<sup>73</sup> The government found it necessary to declare a thirty day state of siege.<sup>74</sup> While the poor and middle class people rioted, the wealthy have followed a different path: They have taken an estimated 40<sup>75</sup> to 50<sup>76</sup> billion dollars out of the country as a safeguard against further economic deterioration and a possible prelude to emigration. In fact, reverse immigration is starting to occur just as it did in prior periods of economic upheaval.<sup>77</sup> At the same time, labor leaders have not been a paradigm of cooperation in the face of economic difficulties. Thirteen general strikes have been held since 1983.<sup>78</sup> It would appear that the old historical pattern of each group fending for itself in the midst of crises<sup>79</sup> recurs in Argentina regardless of the form of government confronted with such crises.

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69. *Argentina Pardons Its Demons*, N.Y. Times, Oct. 10, 1989, at 26, col. 1 (nat. ed.); *Argentina Issues Broad Pardon*, N.Y. Times, Oct. 7, 1989, at 8, col. 3 (nat. ed.).

70. Neier, *Menem's Pardons and Purges*, N.Y. Times, Oct. 2, 1989, at 23, col. 2 (nat. ed.).

71. Brooke, *supra* note 51, at A3, col. 4.

72. *Id.*

73. *Id.*

74. *Argentina Declares State of Siege Amid Riots Over Economic Steps*, N.Y. Times, May 30, 1989, at A1, col. 5.

75. Golden, *supra* note 49, at 14A, col. 4.

76. Passell, *supra* note 19, at 6, col. 3.

77. J. CORRADI, *supra* note 14, at 29.

78. Golden, *supra* note 49, at 14A, col. 4.

79. See J. CORRADI, *supra* note 14, at 2.

E. *The New Government*

President Alfonsin stepped down from office on July 8, 1989,<sup>80</sup> five months ahead of the December expiration of his term.<sup>81</sup> By giving up power sooner than required, Mr. Alfonsin has, in effect, achieved the result of the constitutional reform advocated in Professor Nino's article. Mr. Alfonsin's action, however, undermines Professor Nino's assertion that a president would not be inclined to give up power ahead of time. This underscores the concept that substance rather than form is what matters most in Argentina.

The present administration has done nothing to change this perception. In true Peronist fashion, President Menem's campaign played with *miracle worker* themes such as the biblical "Arise and Walk, Argentina,"<sup>82</sup> retaking of the Malvinas/Falkland Islands,<sup>83</sup> and guaranteed wage increases.<sup>84</sup> These empty promises, however, vanished when he took power.<sup>85</sup> One of his first acts as President, for example, was to make overtures to Britain aimed at ending their bitter conflict over the Falkland Islands.<sup>86</sup>

On the surface, President Menem has proceeded on a pragmatic path in his attempt to cure Argentina's economic woes. He has brought into his government respected businessmen and free market economists.<sup>87</sup> He has also implemented stiff wage and price controls.<sup>88</sup> This approach has been effective in reducing the rate of inflation from 200% for the month of July 1989, to 38% in August.<sup>89</sup> But confidence building has been only a preliminary skirmish in the war against inflation. The major battle will come when President Menem attempts to lift wage and price controls and to implement his plan for the privatization of roughly twenty-five state enterprises.<sup>90</sup>

Although to some people the privatization plan shows promise,

80. Golden, *Painful Economic Changes Ahead in Argentina*, Miami Herald, July 9, 1989, at 13A, col. 1.

81. Golden, *supra* note 49, at 14A, col. 1.

82. See Robbins, *The Curious Incarnation of Juan Peron*, U.S. NEWS & WORLD REP., Nov. 14, 1988, at 46, 48.

83. Christian, *Oh, What a Campaign That Was*, *Argentines Say*, N.Y. Times, May 14, 1989, at L3, col. 3.

84. See Robbins, *supra* note 82, at 46.

85. See Golden, *supra* note 57, at 1A, col. 4.

86. Golden, *Peronist Adopts Gentler Foreign Policy*, Miami Herald, July 22, 1989 at 2A, col. 2.

87. *Argentina's Leader Menem Will Try His Charm on U.S.*, Miami Herald, Sept. 24, 1989, at 13A, col. 1.

88. *Id.*

89. *Id.*

90. Priest, *Will Argentina Simply Replace One Monopoly With Another?*, Wall St. J., Sept. 22, 1989, at A13, col. 3.

critics, even from the right, are concerned about its long-term effects.<sup>91</sup> In theory, removing the state from vital enterprises such as the railroads, telephone and mail service, coal mines, harbors and the federal mint,<sup>92</sup> will significantly dampen corporatist influence and help reduce inflation. Turning over these traditional monopolies to private investors, however, only amounts to a substitution of players and a change for the worse in the rules of the game. The political pressures which consumers have exerted on the government to keep down the price of state provided services will vanish under the privatization plan. At the same time, the monopoly status of the new private companies will prevent the activation of free market forces to keep prices competitive.<sup>93</sup> Absent the unlikely dissolution of these monopolies,<sup>94</sup> privatization will spell disaster for Argentina's economy.

There are no easy solutions to Argentina's economic quandary. President Menem may simply not have the foresight or ability to carry out the painful austerity measures required to restore the economy to an even keel. Indeed, judging from Mr. Alfonsin's rapid decline, harsh economic purgatives do not sit well with the Argentine voters.

## V. CONCLUSION

The general concern with parliamentary constitutional reform demonstrates the high level of commitment to democracy attained by the Argentine rulers under the initial period of the Alfonsin government. Unfortunately, this administration was attempting to establish democracy under a tremendous handicap, in effect fighting with *both hands* tied behind its back. Besides the problems with the military and other issues discussed above, the Alfonsin government inherited a huge foreign debt requiring the implementation of unpopular fiscal constraints. Greater tolerance on the part of lenders might have given Mr. Alfonsin more breathing room in which to bring the country back to economic stability.<sup>95</sup> As the situation now stands, although the lender banks received three billion dollars in interest as a result of

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91. *Id.*

92. *Id.*

93. *See id.*

94. The willingness of private investors to take over these money-losing enterprises may hinge on the preservation of their monopoly status, at least initially. *See id.* A key player in the privatization plan is the multinational Bunge & Born, which already owns 40 companies in Argentina, including a petrochemical company acquired from the state during President Alfonsin's term. *Can Business Save Argentina?* BUS. WK., Sept. 18, 1989, at 46.

95. Passell, *supra* note 19, at 6, col. 6.

the gains from the Austral Plan,<sup>96</sup> the country's current crisis puts the full 60 billion dollar debt in jeopardy. Argentinian novelist and Undersecretary of Culture during the Alfonsín Presidency, Rodolfo Rabanal, has been quoted as wondering about his country's potential for "Lebanonization,"<sup>97</sup> that is, for becoming a society in complete shambles economically, politically, and socially, in view of the current chaos.

Even with all of this, however, there are good reasons to remain optimistic. Free elections have been held four times in Argentina since 1983 and an orderly transfer of power to the elected president occurred for the first time in sixty-one years.<sup>98</sup> If the present economic and social crisis subsides and the alternance of power continues between the two major parties in Argentina, a quiet time may come again to be devoted to restructuring the system to strengthen democratic institutions.

At the cornerstone of this effort is a core group of leading Argentine intellectuals who have organized an alternative private institution, the Center for Institutional Studies (Centro de Estudios Institucionales), to provide a forum for analyzing the broad spectrum of issues related to democratic institutions. The core group is, of course, intimately familiar with the questions raised in this essay about the proposed solutions to these seemingly intractable problems. These individuals clearly realize that attitudes must be changed before institutional reform can hope to yield a successful democracy. They have not been remiss about taking action to effectuate these changes. The major solution to this dilemma is educational. The issues they plan to address range from the study of the underlying theory of democracy to matters of institutional design.

The Center is now in operation. An international advisory board is working with the Argentine scholars. By sponsoring research projects, seminars, and exchange programs, the members of the Center hope to advance the consolidation of democracy in Argentina. These individuals also plan to create and support a new generation of scholars and intellectuals who will address these issues on a continuing basis. Furthermore, the Center will provide a cultural resource for politicians, civil servants, and the common citizen and thus improve the quality of democratic discourse in Argentina. Moreover,

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96. *Id.*

97. Golden, *supra* note 49, at 14A, col. 6.

98. Golden, *supra* note 80, at 13A, col. 1. Even this understates the significance of the transfer of power. It was the first time in Argentine history that a president duly elected by the people, who is the leader of a particular political party, peacefully transferred power to a new duly elected president, who is the leader of another political party.



the Center has established an interdisciplinary approach by combining legal, philosophical, sociological and economic analyses to the issues under study. Special emphasis will be placed on the highest intellectual standards and ideological pluralism. Partisan influences will be avoided with meticulous scrutiny.

The Center should be able to carry out its mission and act as a counterforce to the return of authoritarian rule so long as the "rule of law"<sup>99</sup> is not abandoned by the Argentine people. Hope springs eternal. But hope must be tempered by the reality of past experiences and the difficulty inherent in changing the attitudes of a people who seem strongly resistant to the attempt to transform their collective existence.

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99. See J. CORRADI, *supra* note 14, at 152. See generally A. HUTCHINSON & P. MONAHAN, *supra* note 13.