U.S. Actual Malice Doctrine in Argentine Constitutional Law

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The relationship between United States of America and Latin American countries proved to be paradoxical, sometimes they have been regarded as enemies but on the other side they have closely intellectual connections that can be easily recognized, for example in Latin American Nineteen Century Constitutions. The influence of U.S. Constitution has been very important as it gave Latin American countries the first democratic patterns to organize their societies. But more than once U.S. Constitutional principles and concepts have been changed or altered according to those countries traditions, custom, evolutions and state of affairs. The case of Argentina is particularly interesting because it passed through long de facto periods in which military governments ruled the

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country, later on judges tried, up to certain extent, to establish more democratic norms. Moreover, during de facto or non- elected governments freedom of speech was one of the rights that have been partially or totally suspended, in order to impose the rule of those illegal governments. When such type of authorities did not govern any more there was an important presence of doctrines and different ideas connected with freedom of speech, but some restrictions persisted along with such right, undoubtedly certain cultural authoritarian background was still present in that country. The introduction of U.S. doctrines in Argentine Constitutional law probed to be an important turning point to re-established democracy, emphasizing the rights of the people and trying to put a limit to public functionaries power. U.S. Actual Malice Doctrine, is closely connected with freedom of expression as it deals with the publication of defamatory material knowing that it is false, something that was not highly considered in Argentina for a long time due to an existing legal protection for public functionaries. The object of the present paper is to analyze the influence of U.S. Actual Malice Doctrine in Argentine Constitutional Law considering past and present Argentine jurisprudence in connection with freedom of speech, as well as the particular way in which such doctrine has been accepted and put into effect in this Latin American country, including its connection with public functionaries. At the same time the U.S. Actual Malice doctrine will be analyzed in order to establish up to what extent it was copied by Argentine Supreme Court and the importance of existing differences.

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Most Latin American countries have been deeply influenced by the United States in the intercourse of their relationships. These same countries borrowed principles and doctrines in order to build their institutions, to organize their political system and enact their constitutions. The 1787 U.S. Constitution organized that country after its independence from the British Empire while being a confederation introducing a new political system, Federalism, and a balanced type of government with the creation of an independent judicial power. Such power was considered an ideal model for all Latin American countries after reaching their independencies from the Spaniards and Portuguese in the case of Brazil.[1] As a theory the Federal system of State respects local autonomies and prevented central governments from imposing those regions unacceptable restrictions. And the presidential system of government perfectly matches with the particular leadership of the "caudillos," a highly charismatic and beloved leader, whose orders were and still are accepted and fulfilled without almost being argued by the people. Besides an independent judicial power allows people to have more confidence in institutions as it included non-politically appointed judges. But, whenever those institutions have been put into effect in Latin American Constitutions things evolved, more than once, in a different way as some of them proved to be a total failure, as it happened with one of the first Mexican Constitutions during the XVIII Century for it did not bind to the idiosyncrasy of that society. But in another cases the above-mentioned principles have been adopted with certain modifications to adequate them to their reality, in such a way, something different and newly appeared whose external appearance resembles the original U.S. pattern. Among the last alternatives it can be mentioned the 1853 Argentine Constitution that was almost completely reformed in 1860 according to its U.S. counterpart, but as time passed by

[1] At present the European model with a Constitutional Court has been introduced in some Latin American countries like Colombia, Guatemala, Perú, Bolivia.

through different legal or illegal reforms as well as judicial interpretations some constitutional principles have been changed, mainly during de facto or non elected governments. At present, such state of things is partially still present even during legal governments to put into effect official policies during emergency situations. As an example, it could be mentioned the emergency measures after the 2001 economic crisis that limited property rights,[2] when all banks in Argentina were close keeping people's deposits. Such limitations can still be found at present; past institutions and principles have not been declared null and are still present along with another new ones, some of which has not been specifically included in its text but form part of Constitutional Law through laws[3] or judges' Constitutional interpretation.[4] Considering all those elements it is important to point out the importance of U.S. influence over Argentine judges after de facto periods, mainly, in connection with freedom of speech, as it happened with U.S. Actual Malice Doctrine. More than once Argentine Supreme Court judges rely on U.S. Supreme Court sentences to hold their decisions. So it was not surprised that after suffering for many years a so-called De Facto Doctrine which imposed the rule of the military refraining society from exercising many constitutional rights judges tried

[2] Public Emergency and Currency Regime Reform Law 25561, enacted on January 6, 2002, established the socalled "pesificación," that basically means that debts and credits, accrued on a one peso = one dollar basis, will be paid: a) in pesos, and not in dollars; b) regardless of the actual dollar exchange rate. Thus, the government and financial institutions kept people's dollars deposits.

[3] For example, the right to reply within the text of the Constitution but in the American Human Rights Convention that has been included in its text by 1994 Constitutional reform, and it has similar hierarchy that all the other constitutional rights.

[4] Mainly considered Argentine Constitution article 28 and 33. Article 28: "The principles, guarantees and rights recognized in the preceding sections shall not be modified by the laws that regulate their enforcement." "Article 33: "The declarations, rights and guarantees which the Constitution enumerates shall not be construed as a denial of other rights and guarantees not enumerated, but rising from the principle of sovereignty of the people and from the republican form of government."

to settle more democratic principles according to the already established ones in a country were democracy has already been achieved.

De Facto Doctrine was established in Argentina since 1862 till 1994, when a constitutional reform put an end to it. Its origin was in Albert Constantineau's "de facto functionaries theory" that "concerns whether the displacement of one elected government by a non-elected one is valid if the deposed government violates the constitution to a degree that abrogate the government's popular sovereignty and its claims to constitutional legitimacy."[5] Such functionaries must meet two different requirements; the First one is the previous existence of the office, that should also be legally recognized, and Second: its duties must be performed as if they were legitimated. Since 1862[6] but more frequently since 1930[7] till 1983, in Argentine there have been different military governments so in order to maintain an institutional image it has been put into effect the so-called De facto Doctrine. Thus, emphasizing the importance of governmental authorities, mainly during illegal periods, public functionaries turned out to be more important than common people, and also many laws were enacted to protect "their honor," in such a way freedom of speech was

[5] *See*, Susana N. Vittadini Andrés, First Amendment Influence in Argentine Republic Law and Jurisprudence 156, in Communication, Law and Policy, Volume 4, Spring 1999, Number 2, 149-176. The original text with Albert Constantineau's theory cannot be easily found as its origin can be traced back to the Nineteen Century.

[6] In 1861, as the Province of Buenos Aires Army defeated the Confederate Army in the battle of Pavon, the National Government was forced to resign. Since there were no legal authorities, General Bartolomé Mitre turned out to be a de facto president for just four months. After that same general was elected as legal president in Argentina, 1862-1868. Few years later, in 1865, Argentine Supreme Court sentenced in Baldomero Fernandez case that General Mitre's presidency was legal due to de facto Doctrine. *See*, Demaría Massey, María Elena, El fallo Baldomero Martínez y su repercusión política, in Boletín de la Asociación Argentina de Derecho Constitucional, Year IX, number 82, February 1993, pp. 5-9.

[7] De facto governments in Argentina: 1930, 1943, 1955, 1962-1971, 1976-1983.See Facorro, Susana and Vittadini Andrés, Susana, Temas de Derecho Constitucional, 26-28 (Argentina: Abeledo Perrot), 1999.

limited up to the extent that sometimes could not be exercised.

Consequently, during de facto periods, freedom of speech was one of the rights that have been partially or totally suspended, in order to impose the rule of those illegal governments. When such type of authorities did not govern any more there was an important presence of doctrines and different ideas connected with freedom of speech, but some restrictions persisted along with such right, undoubtedly certain cultural authoritarian background was still present in that country. The introduction of U.S. doctrines in Argentine Constitutional law probed to be an important turning point to re-established democracy, emphasizing the rights of the people and trying to put a limit to public functionaries power. The object of the present paper is to analyze the influence of U.S. Actual Malice Doctrine in Argentine Constitutional Law considering past and present Argentine jurisprudence in connection with freedom of speech, as well as the particular way in which such doctrine has been accepted and put into effect in this Latin American country, including its connection with public functionaries. At the same time the U.S. Actual Malice doctrine will be analyzed in order to establish up to what extent it has been copied by Argentine Supreme Court, and the importance of existing differences.

(1) Freedom of Speech in Argentina Constitutional Law

1853 Argentine Constitution did not include the words freedom of expression; it only mentioned freedom to publish ideas without previous censorship,[8] According to Supreme Court interpretation both freedom to

[8] 1853 Argentine Constitution, Article 14: All the inhabitants of the Nation are entitled to the following rights, in accordance with the laws that regulate their exercise, namely: to work and perform any lawful industry; to navigate and trade; to petition the authorities; to enter, remain in, ...travel through, and leave the Argentine territory; to publish their ideas through the press without previous censorship; to make use and dispose of their property; to associate for useful purposes; to profess freely their religion; to teach and to learn.

publish ideas and freedom of press are concepts included within freedom of expression principle.[9] Later on, in 1860, there was a constitutional reform that introduced present article 32, which mentioned freedom of expression but in connection with the Federal Congress.[10] In such a way, Argentine Constitution resembles U.S. Constitution First Amendment that speaks about freedom of speech.[11] But one thing is to say that both legal texts are similar, and another quiet different is to establish that their interpretations are also alike, mainly because freedom of speech in Argentine has not been considered as an extremely important right as in the U.S. for it has to be considered "in accordance with the laws that regulate their exercise,"[12] Argentine Constitution article 14, thus more than once it has been restricted by judges or through specific norms.

To fully understand the last paragraph assertion, regarding the importance of freedom of expression for that society, Argentine important historical and traditional background has to be taken into account whenever its constitution is being compared with another one. Partially, the reason why exist important differences is connected with the Spaniards Domination that ended at the beginning of the XIX Century, as during that period, mainly during its last part, there was a strict press censorship in

[9] 248Fallos291, consid. 23; 248Fallos664; 269Fallos189-195 and 200; 270Fallos268; 293Fallos560, 257Fallos308, consid. 9º - Rev. D. T., t. 961, p. 16; Rev. La Ley, t. 105, p. 568; t. 130, ps. 760 y 809; t. 120, p. 40; t. 130, p. 458; t. 1976-A, p. 238, and t. 115, p. 250.

[10] 1860 Argentine Constitutional Reform established a new article 32 that stated: "The Federal Congress shall not enact laws restricting the freedom of the press or establishing federal jurisdiction over it."

[11] First Amendment of the Constitution of the United States: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

[12] 305Fallos831; M. 116.XXII, October 18, 1988, "Marítima Key Kar, S. R. L. c. Municipalidad de la Ciudad de Buenos Aires s/ revocatoria" Rev. La Ley, t. 1989A, p. 545, Fallo 87.232; R.335.XX. "Repetto, Inés M. c. Provincia de Buenos Aires s/ inconstitucionalidad de normas legales."

order to refrain "criollos"[13] from publishing the so-called Liberal Ideals. Such ideals spoke about the rights of the people, for example the right to choose their own government, the right to enjoy property rights, the right to commerce and to exercise profession without governmental limitations, as well as equal rights. The fact that "criollos" were not considered at the same level and importance than Spaniards not only to be part of the government but also to work as lawyers could be considered one of the most important reasons for them, in that Latin American country to fight for their freedom.[14] Later on, when "criollos" obtained the Independence and turned to be part of the new government they could not get rid of some hierarchical tendencies that led them to make a political division among those who lived in the Province of Buenos Aires, and the rest of the provinces which were poorer than the first one. So many Constitutional articles though seemed to be taken from the U.S. Constitution also have local influence due to that fact, for example, the above mentioned article 32, was mainly included because provincial constituents considered that national congress could establish penalties and taxes that could alter their freedom of speech.[15]

The right of free expression or even information is not absolute,[16] as Argentine Supreme Court considered that whenever are present abuses produced by means of its exercise which could be limited, for example: a.- when its is harmful to the morale and public security, tends to excite to

[13] "Criollos:" is the name of all those born in Latin America, even though their parents were native from Spain.

[14] Most of the creoles who took part of Argentone emancipation movements were lawyers. Ricardo Levene, Manual de Historia del Derecho Argentino (Buenos Aires; Guillermo Kraft, ed.) 1952, pp. 267-268.

[15] *See*, Ravignani, Emilio, Asambleas Constituyentes Argentinas (Buenos Aires: Instituto de Investigaciones Históricas de la Facultad de Filosofía de la Universidad Nacional de Buenos Aires) 1937, note 11, at pp. 840-841. This is the most comprehensive collection of Argentine Constitutional documents.

[16] 257Fallos275; 282Fallos392, 295Fallos15, 306Fallos1984..

rebellion or civil war, or affects the reputation of the individuals;[17] b.- when it affects order and social interest;[18] c.- when it is the occasion to commit a crime;[19] d.- when it aims to alter constitutional rights, guarantees[20] and institutions, general welfare or the peace and security of the country. But it is important to consider that, mainly, during de facto periods, such exceptions have been extended in such a way that certain rights almost did not exist. For example, in 1958, the Supreme Court sentenced two cases accepting civil rights restrictions. In the First one[21] the defendant was convicted because he praised Eva Perón Foundation,[22] in an article published in a magazine, Rebeldía, including Perón's favorite slogans as well as articles of the abrogated 1949 Constitution.[23] In the other case, a person was convicted for throwing political pamphlets from a bus.[24] Constitutional principles regarding human rights, mainly connected with the right to publish, have also been restricted by judges during state of siege periods,[25] as they considered that laws and decrees enacted by authorities, no matter whether they were de facto or legal,[26] were valid and had to be obey. Things began slightly to change after 1983 when the last de facto government ended. But as courts did not reject de facto doctrine it was obvious that part of past non-democratic traditions were

[17] 119 Fallos231.
[18] 155 Fallos57.
[19] 269 Fallos189, consid. 4; 269 Fallos195, consid. Rev. La Ley, t. 130, ps. 760 and 809.
[20] 293 Fallos560.
[21] "Manuel Bustos Nuñez," case CSJN 240 Fallos223 (1958).
[22] Eva Perón Foundation was in charge of charitable activities and it was under direction of Eva Duarte de Perón, President Juan D. Perón's second wife. Félix Luna, De Perón a Lanusse (Argentina: Ed. Sudamericana-Planeta), 1974, p. 67.
[23] 1949 Argentine Constitution was enacted during the first presidency of Juan D. Perón, 1946 -1952, and declared null and void by an illegal government in 1955. Félix Luna, ob.cit., p. 104.
[24] "Manuel Ortiz," CSJN 240 Fallos224 (1958).
[25] "Semanario Azul y Blanco," CSJN 250Fallos832 (1961), "Diario Nuevo País," CSJN 252Fallos244 (1962), "Daniel Mallo," CSJN 282 Fallos392 (1972).
[26] "Bertotto," CSJN 160Fallos104 (1930, "Diario La Hora" CSJN 236Fallos41 (1956), "Diarios Norte" CSJN 244Fallos59 (1955), "Marcos Kaplan" CSJN 250Fallos196 (1961).

deeply rooted in part of Argentine society. Later on, in 1994, a Constitutional reform put an end to the de facto doctrine, but in the meantime it was also present up to the extent that it was quiet difficult for President Raúl Ricardo Alfonsín, 1983-1989, to put to arrest to all those members of the military forces who took part in de facto acts as they were considered legal according to the above mentioned doctrine. At last President Alfonsín framed the accusations as crimes against humanity to convince judges.

Relationship among journalist, politicians, public functionaries and the press have been ruled by laws and judicial interpretation from different points of view. Thus, there are many crimes that could be committed by the press, such as: insult,[27] slander,[28] apology of crime,[29] and others, but the first ones are considered as crimes against honor, "a non-material individual possession,"[30] a value highly appreciated by judges, mainly in connection with public functionaries, whenever they have to render a sentence. Such point of view began to change when Supreme Court ruled that in the case of famous people whose activity has been connected with governmental functions or even in the case of popular personages "its public or deprived performance can be disclosed" when it is connected or related to their activity and "whenever it justifies the general interest,"[31] but the "advance on the privacy does not authorize to damage the public image or the honor of these people."[32]

In 1986, Supreme Court sentenced in the Campillay case[33] that the

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[27] Penal Code, article 109.
[28] *Id*.
[29] *Id*, art. 213
[30] Fayt, Carlos S., Omnipotencia de la Prensa, (Argentina: La Ley,ed.), pages 308-309 (1994).
[31] Ponzetti de Balbín, Indalia c. Editorial Atlántida S.A., CSJN, Fallos 306, page 1982 (1984).
[32] *Id*.
[33] "Campillay" CSJN 308 Fallos789 (1986).

press had to fullfil three requirements in order not to be considered guilty: 1.- Omit the names of persons connected with the facts, 2.- Use conditional terms, such as "should" or "would," to be free from punitive actions, in the place of "can" and "shall," 3.– Express the exact origin of the information with its accurate transcription. Such decision was highly criticized, as such test has been considered too narrow considering the diversity of reality.[34] Moreover such doctrine includes no test regarding true or false information just its formal written aspects. Finally, in 1991 Supreme Court partially accepted U.S. Actual Malice Doctrine, but, later on in 1992 returned to the Campillay Doctrine, as it will be analyzed in the third part of the present paper.

Contempt crime was frequently considered by Argentine judges to "safeguard" the honor of public functionaries. Till 1993, Argentine Penal Code included disrespect against public functionaries as criminal offence;[35] in such a way freedom of speech was limited protecting authorities from being criticized.[36] But by 1993 the crime of contempt was repealed as a consequence of American Human Rights Commission decision, in 1992,[37] to consider Horacio Verbistky case. Horacio Verbitsky, a journalist, was condemned by the contempt crime, when supposedly disrespected Mr. Augusto Caesar Belluscio, Minister of the Supreme Court. Argentine Courts considered that the publication of an article in which the

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[34] *See*, Fernando Barrancos y Vedia, Acerca del Caso Campillay, [1986-D] L.L. p. 978 (1986).

[35] Argentine Penal Code, article 244, stated that it was a criminal offense: "anyone who, in any way, has offended the honor and the decency of a public official," and such offense was aggravated whenever the offended was the president, a governor, a minister, a member of the Congress or provincial Legislature, or a judge." (repealed 1993).

[36] "Verbitsky," CSJN, 312Fallos916 (1989), "Servini de Cubría," CNFed., Civ. y Com. , 1992-B, L.L. 572 (1992).

[37] Verbitsky v. Argentina, Case 11.012, Informe No. 22/94, Inter- Am. C.H.R., OEA/Ser.L/V/II.88 rev.1 Doc. 9 at 40 (1995).

journalist talked about to Mr. Belluscio like "revolting" was a crime according to article 244 of the Penal Code that establishes the disrespect figure. The intervening federal judge sentenced that the expression used by Verbitsky who was a journalist exceeded the limits of civil employee's honor and constituted an offense. Invoking *"iuria novit curia principle"* the judge decided to turn primigenia private action into the criminal action of disrespect. And later on National Federal Chamber of the Capital for Criminal and Correctional Appeals, on July 13th, 1991, confirmed the sentence. On February 25, 1992, Argentine Supreme Court rejected Verbistky's appellation. Later on, while American Human Rights Commission[38] was considering the case Argentine government decided to abrogated the crime of contempt, so it ended in a friendly agreement.

(2) Argentine Real Malice Doctrine

As it was already above mentioned, in 1991 Supreme Court partially accepted U.S. Actual Malice Doctrine, when it sentenced the so-called Vago case.[39] The case concerned the publication of inexact information regarding Jorge Vago who was a well-known person, director of the weekly "Prensa Confidencial" and has been involved in different legal cases that had public interest, so according to the Appellation Chamber being a "public figure" he should have to prove that the article published in "El Periodista de Buenos Aires," belonging to Ediciones de La Urraca S. A. included inexact "information about his person knowing that it was false or with total unconcerned about such circumstance, present

[38] Since 1984 Argentine accepted American Human Rights Commission and Court jurisdiction to sentenced in Human Rights cases included within American Human Rights Convention.

[39] "Vago, Jorge Antonio c/ Ediciones de La Urraca SA. y otros," CSJN V. 91. XXIII. 19-11-91. Although all Supreme Court members finally sentenced in a similar way some of the rely on their own arguments: Carlos S. Fayt and Rodolfo C. Barra (holding), Enrique S. Petracchi and Eduardo Moliné O'Connor,and Julio S. Nazareno and Antonio Boggiano.

requirement…- in opinion of the a quo- had not been satisfied by the actor."[40] Supreme Court relying on several previous Argentine Supreme Court sentences and in U.S. Actual Malice doctrine rejected Vago's legal recourse. Argentine Supreme Court sentences also partially relied in the above mentioned case Campillay[41] in which it was sentenced that the right of information must be in harmony with other constitutional rights, such as "privacy, honor and reputation of people, and that it had been made an imprudent exercise of the right of information since the character and nature of the news could affect the reputation of the implied ones in the facts, whose veracity, on the other hand, was impossible to verify." Thus, Supreme Court concluded that " the right to publish the ideas by the press, constitutionally protected against the intervention of the powers of the State, is limited by the rights of the people its freedom, its dignity, its privacy, its honor and reputation, its civil and political rights."[42]

Considering the U.S. doctrine Argentine Supreme Court held that it implies "reasonable balance between the individual function of the press and rights that had been affected by harmful commentaries to officials government, even in the case of particular public figures that had taken part in questions of public interest object of the information or the chronicle."[43] So plaintiffs have to establish that journalists accusssed already knew that the information was false. And, its absolute value is the direct relation among public interest and its importance for social, political and institutional life, as the mission of the press is to provide people with accurate information of their representatives and administrators activities and acts. But the right of the press does not include offenses such as insult, calumny, defamation. "But simultaneously the press cannot leave its

[40] *Id*.
[41] "Campillay," CSJN 30Fallos789.
[42] "Vago, Jorge Antonio c/ Ediciones de La Urraca SA. y otros," CSJN V. 91. XXIII.. 19-11-91, consid. 9.
[43] *Id*, Consid, 11.

function as an essential factor for the elucidation of civil employees' conducts, mainly in countries that, like ours, lack of an institutionalized organ that primarily assumes the defense of those interests described as diffuse. In such a way that, actually, it acts as means of contralor of the institutions and its men and render a service of inestimable value for the reinforcement and health of the system and the republican institutions ."[44] Finally Supreme Court holding pointed out that Argentine and U.S. present different social, economic and political conditions that must be considered whenever similar cases are sentenced.[45]

Argentine Supreme Court judges Petracchi and Moliné O'Connor did not openly mentioned U.S. Actual Malice Doctrine as the appellant accepted that he was a "public figure." While judges Julio S. Nazareno and Antonio Boggiano sentenced, among another considerations, that apellant's arguments did not meet Law 48, article 15 requirements,[46] regarding legal proceedings and formalities.

The following year Argentine Supreme Court returned to the Campillay Doctrine, in case "Abad "[47] in which it sentenced according to that doctrine to settle that a journalist defamed the plaintiff. It was not till 1996 that Argentine Supreme Court returned to U.S. Actual Malice Doctrine in the case Morales Sola.[48] In that case the plaintiff Dante Giadone understood that his honor has been injured in an episode in "Asalto a la Ilusión"[49] a book written by Joaquín Morales Solá, a journalist. The National Apellation Chamber founded the journalist guilty,

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[44] *Id*, and 310Fallos547.
[45] *Id.*, Consid. 12.
[46] Law 48, Supreme Court proceedings.
[47] *"Abad"*, 315Fallos652 (1992). In a similar way "E., P.F." CSJN [1995-E] R.H. p. 100.
[48] " Holding, Judges: Julio S. Nazareno, Eduardo Moliné O'Connor, Guillermo A. F. López, and Carlos S. Fayt, Enrique Petracchi, and Gustavo A. Bossert with partial dissidence. The rest, Augusto C. Belluscio, Antonio Boggiano, Adolfo R. Vázquez with their own vote.
[49] In English :"Assault to the illusion," edited in 1990 by Ed. Planeta, Buenos Aires.

thus he presented a recourse to Supreme Court. Supreme Court reverted Apellation Chamber sentence because it did not considered that, five years before, Morales Solá had already published that same statement in a newspaper, "Clarín," without receiving any complaint from Dante Giadone regarding its veracity or his honor,[50] so he could possibly and certainly think that such mention was correct.

The following year, Argentine Supreme Court reaffirmed the presence of U.S. Actual Malice Doctrine in Argentine Constitucional law but included certain different considerations in the case Pandolfi.[51] The case concerned an article written and published on May 24, 1991, by Julio R. Rajneri, president of the society that edited the newspaper, "Rio Negro," in which it was mentioned certain cases of corruption that involved the main provincial bank and the president of a political party, Oscar R. Pandolfi. In that case the Province of Rio Negro Supreme Tribunal reverted the Chamber Apellation sentenced as it considered that Rajneri's declarations were as a politician consequently there was no "possible collision between the freedom of press and the right to good reputation and honor of the victim."[52] Supreme Court asserted that those news had a important public interest as they mentioned an important provincial bank,[53] and to inform is the main object of the press. Besides it is essential to analyze the news itself and not the one who said it.[54] Thus, it was not important to establish who was Rajneri but to determine if there were elements to assert that according to journalist's well intentioned and correct interpretation such publication could be published as such news had public importance.[55]

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[50] *"Morales Solá"*, 319Fallos2741 (1996), consid. 7.
[51] "Pandolfi c/ Rajneri" CSJN 320Fallos1272 (1997)
[52] *Id.* Consid. 2.
[53] *Id.* Consid. 10.
[54] *Id.*, Consid. 11.
[55] *Id.*, Consid. 12.

(3) U.S. Freedom of Expression principles

Within U.S. Supreme Court approaches to First Amendment interpretation could be considered three different ones: First, to decide whether there is a question of protected or unprotected speech, such as certain national security issues and obscenity.[56] Second, when the speech is connected with another Constitutional right, such as property, picketing,[57] assembly, they settled the case according to procedure grounds.[58] Third, but if the case cannot be decided according to the others principles, the constitutionality of the speech or the action against it must

[56] In Feiner v. New York, 340 U.S. 315, 71 S.Ct 303, 95 L.Ed. 295 (1951) the Court considered that a person who incited a riot could be arrested. In Greer v. Spock, 424 U.S. 828, 96 S.Ct. 1211, 47 L.Ed.2d 505 (1976), United States v. Grace, 461 U.S. 565, 95 S.Ct. 729, 42 L.Ed.2d 725 (1975), as well as another, Courts have been sentenced that regulation of the speech is permissive.
In Chaplinsky v. New Hampshire, 315 U.S. 568, 572 (1942), the Supreme Court ruled that the First Amendment did not protect "insulting or 'fighting' words," which it defined as "those which by their very utterance inflict injury or tend to incite an immediate breach of the peace."

[57] Courts considered that ordinances that completely banned the distribution of pamphlets within the municipality are invalid, Lovell v. Griffin, 303 U. S. 444, 451-452 (1938); handbills on the public streets, Jamison v. Texas, 318 U. S. 413, 416 (1943); the door-to- door distribution of l 149 (1943); Schneider v. State, 308 U. S. 147, 164-165 (1939), and live entertainment, Schad v. Mount Ephraim , 452 U. S. 61,75-76 (1981).*See* also Frisby v. Schultz, 487 U. S. 474, 486 (1988)
(picketing focused upon individual residence is "fundamentally different from more generally directed means of communication that may not be completely banned in residential areas").

[58] In Collin v. Smith, 578F.2d 1197 (7th. Cir.1978) The Court considered that free speech prevailed when the American Nazi Party announced its intention to march through a predominately Jewish suburb of Skokie, Illinois, and the local government's require them to post $350,000 in insurance in order to hold a march and rally. In a similar way R.A.V. v. City of St. Paul, 505 U.S. 377 (1992) announced its intention to march through predominately Jewish suburb of Skokie, Illinois, and the local government's require them to post $350,000 in insurance in order to hold a march and rally.

be analyze, in such a way certain judicial approaches have been established such as: the absolutist, the "clear and present danger."[59]

The position of Justice Hugo Black[60] and William O. Douglass that considered that there should be no restriction at all to freedom of speech could be considered an extreme and absolutist one.[61] In fact the Supreme Court never accepted that the First Amendment prohibits all governmental regulations regarding freedom of expression.[62] But at the same time they considered that freedom of speech must be protected, in such a way it is important to point out what Justice Louis Brandeis have settled:"*Those who won our independence believed that the final end of the state was to make men free to develop their faculties, and that in its government the deliberative forces should prevail over the arbitrary. They valued liberty*

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[59] In Schenck v. United States, 249 U.S. 47 (1919), Judge Holmes stated that " The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree. When a nation is at war many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight and that no Court could regard them as protected by any constitutional right"

[60] *See, e.g.*, Konigsberg v. State Bar, 366 U.S. 36, 60-62, 74-75 (1961) (Black, J., dissenting).

[61] Meiklejohn, Alexander, "What Does the First Amendment Mean?" 20. The University of Chicago Law Review. No. 2. pp 461-479, 1953, Black, Hugo L., "The Bill of Rights."35. N.Y. University Law Review. pp. 865-881., 1961.

[62] For example, Konigsberg v. State Bar of California, 366 U.S. at 49. In a similar way For example, in *Roth v. U.S.*, Justice Brennan said, "The guaranties of freedom of expression 10 in effect in 10 of the 14 States which by 1792 had ratified the Constitution, gave no absolute protection for every utterance. Thirteen of the 14 States provided for the prosecution of libel, 11 and all of those States made either blasphemy or profanity, or both, statutory crimes. 12 As early as [354 U.S. 476, 483] 1712, Massachusetts made it criminal to publish "any filthy, obscene, or profane song, pamphlet, libel or mock sermon" in imitation or mimicking of religious services. Acts and Laws of the Province of Mass. Bay, c. CV, 8 (1712), Mass. Bay Colony Charters & Laws 399 (1814). Thus, profanity and obscenity were related offenses."

both as an end and as a means. They believed liberty to be the secret of happiness and courage to be the secret of liberty. They believed that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth; that without free speech and assembly discussion would be futile; that with them, discussion affords ordinarily adequate protection against the dissemination of noxious doctrine; that the greatest menace to freedom is an inert people; that public discussion is a political duty; and that this should be a fundamental principle of American government. They recognized the risks to which all human institutions are subject. But they knew that order cannot be secured merely through fear of punishment for its infraction; that it is hazardous to discourage thought, hope, and imagination; that fear breeds repression; that repression breeds hate; that hate menaces stable government; that the path of safety lies in the opportunity to discuss freely supposed grievances and proposed remedies; and that the fitting remedy for evil counsels is good ones."[63]

The most common approach considered that freedom of expression holds a preferred position[64] relative to all other rights, as it is important for a true democracy. Strict scrutiny is another one that allows court to determine whether there is a substantial government interest regarding a specific issue, for example[65] to protect health or welfare then ask whether there are alternative ways to accomplish the same purpose without infringing on the speech.

(4) U.S. Actual Malice Doctrine

U.S. Actual Malice Doctrine was originally connected with the

[63] Whitney v. California. 274 U.S. 357, 375 (1927).
[64] For example, it was present in the US Supreme Court sentences during the 1950s and 60s, the time of Chief Justice Earl Warren.
[65] In such a way, Commercial speech can be regulated because it is considered a "lesser" form of speech in the eyes of the First Amendment.

publication of defamatory material "with knowledge that it was false or reckless disregard of whether it was false or not."[66] The expression was used for the first time in the leading case New York Times v. Sullivan,[67] in which U.S. Supreme Court "Held: A State cannot under the First and Fourteenth Amendments award damages to a public official for defamatory falsehood relating to his official conduct unless he proves "actual malice" - that the statement was made with knowledge of its falsity or with reckless disregard of whether it was true or false."[68]

The case was connected with a suit brought by an elected official in Montgomery, Alabama whose duties included the supervision of the police department. Such legal action was against individual petitioners and the New York Times Company, a corporation that published[69] the New York Times, as the statements considered libeled appeared in a full-page advertisement entitled "Heed Their Rising Voices"[70] in New York Times on March 29, 1960. Part of the third paragraph and the sixth paragraph of the advertisement were considered the most important ones in connection with the case, as they pointed out: in the first one that, "In Montgomery, Alabama, after students sang `My Country, 'Tis of Thee' on the State Capitol steps, their leaders were expelled from school, and truckloads of

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[66] New York Times v. Sullivan, 376 U.S. 254 (1964).
[67] New York Times v. Sullivan, 376 U.S. 254 (1964).
[68] Ibid, at pp. 265-292.
[69] "The cost of the advertisement was approximately $4800, and it was published by the Times upon an order from a New York advertising agency acting for the signatory Committee." 376 U.S. 254 (1964).
[70] The advertisement began by stating that "As the whole world knows by now, thousands of Southern Negro students are engaged in widespread non- violent demonstrations in positive affirmation of the right to live in human dignity as guaranteed by the U.S. Constitution and the Bill of Rights." And among other statements said that "in their efforts to uphold these guarantees, they are being met by an unprecedented wave of terror by those who would deny and negate that document which the whole world looks upon as setting the pattern for modern freedom . . ."

police armed with shotguns and tear-gas ringed the Alabama State College Campus. When the entire student body protested to state authorities by refusing to re-register, their dining hall was padlocked in an attempt to starve them into submission." The sixth paragraph specified, "Again and again the Southern violators have answered Dr. King's[71] peaceful protests with intimidation and violence. They have bombed his home almost killing his wife and child. They have[72] assaulted his person. They have arrested him seven times - for `speeding,' `loitering' and similar `offenses.' And now they have charged him with `perjury' - a felony under which they could imprison him for ten years . . .."

During the trial it was proved that not all the statements were correct descriptions of what had happened there. Besides, the sixth paragraph was considered by the respondent to be closely connected with him, and he consequently probed that he did not take part in such events.

Justice Brennan delivered the opinion of the U.S. Supreme Court and held that, in this case and according to the Constitution States have limited power to award damages for libel in actions brought by public officials against critics of their official conduct." Thus, it required, as it is also stated in Alabama law, proof of actual malice to obtain punitive damages. The plaintiff does not presume proof, even though . . .."[73] Alabama law required such a proof to grant punitive damages, but in case of general damages the malice is presumed, which contradicts[74] the federal rule. "The power to create presumptions is not a means of escape from constitutional restrictions,"[75] "the showing of malice required for the forfeiture of the privilege is not presumed but is a matter for proof by the

[71] Dr. Martin Luther King, Jr., was the leader of the movement.
[72] 376 U.S. 254, 258.
[73] Lawrence v. Fox, 357 Mich. 134, 146, 97 N. W. 2d 719, 725 (1959).
[74] 376 U.S. 254, 284.
[75] Bailey v. Alabama, 219 U.S. 219,239.

plaintiff . . .."[76]. Thus he concluded that as the trial judges did not give instructions to jury "to differentiate between general and punitive damages, it may be that the verdict was wholly an award of one or the other. But it is impossible to know, in view of the general verdict returned. Because of this uncertainty, the judgment must be reversed and the case remanded."[77]

Supreme Court Judge also sustained that it was the duty of the Court not only to elaborate constitutional principles but also to determine that such principles have been applied according to the constitution, mainly in this case in which the question concerned whether the alleged trespass across "the line between speech unconditionally guaranteed and speech which may legitimately be regulated."[78]. Thus it was important to "examine for ourselves the statements in issue and the circumstances under which they were made to see . . . whether they are of a character which the principles of the First Amendment, as adopted by the Due Process Clause of the Fourteenth Amendment, protect."[79]

Regarding the proof to show actual malice, Justice Brennan differentiated the case of the individual petitioners from New York Times. In the first case he sentenced that it lacked "convincing[80] clarity which the constitutional standards demands, " as there was no clear evidence that "they were aware of any erroneous statements or were in any way reckless in that regard," even though it is probed that they have given express

[76] Lawrence v. Fox, 357 Mich. 134, 146, 97 N. W. 2d 719, 725 (1959)
[77] Stromberg v. California, 283 U.S. 359, 367 -368; Williams v. North Carolina, 317 U.S. 287, 291 -292; see Yates v. United States, 354 U.S. 298, 311 –312; Cramer v. United States, 325 U.S. 1, 36 , n. 45.
[78] Speiser v. Randall, 357 U.S. 513, 525.
[79] Pennekamp v. Florida, 328 U.S. 331, 335 ; see also One, Inc., v. Olesen, 355 U.S. 371 ; Sunshine Book Co. v. Summerfield, 355 U.S. 372 . Justice Brennan also considered that it was important to "make an independent examination of the whole record," Edwards v. South Carolina, 372 U.S. 229, 235 , "so as to assure ourselves that the judgment does not constitute a forbidden intrusion on the field of free expression."
[80] 376 U.S. 254, 286.

acceptance to use their names on the advertisement. In the second case he also concluded that actual malice was not present, as the statement did not indicate malice "at the time of the publication." And although he asserted that New York Times published the advertisement without properly analyzing it, or even if there were related stories in its files it could not be established "that the Times 'knew' the advertisement was false, since the state of mind required for actual malice would have to be brought home to the persons in the Times' organization having responsibility for the publication of the advertisement." Thus, he sentenced the evidence is "constitutionally insufficient to show the recklessness that is required for a finding of actual malice."[81]

Justice Brennan also stated that the evidence was not enough to support that the libelous statements concerned the respondent as no express reference to him was made in the advertisement.[82] The only fact was that he was in charge of the Police Department consequently he had official responsibility for police conduct, but there is no evidence that he was personally involved in that case, it was just an assumption because of his official position. That's why it was considered that, "that such a proposition may not constitutionally be utilized to establish that an otherwise impersonal attack on governmental operations was a libel of an official responsible for those operations. Since it was relied on exclusively here, and there was no other evidence to connect the statements with respondent, the evidence was constitutionally insufficient to support a finding that the statements referred to

[81] Cf. Charles Parker Co. v. Silver City Crystal Co., 142 Conn. 605, 618, 116 A. 2d 4 40, 446 (1955); Phoenix Newspapers, Inc., v. Choisser, 82 Ariz. 271, 277-278, 312 P.2d 150, 154-155 (1957).

[82] 376 U.S. 254, 289.

respondent."[83]

It is important to point out that Justice Brennan, regarding possible critics to government conduct stated that "no court of last resort in this country has ever held, or even suggested, that prosecutions for libel on government have any place in the American system of jurisprudence."[84]

Justice Black, and Justice Douglass in their concurring vote in reversing the half-million dollar against New York Times mainly stating: First, that First and Fourteenth Amendments "completely prohibit" a State's power to award damages to public officials whenever they received critics. "… I vote to reverse exclusively on the ground that the Times and the individual defendants had an absolute, unconditional constitutional right to publish in the Times advertisement their criticisms of the Montgomery agencies and officials."[85] Second, "…since the adoption of the Fourteenth Amendment a State has no more power than the Federal Government to use a civil libel law or any other law to impose damages for merely discussing public affairs and criticizing public officials." [86]

Another two U.S. Supreme Court Judges, Justice Goldberg and Justice Douglass, join concurring in the result mainly considering: First, "The Court thus rules that the Constitution gives citizens and newspapers a 'conditional privilege' immunizing no malicious misstatements of fact

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[83] "[Footnote 30] Insofar as the proposition means only that the statements about po lice conduct libeled respondent by implicitly criticizing his ability to run the Police D epartment, recovery is also precluded in this case by the doctrine of fair comment. Se e American Law Institute, Restatement of Torts (1938), 607. Since the Fourteenth Am endment requires recognition of the conditional privilege for honest misstatements of fact, it follows that a defense of fair comment must be afforded for honest expression of opinion based upon privileged, as well as true, statements of fact. Both defenses ar e of course defeasible if the public official proves actual malice, as was not done here . [376 U.S. 254, 293]"

[84] City of Chicago v. Tribune Co., 307 Ill. 595, 601, 139 N. E. 86, 88 (1923)"
376 U.S. 254, 292.

[85] 376 U.S. 254, 294.

[86] 376 U.S. 254, 296.

regarding the official conduct of a government officer."[87] Second, "The theory of our Constitution is that every citizen may speak his mind and every newspaper express its view on matters of public concern and may not be barred from speaking or publishing because those in control of government think that what is said or written is unwise, unfair, false, or malicious."[88] Third, "Under our system of government, counterargument and education are the weapons available to expose these matters, not abridgment . . . of free speech . . ."[89] Fourth, "The public official certainly has equal if not greater access than most private citizens to media of communication. In any event, despite the possibility that some excesses and abuses may go without remedied, we must recognize that "the people of this nation have ordained in the light of history, that, in spite of the probability of excesses and abuses, [certain] liberties are, in the long view, essential to enlightened opinion and right conduct on the part of the citizens of a democracy."[90]

(4.1) Another Supreme Court sentences:

Masson v. New Yorker Magazine, Inc., 501 U.S. 496 (1991). Mason, a psychoanalyst, who served as projects director of the Sigmund Freud Archives, was dismissed while developing his own theories. Thereafter, respondent Malcolm, who worked to respondent New Yorker Magazine, taped several interviews with Masson and an article on his relationship with the archives. Some passages were attributed to Masson in quotation marks. Masson pointed out such mistakes before the article was published, and later on he brought an action for libel.

U.S. Supreme Court held: "that a deliberate alteration of the words

[87] 376 U.S. 254, 296.
[88] 376 U.S. 254, 298.
[89] 376 U.S. 254, 299.
[90] Wood v. Georgia, 370 U.S. 375, 389. 376 U.S. 254, 304.

uttered by a plaintiff does not equate with knowledge of falsity for purposes of *New York Times Co. v. Sullivan*[91] and *Gertz v. Robert Welch, Inc.*,[92] unless the alteration results in a material change in the meaning conveyed by the statement. The use of quotations to attribute words not in fact spoken bears in a most important way on that inquiry, but it is not dispositive in every case." But if speaker's statement have a different meaning because, of the alterations, "then the device of quotations might well be critical in finding the words actionable."[93] So it considered that "instead of actual malice it is better to refer to publication of a statement with knowledge of falsity or reckless disregard as to truth or falsity. This definitional principle must be remembered in the case before us."[94]

Justice White and Justice Scalia partially concurred and partially dissented. As Justice White pointed out his disagreed because of the holding interpretation that a deliberate misquotation should not be consider malice unless "unless it results in a material change in the meaning conveyed by the statement."[95] Among another specifications he pointed out that the question of possible injury is connected with defamation and not with the quotations that attributed words that he did not said.

Harte-Hanks Communications, Inc., 491 U.S. 657 (1989). In this case Journal News a local newspaper of Hamilton, Ohio, published a front-page story quoting a grand jury witness as saying that respondent[96] had used "dirty tricks" and offered her and her sister jobs and a trip to Florida "in appreciation" for their helping him in a investigation connected with

[91] Cantwell v. Connecticut, 310 U.S.296, 310. 376 U.S. 254, 305.
[92] 376 U.S. at 279-280.
[93] 418 U.S. 323, at 342.
[94] 501 U.S. 496 (1991) at 15-20.
[95] 501 U.S. 496 (1991) at 510.
[96] 501 U.S. 496 (1991), at 526.

bribery charges. In this case U.S. Supreme Court held, in connection with the meaning of actual malice doctrine, more specifically "reckless disregard" could not be limited a "one infallible definition,"[97] but "through the course of case-by-case adjudication,"[98] could be understood these constitutional standards. So the factual record must be totally considered. In that case "recklessness" was connected when there were clear reason to doubt "the veracity of the informant or the accuracy of his reports."[99] St. Amant, supra, at 732.

(5) U.S. Actual Malice Doctrine and Argentine Real Malice Doctrine: similarities and differences

U.S. Supreme Court and Argentine Supreme Court consider partially similar statements whenever they have to sentence a case involving freedom of expression, but in the Argentine case judges regard another elements as very important, as individual's reputation, institutions, general welfare, which in fact are no easily defined for it depended on their particular point of view. In the case of obscenity mentioned by U.S. Supreme Court judges and not highly considered by Argentine judges, is connected in the last case with the superior consideration that public official acts had for Argentine Judicial Power who are in charge of its definition when it is necessary for a given situation. In a similar way, all crimes against honor have been highly considered by Argentine judges, and up to imbalance people's and functionaries' rights given priority to the last ones. Without doubt such characteristic of the Latin American country is not only connected with its Spaniard domination, but, mainly, with de facto or illegal governments which emphasizes the importance of the

[97] "Respondent was the unsuccessful challenger for the position of Municipal Judge of Hamilton, Ohio, in an election conducted on November 8, 1983"
[98] St. Amant v. Thompson, 390 U.S. at 730.
[99] Bose, 466 U.S., at 503; See ut supra section 1.

military over common people, later on during legal governments similar patterns continue to be accepted.

There is no U.S. doctrine that resembles Argentine Campillay doctrine. Argentine Supreme Court accepted the last one has been accepted after the last de facto government ended and many new judges were appointed. According to it did not matter whether facts were real or not, just formalities, and up to certain extent it resembled Constantineau de facto functionaries doctrine which relied on image and appearances to accept illegal authorities.

Argentine Supreme Court relied on U.S. Actual Malice doctrine to sentence different cases, but its name has been changed. Argentine Supreme Court judges speak about "real malice," not "actual malice," as they stress the intention of the person, more than external appearances, considering first dignity, privacy, honor and reputation of the people first. As an example, in Verbitsky case[100] as the pretended offense was against a Supreme Court judges the Appellation Chamber turned private action into a criminal crime of contempt. But it is important to notice that as American Human Rights Commission accepted plaintiff's presentation, Argentine government decided to abrogate such crime.

It is also interesting to note that Argentine Supreme Court holding in the Vago case, the first one connected with the U.S. Actual Malice doctrine, also spoke about offenses to honor, and pointed out that they have also to consider that Argentine and the U.S. present important differences regarding economic, political, social issues, without deepening in such concept suggesting that a general statement could be shifted from the original U.S. Actual Malice doctrine. It is also worth noticing that in such case when some Argentine Supreme Court rendered their decisions they omitted mentioning the U.S. precedence, as if they were reluctant to accept

[100] St. Amant v. Thompson, 390 U.S., at 732 (1968).

it, what in fact was true as they returned the following year to Campillay doctrine. Argentine Supreme Court judges hesitated for almost 10 years till they finally accepted U.S. Actual Malice doctrine in the Morales Sola case,[101] in connection with the publication of certain statements in a book that offended Giadone's honor. So moral values continue to be important, as they stress honor as an important element to elucidate the case. Something similar happened in the case Pandolfi.[102]

Comparing U.S. Actual Malice Supreme Court sentences with Argentine Supreme Courts one it is important to notice that:

1. - U.S. precedents were connected with article or advertisements in newspapers and magazines, while Argentine ones extended them to books.
2. - U.S. precedents generally mentioned the importance of freedom of expression in connection with the government, considering that it holds a "preferred position"[103] and that critics are very important as well as counterargument and education.[104] But Argentine sentenced just mentioned the definition of freedom of speech and press, and its limitations due to honor and dignity of public functionaries or famous people.

Conclusion

Connections and relationship between U.S. and Latin American countries, in this particular case Argentine, proved to be paradoxical as sometimes they are regarded as distant enemies but at the same time there is a important intellectual link that seems to oblige Supreme Court judges to render their sentences according to U.S. patterns. But such dependence

[101] *Morales Solá*", 319Fallos2741 (1996).
[102] "Pandolfi c/ Rajneri" CSJN 320Fallos1272 (1997).
[103] See ut supra note 66.
[104] Id., note 86.

on U.S. doctrines is not total as cultural, traditional and local values turned to be mix up within them. In this particular case U.S. Actual Malice doctrine has been accepted by Argentine Supreme Judges after almost 10 years of hesitation, and with some limitations due to the importance of honor and public functionaries or famous personages image. Moreover, relying on such elements Argentine Supreme Court judges have the opportunity to interpret and determine which is the limit between honor and public interest according to their own concepts and point of view, as they are regarded as final interpreter of the constitution. In fact both concepts as well as another ones such as public welfare, public interest, reputation are not easily defined as it all depend on each person point of view. On the other side, U.S. sentences stress the importance of facts and the intention of the person. For example, in Masson v. New Yorker Magazine, Inc.,[105] mentioned *ut supra*, was held "that instead of actual malice it is better to refer to publication of a statement with knowledge of falsity or reckless disregard as to truth or falsity."[106] Thus, both doctrines have similar definitions but they are being applied from different points of view, which in turn, more than once, it will lead to different type of sentences. Argentine Supreme Court prefer to rely on broad definitions and concepts to adapt their decisions to different situations and implications, and this can be considered part of the alleged judicial instability or lack of juridical security that undermines Argentine trust and prestige among other countries. Such behavior is not just a judicial power characteristic as it is present even in other governmental branches, like the executive and legislative. Laws in Argentine generally included concepts whose definitions are so broad that can be easily applied to opposite situations, for example in article 75, section2, paragraph 4, of Argentine Constitution it has been included one word and one expression, "egalitarian" and

[105] 501 U.S. 496 (1991).
[106] Id., at 510.

"according to their needs," that do not match but can be politically adapted to sustain different positions.

Even though Argentine Supreme Court still considered broad concepts to render their sentences, influence of U.S. doctrines, such as the Actual Malice one, is gradually narrowing that up to certain extent traditional judicial tendency. Again the more people know and understand the more difficult for authorities to impose their wishes over the society. Thus, it is without doubt a positive influence that able Argentine society to reach democratic behaviors more easily.

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