

ORIGINAL ARTICLE

# ‘Our Archaic System’: Debating and Reforming Military Justice in Argentina, 1905–35

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## Abstract

The treatment of draft dodgers and miscarriages of justice by Argentine military courts provoked mobilisations by families, communities and the major political parties. An examination of the debates and discussions around these issues reveals a widespread sentiment that rarely questioned neither the right of the armed forces to draft young men nor the legitimacy of the armed forces. By adopting the language of patriotism and civic obligation, individual and community petitioners and politicians who represented them challenged the state’s broad claim of power over the bodies of young men from a reformist position. Military justice formed a critical platform through which citizens debated the meaning of citizenship and the place of the armed forces in society.

**Keywords:** Argentina; military conscription; military justice; social movements; newspapers

## Introduction

In 1994, non-commissioned officers (NCOs) murdered conscript Omar Carrasco at an army base in the province of Neuquén, Argentina, and then attempted to cover up their crime. President Carlos Menem invoked the case in moving forward with the abolition of obligatory military service.<sup>1</sup> Fourteen years later, President Cristina Fernández de Kirchner signed Law 26.395, which overhauled Argentina’s Military Code of Justice. A hallmark of the new code was that it did not contravene Argentina’s Constitution nor its civil, criminal or penal codes as the previous one did. To avoid the inherent bias of military judges, who operated within a rigid command structure, the new code required that civilian judges preside over military trials. The intention was to avoid punishments that were both disproportionate to the offence and far outside of civilian legal norms. Observers also noted that the reform definitively abolished the *fuero militar* (military privilege), a colonial legacy that allowed the armed forces to operate outside of civilian oversight with respect to justice and penal matters.<sup>2</sup> Thus, the new law was designed to

<sup>1</sup>Jorge Urien Berri and Dante Marín, *El último colimba: El caso Carrasco y la justicia arrodillada* (Buenos Aires: Temas de Hoy, Editorial Planeta, 1995).

<sup>2</sup>Ministerio de Defensa de Argentina, *El nuevo sistema de justicia militar, Ley 26.394: Aporte al proceso de modernización institucional de las Fuerzas Armadas* (Buenos Aires: Ministerio de Defensa, 2008); Leonardo

prevent impunity for officers accused of committing violence against subordinates as had occurred in the Carrasco case and earlier during the last dictatorship (1976–83) and the Malvinas War (1982).<sup>3</sup>

Lawmakers, jurists and scholars cited the extra-judicial repression of the last military dictatorship as propelling military reform, but its roots went far beyond the last dictatorship.<sup>4</sup> From the early twentieth century, Argentines from across the political spectrum had periodically grappled with military justice and discipline, especially with respect to conscripts. The Chamber of Deputies debated, but did not pass, military justice reform proposals in 1913, 1917, 1923, 1926 and 1935. All either died in committee or were not taken up by the Senate. In each case, a notorious miscarriage of justice against a conscript had motivated Congress to take up the matter. Facing pressure from constituents, Congress also frequently passed short-term amnesties for registration evaders and draft dodgers.

This article offers a re-examination of the meaning and practice of democracy in Argentina as it related to the military, focusing on the period from the lead-up to the institutionalisation of fair elections in 1912 through to the 1930 coup. While scholars have focused on electoral politics, patronage and especially the important role played by labour, this article examines the impact that petitioning by citizens had on the behaviour and rhetoric of elected officials, bureaucrats and newspaper publishers. I argue that the interface between the armed forces and civilian life formed a critical component of political life. And to understand how the draft was ‘naturalized in the public milieu’ beyond the period of this article and into the 1960s, we must examine the ways that society negotiated and shaped the institution.<sup>5</sup>

These public and legislative efforts reflect an attempt to balance military goals to form citizen-soldiers with civilian and liberal notions about the rights of the individual. Adopting the language of patriotism and civic obligation, individual and community petitioners challenged the state’s broad claim of power over the bodies of young men, but often with the limited goal of righting a specific wrong.<sup>6</sup> These discussions also reflected how Argentines saw themselves in relation to the world; brutal punishments reflected poorly on Argentina’s coveted status as a bastion of European civilisation in the Americas.

However, the armed forces were in a paradoxical position. On the one hand, they were integrated into a complex society where economic and political liberalism enjoyed a high degree of legitimacy. Yet they coexisted uneasily alongside a sizeable

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Filippini and Karina Tchrian, ‘El nuevo sistema de justicia militar argentino – comentario a la ley 26.394’, *Revista de Derecho Penal y Procesal Penal*, 7 (July 2009), pp. 1191–207.

<sup>3</sup>Comisión Nacional sobre la Desaparición de Personas (CONADEP), *Nunca más: Informe de la Comisión Nacional sobre la Desaparición de Personas* (Buenos Aires: EUDEBA, 1987), pp. 360–7. On abuse of Chilean conscripts, see Leith Passmore, *The Wars inside Chile’s Barracks: Remembering Military Service under Pinochet* (Madison, WI: University of Wisconsin Press, 2017), pp. 169–70.

<sup>4</sup>Anthony Pereira, *Political (In)justice: Authoritarianism and the Rule of Law in Brazil, Chile, and Argentina* (Pittsburgh, PA: University of Pittsburgh Press, 2005), pp. 52–9, 117–39.

<sup>5</sup>Valeria Manzano, *The Age of Youth in Argentina: Culture, Politics, and Sexuality from Perón to Videla* (Chapel Hill, NC: University of North Carolina Press, 2014), p. 128.

<sup>6</sup>On nineteenth-century petitions, see Ricardo Salvatore, *Wandering Paysanos: State Order and Subaltern Experience in Buenos Aires during the Rosas Era* (Durham, NC: Duke University Press, 2003), pp. 294–324.

labour movement.<sup>7</sup> By and large, they enjoyed respect from the populace. On the other hand, the military's position was in constant negotiation, at once part of the wider society and separate from it. Negotiations among politicians, private citizens, community groups and bureaucrats often produced short-term compromises that helped the system maintain a degree of legitimacy.

How the military and conscription maintained a degree of acceptance forms the final element of the argument. While urban anarchist and syndicalist organisations waged propaganda campaigns against the draft, most Argentines came to accept conscription as a *fait accompli*. As this article demonstrates, popular acceptance of the military did not translate into universal obedience of military service laws.<sup>8</sup> While the military and many conservatives mischaracterised disobedience as the sole work of leftist agitation, the more common causes were notorious mistreatment of conscripts by NCOs, poor food and housing, and low pay. Importantly, politicians and the military hierarchy, caught between their ideological and institutional connections to the armed forces and pressure from families and communities, often sought to soften the hard edges of the military system. Motives differed, as did their view of military service. Conservatives and moderates generally agreed that the goal of military service was to maintain 'dignity in subordination'.<sup>9</sup> By contrast, Socialists sought to ensure that the barracks did not become a 'school of servitude' where citizens only learned to obey blindly.<sup>10</sup> Additionally, military officers themselves occasionally raised questions about their institution's legal system and practices out of concern that popular mistrust of the military legal system would undermine their standing in society and encourage draft dodging.<sup>11</sup>

A key factor in moderating the excesses of the military was the press, both liberal and socialist, who campaigned on behalf of conscripts. Daily and weekly publications with large sales and advertisement revenue were generally not beholden to a specific political party. Rather, they supported the continuation of the liberal economic order and the interests of the country's diverse ruling classes. As such, they often reported on the plight of conscripts in sympathetic tones, urging a more rational treatment of men serving the nation.<sup>12</sup> Interestingly, considering the large population of people of colour in the country's interior, race was generally absent from public debate in Argentina over the treatment of conscripts.<sup>13</sup>

This article demonstrates that, when compared with obligatory military service systems elsewhere in the region – a region in which the draft was near universal despite few wars – the Argentine system was relatively efficient and durable and

<sup>7</sup>Ricardo Salvatore, 'The Normalization of Economic Life: Representations of the Economy in Golden-Age Buenos Aires, 1890–1913', *Hispanic American Historical Review*, 81: 1 (2001), pp. 1–44.

<sup>8</sup>See Malcolm Deas, 'The Man on Foot', in James Dunkerley (ed.), *Studies in the Formation of the Nation-State in Latin America* (London: Institute of Latin American Studies, 2002), p. 86.

<sup>9</sup>'La condena del conscripto Enríquez – gestiones en favor de su indulto', *La Prensa*, 14 Jan. 1913, p. 13.

<sup>10</sup>'Necesidad de reformar el Código de Justicia Militar', *La Vanguardia*, 13 Jan. 1935, p. 1.

<sup>11</sup>Ministerio de Defensa de Argentina, *Boletín Militar*, no. 5764, 13 Dec. 1920, pp. 1292–7.

<sup>12</sup>James Cane, *The Fourth Enemy: Journalism and Power in the Making of Peronist Argentina, 1930–1955* (University Park, PA: Pennsylvania State University Press, 2011).

<sup>13</sup>Paulina Alonso and Eduardo Elena (eds.), *Rethinking Race in Modern Argentina* (New York: Cambridge University Press, 2016).

enjoyed high levels of acceptance.<sup>14</sup> Violent opposition to the draft appears to have not been an issue in Argentina; there were no reported cases of draft riots or other violence against the system as seen elsewhere in the region in the twentieth century. Mexico's short-lived experiment with modern conscription in the 1940s faced popular suspicion and armed resistance, especially in rural zones. Such protests were sparked by the dreadful material conditions of the conscript, the abuse that the armed forces perpetrated against primarily rural populations, Mexico's long tradition of village autonomy and concern that it was not constitutional. In a striking reversal of a state policy, and one inconceivable in Argentina, the Mexican state abandoned the draft in 1948.<sup>15</sup> In Brazil, widespread resistance was often rooted in the country's profound racial divide. Brazilian military justice made no pretence of being modern or fair; flogging, for example, with all of its associations with slavery, was legal until after 1923.<sup>16</sup> The Brazilian and Bolivian systems likewise made no pretence of being democratic: draftees were ineligible for the rights of citizens, including suffrage, and Brazilian opponents, like Mexican ones, questioned the draft's constitutionality.<sup>17</sup> Chile's military and civilian leadership quickly despaired of their experiment in obligatory military service – adopted a year before Argentina. In Chile, as in Mexico, evasion was so commonplace that commanders complained in the early twentieth century of having a shortage of soldiers, a problem never mentioned in Argentina.<sup>18</sup> Finally, the Argentine system was unique – really in the entire world – for its explicit linkage between voting and military service through the single *carnet* (identity card) for both purposes.

This article also addresses the methodological and historiographic challenges of writing on the social history of the Argentine military. For our period, there are surprisingly few detailed studies and most scholars speak of the military only in terms of its high command and budgetary matters. This lacuna can in part be explained by the fact that even after the opening of military archives several years ago, restrictions and documentation loss prevent a thorough review of military trials or disciplinary hearings for the time period under consideration.<sup>19</sup> Ironically, military

<sup>14</sup>Elizabeth Shesko, 'Mobilizing Manpower for War: Toward a New History of Bolivia's Chaco Conflict, 1932–1935', *Hispanic American Historical Review*, 95: 2 (2015), pp. 299–334.

<sup>15</sup>Thomas Rath, *Myths of Demilitarization in Postrevolutionary Mexico, 1920–1960* (Chapel Hill, NC: University of North Carolina Press, 2013), pp. 54–72; 'Modernizing Military Patriarchy: Gender and State-Building in Postrevolutionary Mexico, 1920–1960', *Journal of Social History*, 52: 3 (2018), pp. 1–24.

<sup>16</sup>Joseph Love, *The Revolt of the Whip* (Stanford, CA: Stanford University Press, 2012), pp. 84–8, 96.

<sup>17</sup>Peter M. Beattie, *The Tribute of Blood: Army, Honor, Race, and Nation, 1864–1945* (Durham, NC: Duke University Press, 2001); Elizabeth Shesko, *Conscript Nation: Coercion and Consent in the Bolivian Barracks* (Pittsburgh, PA: University of Pittsburgh Press, 2020); Rath, *Myths*, p. 71.

<sup>18</sup>William F. Sater and Holger H. Herwig, *The Grand Illusion: The Prussianization of the Chilean Army* (Lincoln, NE: University of Nebraska Press, 1999), pp. 102–8, 117, 130.

<sup>19</sup>Ministerio de Defensa de Argentina, *Guía de archivos históricos y generales de las Fuerzas Armadas Argentinas: Experiencias del programa de modernización de archivos del Ministerio de Defensa* (Buenos Aires: Ministerio de Defensa, 2015) provides a list of military archive holdings. However, a deeper dive reveals very little of substance on the daily lives of soldiers. Much of the Archivo General del Ejército collection remains classified and there are no listings of trials or disciplinary hearings. There is a substantial collection of *sumarios* from just before the last dictatorship until the late 1980s available at the Archivo General de la Nación (hereafter AGN) – El Departamento Archivo Intermedio's Archivo Histórico de Justicia Militar. The Archivo General de la Armada de la República Argentina has a sizeable collection of materials, including trial records, but there is no index and researchers cannot request specific files.

discipline and justice were both excessively harsh and, if congressional and newspaper reports are to be believed, generators of a great deal of paperwork. That documentation is presently beyond our reach.<sup>20</sup> For reasons not entirely clear, naval trials rarely made it into public discussions. This article, then, relies heavily upon a critical reading of newspapers and reports of congressional debates.

The first section of the article explains the political and social context of military service reform, and the creation of the first military justice code. The subsequent section explores registration and draft dodging and popular campaigns in support of violators of the law. Finally, we consider a set of representative cases of military trials of conscripts that provoked wider discussions about how to reform military tribunals and the treatment of conscripts.

### Politics and the Development of Conscription and Military Justice

Nineteenth-century conscription had been nakedly coercive and targeted the country's non-white underclass, who often resisted it violently.<sup>21</sup> Between 1895 and 1911, however, the state modernised military conscription, especially targeting immigrant communities, whose low naturalisation rates and affiliation with radical labour movements were seen as an impediment to the forging of a national identity. There was also interest in inculcating nationalist values into rural men, especially those from the poorest interior provinces and territories.

These changes to military service emerged out of political transformations in late-nineteenth-century Argentina. Since the 1880s, the Partido Autonomista Nacional (National Autonomist Party, PAN) had dominated Argentine politics and guided the republic from the era of caudillo politics into the modern era through a thriving export sector, the formation of a modernising state, and massive electoral fraud. Facing mounting pressure from the Unión Cívica Radical (Radical Civic Union, UCR) – a party that had emerged in the 1890s from the growing urban middle class, many the sons of immigrants – and junior military officers, the PAN leadership passed voter and military registration laws in 1911, which paved the way for obligatory universal male suffrage in 1912. With that expanded electorate, the UCR mastered the new political framework and came to control the presidency and both chambers of Congress from 1916 until the 1930 coup. The UCR's programme was vague, highlighting nationalism and the battle for fair elections over specific policies, but accepting the economic liberalism of conservative opponents and avoiding deep reform.

Amid this changing political context, between 1895 and 1911, Argentina passed four military service laws that were instrumental to the modernisation of the Argentine armed forces. The June 1911 Law of General Military Enrolment

<sup>20</sup>In 1923, a congressman invoked the case of two conscripts arrested for illegally cutting sugar cane in the province of Tucumán. Their case reportedly produced a file of 300 documents and dragged on for months after they were transported to the Campo de Mayo army base. See Cámara de Diputados, *Diario de sesiones de la Cámara de Diputados*, 1923, vol. 6 (Buenos Aires: Congreso Nacional, 1923), p. 647.

<sup>21</sup>Ariel de la Fuente, *Children of Facundo: Caudillo and Gaucho Insurgency during the Argentine State-Formation Process (La Rioja, 1853–1870)* (Durham, NC: Duke University Press, 2000), p. 170; Juan Carlos Garavaglia, 'Las fuerzas de guerra argentinas durante el conflicto de la Triple Alianza, 1865–1871', in Juan Carlos Garavaglia and Raúl Fradkin (eds.), *A 150 años de la Guerra de la Triple Alianza contra el Paraguay* (Buenos Aires: Prometeo, 2016), pp. 116–21.

eliminated a variety of exemptions, including payment of a substitute.<sup>22</sup> Regardless, the military only called up roughly 20 per cent of the eligible 20-year-old men each July.<sup>23</sup> Unique to Argentina, a subsequent law (Law 8130) declared that lists of eligible voters would be drawn from the enrolment lists and both were to be collected and maintained by a network of military district offices. Failure to register for the paired civic obligations of voting and conscription could land a young man in either a military or civilian court and could result in fines, additional military service, regardless of age, prison and even loss of citizenship for naturalised Argentines.<sup>24</sup>

The 1911 laws served as the enabling legislation for the Sáenz Peña Law of February 1912, which mandated universal, secret and obligatory suffrage for male citizens. Universal suffrage had existed since 1853, but elections were fraud-ridden and the participation rate was low. From 1911, punishments were introduced for anyone who failed to vote, which required presentation of one's *libreta* (a booklet that contained one's photograph, fingerprints, personal details, address and space for official stamps proving completion of military service and having voted). Punishments included the publication of one's name in a public notice and an AR\$10 fine – roughly the monthly cost of renting a modest room in a city-centre *conventillo* (typically an old house converted into cheap and crowded apartments for large numbers of workers and immigrants).<sup>25</sup> Overall, the Sáenz Peña Law was an ambitious and innovative piece of legislation which sought to solve multiple 'problems' of the modern nation-state and quickly resulted in a high percentage of the male population registering and voting.<sup>26</sup>

<sup>22</sup>Marcela Ferrari, *Los políticos en la república radical: Prácticas políticas y construcción del poder* (Buenos Aires: Siglo Veintiuno, 2008), p. 214.

<sup>23</sup>For example, the military called up 24 per cent of eligible men to serve in the early 1920s. See Jonathan D. Ablard, "'The Barracks Receives Spoiled Children and Returns Men': Debating Military Service, Masculinity and Nation-Building in Argentina, 1901–1930', *The Americas*, 74: 3 (2017), p. 308. In 1919, 33,891 men were called to service. See Ministerio de Guerra de Argentina, *Memoria del Ministerio de Guerra correspondiente al año 1919–1920* (Buenos Aires: Ministerio de Guerra, 1920), pp. 37–9. However, a significant percentage were then deemed ineligible for health reasons. During the early 1930s, the number of conscripts dropped in response to budget cuts. See '1933 Conscripts', Sept. 1932, National Archives and Records Service (hereafter NARS), Washington DC, Records of the Department of State Relating to the Internal Affairs of Argentina, 1930–1939, reel 4, frame 0419.

<sup>24</sup>La excepción falsa – el asunto en manos de la justicia militar', *La Vanguardia*, 24 March 1915; 'Incorporación de conscriptos', *La Prensa*, 18 March 1920; 'Infracciones de las leyes militares', *La Vanguardia*, 20 April 1920, p. 9; 'Infracciones militares', *La Razón*, 19 April 1921, p. 5; 'Cámara de lo federal', *La Nación*, 7 April 1918, p. 6; 'Cámara de lo federal', *La Vanguardia*, 7 April 1918, p. 6. In 1922, 36 men were in Posadas prison (province of Misiones) and 60 in Paraná prison (province of Entre Ríos) for violating the various electoral and military registration laws. See Ministerio de Justicia e Instrucción Pública de Argentina, *Memoria del Ministro de Justicia e Instrucción Pública, 1923* (Buenos Aires: Ministerio de Justicia e Instrucción Pública, 1923), pp. 32–4, 449–51. For southern Argentina, see Ernesto Bohoslavsky, 'Rueda de reconocimiento. Delinquentes y delito en Neuquén (1900–1930)', in María Beatriz Gentile, Carlos Gabriel Rafart and Ernesto Bohoslavsky (eds.), *Historias de sangre, locura y amor: Neuquén, 1900–1950* (General Roca: PulbiFadecs, 2000), pp. 17–33.

<sup>25</sup>James R. Scobie, *Buenos Aires: Plaza to Suburb, 1870–1910* (New York: Oxford University Press, 1974), p. 155.

<sup>26</sup>David Rock, *Politics in Argentina, 1890–1930: The Rise and Fall of Radicalism* (Cambridge: Cambridge University Press, 1975); Joel Horowitz, *Argentina's Radical Party and Popular Mobilization, 1916–1930* (University Park, PA: Pennsylvania State University Press, 2008).

The system possessed a set of contradictory features. On the one hand, the state was efficient in tracking down those who defied the obligation to register or who failed to appear in the barracks when called to service.<sup>27</sup> On the other hand, there were also positive associations with the military, including a century-long tradition that viewed the armed forces as the progenitors of the nation. Respect for the armed forces was displayed in public rituals, textbooks, public schools and other civic institutions. Active-duty and retired officers served in Congress.<sup>28</sup> This respect helped the state to successfully frame the obligation to register and serve if called up as an honourable, constitutional and patriotic ritual of male citizenship.<sup>29</sup> As already noted, the system also articulated a meaningful connection between service, citizenship and a liberal economic and political order through a bureaucratic apparatus that linked military and voter registration. Proof of registration and successful completion of the term of service if called up were required for many formal-sector jobs. Military service could be seen as a path to upward social mobility. The enthusiastic intervention of the Catholic Church in the training of conscripts, formally institutionalised in the 1930s, additionally lent the institution a certain legitimacy.<sup>30</sup> The new system also fitted with the state's quest to forge a modern nation on a par with Western Europe. It was a goal that resonated among many Argentines.<sup>31</sup>

Military justice was also evolving during the early twentieth century. Until the late nineteenth century, military justice followed the Ordinances of Carlos III from the late colonial era. Procedural rules were fairly loose, officers explicitly enjoyed the benefit of a *fuero*, and corporal punishment was notorious and commonplace. The first military justice code was passed in 1895, echoing earlier reforms of civilian law, and was reformed again in 1905, following a major rebellion by sectors of the army. The trials that followed the rebellion raised concerns that the 1895 code left too many loopholes for the defence counsel.<sup>32</sup> The principal goals of the 1905 code's author, General José María Bustillo, were contradictory: to both improve protections for the accused and regulate the relationship between superior and subordinate.<sup>33</sup> Key changes expanded the president's prerogative to establish tribunals in peacetime, clarified the importance of maintaining discipline and order in the ranks and enumerated the responsibilities of unit commanders in

<sup>27</sup>Ministerio de Guerra de Argentina, *Memoria del Ministerio de Guerra correspondiente al año 1918–1919* (Buenos Aires: Ministerio de Guerra, 1919), p. 57.

<sup>28</sup>Ferrari, *Los políticos en la república radical*, pp. 223–8, 253–5.

<sup>29</sup>Francisco L. Albarracín, *La instrucción y cultura del ejército en función de la democracia* (Buenos Aires: n.p., 1958), pp. 21–2; Daniel Moran and Arthur Waldron, *The People in Arms: Military Myth and National Mobilization since the French Revolution* (New York: Cambridge University Press, 2003), pp. 1–7.

<sup>30</sup>Loris Zanatta, *Del estado liberal a la nación católica: Iglesia y ejército en los orígenes del peronismo, 1930–1943* (Buenos Aires: Universidad Nacional de Quilmes, 1999).

<sup>31</sup>Ablard, “The Barracks”, pp. 299–329.

<sup>32</sup>Guillermo Andrés Oyarzábal, ‘El proceso de la caza torpedera Rosales y su influencia en la primera legislación argentina de justicia militar’, in *Temas de historia argentina y americana*, 2 (Jan.–June 2003), pp. 159–85.

<sup>33</sup>Carlos H. Cerdá, ‘A Look at the Argentine Military Justice System’, unpubl. thesis, Judge Advocate General's School, US Army, April 1966; Juan Alfredo Fazio, ‘Reforma y disciplina. La implantación de un sistema de justicia militar en Argentina (1894–1905)’, presented at the tenth Jornadas Interescuelas/Departamentos de Historia conference, Rosario, 2005.

tribunals.<sup>34</sup> The new code explicitly barred civilian jurists from serving as defence attorneys, because of their ‘ignorance of the material and [...] their tendency to “perturb” the normal development of the trial’.<sup>35</sup> Officers celebrated this modernisation of military justice and discipline, especially the banning of physical punishments.<sup>36</sup>

Typically, a soldier accused of a crime would be indicted and tried by a *consejo ordinario de guerra de tropas y clases* (war tribunal for soldiers and NCOs). A separate *consejo* was convened for officers. Sentences were then ratified by a *consejo supremo de guerra* (supreme war counsel), which in turn passed the ruling on to the president, who had the power to sanction, commute or reduce sentences. While this article focuses on widely publicised cases of abuse, the overwhelming majority of military trials involved common crimes that rarely made it into the public discourse.<sup>37</sup> Those convicted by an army court might have served their time in the most remote regions of the republic, including in the infamous and poorly documented *unidades de disciplina* (disciplinary units) of the Santa Cruz, Formosa and Chaco territories.<sup>38</sup> The navy operated the prison at Ushuaia and also a penal colony on Martín García Island.<sup>39</sup>

The Partido Socialista (Socialist Party, PS), founded in 1896 and the smallest of the major parties, had an outsized role in the conscription and military justice debates, which formed part of a broader agenda to improve the welfare of the working class. The party consistently challenged conservative and Radical governments’ personalism and clientelism as impeding meaningful reform.<sup>40</sup> In Congress and in their daily newspaper, *La Vanguardia*, Socialists argued that the position of the military raised troubling issues about the rule of law, human rights and the functioning of a democratic system.<sup>41</sup> If the military could try soldiers and sailors according to procedures that violated the Criminal Code and the Constitution, then it effectively still enjoyed the benefit of a *fuero*.<sup>42</sup> Socialists were also concerned about guaranteeing that military tribunals would not try civilians.<sup>43</sup> But, as Socialist Deputy Antonio de Tomaso noted in 1914, ‘the party was not an enemy of the army, but rather was concerned with

<sup>34</sup>Ezequiel Abásolo, ‘El derecho penal militar en la historia argentina’, doctoral thesis, Academia Nacional de Derecho y Ciencias Sociales de Córdoba, 2002, p. 469; Jorge A. Clariá Olmedo, *Competencia represiva militar* (Córdoba, Argentina: Imprenta de la Universidad, 1947).

<sup>35</sup>Abásolo, ‘El derecho penal militar’, p. 469.

<sup>36</sup>Lieutenant Colonel Carlos Smith, *¡Al pueblo de mi patria!* (Buenos Aires: Talleres Gráficos del Estado Mayor del Ejército, 1918), p. 246.

<sup>37</sup>For summaries of all military trials, see *Boletín Militar* (1904–30).

<sup>38</sup>Benjamín Rattenbach, *Sociología militar (una contribución a su estudio)* (Buenos Aires: Librería Perlado, 1958), pp. 104–5.

<sup>39</sup>Ryan Edwards, ‘From the Depths of Patagonia: The Ushuaia Penal Colony and the Nature of “The End of the World”’, *Hispanic American Historical Review*, 94: 2 (2014), pp. 271–302.

<sup>40</sup>Horowitz, *Argentina’s Radical Party*, pp. 80, 102; Richard J. Walter, *The Socialist Party of Argentina, 1890–1930* (Austin, TX: Institute of Latin American Studies, 1977).

<sup>41</sup>Nicolás Repetto, *Los socialistas y el ejército* (Buenos Aires: Editorial La Vanguardia, 1946); ‘Informaciones – F. Arias’, 19 May 1934, AGN, Fondo Justo, caja 99, documento 12.

<sup>42</sup>‘De la vida del cuartel – la verdad de una versión’, *La Vanguardia*, 17 Dec. 1921, p. 1.

<sup>43</sup>Antonio de Tomaso, *Socialismo, defensa nacional, y paz* (Buenos Aires: Atilio Moro, 1925), p. 65.



correcting abuses or serious errors of the commanders of the army, in order that it not be separated from the country'.<sup>44</sup>

Socialists often claimed that they alone would protect their constituents from the depredations of militarism. However, many conservative and Radical politicians concurred with Socialists that conscripts were citizens before they were soldiers. Of equal importance to the parties, mistreatment of conscripts, and especially the application of capital punishment, generated a widespread fear and dislike of doing military service. For Radicals, on the other hand, there was a tension between their nationalism and deep connections to the military and the fact that the party enjoyed strong support among immigrant communities and among youth, two demographic groups that were inclined to dislike military service.<sup>45</sup>

### Draft Dodging

Young men of means could avoid service if they enrolled in the university or joined a shooting club, or paid a military tax – in 1911, it was AR\$25, equivalent to more than a month's rent for an urban worker.<sup>46</sup> Agricultural workers could delay their entry into service during harvest months.<sup>47</sup> For everyone else, there was fraud or draft dodging, phenomena that have left behind no clear statistics as to frequency. Federal Judge C. Zavalía bitterly noted in 1922 that '[a]ll means of evasion are used. And everyone, from the well-off and cultured to the miserable poor who must scrape together the funds necessary' to buy a fraudulent exemption, engages in this deception. The judge claimed that no one 'shows the least bit of shame. The traffickers in false papers include anyone and everyone in a position of legal authority.'<sup>48</sup> This same judge praised a 1922 crackdown on evasion and fraud.<sup>49</sup> These types of stories were commonplace in the *porteño* (from Buenos Aires) dailies and suggest that fraud was good business. In 1906, Captain Oscar Amadeo and his civilian accomplices faced criminal charges for allegedly defrauding countless men facing conscription with the promise of falsified documents.<sup>50</sup> Similarly, Dr Francisco Ramírez, an army surgeon, was tried by the military for taking bribes in exchange for declaring two men ineligible to perform their duty.<sup>51</sup> A 1921

<sup>44</sup>Walter, *The Socialist Party*, p. 116. An early proponent of the modern draft was Socialist Colonel Maligne. See Guido Anatolio Cartey, 'Las aberraciones del militarismo', *La Vanguardia*, 25 Feb. 1916.

<sup>45</sup>Ferrari, *Los políticos en la república radical*, p. 264.

<sup>46</sup>Ley N° 8129 de Enrolamiento General – 1911', cited in the 1911 *libreta* (author's collection), p. vi; Bárbara Raiter, 'Ciudadanos y soldados. El Tiro Federal Concordia de la República Argentina, 1898–1923', *Revista Universitaria de Historia Militar*, 5: 9 (2016), pp. 33–51.

<sup>47</sup>Rodolfo Bramanti Jauregui, *La conducta en el ejército: Ensayo de psicología y psiquiatría jurídico-militar* (Buenos Aires: Círculo Militar, 1948), p. 141.

<sup>48</sup>Excepciones del SM – actuaciones con motivo de una nota del Sr. Juez Federal de la Plata aconsejando la reforma de la Ley N° 9686', 16 Sept. 1922, in Ministerio de Justicia e Instrucción Pública, *Memoria, 1923*, pp. 28–30; 'Actuaciones relativas a la detención de ciudadanos acusados por infracción a las leyes militares cuya captura recomienda el Sr. Juez Federal de Paraná', 10 Oct. 1922, in *ibid.*, pp. 32–4.

<sup>49</sup>Ley orgánica militar – proyecto de reforma de la misma – excepciones', *La Prensa*, 17 Sept. 1922, p. 11.

<sup>50</sup>'Las excepciones falsas – estafadores sin castigos', *La Vanguardia*, 17 Feb. 1906, p. 1; 'Las excepciones falsas en el Consejo de Guerra', *La Vanguardia*, 19 and 20 Feb. 1906, p. 1.

<sup>51</sup>'Justicia militar', *La Nación*, 3 June 1911.

scandal involved high-level civilian and military authorities providing exceptions in exchange for cash.<sup>52</sup> In a 1923 case, a group of men had set up an office in downtown Buenos Aires to sell falsified documents.<sup>53</sup>

Men with neither connections nor money had to escape the entire system by either going underground or leaving the country.<sup>54</sup> Nonetheless, that brought its own problems. Police chiefs and judges coordinated with local military district offices where enrolment records were maintained, and seem to have operated with greater efficiency in catching draft dodgers than their nineteenth-century counterparts as the presence of the federal government spread to the more remote corners of the republic.<sup>55</sup> The police also deployed the registration law to arrest labour activists and political dissidents.<sup>56</sup> It was not uncommon for authorities to arrest men many years after they had dodged the draft.<sup>57</sup>

Enforcement of the draft provoked individual men, and their parents and community or neighbourhood groups, to petition elected officials for exemptions and amnesties for draft dodging. However, these petitions rarely challenged the legality of the draft. Socialist, conservative and Radical politicians repeatedly advocated legislation to grant short-term amnesty for those who had evaded conscription or failed to pay the military tax.<sup>58</sup> Consensus was likely a function, at least in part, of the parties' search for votes. This was not unique to the question of the draft; the parties often coincided on social issues, even if they approached them from different ideological or programmatic positions.<sup>59</sup>

The Socialists had begun advocating for amnesties as early as 1906.<sup>60</sup> Socialists made it clear that the system presented families and communities with a double bind. After 1911, those who received an exemption, or who had failed to register, were still obliged to pay a *tasa militar* (military tax) and also various processing fees. Failure to pay the tax, moreover, could lead to cascading penalties and punishments.<sup>61</sup>

<sup>52</sup>'Un escándalo del ejército argentino', *La Vanguardia*, 16 Feb. 1921, p. 1.

<sup>53</sup>'Se sigue indagando acerca de las excepciones militares', *La Vanguardia*, 4 Oct. 1923, p. 10.

<sup>54</sup>'Militarismo', *La Vanguardia*, 7 Nov. 1906, p. 1. Correctional Judge Obligado (first name not listed) condemned Juan Castañino 'a un año de arresto o, en su defecto, mil pesos de multa, por infracción de la ley de enrolamiento'. According to Dr Adriana Kindgard (Jujuy), Argentine provincial judicial archives have records of men put on trial for evasion of the draft law. (Personal communication, 2017).

<sup>55</sup>'Policía – capturas', *La Nación*, 18 Nov. 1915, p. 11; 'Incorporación de conscriptos', *La Prensa*, 18 March 1920; Argentine Republic, Policía de la Capital, *Orden del Día*, 35, vol. 1 (1916), pp. 515–23; 'El hombre-mujer descubierto en Viedma', *Caras y Caretas*, 5: 189 (1902), p. 39; 'Santiago de Estero – un pájaro de cuenta', *Caras y Caretas*, 7: 310 (1904), p. 45.

<sup>56</sup>'Detención indebida de un delegado de la FORA', *La Vanguardia*, 11 April 1920, p. 9.

<sup>57</sup>'Conscripto detenido', *La Prensa*, 8 Nov. 1912, p. 13; 'Policía – capturas', *La Nación*, 19 May 1911, p. 11; *Boletín Militar*, no. 5769, 7 Dec. 1920, pp. 1317–18.

<sup>58</sup>'La tasa militar', *La Vanguardia*, 11 Feb. 1911, p. 1.

<sup>59</sup>Walter, *The Socialist Party*, pp. 120–1. Conservatives, for example, often promoted support for working-class issues from a Catholic perspective.

<sup>60</sup>'La comisión pro-amnistía – otro desaire presidencial', *La Vanguardia*, 22 Feb. 1906, p. 1.

<sup>61</sup>'En el proyecto de ley de amnistía a los infractores de la ley 8.871 en las elecciones nacionales verificadas el 1 de abril del corriente año' (Comisión de Negocios Constitucionales), in Cámara de Diputados, *Diario de sesiones de la Cámara de Diputados*, 1928, vol. 4 (Buenos Aires: Congreso Nacional, 1928), p. 675. On calls for suppression of the military tax, see Cámara de Diputados, *Diario de sesiones de la Cámara de Diputados*, 1924, vol. 6 (Buenos Aires: Congreso Nacional, 1924), pp. 1000–2.

Typical of these processes was the July 1914 citizen petition for amnesty that included 'parents of soldiers', and was supported by Socialist Deputy Alfredo Palacios. The parents were especially concerned that their sons might end up with extended service in a dreaded penal brigade. By December of that year, Congress passed a short-term amnesty for men who had failed to enrol or register. Men residing in the country had three months to order their affairs; those out of the country had six months. The law forgave all fines but did not provide any help to men accused of desertion, who still faced trial and punishment.<sup>62</sup> *La Nación*, a newspaper that reflected the values of the traditional elites, accepted the amnesty law in the hope that it would render military service more palatable to the working class and reduce the supposed politicisation of the topic by the Left.<sup>63</sup>

Radical politicians also responded positively to amnesty petitions but, like their conservative counterparts, could never stray too far from support of the armed forces. Radical Deputy Manuel Pinto's 1923 proposal for a three-month amnesty for violators of the enrolment law echoed the Socialist position. Pinto observed that many a 'young Argentine proletariat, [...] through ignorance or negligence, does not comply with his military obligations'. He proposed forgiving all unpaid military taxes. Evaders would serve in the 'reserve, national guard or territorial guard according to their age'. Pinto justified his proposal with appeals to 'justice and social harmony' and also 'sane nationalism' and hoped that expatriated Argentine draft resisters would choose to return to the republic. He pleaded with colleagues to pass this measure in order to 'give peace and happiness to the homes and spirits, now in tribulation, of thousands of Argentine citizens'.<sup>64</sup> A 1924 Radical proposal to simplify and make affordable the paperwork necessary to apply for certain exemptions also enjoyed support from conservative deputies.<sup>65</sup>

A crucial element in discussions about amnesties was the status of Argentines who had escaped to neighbouring countries, especially Uruguay.<sup>66</sup> Some scholars assume that only *niños de bien* (boys from wealthy families) escaped across the Río de la Plata.<sup>67</sup> But a syndicalist newspaper reported in 1913 on the formation of an international committee of Argentine draft resisters, with possible affiliation to the anarchist Asociación Argentina Antimilitarista (Argentine Anti-Military Association).<sup>68</sup> In 1916, the group

<sup>62</sup>'Pro-amnistía militar', *La Vanguardia*, 20 and 21 July 1914. See also 'Ley de amnistía', *La Vanguardia*, 22 Dec. 1914, p. 4; 'Correo', *La Vanguardia*, 22 Dec. 1914.

<sup>63</sup>On support for an *indulto* (pardon), see *La Nación*, 22 July 1916, p. 10; 'Los deudores de la tasa militar', *Caras y Caretas*, 9 Sept. 1911, p. 64.

<sup>64</sup>Cámara de Diputados, *Diario de sesiones de la Cámara de Diputados*, 1918, vol. 1 (Buenos Aires: Congreso Nacional, 1918), p. 3.

<sup>65</sup>Cámara de Diputados, *Diario de sesiones de la Cámara de Diputados*, 1924, vol. 5 (Buenos Aires: Congreso Nacional, 1924), p. 194; *Diario de sesiones de la Cámara de Diputados*, 1924, vol. 6, pp. 1000–2.

<sup>66</sup>'Uruguay – indulto a desertores', *La Vanguardia*, 25 Aug. 1911, p. 3; 'La campaña contra el SMO', *La Batalla*, 8 Feb. 1924, p. 2; 'Bases de la Liga Anti-militarista del Uruguay', *La Batalla*, 1–15 Oct. 1915, p. 5.

<sup>67</sup>Ferrari, *Los políticos en la república radical*, p. 214.

<sup>68</sup>'Un núcleo de desertores (authors of article)', 'Comité Anti-Militarista', *La Acción Obrera*, 8: 276 (1913); 'Pro-amnistía militar', *La Vanguardia*, 20 and 21 July 1914; 'Argentine citizens in Uruguay subject to military duty in their country ask for amnesty', 19 Oct. 1924, NARS, Washington DC, Records of the Department of State Relating to Internal Affairs of Argentina, 1910–1929, reel 16, 'American Legation in Montevideo'.

hosted a conference for draft dodgers residing in Uruguay, Paraguay, Chile and Brazil, and an executive board was elected to negotiate with Argentine lawmakers.<sup>69</sup> Draft dodging provoked a response from some conservative sectors who feared that pervasive cosmopolitanism and communism had bred 'gentlemen without God or Homeland'.<sup>70</sup> Similarly, for the editors of *La Razón*, deserters defamed the good name of the Argentine republic, and amnesty laws were contrary to the national 'military spirit'.<sup>71</sup> While some military officers characterised the collective as dangerous leftists, even the Argentine consulate conceded that the motives for relocating to Uruguay varied widely, including 'ignorance of civic duty, arbitrary or abusive acts by superior officers and the false and incorrect application of military discipline'.<sup>72</sup> *La Nación* reported on a letter sent to its editors by unnamed men who denied being anti-patriotic but had avoided service because of the wretched conditions in the barracks.<sup>73</sup> Finally, at various points, the Argentine high command itself recognised that widespread draft evasion was in part a symptom of the poor conditions and mistreatment by NCOs, and that amnesties had a place in the process of integrating civilians into the armed forces.<sup>74</sup>

The community of evaders in Montevideo was large enough – estimates ran to the unlikely figure of 12,000 (that would have been equivalent to roughly one-third of the men called to service each year) – for functionaries and elected officials to take time to meet with them.<sup>75</sup> Sometimes the case was made that these men only wished to 'rejoin the Argentine family', which was hardly a revolutionary call.<sup>76</sup> A 1924 report from the Argentine consul in Montevideo expressed frustration, however, that the committee of draft dodgers refused to allow its members to be subject to a formal census or give officials access to its membership list. Nonetheless, over 200 members of the collective presented visiting President Marcelo T. Alvear and his wife with a petition requesting that they be included in an amnesty being debated in Congress at the time.<sup>77</sup> The petitioners claimed

<sup>69</sup>'Los desertores argentinos', *La Prensa*, 29 March 1916, p. 11.

<sup>70</sup>Smith, *¡Al pueblo de mi patria!*, pp. 89–91.

<sup>71</sup>'Desertores argentinos – comité en Montevideo', *La Razón*, 15 July 1922, p. 7. See also *La Nación*, 16 Feb. 1922 and 19 Oct. 1924, for reports critical of draft dodgers in Montevideo.

<sup>72</sup>Eduardo Colombres to Ministro de Guerra, General D. Agustín Justo, 'Consulado general de la República Argentina en Montevideo', 18 Oct. 1924, Fondo Uriburu, AGN, *legajo 2579, núm. 409*; 'Los argentinos en Montevideo', *El Día*, 20 Oct. 1924.

<sup>73</sup>'Los desertores argentinos', *La Prensa*, 15 April 1916, p. 9; 'Amnistía a los infractores', *La Nación*, 4 Aug. 1919, p. 4. Unfortunately, the newspaper did not reproduce the letter.

<sup>74</sup>'Indulto a los desertores del ejército – procedimiento para la aplicación del decreto', *La Vanguardia*, 18 July 1916, p. 2.

<sup>75</sup>'Los infractores de la ley militar', *La Nación*, 2 May 1913; 'Desertores del servicio militar', *La Razón*, 30 Nov. 1921, p. 1.

<sup>76</sup>'Una cuestión que debe ser resuelta', *La Vanguardia*, 22 Aug. 1918, p. 2.

<sup>77</sup>Eduardo Colombres to Ministro de Guerra, General D. Agustín Justo, 'Consulado general de la República Argentina en Montevideo', 18 Oct. 1924, Fondo Uriburu, AGN, *legajo 2579, núm. 409*; 'Desertores argentinos en Montevideo – nota presentada al presidente electo', *La Razón*, 11 Sept. 1922; 'En favor de los expatriados', *La Crítica*, 3 Sept. 1922, p. 2. At that point, an amnesty law was under discussion in Congress. See also 'Ley de amnistía general', *La Razón*, 26 Sept. 1922.

that many lived in penury and their families suffered economic hardship in their absence.<sup>78</sup>

### Military Justice and the Abused Conscript

It was a commonplace in newspapers, government documents and congressional debates that stories of abused and neglected conscripts contributed to draft dodging. The stories that sparked interest in reform often took on a set pattern: a conscript, stationed in a provincial barracks, experienced abuse at the hands of an NCO and responded either by defending himself in the moment or by taking revenge at a later time. A military tribunal was quickly convened, and the accused was indicted, tried and convicted with startling speed. Initial sentences ranged from an indeterminate sentence to death. The harsh sentence provoked a public outcry from a cross-section of society, which led to a reduction of the extreme sentence to several years in a penal brigade or military prison. In all of the cases, the abuser was an NCO, not surprising since they operated as the first line of contact between the rank and file and the upper hierarchy. Officers rarely took direct blame for any abuse. The cases reviewed below occurred during three specific periods: after passage of the 1905 military code, which promised more humane treatment; around the time of the 1911 registration law, which promised a more equitable service; and while the Radical government was in power. The political context of these three periods shaped how the cases were discussed, but seemingly had no impact on trial outcomes. The cases below made a prominent appearance in newspapers and congressional debates and reports. They represent, therefore, a selective sample of military trials.

Public support for a convicted conscript was not necessarily based on a belief in his innocence. In 1906, conscript Angelino Arancibia at the garrison in Río Cuarto, province of Córdoba, murdered Captain Alejandro Méndez and a conscript, and wounded four other men. The army arrested, tried and convicted Arancibia within two days in a hastily assembled *consejo de guerra* (court-martial) that sentenced him to death by firing squad.<sup>79</sup> Initially, the question of whether he suffered from a mental illness was not considered. Nonetheless, a popular campaign quickly mobilised on his behalf. Despite dissenting voices from army officers who were convinced that a commutation of the sentence would damage morale and discipline, President José Figueroa Alcorta commuted the sentence – but rejected the idea that popular pressure had shaped his decision – and ordered that Arancibia be transferred to Buenos Aires for a psychiatric evaluation and a review by a *consejo supremo de guerra* in the Campo de Mayo base.<sup>80</sup> When Arancibia and

<sup>78</sup>‘Amnistía necesaria – millares de jóvenes infractores a la ley militar la esperan para volver a sus hogares – hay que combatir la causa para suprimir el efecto’, *La Vanguardia*, 31 Oct. 1922, p. 1.

<sup>79</sup>For a report on the crime, see ‘Suceso sangriento en el Regimiento 13 de Infantería en Río Cuarto – los misterios del cuartel’, *La Vanguardia*, 10 Feb. 1906, p. 1. On the *consejo supremo de guerra*’s death penalty, see ‘La pena de muerte’, *La Vanguardia*, 14 Feb. 1906, p. 1; ‘La pena de muerte contra el conscripto Arancibia – un fallo bárbaro’, *La Vanguardia*, 16 Feb. 1906, p. 1; ‘El conscripto Arancibia condenado a muerte’, *La Nación*, 15 Feb. 1906; ‘El conscripto Arancibia’, *El Sombrero*, 111: 23 (1906), p. 1.

<sup>80</sup>‘El crimen frustrado – el indulto de Arancibia’, *La Vanguardia*, 19 and 20 Feb. 1906, p. 1; *La Nación*, 13 and 15 Feb. 1906; ‘La función del ejército’, *La Vanguardia*, 22 Feb. 1906, p. 1, claimed that Argentine officers praised the Russian Army’s liberal use of the firing squad.

his father arrived at Retiro train station, en route to the Campo de Mayo army base, a large crowd of supporters greeted them. The father publicly stated that mental illness ran in the family and expressed hope that the upcoming medical examination would find extenuating circumstances. Angelino said little except that he had experienced brutal treatment, including being confined to a small cell after his arrest.<sup>81</sup>

When the *consejo supremo de guerra* confirmed the original sentence, *La Nación* was moved to report on the irregularities of the case and called for a retrial with impartial judges. It noted with dismay that Major Telmo Pereyra, who had served as a judge in the case, was present at the scene of the murder and was reported to have shouted that Arancibia 'was not mentally stable'. *La Nación* argued that the major should have been called as a witness and not served as a judge.<sup>82</sup> Similar lines of argument were also laid out in the socialist *La Vanguardia*, which also wondered how Arancibia had even passed the medical screening at his enlistment.<sup>83</sup>

During his time at Campo de Mayo, 12<sup>th</sup> Infantry Commander Colonel Ramón Falcón (who would later be assassinated after leading the repression of the 1909 wave of strikes) granted a journalist from *La Nación* permission to interview the accused conscript. The unnamed journalist thought that Arancibia lacked 'normal mental capacity' and did not understand the charges, and that the murdered officer had probably abused Arancibia.<sup>84</sup> The president granted Arancibia a commutation of his sentence and he ended up in the Hospicio de las Mercedes asylum. His clemency ruling was invoked on behalf of another convicted conscript, Dolores Frías.<sup>85</sup>

The available information on the Frías case is inconsistent. He was reportedly conscripted into the 12<sup>th</sup> Cavalry Regiment in the province of Formosa at age 37, either as punishment for earlier evasion of service or for having lost his *libreta*. He claimed to have already done several years of service prior to the 1901 law. Sympathetic newspapers characterised him as an illiterate *degenerado* (degenerate) who murdered an abusive corporal while in a state of alcoholic 'excitement'.<sup>86</sup> It was reported that, after his arrest, a captain tortured him. The *consejo ordinario de guerra* found that Frías, unlike Arancibia, had acted with premeditation and it found no evidence of mental illness.<sup>87</sup> Between his arrest and execution, which occurred in the space of a few weeks, a public campaign similar to the one for Arancibia was mounted. Perhaps in an effort to stake greater authority and legitimacy around the issue, *La Vanguardia* erroneously claimed that the 'liberal' press was ignoring the case. As in the Arancibia case, there was a campaign against clemency by army officers and the murdered officer's brother. On the eve of the execution, *La Vanguardia* noted that 'the nation should fear more an anarchic army than soldiers

<sup>81</sup>'El conscripto Arancibia', *La Vanguardia*, 24 Feb. 1906, p. 1; 'En el cuartel - la vida del soldado', *La Vanguardia*, 14 Feb 1906, p.1.

<sup>82</sup>'La condena de Arancibia - un caso de nulidad - hechos que lo fundan', *La Nación*, 17 Feb. 1906, p. 6.

<sup>83</sup>'Arancibia en capilla - el padre lo visita', *La Vanguardia*, 18 Feb. 1906, p. 1.

<sup>84</sup>'Una entrevista con Arancibia - algunos datos de su familia - se queja de haber sido castigado - impresión que produce el criminal', *La Nación*, 15 Feb. 1906, p. 6.

<sup>85</sup>'Proceso Frías - pidiendo la pena de muerte', *La Vanguardia*, 19 and 20 Feb. 1906, p. 1.

<sup>86</sup>'El soldado Frías', *La Vanguardia*, 18 Feb. 1906, p. 1.

<sup>87</sup>'Justicia militar - condenas de muerte - el proceso contra el soldado Frías - la sentencia de Arancibia ratificada', *La Nación*, 17 Feb. 1906, p. 7.

whose indiscipline explodes in the face of superiors who enslave and beat them'.<sup>88</sup> Newspapers reported having spoken with Frías on the eve of his execution, but provided no details. Unlike in the Arancibia case, the executive branch refused to consider clemency.<sup>89</sup>

Arancibia and Frías' cases provoked a widespread sense that the new Military Code of Justice was not functioning as it should. Critics noted that military courts ignored extenuating circumstances such as the mental and social condition of the accused. Moreover, many argued that the military should forgive conscripts for minor violations committed soon after arriving at the barracks from civilian life; young men needed a period of adjustment and orientation to military discipline and norms. Argentine civilian jurisprudence, by contrast, had adapted to advances in criminology, sociology and penology that recognised social and psychological factors in determining culpability and sentencing.<sup>90</sup> Military courts were also notoriously inconsistent. *La Nación* noted that Frías was executed for a single murder, while Arancibia was pardoned for two murders and the grave wounding of four people. *La Nación* concluded that the abolition of the death penalty would be a mark of 'civilisation'.<sup>91</sup>

In the context of a continued sense that military justice was flawed, the next set of cases played out around the time of the passage of the 1911 enrolment law. In early 1911, conscript Pedro Rodríguez was sentenced to an 'indeterminate sentence' for having struck a corporal. His case raised a stir in the press and led to a politically diverse campaign to have the president reduce the sentence. After receiving a letter of apology from Rodríguez and meeting with elected officials, the president commuted the sentence to three years but rejected the notion that anyone had pressured him.<sup>92</sup> Consensus around this case is striking; the syndicalist newspaper *La Acción Obrera* agreed with the liberal newspapers that the *consejo supremo de guerra's* original extreme sentence was merely in keeping with the Military Code of Justice.<sup>93</sup> Prior to the commutation, *La Prensa* and *La Vanguardia* launched campaigns on behalf of the conscript. *La Vanguardia* argued that 'it is necessary that conscripts not be tried by military tribunals. Conscripts' errors in discipline should be placed under civilian courts in accordance with a different code.' The Socialists wished to 'further democratise the army' and make it into a truly republican institution.<sup>94</sup> *La Prensa* celebrated the success of its own campaign on behalf of the conscript.<sup>95</sup>

<sup>88</sup>'El soldado Frías – asesinato legal – el holocausto a la disciplina – los militares verdugos honoríficos', *La Vanguardia*, 22 Feb. 1906, p. 1; 'Los castigos en el ejército – son los que fomentan la indisciplina y el crimen', *La Vanguardia*, 22 Feb. 1906, p. 1, argued that NCO abuse led to conscripts committing crime.

<sup>89</sup>'Figueroa Alcorta implacable', *La Vanguardia*, 24 Feb. 1906, p. 2; 'En el infierno del cuartel – la carne de canon – los fusilamientos próximos – el soldado Frías', *La Vanguardia*, 18 Feb. 1906, p. 1. On his defence attorney, Lieutenant Leonardi (first name not listed), see 'La pena de muerte – otro condenado a muerte', *La Vanguardia*, 17 Feb. 1906, p. 1.

<sup>90</sup>'La justicia militar', *La Vanguardia*, 24 Feb. 1906, p. 1; Julia Rodríguez, *Civilizing Argentina: Science, Medicine, and the Modern State* (Chapel Hill, NC: University of North Carolina Press, 2006).

<sup>91</sup>'Ecos del día – la pena capital', *La Nación*, 23 Feb. 1906, p. 6.

<sup>92</sup>'El conscripto Rodríguez – el código militar', *La Vanguardia*, 11 Feb. 1911, p. 1.

<sup>93</sup>'Del militarismo – el conscripto Rodríguez', *La Acción Obrera*, 18 Feb. 1911.

<sup>94</sup>'La injusticia militar', *La Vanguardia*, 11 Feb. 1911, p. 1.

<sup>95</sup>'El conscripto Rodríguez – conmutación de la pena – tres años de prisión – considerandos del decreto – éxito de la iniciativa de "La Prensa"', *La Prensa*, 10 Feb. 1911, p. 11.

The 1913 case of rural conscript Mariano Enríquez attracted even wider publicity and resulted in the first of several efforts to reform the 1905 military justice code. Much was made of the conscript's humble origins in Chascomús, province of Buenos Aires. Soon after entering the army at the Campo de Mayo base, he was hospitalised for rheumatism. Following his release, he cracked a smile after watching fellow soldiers commit an error during drills. Corporal Valenzuela (first name not listed) ordered the conscript to perform 500 leg squats. The exercises proved excruciating for Enríquez, who later claimed the pain had made it impossible to walk. His complaints provoked a beating by the corporal and Sergeant Moretti (first name not listed) with their bayonets. Enríquez defended himself from the blows with the butt of his rifle and as a result was arrested and charged with *insubordinación con vía de hecho* (insubordination in deed), a capital offence.<sup>96</sup>

The case cast doubt on the promise of the new draft law to raise the political culture of the republic. Socialist Deputy Palacios took up the cause of Enríquez to expose the lengthy list of defects in the military justice system and to propose its reform. Enríquez had been subjected to physical punishment in contradiction to the Constitution and military regulations, and did not receive a medical examination upon his arrest. Neither did the *oficial preventor* (officer investigating the case) pursue evidence, including Corporal Valenzuela's own admission of having abused his authority. The *oficial preventor* had collected verbal eyewitnesses' accounts, but had failed to collect written ones. Equally galling to the deputy was that, during the trial, officers of the court acknowledged, but did not act on, the fact that the corporal had abused his authority.<sup>97</sup> In fact, the abuse suffered by the conscript was considered to be extenuating circumstances that moved the *consejo supremo de guerra* to reduce the sentence from either an indeterminate sentence, or death, to 12 years.<sup>98</sup> The case also brought to light the problem of the mistreatment of soldiers who were sent to military prisons. Far from major cities, they were shielded from the scrutiny of reporters, attorneys or politicians.<sup>99</sup>

The case also exposed the precarious position for the defence counsel. Captain Lindor García was not allowed to call witnesses to corroborate his client's version of events. Moreover, both Captain García and the prosecuting attorney Pozzo (neither rank nor first name listed) were themselves detained for ten days for impugning the honour of Corporal Valenzuela.<sup>100</sup> The case likely provoked consternation by the high command, who disliked negative publicity about the internal operation of its units.<sup>101</sup>

<sup>96</sup>Manuel B. Gonnet, Alfredo L. Palacios and Vicente C. Gallo, *Justicia militar argentina* (Buenos Aires: L. J. Rosso y Cía, 1914), p. 47. This book provides some transcripts of the trial and lists *fojas* by their number, but I have not located the original texts.

<sup>97</sup>*Ibid.*, pp. 19–21, 25–6. Both the *juez de instrucción* (investigating judge) and the *fiscal* (public prosecutor) suggested there had been abuse of authority. Gonnet *et al.* reference *foja* 48 of the case.

<sup>98</sup>*Ibid.*, p. 27.

<sup>99</sup>*Ibid.*, pp. 38–41.

<sup>100</sup>*Ibid.*, pp. 30–7. Pozzo's crime was arguing for a reduction in Enríquez's sentence.

<sup>101</sup>There is little published material by the military on these matters, however. *Revista Militar*, for example, mentions none of the highly publicised cases.



In the midst of the Enríquez case, two other cases of abuse of conscripts emerged and reinforced the public's impression that there was a disturbing pattern at play. In one case, a conscript died at the hands of an NCO. A military court found the NCO guilty but gave a sentence of only four years for abuse of authority.<sup>102</sup> And in Santiago del Estero, a conscript was severely beaten by his NCO during an altercation. The conscript received a two-and-a-half-year sentence and the NCO was found innocent of assault.<sup>103</sup> All of these cases pointed to another problem, that of lower-ranking soldiers' testimonies being dismissed.<sup>104</sup> Clearly, NCOs and officers accused and convicted of crimes were given huge leeway in sentencing, while conscripts and soldiers could expect to bear the full brunt of punishments.

While the Socialists spearheaded and claimed leadership in the cause, Enríquez's case attracted interest from across the social and political spectrum.<sup>105</sup> *La Prensa* echoed Palacios' findings and expressed alarm about an apparent cover-up by the military. It highlighted the excessive sentencing and procedural flaws – including failure to properly collect and review all of the evidence – and noted that, rather than covering up these missteps, state institutions should be transparent.<sup>106</sup> The newspaper received letters and petitions in support of the conscript from diverse citizens' groups. Two hundred *socios* (members) of the exclusive Jockey Club signed a petition to commute the sentence.<sup>107</sup> One of many letters written by women explained: 'Mothers full of sorrow [...] we send our sons to the *patria* [homeland], in order to receive in return the news of tortures and injustices committed against them in the Army that we so love.'<sup>108</sup> Arbitrary punishments were contrary to national ideals and the purpose of the armed forces. Another writer observed that conscripts must not lose their civilian rights upon enrolling.<sup>109</sup> In contrast to *La Vanguardia's* campaign, *La Prensa's* position and that of its readership was limited to practical questions, such as how would military service survive if young men and their families feared that entering the barracks placed them in mortal danger? Negative publicity worked against the prestige and honour of the military, encouraged draft dodging and weakened national security.<sup>110</sup> Notably, none of

<sup>102</sup>Gonnet *et al.*, *Justicia militar argentina*, pp. 73–4.

<sup>103</sup>'Notas militares – la justicia del sable', *La Vanguardia*, 30 Sept. 1915, p. 5.

<sup>104</sup>Ablard, "'The Barracks'", pp. 317–18.

<sup>105</sup>Gonnet *et al.*, *Justicia militar argentina*, p. 47.

<sup>106</sup>'El caso del conscripto Enríquez – deficiencias del sumario – graves acusaciones del defensor – queda más patente la enormidad', *La Prensa*, 1 Jan. 1913, p. 25.

<sup>107</sup>'La condena del conscripto Enríquez – pedido de indulto de Jockey Club', *La Prensa*, 9 Jan. 1913, p. 13; 'Justicia militar – los abusos de autoridad de las clases – un homicidio por imprudencia', *La Prensa*, 13 Jan. 1913, p. 13; Ferrari, *Los políticos en la república radical*, p. 216.

<sup>108</sup>'El caso del conscripto Enríquez – las sorpresas del sumario – una condena sin ningún valor legal – movimientos en favor del acusado', *La Prensa*, 3 Jan. 1913, p. 15. The signatory was Francisca de Rial. The article doubted that the *prevención sumaria* was an accurate account.

<sup>109</sup>'La condena del conscripto Enríquez – movimiento de opinión', *La Prensa*, 7 Jan. 1913, p. 8.

<sup>110</sup>'La condena del conscripto Enríquez – gestiones en favor de su indulto', *La Prensa*, 14 Jan. 1913, p. 13, included a letter from an elderly citizen that argued for 'dignidad en la subordinación'. Another letter included signatures from the Comité Nacional de Juventud, 20 employees of the Buenos Aires and Pacific Railway, and Radical politician Dr Carlos Melo. 'El indulto de conscripto Enríquez', *La Prensa*, 15 Jan. 1913, p. 12. On protest in Rosario, see 'La condena del conscripto Enríquez – el movimiento en favor del indulto', *La Prensa*, 14 Jan. 1913, p. 13.

the letters to *La Prensa* discussed the culpability of commanding officers in the case, but rather focused on the abstract idea of the armed forces.

The various campaigns on Enríquez's behalf appear to have produced results and after at least a month of appeals, President Roque Sáenz Peña commuted Enríquez's sentence from 12 to three years. But again, the president bristled at the idea that a popular movement determined the outcome; only the prisoner or his family could make appeals. Moreover, the president noted that the only extenuating circumstance to be considered was Enríquez's 'simple' upbringing and his lack of a deep military education. Enríquez remained, the president asserted, a criminal.<sup>111</sup>

Public support for Enríquez continued in the lead-up to his deportation to Ushuaia.<sup>112</sup> In mid-February 1913, Enríquez was secretly moved to Bahía Blanca, possibly by train, from whence he was transported to the southern prison. Details of the exact location and date of his transportation were kept secret to avoid protests on his behalf.<sup>113</sup> Reports as to his ultimate fate are contradictory. Some newspapers reported that Enríquez served his three-year prison term and was then permitted to return home rather than being obliged to complete his military service.<sup>114</sup> Yet, in 1928, a story about Simón Radowsky in the anarchist *La Protesta* reported that Enríquez ended up serving 12 or more years in Ushuaia.<sup>115</sup> Without access to his service record, we may never know for sure. It is possible that, at some point, Enríquez was re-arrested for something else.

In the wake of Enríquez's sentencing, cross-party interest in reforming the Military Code of Justice grew and a commission was formed in March 1913 which included Socialist Deputy Palacios, Radical Deputy Vicente C. Gallo, later a founding member of the right-wing paramilitary group Liga Patriótica (Patriotic League), and conservative Deputy Manuel B. Gonnet. The three agreed that 'indiscipline, disobedience, and even rebellion find their source, quite often, in the injustices, excesses, and abuses committed by officers upon their subordinates'.<sup>116</sup> Their proposal included the abolition of the death penalty; the effective elimination of now-illegal corporal punishments like *barra* (stocks), *plantón* (standing to attention for long periods of time) and *cofa* (a vague term denoting extreme punishment); and guarantees that defendants would enjoy the benefit of trained lawyers for counsel. On this last point, the proposal suggested that civilian lawyers who had performed military service should be used in lieu of active-duty officers.<sup>117</sup> When a soldier's crime was the result of abuse by a superior, the courts should only

<sup>111</sup>'El indulto del conscripto Enríquez', *La Prensa*, 19 Jan. 1913, p. 12.

<sup>112</sup>Ángel Pérez Franco, 'El caso del conscripto Enríquez', *Caras y Caretas*, 15: 745 (1913), p. 9. The interview was conducted prior to the reduction of his sentence. See also 'A favor de Enríquez', *La Prensa*, 21 Jan. 1913.

<sup>113</sup>'Bahía Blanca – partida del "Almirante Brown" – conducción de penados – el conscripto Enríquez', *La Prensa*, 19 Feb. 1913, p. 15.

<sup>114</sup>'El conscripto Enríquez', *La Prensa*, 31 Dec. 1915, p. 11.

<sup>115</sup>'Noticias de Ushuaia – un liberto del presidio maldito nos trajo un recuerdo de Radowsky', *La Protesta*, 10 April 1928, p. 1.

<sup>116</sup>Gonnet *et al.*, *Justicia militar argentina*, p. xliii. The commission's membership would change by 1917. See 'Las reformas al Código de Justicia Militar, de 1913 y de 1917', *La Vanguardia*, 19 Jan. 1935, p. 1.

<sup>117</sup>Gonnet *et al.*, *Justicia militar argentina*, p. xxx.

give the minimum sentence.<sup>118</sup> At least publicly, the military reaction to the proposal, which did not pass into law, was uniformly negative. The author of the 1905 code, General Bustillo, argued that the proposal would undermine discipline under the false notion that conscripts, whose treatment was of primary concern, were only temporarily in uniform. He also suggested that lawmakers' interest in the issue was driven by a grab for votes.<sup>119</sup> Similar accusations were issued by the minister of war during his visits to Congress in 1913.<sup>120</sup>

While the 1913 legislation never made it out of committee, *La Vanguardia* continued to follow the issue of abuse of conscripts and the impunity enjoyed by abusive officers. Following a string of publicised allegations of abuse, which were described in vague terms, the socialist newspaper referred back to the minister's earlier denial of systematic abuse of conscripts: 'As can be seen, the abuse, the vagaries of justice, the punishments not authorised by the military justice code continue to be applied, without intervention from the minister of war in a single case. Will it be necessary, perhaps, in order to rouse the minister from his passive approach, that we conduct a new round of investigations and discussions?'<sup>121</sup> Clearly, the editors of the newspaper were frustrated with the lack of progress on the matter.

Interestingly, all newspapers tended to concur that military justice touched on cultural and political differences between Gran Buenos Aires and the 'interior' provinces. When reporting on sentences served in isolated territorial prisons or penal brigades, the *porteño* press often evoked images of the nineteenth-century gauchos (horsemen whose reputation embodied the violence and chaos of the nineteenth century) and the dreaded *leva* (the traditional draft where the army would grab men off the streets).<sup>122</sup> The 1914 case of conscript José Cepeda, of the 4th Infantry Regiment (Córdoba) illustrates these cultural issues. According to *La Vanguardia*, the conscript's request to be relieved of guard duty was met with physical and verbal abuse by a corporal. The subsequent trial for both men, the conscript for 'insubordination', and the corporal for 'abuse of authority', resulted in a sentence of four and half years in Ushuaia for the conscript and absolution for the NCO. The article's author observed that 'the army almost comes to be the interior enemy of the majority of citizens when it should be the defender of their homes and liberty'. The failure to pass effective legislation, the article noted, was also a sign of the feeble condition of civil society and had echoes of Argentina's 'barbarous' past when provincial caudillos and their gaucho followers – often men of mixed racial background – dominated a divided Argentina. A rare mention of race, the comment suggests that Argentina should move beyond its pre-immigration past:

In our country, the damage mentioned is deeper and more extensive because of the notorious incapacity of public officials, themselves a product of our

<sup>118</sup>Abásolo, 'El derecho penal militar', p. 479.

<sup>119</sup>José María Bustillo, *El código de justicia militar ante la Cámara de Diputados: Publicación hecha sobre la base de artículos insertados en los números 15223 a 15226 de La Nación* (Buenos Aires, n.p., 1914).

<sup>120</sup>Minister of war, 'El caso del conscripto Enríquez ha servido de pretexto para una campaña en contra del ejército, y se ha hecho de él una novela', cited in Gonnet *et al.*, *Justicia militar argentina*, p. 47.

<sup>121</sup>'La vida en el cuartel – los castigos a los soldados', *La Vanguardia*, 28 Feb. 1914, p. 1.

<sup>122</sup>Cartey, 'Las aberraciones'.

citizens' insufficient political consciousness and of the coercion exercised by the 'gaucho' governments of the interior. The routinised and stubborn Argentine bureaucracy never wanted nor could logically modify the archaic military justice system that rules over the national army.<sup>123</sup>

The evocation of the gaucho elicited a contradictory set of images. On the one hand, the gaucho embodied Argentina's martial heritage. On the other hand, modern military conscription was framed as moving the nation away from practices that encouraged disorder and undisciplined violence, which were also attached to the idea of the gaucho.

The issue of military justice stayed in the front pages thanks to the case of conscript Urbano Romero, on trial for insubordination after defending himself from an abusive NCO.<sup>124</sup> The final ruling of the *consejo supremo de guerra* was a 12-year sentence in the Ushuaia prison, followed by a year in the Chaco disciplinary brigade. President Hipólito Yrigoyen, repeating the practices of his conservative predecessors, reduced the sentence to three years, the first two in Ushuaia, followed by one in Chaco.<sup>125</sup> Socialists in Buenos Aires and nearby provinces supported the cause of the, as they saw it, incomplete and unfair commutation. In Buenos Aires, 2,000 people rallied at Plaza de Once in February 1915.<sup>126</sup> Protests and rallies on behalf of the conscript would continue over the next several years in both Córdoba and Rosario.<sup>127</sup> Of his final fate, little is known except that Romero died in prison in 1922, reportedly in an 'altered mental state'.<sup>128</sup>

Unlike the Romero case, which attracted only modest attention, the 1917 case of conscript Juan Cándia spurred a renewed interest in reforming military justice across party lines. While a conscript, Cándia suffered abuse from a corporal. He responded by threatening his superior, which resulted in a 12-year sentence. He escaped from military prison, but turned himself in upon hearing that Congress had passed an amnesty, unaware that such laws never covered deserters, much less escaped convicts. Upon his reimprisonment, Cándia came to the attention of the PS, which campaigned on his behalf and eventually won him a presidential pardon.<sup>129</sup> A sympathetic account in the weekly *Caras y Caretas* magazine noted that Cándia was a far cry from the infamous Afro-Brazilian sailor João Cândido, leader of a 1910 Brazilian naval mutiny. Beneath the surface was a suggestion that the Argentine military was a white institution and, as such, its members were more

<sup>123</sup>*Ibid.*

<sup>124</sup>'Notas militares', *La Vanguardia*, 14 March 1915, p. 3. On the severity of the conscript's wounds, see 'El conscripto Romero – en vías de restablecimiento', *La Vanguardia*, 6 March 1915, p. 1.

<sup>125</sup>'El conscripto Romero – la conmutación de la pena', *La Vanguardia*, 30 Jan. 1915, p. 1.

<sup>126</sup>'Contra el régimen militar – el mitin del domingo en la Plaza de Once', *La Vanguardia*, 1 Feb. 1915, p. 2. See also 'Humo de paja', *La Crítica*, 3 Jan. 1915, p. 3, which reports that he will be sent to the Ushuaia prison for his crime.

<sup>127</sup>'Rosario – pro-conscripto Romero', *La Vanguardia*, 1 Feb. 1915, p. 2; 'Córdoba – pro-conscripto Romero', *La Vanguardia*, 7 March 1917, p. 6.

<sup>128</sup>'Final de un drama militar', *La Vanguardia*, 6 Oct. 1922.

<sup>129</sup>On Socialist rallies for the cause of conscripts, see 'Contra los abusos de la fuerza – voto de protesta', *La Vanguardia*, 22 March 1917, p. 4.

honourable and disciplined. Luminaries of the PS, meanwhile, made vague statements about Argentina's military code being so out of touch with a modern and democratic civilisation.<sup>130</sup>

A few days later, *La Vanguardia* issued an unsigned editorial that broke new ground on the question of military trials. First, the article suggested that some officers were uneasy about the operation of the tribunals and believed that they needed to be redesigned. For some, the application of a *consejo de guerra* in peacetime diluted the intended purpose and power of the institution. Moreover, the frequent intervention of the president in tribunal rulings suggested that the current system did not function well and perhaps even damaged the prestige of the courts. Worse, the president most likely did not review all cases, to the detriment of many conscripts under indictment.<sup>131</sup>

By June 1917, the 1913 commission on military justice had re-emerged, now under the leadership of Socialist Deputy de Tomaso (who replaced Palacios after he split from the party), conservative Deputy Rafael Aguirre (a retired army general and former minister of war) and Radical Deputy Vicente Gallo. They proposed for debate a revised military justice code, based on the tabled 1913 proposal, but with innovations that prefigured the 2008 reform legislation. Their boldest suggestion was to propose that a *consejo supremo de guerra* be converted into a *tribunal de apelación* (appeals court) under civilian authority. Instead of having five military and two civilian judges, they called for three civilian and two military judges so as to give civilians veto power over lower military court decisions. They also called for civilian defence attorneys in military trials. Moreover, the said lawyers would be exempt from restrictions, including being subject to military discipline, which often impaired their work.

The proposal also laid out additional guarantees, including prohibiting the military from prosecuting former soldiers who had already left military service. To improve transparency, the bill's authors proposed making the indictment public. They also called for guarantees that the accused would have immediate access to an attorney of his choosing, that this attorney would be allowed to review the indictment in a timely manner and that statements of the accused would be given serious consideration in proceedings. The army also needed to provide a system whereby soldiers could denounce abuse by superior officers. Controls would also be placed on commanding officers, who would be prohibited from providing testimony against conscripts. Finally, de Tomaso noted that the military was out of touch with modern judicial practices in disallowing extenuating circumstances, specifically regarding self-defence and ignorance of laws specific to military life.<sup>132</sup> One opponent of the proposal, which never made it to the Senate, was Deputy Lauro Lagos, a former navy officer. He noted that the military must always operate outside of and separate from Argentina's 'profound liberal spirit'.<sup>133</sup> The project likely died in committee, a common fate for many legislative efforts in this period.

<sup>130</sup>'Por la reforma del código militar', *Caras y Caretas*, 20: 967 (1917), pp. 56–7; Love, *The Revolt of the Whip*.

<sup>131</sup>'El código de justicia militar', *La Vanguardia*, 17 April 1917, pp. 1–2.

<sup>132</sup>'La reforma del código de justicia militar', *La Vanguardia*, 7 June 1917, pp. 1–2; 'La justicia militar', *La Vanguardia*, 14 June 1917, p. 1; 'Código de justicia militar', *La Vanguardia*, 21 June 1917, p. 4; Abásolo, 'El derecho penal militar', pp. 485–9.

<sup>133</sup>*Ibid.*, p. 487.

## Conclusions

After 1919, Argentina's democratic experiment began to crack. Increasingly frequent strikes and their violent repression, unfounded rumours of communist penetration of the barracks, rising anti-Semitism and an Argentine Red Scare shook much of the political establishment.<sup>134</sup> Yrigoyen's re-election in 1927 led many conservatives (they had fragmented into a series of provincial parties) to move into the far Right where they found common cause with disaffected military officers. This alliance paved the way for the 1930 coup.<sup>135</sup> Strikingly, the new Right exalted the military as the nation's saviour but rarely mentioned military service. In the aftermath of the 1930 coup, discipline in the barracks tightened, the draft became more efficient and military justice was applied to civilians, a practice repeated in later dictatorships, as Socialists had feared.<sup>136</sup>

Despite these seismic shifts, amnesties for draft dodgers remained an issue in both the press and Congress.<sup>137</sup> Likewise, reform of military justice, and the popular critique of its application, returned in 1923, 1926 and 1935. The last effort resulted from the rapid arrest, conviction and execution of a corporal who had murdered an officer in Santiago del Estero. The campaign to save the corporal's life and the protest subsequent to his execution cut across class and political lines and was shaped by frustration about Argentina's fraud-ridden democracy that had replaced the Lieutenant General José Uriburu dictatorship.<sup>138</sup> The military justice reforms of 1951 – beyond the scope of this article – proved unsatisfactory, although they offered some softening of military discipline, such as the inclusion of extenuating circumstances. A 1958 report, published three years after the military coup against President Juan Domingo Perón, characterised Argentina's military justice as an 'archaic system' that borrowed the worst elements of European counterparts' systems.<sup>139</sup> Nonetheless, until the tumult of the 1960s, military service, by force and persuasion, was 'naturalized in the public milieu' in Argentina.<sup>140</sup>

That 'naturalisation' was in part because, throughout the twentieth century, individual and community petitioners and politicians adopted the language of

<sup>134</sup>Ablard, "The Barracks", p. 326.

<sup>135</sup>David Rock, *Authoritarian Argentina: The Nationalist Movement, Its History and Its Impact* (Berkeley, CA: University of California Press, 1993), pp. 64–86.

<sup>136</sup>Débora D'Antonio, 'Los consejos de guerra durante la última dictadura militar argentina (1976–1983)', *Iberoamericana: Nordic Journal of Latin American and Caribbean Studies*, 45: 1 (2016), pp. 19–36.

<sup>137</sup>'Ciudadanos de diversos puntos de la República solicitan pronta sanción del proyecto de ley de reducción del servicio militar obligatorio' (to the Comisión de Guerra y Marina), in *Diario de sesiones de la Cámara de Diputados*, 1928, vol. 4, p. 403; 'Amnistía a los infractores a las leyes de enrolamiento y de servicio militar', in Cámara de Diputados, *Diario de sesiones de la Cámara de Diputados*, 1935, vol. 1 (Buenos Aires: Congreso Nacional, 1936), p. 171; 'Tasa militar. Supresión. Modificación de la ley 4707', *ibid.*, p. 343; Santiago Nudelman, 'Amnistía a los infractores al servicio militar', in *El régimen totalitario* (Buenos Aires: n.p., 1960), pp. 106–7.

<sup>138</sup>Martín Balza, *Mi historia argentina: Violencia, impunidad, y justicia* (Buenos Aires: Grupo Editorial Norma, 2011), p. 80–1; 'El presidente habría confirmado la sentencia de muerte', *La Vanguardia*, 8 Jan. 1935, p. 1; 'Hoy a las 13, será fusilado el cabo Paz', *La Vanguardia*, 9 Jan. 1935, p. 3; 'El cabo Luis M. Paz, matador del mayor Carlos E. Sabella, es condenado a muerte', *Caras y Caretas*, 38: 1893 (1935). See also *La Prensa* and *Buenos Aires Herald*, 8–12 Jan. 1935.

<sup>139</sup>Albarracín, *La instrucción*, p. 164.

<sup>140</sup>Manzano, *The Age of Youth in Argentina*, p. 128.

patriotism and civic obligation to limit the state's authority over young men and to make military service function as intended. Those efforts were required because the state was only able or willing to make piecemeal changes to laws that had a profound and deleterious impact on many young men. The consistent level of interest in these matters is striking; work on other militaries suggests that in peacetime, interest in military justice fades.<sup>141</sup> However, in Argentina the armed forces were one of the most omnipresent elements of the national state and the national entity that all citizens had contact with on a consistent basis.

People with divergent views about the military all recognised that conscription, draft dodging and military justice were politically important dimensions of civic life. Elected officials and newspaper editors had constituencies that cared deeply about these matters. They were issues that crossed the line into citizens' homes and families, in a manner that few other elements of the state did.<sup>142</sup> For the military hierarchy, the topic was complicated. Many officers felt that civilians misunderstood military discipline and justice, and yet some officers accepted that reform was necessary. For almost everyone, civilian and military, it seemed that a properly functioning military justice system was a mark of national culture and civilisation. And challenging the institution within legal frameworks was a way to express democratic sentiments and positions, regardless of regime.

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### Spanish abstract

El tratamiento a los desertores y a las injusticias legales por parte de las cortes militares argentinas provocaron movilizaciones de familias, comunidades y de los partidos políticos principales. Un examen de los debates y discusiones acerca de estos asuntos revelan un sentimiento generalizado que raramente cuestionó ya fuera el derecho del ejército a enlistar a jóvenes o la legitimidad misma de las fuerzas armadas. Al adoptar el lenguaje de patriotismo y obligación cívica, los demandantes individuales y comunitarios, junto a los políticos que los representaron, desafiaron desde una posición reformista el reclamo del Estado a ejercer el poder sobre los cuerpos de estos jóvenes. La justicia militar se constituyó en una plataforma crítica a través de la cual los ciudadanos debatieron el sentido de ciudadanía y el lugar de las fuerzas armadas en la sociedad.

**Spanish keywords:** Argentina; enlistamiento militar; justicia militar; movimientos sociales; periódicos

<sup>141</sup>Robert Sherrill, *Military Justice Is to Justice as Military Music Is to Music* (New York: Harper and Row, 1970).

<sup>142</sup>Santiago Garaño, 'The Opposition Front Against Compulsory Military Service: The Conscription Debate and Human-Rights Activism in Post-dictatorship Argentina', *Genocide Studies and Prevention*, 5: 2 (2010), pp. 174–90.

**Portuguese abstract**

O tratamento dos insubmissos militares e as más aplicações da justiça, perpetrada pelos tribunais militares argentinos, provocaram mobilizações entre famílias, comunidades e entre os maiores partidos políticos. O exame dos debates e discussões sobre estes assuntos revela um sentimento generalizado que raramente questionou o direito das forças armadas em convocar estes jovens ou a legitimidade destas mesmas forças armadas. Ao adotar uma linguagem de patriotismo e obrigação cívica, requerentes individuais e comunais e os políticos que os representavam contestaram o amplo direito do Estado sobre os corpos dos jovens recrutados a partir de uma posição reformista. A justiça militar formou uma plataforma crítica sobre a qual cidadãos debateram o significado de cidadania e o lugar das forças armadas na sociedade.

**Portuguese keywords:** Argentina; alistamento militar; justiça militar; movimentos sociais; jornais