

**The London School of Economics
and Political Science**

*The Missing Memory of
Transitional Justice:
How Argentina and Uruguay
confronted past evils, 1983-2009.*

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Declaration

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Abstract

This thesis investigates the relationship between memory and transitional justice (TJ) in Argentina and Uruguay from the 1980s to the present.

The research focuses on two questions. First, how do TJ policies emerge and evolve over time? Second, what is the connection between TJ and the memory of past human rights violence?

These important concerns have, thus far, largely been sidelined by the literature. It is proposed here that memory is both integral and central to TJ policies, not only in terms of specific memorialisation initiatives (museums, memorials) that are sometimes examined by the scholarship.

Through the use of interviews, as well as primary and secondary sources, the following conclusions were reached.

First, the origins and evolution of TJ can be explained with reference to various dynamics, actors and power balances at local, national and international spheres. In Argentina and Uruguay, TJ was cumulative: every initiative was built upon previous achievements, complementing them. TJ often unfolded through unpredictable and unconventional paths, bearing witness to triumphs and failures, set backs and sudden developments.

Second, an interactive and dynamic interplay exists between memory and TJ. TJ initiatives are in fact influenced by ideas and representations of the past violence held by relevant social and political actors. Examining these narratives helps achieve a deeper understanding of how TJ policies were implemented and evolved. Additionally, TJ mechanisms, especially trials and truth commissions, often champion, whether explicitly or not, specific understandings about what happened during the contested years of violence. For years, Uruguay successfully minimised discussion on past crimes to the limited sphere of human rights activism. By contrast, the Argentine Executive never achieved such a hegemonic position on the landscape of memory and TJ. Rather, it was forced to endure a difficult co-existence with the military and human rights activists.

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*To my father
I miss you every day
Thank you for giving me the strength
to see this project through.
I love you very much.
This thesis belongs to you, Mum and Chiara.*

*In loving memory of
Rocco Pietro Lessa
Michele Lessa*

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Introduction

Over the past few decades, countries as diverse as East Timor, Guatemala, Chile and Rwanda have had to provide answers to a particularly difficult question. What, if anything, should be done about past injustices?

Since the early 1980s an unequivocal trend has been unfolding. Societies as far and as different as countries from Latin America, Africa and Eastern Europe had to confront the similar political, legal and moral dilemmas that are associated with coming to terms with a legacy of severe human rights abuses. As Jeremy Sarkin suggested, 'dealing with past injustices is a crucial test for a new democratic order'. (Sarkin, 2001:144) Nonetheless, responding to such complex questions is far from straightforward. Rather, it normally entails challenging exercises in what José Zalaquett has described as 'balancing ethical imperatives and political constraints'. (Zalaquett, 1992:1425)

How shall we live with evil? asks the Argentine lawyer Carlos Nino. How should societies respond to 'offences against human dignity so widespread, persistent, and organised' that stretch morality and ethics to their limits? (Nino, 1996:vii) Similarly, Hannah Arendt alluded to the complexities raised by responding to radical evil through the ordinary measures that are at a society's disposal. Arendt noted how we 'are unable to forgive what [we] cannot punish and that [we] are unable to punish what has turned out to be unforgivable'. (Arendt *in*: Nino, 1996:viii)

Questions of Transitional Justice (hereafter TJ) are not novel but establishing when the notion emerged is subject to debate. Jon Elster, for instance, suggests that early episodes of TJ occurred in Athens in 411 and 403 B.C. upon the restoration of democracy after the defeat of the oligarchs. (Elster, 1998, 2004) Others, like Ruti Teitel, trace the origins of modern TJ to World War I, after which the international community debated the parameters of justifiable punishment. (Teitel, 2003)

Nowadays, TJ refers to a network of practitioners, academics and institutions that are drawn together by a common concern with addressing a legacy of past human rights abuses that were perpetrated within the context of authoritarianism or conflict. Almost every aspect of TJ is disputed. There is no agreed definition of TJ, no single theory and the coining of the term itself is actually a source of debate. Teitel claims authorship of the expression in her latest article, where she asserts to have coined it in 1991. (Teitel, 2008:1) Paige Arthur, on the other hand, traces its first appearance to a *Boston Herald* article of 1992. (Arthur, 2009) Nonetheless, questions that would nowadays come under the TJ umbrella were already being discussed in 1988. In fact, the Aspen Institute Conference and the homonymous publication titled *State Crimes: Punishment or Pardon* tackled issues such as the political, legal and moral challenges of justice in transition, obligations under international law on redressing past crimes and the role of the military. (Aspen-Institute, 1989)

Notwithstanding whom the original author of the phrase TJ really was, its transmission and acceptance was significantly aided by the publication of Neil Kitz's influential three-volume collection entitled *Transitional Justice: How*

Emerging Democracies Reckon with Former Regimes of 1995. (Arthur, 2009:329-330)

This thesis focuses on TJ, to investigate specifically the previously unexplored relationship between TJ and memory. This introduction provides: first, a concise and organised literature review; second, the rationale behind the selection of the case-studies, and third, the research questions, arguments and original contributions of this work. Finally, there is an overview of what is examined in the remaining chapters.

Literature Review

TJ emerges as an academic discipline in the late 1980s and early 1990s, to study how societies emerging from conflict or authoritarian rule were confronting a legacy of violence. Much of this early literature directly drew upon the work of both leaders and scholars in Latin America and Eastern Europe who, upon democratisation, had to tackle first hand the dilemmas connected with redressing human rights abuses, without however jeopardising newly acquired and often fragile democratic structures.

In her recent article, Christine Bell aptly defined TJ as 'The Incredibly Fast Field'. (C. Bell, 2009:6) This is quite an appropriate label for a subject area that, from its initial origins in international law (IL), expanded so broadly as to now embrace several disciplines such as politics, anthropology, psychology, sociology and international relations.

TJ scholarship has certainly witnessed a remarkable development. By 2009, it has a dedicated journal, *The International Journal of Transitional Justice*, established in 2007, several research institutes, including the International Center

for Transitional Justice created in New York City in 2001, dedicated panels at international conferences, academic centres such as the Transitional Justice Institute at the University of Ulster, NGOs, offices in international organisations and UN-sponsored publications. – see e.g. (OHCHR, 2006, 2008)

All of this is both astonishing and puzzling, raising the questions of how and why this has happened? Still, despite this rapid development, the present boundaries of TJ are porous and open-ended, yet to be clearly defined.

This literature review is organised in three unequal parts. The first traces the origins of TJ, the second considers the present status of the scholarship, and finally gaps that this work aims to address are identified.

A thesis on TJ requires at least a working characterisation of what is meant by the term, despite the lack of consensus within the scholarship.

Definitions abound within the literature. Most highlight the legal, moral and political problems that arise in cases of accountability, others point to the mechanisms normally employed to confront such a legacy, and finally others still allude to conceptions of justice during periods of political change. See e.g. (C. Bell et al., 2004; Boraine, 2006; Roht-Arriaza, 2006; Teitel, 2005)

The working definition adopted here is the one advanced by the UN Secretary-General (UNSG) in its pioneering report titled *The rule of law and transitional justice in conflict and post-conflict societies* of August 2004. There, TJ was denoted as comprising of '[...] the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of

international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof.' (UNSG, 2004:4)

This definition is the most appropriate for three reasons. First, it underscores how TJ prompts moral, ethical and legal questions associated with coming to terms with a violent past. Second, it comprises a full variety of TJ mechanisms, illustrating the relevance of judicial and alternative tools, as well as elements of retribution and restoration. Finally, it recognises how TJ often unfolds at several levels, the local, national and international.

The Early Days of Transitional Justice

Current TJ debates originate from events that have been happening since the 1980s, when transitions from military rule to nascent or restored democracy occurred in various parts of the world, but especially Latin America. Then and now, a society that is confronting TJ issues is, in the words of Elster (1998:14), 'in a real sense judging *itself*', driven by the desire to prove that 'We are not like them' as Vaclav Havel famously asserted. (cited from: Elster, 2006:1)

Within the scholarship there is undoubtedly a shared perception that TJ marks a clear temporal distinction between a before and an after. As Rosemary Nagy indicated, TJ 'bridges a violent or repressive past and a peaceful, democratic future', establishing a clear distinction between 'now and then'. (Nagy, 2008:280)

Several answers have been suggested on how best to respond to the past. Nevertheless, there is agreement within the literature on the fact that 'some crimes are of such a magnitude that the wounds they leave in society cannot and must not be simply swept under the rug'. (Méndez, 1997b:1) Indeed in the early days,

revealing the truth about past abuses was already recognised as a 'non-negotiable moral obligation of governments'. (Orentlicher, 2007:12)

The first generation of TJ academic writings mainly dealt with instances of transition from authoritarian regimes (normally military) to democratically-elected civilian administrations. The latter usually had partially functioning judiciaries and institutions to rely upon in confronting past crimes. Past violence habitually resulted from years of state-organised repression against the population. As Ellen Lutz asserts, the human rights framework was the explanatory paradigm in that context. (Lutz, 2006:326) This 'early days' (my term) scholarship presents transitional times as exceptional, just like the mechanism employed to handle past evils. (Elster, 1998)

Two crucial aspects of this literature are reflected upon in some detail here: its legalistic tone and the framing of the discussion in terms of mutually exclusive dichotomies.

The Prosecution Preference

This early scholarship emerged from IL, human rights in particular. Leslie Vinjamuri and Jack Snyder argue that there are two dominant perspectives within the TJ literature: pragmatism and legalism. (Vinjamuri & Snyder, 2004) Pragmatism is premised on what March and Olsen labelled as the logic of consequences.¹ Accordingly, pragmatist accounts focus on issues of power, the interests of various political actors and 'the actual consequences of justice

¹ Snyder & Vinjamuri (2003/2004:8) argue that 'the logic of consequences assumes that actors try to achieve their objectives using the full panoply of material, institutional, and persuasive resources at their disposal. Norms may facilitate or coordinate actors' strategies, but actors will follow rules and promote new norms only insofar as they are likely to be effective in achieving substantive ends'.

strategies'. (*Ibid.*353) Legalism follows instead the logic of appropriateness.² Therefore, 'underpinning much of the scholarship in this tradition is the assumption that the behaviour of actors in international politics is guided by norms that they believe to be appropriate', particularly the promotion of universal standards of justice. (*Ibid.*346-347) The logic of appropriateness 'dictates that reducing atrocities is in part a matter of persuading elites and masses to comply with international humanitarian norms'. (*Ibid.*347)

As a matter of fact, and as we shall see in more detail in chapter 1, in these early stages, numerous scholars indeed pointed to the existence of a universal duty to prosecute those who had committed human rights violations. Miriam Aukerman notably defined this tendency as the 'prosecution preference'. (Aukerman, 2002:39-40)

Legalistic contributions have contended that there is an unmistakable trend in international law in favour of punishing the perpetrators of crimes like torture, genocide and war crimes. See e.g. (Bassiouni, 1996; Méndez, 1997a; Van-Dyke & Berkley, 1992) At that time, prosecutions were particularly perceived as the optimal method for dealing with atrocities.

Still, some scholars presented more nuanced positions. (Kritz, 1996; Orentlicher, 1991) In what is now regarded as a seminal article, Diane Orentlicher recognised that a duty to prosecute could not be systematically applied to all cases of transitions, regardless of local dynamics and histories. Instead, Orentlicher recognises that, although impunity is generally inconsistent with states' obligations under IL, this requirement should not be construed as demanding

² Snyder & Vinjamuri (2003/2004:7) suggest that 'norms define "a logic of appropriateness" that plays a central role in shaping the choices and actions that constitute a political order'. Under this logic, 'norms do more than regulate behaviour', they 'mould the identities of actors, define social roles, shape actors' understandings of their interests, confer power on authoritative interpreters of norms, and infuse institutions with guiding principles'. (Snyder & Vinjamuri, 2003/2004:8)

actions incompatible with political and legal dynamics on the ground. Orentlicher (1991:2598-2603) accordingly draws attention to the threat to stability that widespread prosecutions might cause, and argues for a limited and selective programme of trials. She claims that it is not necessary to prosecute all human rights violators, as exemplary trials would suffice.

The Dichotomies of TJ

Claire Moon (2008:19) stresses how early literature adopted an 'entirely dualised way of thinking about issues central to transition'. Very frequently, dilemmas were in fact presented as encompassing the following positions: truth vs. justice, restoration vs. retribution, national political order vs. international legal imperatives, trials vs. forgiveness, peace vs. justice, and amnesty vs. punishment.

Such an approach is problematic on numerous grounds. First, TJ is neither progressive nor linear. Rather, it is likely to advance in unexpected ways, with setbacks or unpredictable progressions. There may even be further violence under democracy. Thus, TJ tends to linger for a long time, requiring different responses at various times. This challenges mutually exclusive positions. More often than not, bargains struck during transitional stages are not permanent, being usually revisited and questioned as time progresses.

Second, empirical research has demonstrated that 'in many parts of the world, transitional justice solutions have been neither durable nor dichotomous'. (Sikkink & Booth-Walling, 2007:435) In effect, in several Latin American countries, for instance, the considerable variation that typified the post-transition years derived from evolving power balances and the passing of time.

Third, this dualism did reduce the horizons of the discussion on the possible forms that TJ may take. Although prosecutions and truth commissions have been dominant, various other tools have been employed in practice, combining elements of retribution and restoration, as well as investigation and prosecution.

A welcome development is that more contemporary literature has moved away from both the prosecution preference and this dichotomous framing. Current scholarship has apparently transcended the tensions that were for long summarised by the *truth vs. justice* dilemma. These have been replaced by the recognition that there is in reality no consensus on how best to deal with the past, as Nigel Biggar argues. (Biggar, 2001) Likewise, Naomi Roht-Arriaza hails this advancement, contending that truth and justice are no longer mutually exclusive positions, but complement each other. (Roht-Arriaza, 2006)

Contemporary literature shares the conviction that the past cannot be ignored. It is however mindful that there does not exist a one-size-fits-all approach to TJ. In fact, in his latest contribution, Juan Méndez calls attention to the possibility that 'what has worked in one country may fail in another'. (Méndez, 2009:160)

The dichotomies of early scholarship have been replaced by arguments pointing instead to a reality characterised by a variety of TJ goals and objectives that are mutually reinforcing and interconnected. See e.g. (Boraine, 2006; Fletcher & Weinstein, 2002; Roht-Arriaza, 2006) These works underscore the existence of intertwined sets of obligations in instances of systematic crimes. These include elements of truth, justice, reparations, memory and guarantees of non-repetition. These scholars have also increasingly adopted a longer term perspective and a

local focus. But has TJ reached a consensus? Nothing could be further from the truth.

From State Terror to State Failure: Transitional Justice in the 21st century

The past decades have witnessed an unparalleled and unprecedented rise in efforts to pursue accountability both at the international and domestic levels. In the words of Teitel (2008:2), we are now living through 'a global phase of transitional justice'. While questions associated with accountability have largely endured unchanged, the nature of transitional societies has dramatically been transformed. If in the early days TJ mainly occurred after episodes of state terrorism, the vast majority of contemporary transitional societies are principally emerging from armed conflict towards edge peace. See e.g. (Branch, 2007; Longman, 2006; Ssenyonjo, 2007; Wigglesworth, 2008)

As a consequence, TJ was confronted by new challenges such as what should be done in situations where the alleged perpetrators totalled in their thousands? Where there is a lack of adequate facilities and infrastructure? When judges and moral leaders have often perished during the violence?

Lutz (2006) appropriately brings attention to the fact that present-day atrocities are mainly instances of war crimes, genocide or crimes against humanity committed by the state but to a greater extent than ever before by non-state actors. International humanitarian law has now become the new the language in which accountability demands are framed. (Lutz, 2006)

While early on human rights abuses frequently stemmed from strong states and the use of their full resources and powers, now the situation has been turned upside down. In the post-Cold War world, political violence is frequently triggered

by the collapse of the authority and structures of the state, giving rise to them being notably branded as failed states.

From 1990 onwards, these new types of wars in which violence is defined along ethnic, racial or religious lines, have prevailed. In these situations, violence is multi-directional: state policies of ethnic cleansing or genocide, as in former-Yugoslavia or present day Darfur, often coexist with abuses of comparable scale perpetrated by non-state actors (namely warlords, rebel groups, organised-crime and even terrorist networks) like in Uganda or Pakistan.

The evolution of TJ over the years went hand-in-hand with, and reflected, the different sets of dilemmas that typify this new context of atrocities, such as gender violence, the rights of children or minorities.

Additionally, a positive occurrence is the expanding attention paid to local dynamics, culture and heritage when moulding TJ responses. Already the UNSG's Report (2004:7) recognised that 'pre-packaged solutions were ill-advised', and that 'experiences from other places should simply be used as a starting point for local debates and decisions'. Several current contributions underline how accountability at the national-level may often be insufficient, outlining the advantages associated with local-level programmes. (Roht-Arriaza & Arriaza, 2008) For example, Kimberly Theidon studied the case of Peru, looking at the practices of communal justice in what she labels the 'micropolitics of reconciliation' that combine retributive and restorative forms to address the scars of the past. (Theidon, 2006:436)

This author concurs with Lutz (2006:333) when she stresses that TJ 'must be both contextually and culturally appropriate'. Current scholarship indeed

embraces the use of local or hybrid mechanisms, such as the mixed courts of Sierra Leone, East Timor and Cambodia, the traditional dispute-resolution process of *nahe biti bot* (unrolling of the mat) in East Timor, or the truth trials in Argentina.

When reviewing contemporary scholarship it becomes immediately apparent that the discipline is in a state of flux. Several fundamental concerns are currently debated, but one is particularly fitting for our purpose. What is TJ: is it a discipline or a field?

Christine Bell (2009:25) recently described TJ as a battlefield. She alleges that two battles are ongoing: one at the level of each transition for the control of TJ mechanisms and the direction of the transition; by contrast, the second encompasses academia, policy and practice in an attempt to master TJ and its goals. (*Ibid.*25-26) Bell's stance appears a rather suitable characterisation of the current state of affairs.

TJ evolved at an extreme speed and, during in its infancy in the mid-1990s, still pondering upon the questions associated with military transitions and the lessons to be learnt, the nature of human rights violence changed so severely as to force TJ to re-examine itself. Thus, it should not be surprising that TJ is in what I like to define as a 'soul-searching phase'.

For Bell (2009:6) TJ 'does not constitute a coherent "field" but rather is a label or cloak that aims to rationalize a set of diverse bargains in relation to the past as an integrated endeavour, so as to obscure the quite different normative, moral and political implications of the bargains'. Rather, Méndez (2009:157) asserts that 'there is no dispute that "transitional justice" is recognised as a field, distinct from related disciplines and human endeavours'. Nonetheless, Méndez acknowledges

the difficulties of providing 'an accurate description of its contours and scope'. (*Ibid.*) In discussing Bell's work, Méndez slightly changes his position towards the end of his discussion to state that 'perhaps TJ is a cloak at this stage in its process of becoming a field'. (*Ibid.*160) A position closer to Méndez's is the one taken by Arthur (2009:358) who affirms that TJ is not simply part of the human rights movement, but 'is a distinct field'. It is apparent that the issue is far from settled.

TJ is, if one thing is clear by this point, very much unsettled at present. In fact, contemporary TJ has fittingly been described as a patchwork of 'geographies of crime and justice' and 'zones of impunity', which comprise of a multilayered pattern of transnational crimes, national borders, state and non-state actors, and international norms of accountability as well as institutions. (Sriram & Ross, 2007:46,47) Over the years, there has certainly been a proliferation of a multiplicity of sites of accountability. Further, in contrast to some early scholars that perceived accountability as a threat to stability and consolidation, TJ and reconciliation are now appreciated as long-term aspirations for political communities. (Leebaw, 2008)

This author feels that TJ literature suffers from various failings. First, several contributions within it tend to be largely descriptive: they outline how accountability was achieved in various societies, sometimes with the implicit assumption that legal responses should be the primary tools. See e.g. (Bassiouni, 2000; Ocampo, 1999; Sieff & Vinjamuri, 1999) In this respect, Laurel Fletcher et al. have importantly pointed out how, notwithstanding the recognition that 'multiple kinds of interventions and institutional changes are necessary', still 'there remains

an almost unremitting spotlight on trials and truth commissions'. (Fletcher et al., 2009:167)

Second, a large section of the scholarship has a tendency to be prescriptive; this was particularly evident in the early days but still continues in the present. See e.g. (Lambourne, 2009; Mani, 2005) Despite the appreciation that a TJ blueprint does not only exist, but would actually be counterproductive, there is still a predisposition to look for best practices. These concerns are shared by some of the latest academic writings. Fletcher et al. (2009:210) for example ask whether it is 'necessary to put into place a model that mimics Western legal mechanisms?' These scholars take a stand against what they label a 'standardised "tool-kit" of interventions' that can be used in different contexts, assuming that these mechanisms are 'appropriate and productive, if one can only determine which intervention to deploy'. (*Ibid.*170)

Finally, the subject-matter of TJ has been excessively broadened to comprehend topics such as gender, structural violence, war economies, corruption, and social injustice. See e.g. (C. Bell et al., 2004; Mani, 2008; Nagy, 2008) All these concerns are unquestionably legitimate, given the context of new wars and conflict that TJ increasingly has to confront. Nevertheless, there is a perception that TJ has enough to contend with already. This state of affairs should make us wonder whether this expanding and overstretching of the discipline may not spell its end. What may apparently seem an obvious question actually becomes critical: are not other fields, such as development, IR or conflict studies, better equipped at addressing these concerns?

Roht-Arriaza's (2006:2) stand that 'broadening the scope of what we mean by transitional justice to encompass the building of a just as well as peaceful society

may make the effort so broad as to become meaningless' definitely has some truth in it. Though interactions with other disciplines are vital, the stretching of TJ's boundaries to include such a variety of issues can be risky. It is not recommended here that these genuine problems should be overlooked, but that they are possibly best tackled by other subject areas. In this respect, Méndez (2009) also points to the significance of conversations with other actors such as conflict resolution specialists, or dialogue between development and TJ agents.

How is This Thesis Different?

This thesis takes a step back, returning to the origins of TJ. This is not, however, a return to the dualist approach of early works or the prosecution preference. On the contrary, what is encouraged is a focus on coming to terms with a heritage of past abuses once some sense of stability and peace is achieved. Granted, if left untended, from the ashes of violence, new violence is likely to emerge. Nonetheless, this author believes that TJ is best equipped to tackle the legacy of the past, while other academic disciplines could, and indeed should, simultaneously provide solutions to issues like structural violence or social injustice to effectively attend to the root causes behind violence and atrocities.

This thesis recognises the multifaceted essence of TJ, by embracing judicial, investigative and alternative methods. It also appreciates the multiple factors that shape the nature of TJ initiatives, and the manner in which they unfold. Accountability initiatives are seen here as 'slow-burning': accordingly, a long term perspective in examining how TJ evolves over the years has to be employed.

Indeed the selection of Argentina and Uruguay as case studies illustrates this. Elster has distinguished between *immediate* and *second-wave* TJ to underscore

how dealing with the past is a continuous endeavour, likely to last for decades. (Elster, 2006:6) Immediate TJ refers to cases where accountability proceedings begin shortly after transition and come to end within a short space of time (the years 1983 to 1990 in Argentina, 1985 to 1989 in Uruguay). Second-wave instances highlight how after the initial endeavours, there may be a period of latency when no action is taken (Argentina 1990 to 2003, Uruguay 1989 to 2005). But this is only so until new proceedings start (Argentina 2003 to present, Uruguay 2005 to present).

Finally, this thesis particularly aims to restore memory to a central position within TJ, where it rightfully belongs. From here comes its title. *The Missing Memory of Transitional Justice* is in fact a challenging assertion that aspires to illustrate how memory has so far only been tangentially addressed by TJ. The creation of museums and memorials to the past has thus far been the only aspect of memory that has been considered.

Some, but only some, of the more recent scholarship has begun to deal with these issues. Elizabeth Jelin importantly calls attention to the fact that 'much of the literature on transitional justice sets apart institutional and symbolic measures'. (Jelin, 2007b:156) Similarly, Alexandra Brito asserted in a 2008 lecture that '[...] there are two overlapping dynamics, transitional justice per se, and the politics of memory'. (Brito, 2008:3).

Already a decade ago, in what is now an influential article, Alexander Wilde had called on scholars to consider what he branded 'the expressive dimension of transitional politics', to look at how collective memory was activated in transitional societies. (Wilde, 1999:474)

Although memory does weaken with time, Elster importantly emphasised that memories of emotionally charged events tend to deteriorate more slowly. (Elster, 2004) This is evident when thinking about the impact of the Holocaust but also more recent events such as state terrorism in the Southern Cone.

Collective memory for Mark Osiel (1995:475) 'consists of the stories a society tells about momentous events in its history, the events that most profoundly affect the lives of its members and most arouse their passions for long periods'. Thus, memory can be used as a political tool, and this is particularly so in the aftermath of human rights violence when rival versions over what happened in the past exist. (Aguilar-Fernández et al., 2001) Interestingly, collective memory, just like TJ, is not static. Memory does not preserve a single conclusive account of what happened. On the contrary, what is remembered changes with evolutions in ideas, interests, identities and visions of the future.

Osiel (1986) was among the first to consider how the different lenses through which various actors make sense of a country's past had an impact on their actions in terms of legal accountability. (Osiel, 1986) This thesis takes a similar approach, in examining the multiple ways in which social, political and institutional actors that are involved in TJ remember the receding past and how their worldviews inform actions and strategies of accountability.

This project is very much in line with current scholarship. This author agrees with Jelin who asserts that 'policies of memorialisation are part of a larger arena of transitional politics and cannot be seen independently'. (Jelin, 2007b:139) Memory is not in fact just a secondary, symbolic and subjective layer, but 'an integral and central component of the practices and policies regarding the past'. (Jelin, 2007b:156) For this author, a close relationship exists between TJ mechanisms

and memory. As memory can be manipulated to obtain specific goals, TJ mechanisms need to be carefully examined to see if they are used to produce specific interpretations of the past violence. See e.g. (Lanegran, 2005; Schaap, 2005) As a matter of fact, trials and truth commissions, in particular, often champion, whether explicitly or not, specific understandings of what happened during the contested years of violence. This dynamic interaction between memory and TJ needs to be drawn out, in acknowledging that there will always be more than one memory of past atrocities.

Case Studies

The selection of Argentina and Uruguay as case studies for this thesis was based upon two criteria: the type of human rights violence that was experienced, and the saliency of the politics of transitional justice and memory.

Argentina and Uruguay lived through similar repressive military governments that were inspired by the national security doctrine in the 1970s and the early 1980s. These regimes did however differ in terms of the length and the nature of the repression. Argentina and Uruguay also have quite different political cultures and historical backgrounds. While Argentina has a rather long history of military interventionism in political life, Uruguay was a model of democratic rule within the region until 1973.

When looking at the accountability policies that Argentina and Uruguay employed, different TJ mechanisms can be identified. Argentina is generally considered a regional and global protagonist in TJ, whereas Uruguay is more of a laggard. Interestingly enough, however, their positions are now closer than ever before. This is a trajectory that is definitely worth exploring.

Argentina and Uruguay also encompass other significant issues. The dictatorial regimes in both countries relied on the complicity of law enforcement agencies and societal support for the violence, more often than not their passive endorsement. The extent of social complicity has been largely understudied. The role of cultural factors and their impact on the evolution of TJ has also been frequently sidelined. While Uruguayans are allegedly famous for their tradition of negotiations and compromise, Argentine political culture has been much more violent and intransigent throughout history.

Though Argentina and Uruguay are close neighbours, a comparison between the two has not been attempted in relation to questions of TJ. The Argentine case has often been likened to Greece's experience in 1974. See e.g. (Nino, 1996) Uruguay has conversely been studied generally together with Chile, as they share long histories of democracy in the region, as well as negotiated exits from military rule. See e.g. (Brito, 1993, 1997) Argentina and Uruguay feature together in some comparative collections on the Southern Cone. See e.g. (Brito, 2001b; Groppo, 2001; Roniger & Sznajder, 1999)

Research Questions and Arguments

Two research questions are at the core of this project: Q1 - how do TJ policies emerge and evolve over time? Q2 - what is the connection between TJ and the memory of past human rights violence?

First, this thesis contends, in line with recent scholarship but in contrast with earlier writings, that there can be no blueprint or one-size-fits-all approach when discussing TJ. Rather, processes of accountability are fuzzy, non-linear and often messy. As a consequence, the trajectory of TJ cannot be mapped out beforehand.

Rather, it tends to be unpredictable, also given that its politics often involve several actors and factors at local, national and international levels.

Second, TJ and memory have a dynamic and powerful interplay. Hence, TJ has to be complemented by a consideration of ideas and narratives over the past that are held by various social and political actors in providing a deeper appreciation of accountability policies. Further, TJ mechanisms, especially trials and truth commissions, get to play a specific part in terms of memory that is often left unaccounted for.

The original contribution of this thesis is three-fold. First, the framework on the politics of TJ (chapter 1) is holistic, in combining factors and actors on at least three levels (local, national, international). It allows for a more complete awareness of the emergence and later evolution of TJ that for this author lays somewhere at the intersection among these spheres.

Second, this work argues against the fictional separation that commonly exists between institutional and symbolic measures of TJ. It shows instead how TJ and memory are two intersecting dynamics in Argentina and Uruguay.

Last, it fills the gap in the existing literature, at least in Anglo-American scholarship, for examining the evolution of TJ in Argentina and Uruguay over the course of three decades (1980s to present). This is particularly important in the case of Uruguay that has largely been neglected after 1989 by most of the literature.

Thesis Outline

Chapter one focuses on the politics of transitional justice. It considers four mechanisms (amnesties, trials, truth commissions, and reparations) and develops a scheme to unpack the emergence and evolution of accountability policies. It contends that their development is not linear, but rather nebulous and untidy. TJ originates from the constant interaction among local, national and international levels and unique combinations of historical, institutional, political, social and cultural factors as well as actors.

Chapter two discusses the politics of memory. First, it provides a background on the field of memory studies, and later outlines a framework necessary to untangle struggles over memory in transitional societies. It claims that ideas and representations of the past help understand the present and its politics, where the memories of the past violence remain highly contested and disputed for years.

Chapter three provides a succinct historical background on Argentina and Uruguay in the twentieth century, highlighting why these countries experienced unprecedented levels of state terror. It is argued that, from the mid-1950s onwards, and against the background of the Cold War, a blend of economic crisis, social conflict and polarisation, and extreme right and left-wing terrorism produced military regimes responsible for egregious human rights crimes.

Chapter four provides an account of transitional justice in Argentina and Uruguay since the mid-1980s. Three phases can be distinguished. Over time, the two countries used a variety of mechanisms, including truth commissions, prosecutions, amnesties and reparations, to come to terms with past evils. The emergence and evolution of policies of TJ can be explained with reference to the leadership of the Executive, the residual power of the armed forces, the role of

human rights organisations (hereafter HROs), the judiciary, and finally developments on the international stage.

Chapter five outlines the politics of memory in Argentina between the 1970s and the present. It suggests that the Argentine state attempted to have a hegemonic role in memory but was never successful. Rather, it was forced to co-exist in the memory arena with two other powerful actors, the military and HROs. The chapter provides a short introduction on questions of memory in Argentina and then outlines the perspectives suggested by the government, the military and HROs. Third, memory knots, namely specific examples of places, dates and groups relating to memory, are discussed, looking at the *Madres de Plaza de Mayo*, H.I.J.O.S. and their *escraches*, commemorations on March 24, and the image of the *desaparecidos*, as well as the Memory Park and the ESMA. Last, the dynamic interaction between memory and TJ is explored, studying the 1984 CONADEP truth commission and the 1985 Trial of the Military Commanders.

Chapter six describes the politics of memory in Uruguay. It is shown how President Sanguinetti's slogan '*no hay que tener los ojos en la nuca*' (you should not have eyes at the back of your head) characterised the politics of memory in Uruguay for fifteen years. During this time, the Uruguayan state was the most successful in the Southern Cone in minimising discussion about the crimes committed in the past. Until the late 1990s, debate over these questions was effectively limited to the reduced sphere of HROs and those directly affected. By the end of the millennium, however, the human rights question effectively returned to the public and social agendas, thanks to the efforts of HROs. The chapter has the same format as chapter five for the first two sections. Likewise, the third part focuses on memory knots, looking at the two attempts, in 1987-89 and

2007-09, to subject the Expiry Law to popular referendum, and the work of former female political prisoners, and remembrance of symbolic dates like April 14, May 20, and June 19. Finally, the interplay between TJ and memory is exposed, examining the work of the Peace Commission of 2000-03 and the 'Uruguayan Style Two Demons Theory' (my term).

The conclusion returns to the research questions, and reflects on the principal points made in the thesis. Finally, further research questions are raised both on TJ as an expanding subject, and the specific TJ trajectory in Argentina and Uruguay.

The Politics of Transitional Justice

Transitional societies, defined by David Little as ‘those moving from authoritarianism, and often violent repression, to democracy’ have been a defining feature of the past three decades. (Little, 2006:65) Samuel Huntington famously pointed to the existence of several waves of democratisation in the twentieth century. (Huntington, 1991) The first involved countries from Southern Europe in the mid-1970s, the second came from Central and South America in the 1980s and 1990s, and finally from Eastern Europe and Africa during the 1990s.

Despite local differences, all of these societies had to face similar challenges in terms of political and economic democratisation. (Boraine, 2006) In addition to this, the question of how to confront gross human rights violations committed by previous regimes has recently emerged as an important issue. (Cohen, 1995)

Given the high number of countries attempting to come to terms with the past, it should not be surprising that diverse approaches have been adopted. These have ranged from prosecutions to the establishment of truth commissions, firstly pioneered in South America and Africa, to policies of lustration, amnesty, reparations and memorialisation.

Two interrelated questions are at the heart of this chapter. How do policies of TJ originate? What accounts for their variation and evolution over time?

Policies of TJ is taken here to refer quite loosely to the different ways in which successor (mainly democratic) regimes tackle a past characterised by human

rights violence. They include not only official policies, i.e. those devised and carried out by state or governmental bodies, but also those sponsored and undertaken by civil society and/or international organisations.

As many approaches to the past exist as there are cases of transitional societies. In fact, accountability policies do vary considerably from country to country, to reflect the unique context and particularity of each case. In this author's opinion, several social, political, historical and institutional variables, as well as the role played by internal and external actors serve to account for differences in responses. It is contended here that the emergence and evolution of TJ initiatives lays at the intersection among three levels, the local, national and international.

At the outset, this chapter briefly considers four TJ mechanisms, namely amnesty, prosecutions, truth commissions and reparations, that are most relevant for the later case studies. Second, the key phases and actors involved in the politics of TJ are identified. They have all played a role in both the emergence and the evolution of TJ policies over the years.

1.1 Mechanisms of Transitional Justice

The twentieth century undoubtedly proved the state's unrivalled power in mobilising force against its citizens. From the Holocaust, systematic disappearances in Central and South America, to Cambodia's killing fields and, more recently, genocidal violence in Rwanda and Darfur, there is little doubt that the state has horrific potential for meting out bloodshed.

But what happens once the violence subsides? What should be done to torturers, members of death squads, their collaborators and superiors? Should

their deeds be investigated and exposed? Or is it better to forget the past altogether, letting bygones be bygones?

The key challenge for often incomplete and fledging democracies is indeed how to deal with past evils without opening Pandora's Box. In the words of Francisco Panizza, 'the central dilemma [...] was how to balance demands for justice and retribution with the need to safeguard the democratic transition itself'. (Panizza, 1995:176)

The peace vs. justice impasse was a stark reality in many countries that had to ponder whether to strengthen the new democracy at all costs, including oblivion, or journey down the winding and uncertain road to accountability. Young democracies have developed several (even creative) mechanisms to respond to past burdensome inheritances of torture, murder and brutality. These include amnesty, truth commissions, reparations, prosecutions, lustration, public access to (police) files, apology, memorialisation, and grassroots approaches.

In striking an often difficult balance between demands for justice by victims and their families, and those for impunity by members of previous regimes, a whole range of what are now labelled TJ mechanisms have taken shape. These strive to address various interrelated obligations and the diverse needs of transitional societies, including truth, justice, reparations, guarantees of non-repetition and memorialisation. (Fletcher & Weinstein, 2002)

Increasingly, a local focus has also been adopted, paying more attention to grassroots alternatives. This has been typified by initiatives like Rwanda's *gacaca courts*, Mozambique's traditional community healers -the *curandeiros*, the Acholi

(Luo) traditional reconciliation mechanism of *mato oput* in Uganda or Guatemala's houses of memory, community-sponsored projects based on Mayan methods.

For a long time, confronting the past simply meant turning the page. **Amnesties**, adopted in dozens of countries as Brazil, El Salvador, Guatemala, South Africa and Spain, often served this function.

Despite recent jurisprudence from international human rights bodies and courts consistently considers amnesty laws incompatible with state obligations under human rights treaties, amnesties and pardons were for long the norm in a context of impunity. See e.g. (HRC, 1994, 1995, 1996; IACHR, 1992a, 1992b; IACtHR, 2001) Essentially, amnesties and self-amnesties officially absolve human rights violators of their crimes, eliminating the possibility of criminal and civil prosecution against former repressors. (Walsh, 1996) Likewise, pardons are executive actions that mitigate or set aside punishment for a crime. (Huyse, 1995)

Amnesties are generally granted by the Executive or the Legislature, and reflect the volatile position in which several governments often find themselves in. Despite transition, former violators frequently retain significant authority and influence in the new democratic settings, and are able to pose a real threat to the country's stability and consolidation. (Cohen, 1995) Thus, unsurprisingly, democratic administrations sometimes do not have enough power to initiate accountability processes. For example in the cases of Chile or Guatemala, still powerful military establishments, at the time responsible for the majority of crimes, were not simply going to sit back and watch their comrades face judicial proceedings. (Agüero, 1992)

Consequently, impunity was presented for years as the price to be paid to end violence, secure the transition and guarantee democratic consolidation. In the name of national pacification and stability, human rights repressors usually escaped being held to account for their deeds. Since the 1980s, however, a new trend has unfolded.

Ellen Lutz and Kathryn Sikkink label it as 'a justice cascade' that has occurred within the context of a larger human rights norms cascade. (Lutz & Sikkink, 2001:4) Lutz and Sikkink contend that human rights have recently been recognised as legitimate, pointing to increased international and regional action 'to effect compliance with those norms'. (*Ibid.*) The consequences of the justice cascade are not simply limited to Latin America but reverberated internationally.

We follow here Kathryn Sikkink and Carrie Booth-Walling (2007:430) distinction between three types of **prosecutions**: domestic, foreign and international. The goal, in all cases, is to attribute individual criminal responsibility for human rights violations. (Sikkink & Booth-Walling, 2007)

Domestic trials are 'those conducted in a single country for human rights abuses committed in *that* country' (emphasis in original). (*Ibid.*) Significant examples include the 1985 Trial of the Military Commanders in Argentina, ongoing prosecutions in Chile against members of the 1973-1990 regime, and cases against former-President Fujimori in Peru. In fact, despite its long tradition of impunity, between 1979 and 2004, 54% of domestic trials for human rights abuses occurred in the Americas. (*Ibid.*432)

Since the 1990s, foreign and international fora have become significant in obtaining accountability, especially when chances of achieving justice at home

were closed. Foreign trials are 'those conducted in a single country for human rights abuses committed in *another* country'. (*Ibid.*430) In this case, the judicial system of a state other than the one where abuses occurred is employed. This occurs by relying on either claims of universal jurisdiction as in Spain, or the passive personality principle in proceedings in Italian, French, German and Swedish courts. Examples are the case of former Argentine Navy officer Cavallo, the sentence to 640 years in prison for Adolfo Scilingo in Spain and the Pinochet cases in London.

International trials refer instead to prosecutions 'for individual criminal responsibility for human rights violations in a particular country or conflict and result from the cooperation of multiple states', typically the UN. (*Ibid.*430) The International Tribunal for Ex-Yugoslavia (ICTY) set up in 1993 and for Rwanda (ICTR) in 1994, the Hybrid Courts of the late 1990s in Sierra Leone, East Timor and Cambodia, and the International Criminal Court (ICC), illustrate this type. The ICC finally became a reality in July 2002, and began hearing its first case against the Congolese militia leader Lubanga in January 2009. (Coleman, 2008; Walker & McGreal, 2009)

Why have trials proved so popular?

Miriam Aukerman outlines how, although most scholars disagree as to whether trials are possible in practice, they all share the basic assumption that prosecuting perpetrators of injustice is the 'optimal method' for dealing with past atrocities. (Aukerman, 2002:40) Likewise, Juan Méndez contends that trials are 'a necessary and even desirable ingredient in any serious effort at accountability'. (Méndez, 1997a:257)

Jon Van Dyke and Gerald Berkley (1992:244), drawing upon Diane Orentlicher (1991), delineate several benefits of prosecutions. They deter future violations and reassert the rule of law, by fostering respect for democratic institutions, advancing the transition to democracy, and clearly distinguishing between the previous and the new government. They also reassert the inherent dignity of individuals, especially victims and their families. Finally, they provide a complete and irrefutable record of what happened in the past, avoiding future revisionism, while simultaneously complying with obligations under international law. (Van-Dyke & Berkley, 1992) Similarly, Fletcher and Weinstein (2002:586) emphasise how advocates of international criminal trials believe that prosecutions support the following goals: the discovery and dissemination of the truth on past atrocities, the punishment of perpetrators, and the promotion of the rule of law and reconciliation.

This prosecution preference has recently been criticised, as to whether in fact trials are the best method to achieve accountability. Jack Snyder and Leslie Vinjamuri have gone as far as suggesting that prosecuting perpetrators according to universal standards actually risks causing more abuses, as it does not pay sufficient attention to political realities on the ground. (Snyder & Vinjamuri, 2003/2004) Other scholars stress how trials are necessarily selective. Aukerman (2002:51) aptly points out how often entire societies are implicated in the commission of atrocities. But, in fact, only a small number of even the worst perpetrators ever stands trial. Aukerman also suggests that prosecuting perpetrators could in fact be destabilising, socially and politically, as well as being logistically and economically unsustainable. Gary Bass (2000:298) shares this

assertion on the extent of social complicity, stating that prosecutions only allow for the conviction of 'actual perpetrators and that there will always be a wider circle of bystanders and collaborators, who may not bear actual criminal culpability but can reasonably be said to bear a moral taint'. (Bass, 2000) Along these lines, Laurel Fletcher and Harvey Weinstein (2002:579) emphasise how criminal trials indeed have a limited focus on individual responsibility, and cannot therefore account for the role of other groups involved in the violence. Finally, Stephan Landsman suggests that prosecutions raise issues of fairness and can sometimes be charged with being nothing more than "victors' justice" 'a settling of scores by those who have won the contest'. (Landsman, 1996:85)

The predominance of prosecutions for a long time fostered the belief that alternative approaches were just 'inferior substitutes', justified only by the inadequacy of the judicial and legal systems after times of repression and the possible political consequences of criminal trials in still fragile societies. (Aukerman, 2002:40)

Nonetheless, since the mid-1990s **truth commissions** have attracted rising interest. The use of this mechanism has lately proliferated, particularly in the Americas and Africa. Archbishop Desmond Tutu notably defined them as a 'third way' between trials and blanket amnesty or national amnesia. (*In*: Chapman & Ball, 2001:2)

The first commissions to be ever set up were in Uganda in 1974, to investigate accusations of disappearances at the hands of military forces, and in Bolivia in 1982 with the National Commission of Inquiry into Disappearances. (Hayner, 1994) It was, however, Argentina's 1983 National Commission on the

Disappearance of Persons the first to complete a final report and receive widespread international attention. (Grandin, 2005)

Since then, over thirty commissions have been established throughout the world. Most recently, in Canada in April 2008, where a Truth and Reconciliation Commission is considering the legacy of forced cultural assimilation of Aboriginal children and other human rights violations. In parallel to the justice cascade, Erin Daly thus suggests that a 'truth cascade' has been unfolding, with truth commissions being 'fashionable' in times of transition. (Daly, 2008:23) Similarly, Naomi Roht-Arriaza argues that truth commissions have become 'a staple of the transitional justice menu'. (Roht-Arriaza, 2006:4)

Truth commissions, according to a textbook definition, are 'bodies set up to investigate a past history of violations of human rights in a particular country – which can include violations by the military or other government forces or by armed opposition forces'. (Hayner, 1994:600)

Truth commissions focus on truth-finding, more exactly the official documentation and acknowledgement of past crimes. (Chapman & Ball, 2001; Garton-Ash, 1998) Over time, truth commissions have adopted different formats, mandates, time limits, staff, budget, resources, and structure. Chile's National Commission for Truth and Reconciliation was, for instance, composed of eight members, four were Pinochet's supporters and the remaining four from the opposition. The Commission on the Truth for El Salvador was brokered, staffed and administered by the UN. The commissioners, three highly respected international figures, were appointed by the UN Secretary General (UNSG). The Historical Clarification Commission of Guatemala was a hybrid that combined

domestic and international personalities. It was chaired by a non-Guatemalan, appointed by the UNSG, while the other two members were from Guatemala. Despite different formats, truth commissions are normally established in countries where successor governments feel secure enough to take cautious steps towards accountability. (Dimitrijević, 2006)

Priscilla Hayner, the most renowned scholar on truth commissions, suggests that these bodies share four characteristics. They focus on the past. Second, they investigate a pattern of abuses over a period of time, rather than a specific event, attempting to sketch the overall picture. Third, they are temporary bodies that exist for a limited, pre-defined, period of time, and cease to function upon submission of their final report. Finally, they are officially sanctioned, authorised, or empowered by states or international organisations, with such authority needed to have greater access to information. (Hayner, 2002:14)

Truth commissions have been assigned numerous broad-ranging goals, from advancing healing for victims and national reconciliation, to ending impunity and preventing future abuses. Hayner (2002:24-31) contends that truth commissions may have any or all of the following five aims:

- clarify and acknowledge the truth, establishing accurate and authoritative records of past abuses, to officially recognise and expose this legacy;
- respond to the needs and interests of victims, listening to their stories, and publishing a report describing wide-ranging experiences to give victims a public voice, and bring their suffering to the awareness of the public;
- contribute to justice and accountability;

- outline institutional responsibility and recommend reforms, as truth commissions are often well positioned to evaluate institutional responsibilities for extensive abuses and expose weaknesses in structures (like the judiciary or police) or existing laws in need of reform;
- promote reconciliation and reduce tensions resulting from past violence.

Truth commissions have also, however, been fiercely criticised, it being unclear what effects truth-telling exercises really have in transitional situations. (Brahm, 2007; Mendeloff, 2004) Jonathan Tepperman aptly summarises the state of affairs, suggesting that ‘almost everything about truth commissions –including their missions, compositions, and outcomes’ has been the subject of intense debate. (Tepperman, 2002:129) Significant problems include the fact that truth commissions generally lack prosecutorial powers, namely they are unable to subpoena witnesses, bring cases to trial or investigate specific individuals accused of crimes. Moreover, they cannot examine the present situation of human rights. Audrey Chapman and Patrick Ball (2001) particularly emphasise how the work of these commissions can not only be affected and limited by the terms of their mandates, but also by the perceptions and priorities of commissioners and staff, as well as the methodology used and the resources allocated. All of these affect the quality and type of truth that is uncovered and produced. (Chapman & Ball, 2001) Finally, there are significant charges of partiality and politicisation in an environment where there are sharply conflicting and politically freighted versions regarding a past of violence. Is there really only one truth to be told? Or are there several truth(s) co-existing? (Mamdani, 2000; Rotberg & Thompson, 2000) As Daly correctly emphasises, the truth ‘is not as monolithic, objective or verifiable as we

would like it to be': indeed, 'no period of a nation's history can be described by a single, elegant truth narrative'. (Daly, 2008:23,25)

South Africa's Truth and Reconciliation Commission, for instance, was among the most self-conscious about its conception of the truth, distinguishing in its report between four types: factual or forensic, personal or narrative, social or dialogue, and healing and restorative. The Commission considered these as goals to be achieved, not alternative or competing forms: narrative, social and healing and restorative truths were seen as complementing the objective and analytical approach to truth finding.

Rather than dealing with the micro-truth (i.e. the specifics of particular events, cases and people), truth commissions are better suited at establishing a macro or global truth, that is to say broad patterns of facts, contexts, and causes. (Hayner, 2002; Méndez, 2006) They also expose what I like to define as institutional truth, namely the extent of social complicity and responsibility in the perpetration of human rights crimes at societal and institutional level. This encompasses the role played by the judiciary, the police or other agents, like doctors and journalists, who by their inaction or omission, became passive bystanders.

Despite its healing, restorative and cathartic qualities, the truth alone is often insufficient. Pablo De-Greiff rightly stresses that 'in the absence of other positive and tangible manifestations truth, by itself, can easily be considered as an empty gesture, as cheap and inconsequential talk'. (De-Greiff, 2006b:2) Truth, in reality, only constitutes one form of closure for individuals. (Hamber & Wilson, 2003) **Reparations** programmes have recently been adopted in several countries like Malawi, Brazil and Peru. Given the direct impact reparations have on victims, they

occupy a unique space among transitional measures, by virtue of recognising individual suffering, while also seeking to attain national and individual reconciliation. (De-Greiff, 2006b)

In international law, the term reparations comprises of all the measures used to remedy the harm victims may have experienced as a consequence of crimes. Four types exist: restitution, compensation, rehabilitation, and satisfaction and guarantees of non-recurrence. (De-Greiff, 2006a)

Here, reparations is taken to refer to sets of coordinated measures that are normally adopted in the aftermath of violence, and endeavour to provide direct benefits to victims. Reparations programmes can have an individual and/or collective nature. They usually consist of material elements (namely cash payments or service packages, provisions for education, health and housing), and symbolic initiatives (like official apologies, commemoration days, the creation of museums, memorials or parks to the victims' memory, and changes to street names). (Brett et al., 2008; Hamber & Wilson, 2003)

The right of victims to reparations is widely recognised in international law, and derives from the doctrine of state responsibility. Accordingly, 'the state has a duty to compensate victims for breaches of state obligations', regardless of leadership changes. (Walsh, 1996:112) Reparations do demonstrate the willingness of the state to accept liability and acknowledge human rights crimes, while also satisfying the need for justice for victims and societies, helping them rebuild their lives. (Laplante & Theidon, 2007)

Nevertheless, reparation programmes have been subjected to criticism. First, reparations and truth-telling must be linked, as otherwise the state is seen as simply buying silence from victims, with the benefits portrayed as 'blood money'

paid to stop the search for truth and justice. (De-Greiff, 2006a:461) Second, reparations are not substitutes but are imperative in complementing other mechanisms of TJ in a particular way, 'namely by helping to keep those other measures from fading into irrelevance for most victims'. (*Ibid.*)

Despite growing consensus regarding the necessity of reparations, developing such programmes is not easy. Which groups should benefit, in cases where almost the entire population can claim to have suffered unjustly? Moreover, quantifying harm is problematic and, in situations of massive violence, attention has also to be paid to the collectivity, working to reconstruct the rule of law and institutions. (Calhoun, 2004)

1.2 The Key Phases and Actors of Transitional Justice

In this section, attention focuses on identifying relevant social, political, historical and institutional variables that play a role in the materialisation and later progress of policies of TJ. Specific internal and external actors are also examined, in endeavouring to explain the variation of TJ initiatives in various countries.

Pre-Transition

Authoritarian Rule and Repression

In coming to terms with past crimes, TJ strategies are likely to be affected not only by current political dynamics and power balances, but also by the intrinsic features of the repression: its nature, length and the intensity of the violence. (Adler, 2001; Elster, 2006) Judging previous regimes is no easy task, given that

authoritarian rule often pervaded large segments of society. Thus, responsibility for abuses can be widely dispersed, and this explains why confronting the past can be an ambiguous task. (Huyse, 1995)

The duration of authoritarian rule and repression is significant. In cases like Brazil, Spain or the former-communist countries, repression was hardest early on. At transition, the passage of time had blurred the memories of what had happened and/or direct victims or their families were no longer around to galvanise the momentum for accountability. (Nino, 1996)

The intensity and the magnitude of repression also has an impact on the unfolding of TJ demands. (Acuña & Smulovitz, 1996b) In cases where repression was particularly bloody, the outgoing regime has generally little to offer in return for escaping prosecutions. As a consequence, pacts between opposing actors are less likely. In Latin America, Panizza (1995:169) pertinently highlights how 'the massive and unprecedented nature' of the abuses 'made human rights a crucial component of public debate in the region'.

The type of violence (public vs. hidden) can also impinge upon later attempts to demonstrate that crimes have indeed occurred, given that most information may be unknown, and abuses were routinely denied. Then again, secret repression can catalyse families into action to find out the fate of missing loved ones, spurring the development of human rights activism. Finally, was repression selective? The randomness of the brutality, with terror used as a mechanism for social control, can produce either a culture of fear hard to eradicate, producing passivity and apathy, or generate strong opposition against the regime, that may result in strong demands for accountability.

Guatemala witnessed a 36-year-long internal armed conflict, resulting in unprecedented human rights abuses that claimed the lives of thousands of people, including 50,000 disappearances.³ Since the mid-1950s, ever-increasing violence was used to suppress popular demands for change. The practice of detention-disappearances was established in the 1960s for the first time.

Throughout the 1970s, the military engaged in an all-out war against left-wing and centre opposition, students, trade unions, Christian organisations, journalist associations and community activists. In the early 1980s, repression targeted the civilian population, with over 70,000 killed, especially in the western highlands. One million indigenous peasants were forced from their homes, a deliberate policy of genocide against the Mayan population.

The conflict's most destructive element was the forced involvement of civilians in counterinsurgency violence, through the local *Civil Self-Defence Patrols*. Numbering some 800,000 in the mid-1980s, these patrols were responsible for serious abuses, giving state violence a highly localised dimension and effectively fracturing the civilian population. Violence continued until the UN-brokered the 1996 peace accords.

The brutality and length of authoritarian rule played a role in pushing for TJ policies. In December 1996, the government and the National Guatemalan Revolutionary Unity guerrilla (URNG) agreed the Law of National Reconciliation that protected perpetrators from criminal responsibility, but did not apply to torture, genocide and disappearances. Several accountability initiatives took place. A UN-sponsored *Commission for Historical Clarification* (CEH) was agreed in June 1994. Additionally, the Human Rights Office of the Catholic Archdiocese documented the extent of atrocities, releasing the *Nunca Más* report in April 1998. On the basis of over 6,000 collected testimonies, it registered 55,000 victims as well as over 25,000 murders, attributing 80% to state security forces and 9% to the

³ Section based on (McSherry & Molina-Mejía, 1992; Molina-Mejía, 1999; Roht-Arriaza & Arriaza, 2008; Sieder, 2001a, 2001b)

URNG. In February 1999, the CEH published its report, *Guatemala: Memory of Silence*. It recorded 42,275 cases and 658 massacres, estimating the total number of victims at over 200,000. The military was found responsible in 93% of all cases whilst the URNG in 3%. Since 1993, civil society groups also promoted grassroots alternatives and conflict resolution based on Mayan methods in local communities, including exhumations of mass graves and the building of monuments.

Similarly, during the 1980s, the Honduran military forces committed widespread human rights violations, in the endeavour to defeat guerrilla groups and suppress civil society sectors that had demanded social reform.⁴ Violence was however more limited, with the military often attempting to tackle popular discontent through cooptation rather than repression. Unrest was so defused and people were given a stake in the existing system, preventing polarisation and political instability like in El Salvador and Guatemala.

During the 1980s, as the violent conflict engulfing Central America started to affect the Honduran military, the armed forces adhered to the national security doctrine and bypassed the executive. They set up counterinsurgency networks, and employed systematic torture, selective assassinations and disappearances. As a consequence of the 1979 Nicaraguan revolution, Honduras became strategically important to the US and thus enjoyed unprecedented levels of military and economic assistance. Various guerrillas groups emerged but failed to secure a civilian support base. Therefore, repression always specifically targeted left-wing members of popular opposition and Salvadoreans suspected of providing support for the guerrilla Farabundo Martí Front for National Liberation (FMLN).

TJ initiatives were substantially different here. The Human Rights Commissioner Leo Valladares, *proprio motu*, announced that the recently established office of the National Commissioner for Human Rights (CNDH) would carry out a thorough investigation into the

⁴ Section based on (Kaye, 1997; Lutz & Sikkink, 2000; Popkin & Bhuta, 1999; Sieder, 2001a)

fate of the disappeared, and the violence between 1980 and 1993. The report, *The Facts Speak for Themselves*, released in December 1993, documented 179 disappearances, attributing responsibility for 99 cases to the military or paramilitary death-squads, and 37 to the Nicaraguan Contras. In February 1996, compensation was also paid to the victims' families, amounting to USD 302,000. Furthermore, clandestine cemeteries were located and bodies exhumed. In December 1995, Colonel Blas-Salazar was the first member of the military to be convicted for past violations. Further prosecutions, however, proved problematic.

Guatemala and Honduras adopted contrasting strategies to tackle the legacies of their pasts. In Guatemala, the country with the highest number of victims and brutal waves of violence, two truth commissions were established, and several local groups carried out grassroots initiatives. Conversely, Honduras had more modest policies, with only one report investigating violence and prosecutions with limited outcomes.

Transition

Modes of transition

The type of transition, that is to say the way in which a country moves from authoritarianism to new democratic settings, is quite significant. The way in which the transition unfolded helps to account for differences in later accountability processes, often directly determining their scope and boundaries. (Aguilar-Fernández et al., 2001)

Transition modes have a direct impact on democratisation processes, as well as the nature and prospects for the consolidation of the new democracy. Resulting power balances between old elites and their successors, as well as political constraints, shape the way in which a country is likely to confront past crimes, at least during the first democratic administration. (Karl & Schmitter, 1991) Power dynamics originating from transition are, in fact, not cemented. Rather, they are likely to change due to social demands for truth and justice, international variables or internal political agendas. (Skaar, 1999)

Recent waves of democratisation have followed three patterns: *collapse*, *negotiation* or *transformation*.⁵

Situations of *collapse* are generally the most favourable under which accountability flourishes, in that they often produce positive conditions for wide-ranging TJ policies. Indeed, few political constraints exist, therefore facilitating the fulfilment of demands for truth and justice.

Under this scenario, the old regime has often been weakened to the point of disintegration, giving the opposition the opportunity to seize power. (Mainwaring, 1992) These transitions are normally the least problematic. There is a clear break with the past and the weakness of previous elites lends itself to the creation of new institutional frameworks without preconditions or limitations. (G. Munck & Skalnik-Leff, 1997)

The collapse of regimes can be attributed to several factors notably foreign intervention or force (Nicaragua; Bolivia), loss of internal legitimacy, loss of control of key powers or defeat in an external war (Argentina; Greece),

⁵ Huntington (1991) uses replacement, transplacement, and transformation; Nino (1996) and Calhoun (2004) rupture, negotiated (pacted) and transformation.

revolutionary action by military forces (Portugal), or incorporation as East Germany. (Aguilar-Fernández et al., 2001) Regardless of the motivation for the collapse, the old regime is discredited, and its leaders have to relinquish office. Consequently, TJ initiatives are less likely to suffer from constraints, given that former incumbents are unable to prevent investigations into past abuses. (Calhoun, 2004)

The Portuguese dictatorship repressed the opposition for decades, through censorship, the banning of political parties and trade unions, by requiring political loyalty in education and public administration, and using special courts and police for political offences.⁶

A grave economic crisis, together with exhaustion due to the colonial wars in Mozambique, Angola, and Guinea Bissau, provided the motor for the military coup of April 1974 that signalled the return of democracy. The military became the protagonist of the political transformation, orchestrating a transition without pacts.

Three stages of transition and democratisation occurred, each with a corresponding TJ phase. The revolutionary period (April 1974 to March 1975) encompasses the fall of the regime and the crisis of the state. It was characterised by expropriations of private enterprises, agrarian land reform, nationalisation and widespread, often a-legal, purges. A normalisation period (1976 to 1982) saw democratic consolidation, with the rise of more moderate parties who lobbied for the establishment of constitutional democracy. The military retreated from power and steps were taken to reverse the effects of expropriations, nationalisation and purges. In the last phase, since 1982, there has been a process of democratic consolidation.

The defining feature in Portugal was the process of purges, *saneamentos*. The first institution to be affected was the military: by late 1974, 300 officers from all ranks and

⁶ Section based on (Costa Pinto, 2001, 2006; Nino, 1996)

services had been removed from active duty, replaced by a new generation. Purges were often spontaneous, also affecting businesses and education, especially universities. By November 1975, 20,000 people had been removed from their posts. Purges did not follow a coherent strategy. The civil service was particularly targeted, though not uniformly. At the end of 1974, around 4,300 public servants were dismissed. Members of economic elites, the media, and censorship services were also affected.

From 1982, various initiatives emerged as a means of confronting the past, including legislation to address compensation issues and access to police files. Others related to amending street names, the public rehabilitation of opposition figures like General Delgado, the creation of exhibitions, films and documentaries, and changes to national holidays, with the view of allowing the country to examine its past, and understand the legacies of both authoritarianism and the revolutionary period.

Transitions by *negotiation* as in Chile, Spain, Hungary and Poland, or by *transformation* like Bulgaria and Brazil, are considered the least conducive to accountability. Successor regimes are unlikely to prosecute or investigate past crimes, as their predecessors often retain sufficient power to threaten democratic consolidation, oppose TJ policies or influence their remit. (Calhoun, 2004)

In instances of *negotiation*, pacts, whether formalised or not, between the regime and the opposition normally address crucial features of transition. In cases of military dictatorships, it is highly likely that accords firmly guarantee that the past will be overlooked and secure the broad participation of the military in the civilian government. (Mainwaring, 1992; O'Donnell, 1992) Under this scenario, the old regime is weakened but is still able to dictate the terms of transition, and later may undermine democratic consolidation, given that the new elites only have

limited options. The relative power of these two groups of actors 'hang in an often wobbly balance'. (Calhoun, 2004:14) Outgoing authorities may receive favourable terms in exchange for handing over power, and successor governments are usually too vulnerable to provoke still powerful elites.

Chile's democratisation was largely a top-down affair.⁷ Despite losing the 1988 referendum and the 1989 democratic elections, the armed forces retained substantial power, legitimacy and autonomy, reinforced by an economic boom and unprecedented growth rates, and they were effectively the arbiters of transition. Given this, Chile's transition was the region's most restricted. The regime had successfully institutionalised itself through the 1980 Constitution, protecting the military and ensuring 'a step-by-step passage to a protected democracy'. (Brito, 2001b:133)

The loss of the 1988 referendum marked the beginning of the transition. Henceforth, several phases unfolded, including negotiations between the regime and opposition on constitutional reforms, the strengthening of authoritarian political and institutional enclaves, and finally the electoral campaign and elections in December 1989.

Between December 1989 and March 1990, when the democratic government of President Aylwin was inaugurated, additional last-minute *leyes de amarre* (tying-up laws) were adopted, limiting the new government's powers. These laws granted security of tenure to civil servants and created nine appointed senatorial positions, later filled by Pinochet supporters. The January 1990 Organic Constitutional Law of Congress forbids Congress from investigating the old regime and bringing constitutional charges for corruption and treason committed before March 1990. Both the Constitutional Tribunal and the Supreme Court were reshuffled, obstructing future reform and increasing the number of Justices favouring Pinochet. Just before transition, the secret police was dissolved with no civilian oversight and

⁷ Section based on (Brito, 2001a; Roniger & Sznajder, 1999)

incorporated into the Army intelligence unit. The regime also modified the electoral law, guaranteeing the overrepresentation of the Right in the legislature.

The *Concertación de Partidos por la Democracia*, a coalition of parties led by Patricio Aylwin, shared the common goal of re-establishing democracy, and were committed to working for accountability. Aylwin's famous promise to obtain truth and justice 'as far as is possible' exposes the obstacles that Chile faced in the shadow of the dictatorship. (*Ibid.*132)

The main pillar of accountability was the multi-partisan *National Commission for Truth and Reconciliation* of April 1990. It focused on the most serious abuses that had resulted in death or disappearance between 1973 and 1990. The Commission examined 3,400 cases, reaching conclusions on about 2,279: 2,115 had died as a result of violations by state agents and 164 from political violence. The government also set up an autonomous public corporation to further investigate unsolved cases and adopted a Reparations Law in 1992 that provided a monthly salary of USD 380 to affected families, and offered health and education benefits, as well as exemption from military service.

Due to the restrictions imposed, the first democratic administration limited its policies vis-à-vis uncovering the truth. More recently, further progress has been achieved. In 1999, a *Mesa de Dialogo* was convened with representatives of the Catholic Church, human rights lawyers, armed and police forces, and politicians, holding a pluralistic and public debate about the past, with the military implicitly assuming responsibility. Furthermore, several judicial proceedings for past crimes have started and in 2004 the government-sponsored *Informe Valech* was published, which recorded the testimonies of over 30,000 torture victims.

Transitions by transformation occur when authoritarian regimes decide to gradually open up, attempting to transform themselves into democracies. A process of democratisation is initiated, with slow political change orchestrated

from above that normally culminates in free elections. (Calhoun, 2004) In this scenario, authoritarian incumbents remain decisive actors throughout.

The decision to open up may arise because the authoritarian intervention was always only ever meant to be a short parenthesis in a crisis situation, or more frequently because the costs of retaining power have increased whilst concurrently the costs associated with democratisation have decreased. (Mainwaring, 1992) Political openings are created through a steady process of political change and stakes in the new system are invested by both old and new elites. (G. Munck & Skalnik-Leff, 1997) Here too, accountability prospects are limited, given the inherited constraints.

Brazil's military regime began in 1964.⁸ Repression worsened since October 1969, with thousands of people killed or tortured. In March 1974, a slow and gradual process of political liberalisation (*aberdura*) started, reducing systematic repression. Negotiations with the opposition agreed a mutual amnesty that covered those accused of political crimes and state security agents of human rights crimes perpetrated between 1964 and 1979.

The *aberdura* can be divided into two phases as suggested by Scott Mainwaring (1986): political liberalisation (March 1974 to October 1983) and the struggle for democracy (October 1983 to January 1985). The first period witnessed constant struggles and negotiations, with the opposition trying to fight for democracy, and the regime attempting to contain it. The government reduced the incidence of torture, granted an amnesty to exiles and abolished Institutional Act No. 5 which had eliminated civil liberties. At the elections in 1974 and 1982, the opposition claimed significant victories, winning most of the major states in 1982. Nevertheless, the regime still remained strong. The regime showed continuity in policies and leadership, with sporadic repression against popular movements and the Left. It

⁸ Section based on (Brito, 2001b; Cano & Salv3o-Ferreira, 2006; Mainwaring, 1985, 1986; Nino, 1996; Weschler, 1998)

institutionalised itself through regular presidential succession and the *aberdura* was particularly slow, because the government could control and contain the scope of political change.

From October 1983, the government lost the ability to develop a sound political strategy and control presidential succession, thus opening the way for an early transition. Notwithstanding, the government managed the transition with good political skills, circumventing the quick loss of legitimacy and rise in political mobilisation.

Until Cardoso's election in 1995, the executive mainly ignored the cause of the relatives of the disappeared. An important achievement was President Collor-de-Mello's order to open police archives. However, only in 1994 did a new phase begin, when presidential candidate Cardoso signed a manifesto calling for the truth regarding the fate of the disappeared. In December 1995, Law 9140/95 was enacted, officially recognising the death of 136 political militants disappeared between 1961 and 1979, and stipulating economic compensation for their families and efforts to locate their remains. By 1999, indemnities of approximately USD 100-150,000 were paid to each family. Two new laws were issued in 2002 and 2004, extending compensation to apply to all cases between September 1961 and October 1988 and also to victims of police repression, and those that had committed suicide. Finally, official attempts to locate remains of missing victims in Araguaia occurred.

Dealing with the past has been complicated, given the military has remained united and unremorseful. Despite advances, prosecutions are unlikely, due to the blanket amnesty and possible military resistance.

These mini cases demonstrated the impact that the type of transition is likely to have on the width and scope of accountability. In Portugal, where the regime collapsed, the scope for action was greater than in Brazil and Chile where the

terms of transition were established early by outgoing regimes or negotiated during transition.

Transitions by collapse see broader accountability policies, as new democratic forces are in a stronger position to call the old elite to account for past actions. In contrast, in transitions by negotiation or transformation, members of previous regime are able to impose limitations on the terms of democratisations, its consolidation and investigations into the past.

Democratisation processes

Although the type of transition has important predictive value on later accountability policies, it is far from decisive. An interrelated factor is the type of democratisation processes that Carlos Nino (1996:120) categorises, according to legal status, as *continuous*, *legal breakdown/rupture*, and *legal restoration*.

When the new regime is legally continuous with the old, violations of human rights tended to have been legally protected at the time of commission, and afterwards by amnesty laws or other provisions. Accountability is much harder but still possible, most often through truth commissions.

The easiest path usually occurs in cases of legal breakdown/rupture as in post-war Germany and Japan. Even acts lawful under the previous system can be criminalised retrospectively and norms against 'ex post facto changes in criminal definitions, procedures, and statutes of limitations are not applicable' and any amnesties can be disregarded. (Nino, 1996:120) TJ policies acquire an 'intermediate degree of difficulty' in cases of legal restoration, as in Austria and Greece. Previous legal restraints can be overcome but new ones may arise as a consequence of the restoration of earlier democratic laws. (*Ibid.*)

Post-Transition

Accountability policies emerge from the struggles among the various actors that co-exist in the new democratic environment which can influence the ways in which the past is addressed. Rarely are accountability policies easily agreed upon and/or imposed unilaterally, even in circumstances where theoretically the new government has a wider scope to directly implement such initiatives. Invariably, other actors still need to be involved in the drafting of policy.

The new government

Upon democratisation, successor governments have to tackle various issues, from the state of the economy to other political and legislative matters. Despite transition, it is hard for democratic authorities to totally operate free from the shackles of the past, particularly in the sphere of human rights accountability.

If one looks at the transitions that have occurred over the past decades, it is usually the case that incumbents find themselves constrained in their actions by many social and political actors, most notably the members of the former regime, their loyal followers and collaborators. It is within this restricted setting that one has to consider and assess the acts of new governments. An important question which warrants attention is whether, despite the façade of transition, have any real changes in the political environment actually occurred.

Brazil is a good example, as notwithstanding democratisation, no transition really took place.⁹ A large degree of continuity existed between the government of President Sarney

⁹ Same references as footnote 8.

and the previous regime. The Sarney administration was drawn from the National Renovating Alliance which was the pro-military party during the dictatorship. As such, the government kept close ties with the intelligence services and the military, which retained all their functions, including what amounted to a veto over civilian rule. Sarney effectively governed in association with elements of the Armed Forces to whom it was beholden. Due to the regime's internal transformation since 1974, the military maintained a high degree of power throughout the mid-1990s.

The transition occurred with the consent of significant sectors of the military regime and thus, immediately, constraints became evident. The new Congress included individuals elected under the authoritarian regime's electoral legislation, which underrepresented liberal parts of the country, and six ministers had served under the previous regime.

Far beyond hampering agrarian and new labour law reforms, these residual elements of the former regime also prevented investigations and prosecutions for past crimes. Given this, it is unsurprising that efforts in pursuing accountability were postponed until the mid-1990s.

Though often operating in constrained circumstances, some governments, especially individual political figures, rose to the challenges posed by accountability initiatives, at times rather successful in denouncing past crimes and officially acknowledging systematic terror. David Pion-Berlin (1993) rightly suggests that it is essential to look at the deeds and decisions of specific Presidents, particularly in Latin American where the executive tends to be strong. (Pion-Berlin, 1993) Nino (1996) concurs, maintaining that strategic considerations and moral evaluations play a pivotal role when political leaders decide to proceed with TJ policies. Similarly, in a recent article, Terence Roehrig claims that 'determined

executive leadership may be crucial for a society that wishes to pursue some level of accountability'. (Roehrig, 2009:747)

Honduras is a case of partial success.¹⁰ In the 1980s Honduras experienced grave human rights violations and broad amnesty laws were adopted in 1987, 1990 and 1991.

The Human Rights Commissioner, Leo Valladares, played a central role in championing the cause for accountability. The CNDH was created in June 1992 by President Callejas to address widespread military impunity, and was also charged with defending human rights. Valladares surprised the national and international communities, announcing that his office would carry out a thorough investigation into the fate of the disappeared. Valladares had close ties with national human rights organisations and victims' groups, that had long been campaigning for the investigation and prosecution of past crimes. Valladares received support from the Truth Commission of neighbouring El Salvador and other international organisations.

The final report constituted a decisive departure from the past. The text documented cases of disappearances and highlighted how the violence had been characterised by extra-judicial executions, arbitrary detention, and torture. It also indicted the judiciary for encouraging a state of impunity, particularly condemning US involvement and that of Argentine military officers that had trained the Honduran military in dirty war techniques.

The report was the first and only comprehensive attempt to shed light on disappearances, with Valladares stating explicitly that the existing amnesty laws did not prevent criminal prosecutions.

The new government and its actions are fundamental in explaining the development of TJ policies. In Brazil, despite a newly installed democratic

¹⁰ Same references as footnote 4.

government, there was a still a high degree of political continuity with the previous regime that effectively delayed accountability. Conversely, in Honduras, notwithstanding the existence of amnesty laws, truth and justice were pursued, helping to satisfy the victims' needs and officially condemning systematic violence.

The previous regime

In many instances of transitional societies, former elites and members of the old regime retain enough power to continue to play a role in the politics of their respective countries. Previous authorities can frequently influence political agendas and dynamics. In collapse transitions, they have a more limited scope, as in the case of the Greek colonels. However, often, in cases of negotiation or transformation, former incumbents maintain significant authority and the ability to directly influence policy choice, with notable examples being Chile, Brazil and Uruguay where they even held government positions in democratic administrations. (Agüero, 1998)

On the road to achieving accountability, former elites explicitly and openly attempt to shape, more often hinder, these efforts. In some extreme situations, further violence may be perpetrated to prohibit investigation into past crimes.

In cases of transition from military rule to democracy, particularly in Latin America, many successor regimes went to unusual lengths in their alliances and policies to stave off the possibility of further coups. (Agüero, 1992; Karl & Schmitter, 1991) In many cases, the military still retained significant power, it being in a position to bargain with the civilian government over several policy areas, and compel officials to contemplate possible military consequences before making decisions. (Hunter, 1998)

This is often the scenario during the early days of transition. When democracy is consolidated, through institutional structures and stronger political parties, civilian power is likely to be more assertive. Therefore, initial constraints are not everlasting, and the more distant the transition becomes in time, it is highly likely that military influence upon democracy recedes. (Hunter, 1997)

In Chile, even before transferring power back, General Pinochet took particular care to adopt various protective measures to shield members of the armed forces, as himself, from accountability for their deeds.¹¹ Pinochet's stand can be summarised by his famous statement dating to October 1989, two months before Chile's first free elections since 1973: "No one touches anyone" [...] The day they touch one of my men, the rule of law ends. This I say once and will not say again." (Rosenberg, 1995:134) This threat should not be underestimated. Military autonomy and the 'Pinochet factor, the popularity of the General and his continued position as Commander-in-chief [until March 1998]', constituted 'real as well as psychological obstacles to the pursuit of truth and justice'. (Brito, 2001b:133)

The General's threats were not only verbal. Before leaving office, Pinochet had firmly put in place a self-amnesty law in 1978, under which the military forgave itself for all crimes committed between September 1973 and 1978. After transition, the armed forces still showed substantial autonomous initiative, effectively mobilising against TJ policies. The most famous case, the *boinazo* (*boinas* are black berets worn by mobilised troops) occurred in May 1993, when President Aylwin was in Europe. The army assembled troops in battle dress in central Santiago to protest against the investigation and possible trial of military officers for human rights violations. (Wilde, 1999)

Pinochet's 1998 London arrest renewed impetus towards accountability, shattering the General's image. Since then, Chile has attempted to redress past impunity. In addition to the

¹¹ Same references as footnote 7.

already mentioned *Mesa de Dialogo* and *Informe Valech*, the General's immunity has been lifted by the country's courts in numerous human rights cases relating to his 17-year rule and several other crimes are being investigated. (BBCMundo, 2008; BBCNews, 2006)

In contrast, widespread military impunity persists in Guatemala despite democratisation. Notwithstanding the two truth commissions, few people ever faced justice. Furthermore, people trying to investigate on past violations have been intimidated and threatened, with some even been killed.

A famous case is that of Bishop Juan-José Gerardi-Conedera, the coordinator of the Archbishop's Office for Human Rights, that produced the 1998 *Nunca Más*. Two days after the report was released, Bishop Gerardi was brutally murdered in his home, possibly to prevent him from testifying in future trials. Although three army officers and a priest were sentenced for the murder in 2001, their trial highlighted the fragile nature of Guatemala's politics and judiciary, where intimidations and threats are routine. Two investigating judges, three key witnesses and at least one prosecutor fled the country in fear of their lives. Furthermore, the investigating magistrate constantly received death threats and, on the eve of the trial, a bomb exploded outside the house of one of the judges.

Despite the existence of a vibrant civil society, many obstacles still stand in the way of accountability. Particularly, members of the previous regime have proved exceptionally successful in ensuring continuing impunity. Of the hundreds of massacres documented by the CEH, only three have been successfully prosecuted, the third conviction dating May 2008, when five former members of a paramilitary patrols were convicted for the murders of 26 of the 177 civilians massacred in Rio Negro in 1982.

The government and the police fail to provide necessary protection for witnesses, investigators, prosecutors, judges, and the latter also lack adequate training or resources.

The army and other state institutions resist cooperation with investigations into abuses committed by current or former members. (HRW, 2009b)

Human rights organisations

Civil society, especially HROs, play crucial roles in accountability. (Becker, 2003; Bonner, 2005) HROs have raised awareness on human rights crimes during authoritarianism, called for TJ policies upon democratisation, as well as carried out 'unofficial truth projects', geared towards uncovering the truth about past crimes. (Bickford, 2007:995)

Some examples include the Argentine *Madres* and *Abuelas de Plaza de Mayo*, Chile's *Vicaria de la Solidaridad* (Vicariate of Solidarity) and Guatemala's Mutual Support Group. (Loveman, 1994; Schirmer, 1988) Their role has not been easy. On Christmas Eve 1977, for instance, the founding members of Argentina's *Madres* were abducted, tortured and disappeared, with their remains only recovered in 2005. (Verbitsky, 2005)

In addition to advocacy and lobbying, Louis Bickford (2007:1004-1005) suggests that unofficial truth projects have contributed to accountability in at least three ways. They can replace official initiatives in cases where these were unlikely to occur despite the existence of social demands for investigation, e.g. Uruguay in 1985 and Northern Ireland in 1998. They can precede official investigations, as the Iraq History Project whose specific mandate was heralding a formal truth commission, or the work of Chile's *Vicaria* that for years amassed documents for future criminal proceedings. Lastly, they can complement state-sanctioned efforts, as in Guatemala where the Catholic Church's Recovery of Historical Memory Project added to the work of the CEH. (Bickford, 2007)

In Brazil, two religious leaders and a small team of collaborators were the only ones to embark on a thorough investigation into past crimes, especially systematic torture.¹² The *Brasil: Nunca Mais* project resulted from the work of over thirty people, but for security reasons only Cardinal Paulo Evaristo-Arns, the Archbishop of São Paulo, and Presbyterian minister Jaime Wright were the only contributors openly identified at the time of the book's publication.

The idea originated in 1979 when, after the amnesty law, lawyers had permission to access military archives in the preparation of petitions for their clients. Wright and other members realised that this was a unique chance to attempt to photocopy a sample of the archives, to form the basis of a study on torture. The project started in 1980 and was run as follows. Lawyers checked out files from the Supreme Military Court's archives. These were photocopied and originals later returned. Photocopies were immediately transported out of Brasilia, processed and stored in São Paulo. The archives contained around 707 cases, involving over 7,000 defendants. By 1983, the team had photocopied the entire archive.

The first half of the project is a 6,946-page long survey of material, consisting of twelve volumes, that addresses issues like torture methods, and victims. It convincingly demonstrated that torture was an essential part of the military justice system, and that judicial authorities had explicit knowledge that it was employed to extract confessions. In late 1983, the archdiocese team approached two journalists, asking them to develop a summarised version to be subsequently published as the *Brasil: Nunca Mais*. The book combines samples testimonies of human rights crimes with the historical background and context of the violence. The book was a bestseller, hitting bookstores in July 1985. Moreover, in November, the list of 444 torturers was released. Until the mid-1990s, the

¹² Section based on (Bickford, 2007; Weschler, 1998)

Brasil: Nunca Mais was the only methodical investigation into one of the darkest pages of Brazilian history.

International context

The development of TJ policies is influenced not only by domestic political, social and cultural factors, but also international pressures. As José Zalaquett correctly contends, already 'by the early 1980s, the values of human rights and democracy had gained unprecedented international legitimacy'. (Zalaquett, 1999:342) In Latin America in particular, Panizza suggests that it was during the years of authoritarianism in the 1970s that for the first time human rights 'gained unprecedented centrality and became the dominant language of public debate', as well as 'a political issue'. (Panizza, 1993:209; 1995:169)

Further, since the end of the Cold War, there has been increasing consensus and observance of human rights standards by states and international bodies, as well as the recognition that actions like torture, disappearances, and other violations of human rights are no longer legitimate state actions, but constitute international crimes.

According to Roht-Arriaza, international factors may shape human rights accountability on three levels. (Roht-Arriaza, 2001) First, human rights institutions consistently emphasise states' obligations in providing accountability for past crimes. Through their jurisprudence, norms were developed, strengthening the case against impunity and the use of domestic amnesties or statutes of limitations. International organisations also actively participate in brokering peace agreements or drafting amnesty laws in accordance with international human rights norms exemplified by Guatemala.

Second, transnational networks of human rights activists, and the norm diffusion processes they unleash, put pressure on various countries, encouraging them to learn from each others' experiences in confronting past abuses. Moreover, activists often recur to foreign legal institutions when human rights violators reside abroad initiating civil lawsuits for survivors to receive compensation, or criminal proceedings resorting to external courts when the possibility of justice is closed at home.

Third, new international institutions have been created since the early 1990s, like the ICTY, ICTR, and the ICC. This plainly demonstrates how the international community is no longer willing to passively tolerate impunity as was previously the case.

In El Salvador and Guatemala, the UN sponsored the search for truth and justice.¹³ In both, human rights crimes had a similar nature, including assassinations, disappearances, systematic torture, rape, massacres, destruction of villages and communities, and mass displacement. The vast majority were committed by military and security forces as well as paramilitary death squads, whose impunity was guaranteed by the complicity and ineffectiveness of the judiciary.

The *Commission on the Truth for El Salvador*, created in April 1991, was part of the peace accords between the government and the FMLN. It was charged with investigating and reporting serious acts of violence which occurred between January 1980 and July 1991, making recommendations in order to prevent the repetition of such acts and promoting national reconciliation. In Guatemala, an agreement was signed in June 1994 to create the UN-sponsored Commission, CEH, to investigate violations committed during the armed

¹³ Section based on (Kaye, 1997; McSherry, 1992; Molina-Mejia, 1999; Sieder, 2001a, 2001b)

conflict, clarify the conflict's causes and consequences, and produce specific recommendations on how to avoid future abuses.

The Salvadorean Commission was unique in many aspects. It was the first to be entirely sponsored, paid for and staffed by the UN, and its international composition, and recognition by the government and the FMLN, ensured its authority and the legitimacy of its findings. The Commission received 22,000 denunciations, mainly dealing with extra-judicial executions, forced disappearances, massacres and torture. The final report, published in March 1993, attributed 85% of violations to armed and security forces, paramilitary groups and death squads, while the FMLN was deemed responsible for 5%. After assigning general responsibility, the report examined thirty-three cases in detail, and where sufficient proof existed, individuals involved were named. Around 80 were identified for planning, committing, or covering up abuses. The list included around a dozen FMLN members, but a large majority were members of the security forces.

In February 1999, the Guatemala's CEH released its Memory of Silence report. Filling seventeen volumes, it covered the years of the internal armed conflict. Based on over 8,000 testimonies, detailed analysis of paradigmatic cases as a historical analysis of the causes and consequences of the conflict, the report concluded that political violence had been a direct result of acute socioeconomic inequalities and a history of racism. It also pointed to significant US government and CIA involvement in supporting repressive structures. It particularly emphasised the role of impunity, a key tool and precondition for a state policy of terror, with the judicial system tolerating, and even facilitating, violence.

Despite limitations and weaknesses, these UN-sponsored commissions officially acknowledged and publicly documented the extent of crimes, morally condemning and sanctioning institutional and individual responsibility.

The judiciary and legal obstacles

The judiciary's potential role in accountability has often been overlooked in TJ literature. For Elin Skaar, this is possibly because, during the early stages of transition, many judiciaries were subservient to the executive, and had limited independence to consider human rights abusers. (Skaar, 2001) Nonetheless, over time and through reforms, national judiciaries are no longer passive actors, but have become key players in TJ.

Several countries including Chile, Brazil, Mexico, and Peru have recently undergone substantial judicial reforms in order to establish independent judiciaries and guarantee the rule of law as a necessary pre-condition for democracy. Judicial reforms aimed at increasing independence, to reduce possible power abuses by the Executive, to enhance efficiency, to facilitate access to justice and to eliminate corruption. (Skaar, 2003; Sousa, 2007)

The recent verdict by a three-judge panel of the Peruvian Supreme Court in April 2009 exemplified the increasing role that the judiciary has lately played in TJ. Former-President Fujimori was found guilty of serious human rights violations, including two massacres in 1991 and 1992, and the kidnappings of a journalist and a businessman in 1992. The judgment is particularly significant, given that until a few years ago Fujimori had near-total control of Peru's judiciary. (HRW, 2009c)

Particularly relevant here are the actions and the verdicts of judges and tribunals, and the existence of legal obstacles, mainly amnesty laws that limit the possibilities of justice.

As discussed above, amnesties have been a familiar feature in most countries emerging from authoritarianism. Generally, amnesty laws are adopted by

successor regimes and cover all the crimes committed during authoritarianism or conflict, as was the case in Mozambique, South Africa, and Uruguay. By contrast, self-amnesties are enacted when authoritarian governments are still in power. Accordingly, these regimes forgive themselves for crimes committed, as in Chile and Guatemala. At times, these laws may also cover abuses committed by subversives or terrorists as in Brazil.

Mozambique was engulfed in a civil war between 1975 and 1992, when the General Peace Accord was signed.¹⁴ Ten days later, the government declared a general amnesty covering acts committed by both sides. Although over a million civilians had been killed, thousands tortured and many horrendous and barbaric acts had been committed, the peace accord never authorised an inquiry commission or prosecutions. There were no calls for accountability, justice or punishment and no official investigation was ever undertaken. Some unofficial local level initiatives have been carried out, to deal with the past through traditional African ceremonies of healing. Traditional healers, the so-called *curandeiros*, widely used and respected in every town and village, were charged with defusing the culture of violence, seen as a pathology to be cured, an illness brought about by the war. These traditional ceremonies emphasised the importance of reconciliation and the reintegration of both perpetrators and victims into their communities. They are founded on a clear break with the past and are based on spiritual reconciliation between the living and the dead.

In addition to amnesties, other legal provisions, contained either in the constitution or other pieces of domestic legislation, directly or indirectly influence accountability.

¹⁴ Section based on (Graybill, 2004; Hayner, 2002)

In Chile, during the dictatorship and upon transition, General Pinochet succeeded in limiting the scope of TJ policies.¹⁵ The General enacted various legal provisions that ensured the permanence of loyal authoritarian political and institutional enclaves, and curbed the powers of the democratic government. Pinochet acted early to guarantee future impunity. Already in 1978, Decree Law 2191 covered all violations committed between September 1973 and March 1978. Between February 1974 and August 1977, clandestine repression had reached its peak, with approximately 3,000 disappearances and countless incidents of torture. During transition negotiations, the opposition successfully gained fifty-four amendments to the Constitution. Nonetheless, Pinochet successfully imposed a number of *leyes de amarre*, that limited the powers of the President and Congress, secured the authoritarian character of the Supreme Court, and broadened military powers. The 1989 elections were won by democratic opposition, but a biased electoral law and system awarded the Right a critical number of seats in both houses, securing forty-nine out of the 120 seats in the Chamber of Deputies and sixteen out of the thirty-eight in the Senate. The existence of nine appointed senators changed the balance of power in favour of the Right, guaranteeing an anti-*Concertación* majority. Thus, the Right could veto legislation, particularly constitutional reform bills that require a two-thirds majority in each house.

In terms of accountability, any significant reforms or human rights policies required constitutional changes, and from the outset this biased legal framework blocked many initiatives, including to the Amnesty Law, and reforms to the military and the judiciary. During the early years of democratisation, Pinochet could ensure political immunity, but since the mid-1990s, human rights cases began reaching courts. The Supreme Court was also reformed in 1997. Eventually, in August 2000, the Court stripped the General of his senatorial immunity. Before his death, the General was facing hundreds of charges for torture, disappearances, tax evasion, and forgery. As of July 2008, 482 former military

¹⁵ Same references as footnote 7.

personnel and civilian collaborators were facing charges for disappearances, extrajudicial executions, and torture: 256 were convicted (83 had their conviction confirmed on appeal), and thirty-eight were serving prison sentences. (HRW, 2009a) Most judges sitting on the Supreme Court's criminal chamber ruled that the Amnesty Law is inapplicable to crimes against humanity, and these are not subject to statutes of limitations. However, not all judges concur and, given that court rulings are only binding in cases under review and the Supreme Courts' composition changes by case, legal obstacles still remain. In 2007 and 2008, the Court reduced sentences and applied a law allowing those convicted to benefit from sentence reduction, recognising the time elapsed since the criminal act. This effectively meant that several former military personnel sentenced to prison by lower courts are not serving time.

This chapter focused on the politics of transitional justice. It has been suggested that accountability, its emergence and evolution, is a rather convoluted and unpredictable process. Several variables and actors come to play a role in its development over time. In fact, the progression of TJ can witness triumphs and failures, pauses and sudden developments. As the mini cases show, TJ policies rarely follow clear and conventional paths. Diverse mechanisms are generally employed at different times and their adoption, as variation, reflects internal political, historical and social dynamics unique to each particular context. Nonetheless, external actors and influences have also to be taken into account. It was concluded that in order to fully comprehend the politics of TJ, factors and actors on at least three levels (local, national, international) have to be examined.

Chapter two now moves on to examining the politics of memory of past human rights crimes.

The Politics of Memory of Human Rights Violations

The legacy of past human rights abuses is not limited to just direct victims. Rather, political violence affects, to different extents, the entire societies in which it occurs, often scarring them for years. How do individuals and groups remember past violence? Are memories different, depending on whether they were victims, perpetrators or bystanders? More importantly, does the memory of past crimes matter now in the present?

It is argued here that the memory of past human rights violence is significant for several reasons. First, it raises interesting questions regarding which political agendas tend to be furthered through official memory, as well as the links between memory and identity in political communities. Second, in countries facing questions of TJ, official memories are usually produced. 'Politically-selective remembering', as Michael Humphrey claims, tends to harmonise into a single official narrative the often disparate memories that individuals hold. (Humphrey, 2002:109). Why is that often the norm? What roles do governments play in the construction of memory?

This chapter addresses these questions, suggesting that the memory of past human rights violations serves to better understand the present and its politics, particularly helping to shed light on the politics of TJ.

Initially, the chapter provides a background on memory studies. Second, it develops a framework of analysis to deconstruct the politics of memory. This

consists of three parts. The first focuses on some of the key actors involved in memory construction. The second investigates specific cases of memory debates relating to dates, places and people. Finally, the link between memory and the role of TJ mechanisms is examined.

2.1 What is Memory?

The last decades have been characterised by an unprecedented concern, sometimes an obsession, with memory. (Huysen, 1995; Traverso, 2007) According to Susannah Radstone, memory has become a central concept for research within both humanities and the social sciences. (Radstone, 2000) In a recent article, Radstone suggests how the publication of the first issue of the journal *Memory Studies* in 2008 points to the consolidation of memory research 'into what is fast becoming institutionalised as the new academic field of memory studies'. (Radstone, 2008:31)

This interdisciplinary subject, developed in the 1980s and 1990s, held war as one of its core concerns. (Ashplant et al., 2000; Winter & Sivan, 1999) Work on memory however dates back to the nineteenth century, but only recently has attention been paid to the category of victims, recognising in particular the significance of the memory of traumatic events. (Winter, 2006)

Henry Roediger and James Wertsch rightly contend that 'the topic of memory seems to touch nearly every academic field, at least in the humanities and social sciences'. (Roediger & Wertsch, 2008:12) The memory literature indeed draws upon numerous academic disciplines. Nonetheless, so far, it has received little attention from either TJ or IR. (Brito, 2008; Rosoux, 2004) This is surprising given

that issues of memory are important for both subjects. Myths and hatreds constructed around distorted memories of the past can be used by individuals and/or groups to motivate and incite populations towards committing atrocities. (Hirsch, 1995) The 1990s wars in the Former Yugoslavia, and the 1994 Rwandan genocide, are only two vivid reminders of the dynamic relationship that exists between memory and violence. The construction of specific memories of the past is very often used by various actors to garner authority and legitimacy in the present, clearly with political goals in mind.

Additionally, events to which traumatic memories refer do not generally occur in isolation. State terrorism in Latin America, for instance, cannot be fully understood if detached from the Cold War. Thus, memories of past traumas are deeply influenced by dynamics in the international realm, like the evolution of international human rights, the role of global civil society, and key events as General Pinochet's arrest.

Memory as a Narrative

Alice remarked,
'I can't remember things before they happen'.
'It's a poor sort of memory that only works backwards',
the Queen remarked.
Lewis-Carroll
In: (D. Bell, 2006:1)

Memory is an elusive concept but the literature abounds with definitions. Still, it is necessary to delineate what is meant by memory here. The definition by David Bell (2006:2) of memory as 'the process or faculty whereby events or impressions from the past are recollected and preserved' seems the most appropriate.

For this author, to have a memory entails, at an individual level, the ability to recall an event, person or emotion from the past, and recount it through a personal narrative in the present. K. M. Fierke aptly argues that memories are always constructed 'by combining bits of information selected and arranged in terms of prior narratives and current expectations, needs and beliefs'. (Fierke, 2006:119) These narratives do not simply represent particular events or emotions, but also 'connect, clarify and interpret them'. (*Ibid.*125)

Memory 'travels across time' (my term). In fact, it depends upon past events or experiences but it is always also connected to the circumstances in which it is produced, including elements of the present. (Huysen, 1995) Memory is in a permanent state of flux. Every time a past memory is evoked, it passes through the filters of the present and of later acquired experiences and knowledge. (Aguilar-Fernández & Oakley, 2002) Memories are constructive acts. They do not simply recall past events and associated emotions, but also confer meaning to what is being remembered in the present. (Schudson, 1992; Stern, 2004)

In this thesis, memory is understood as a narrative. This approach underscores the fact that not all our past experiences necessarily and automatically become memories. Rather, those which are transformed into memories emerge because individuals have engaged and connected with recollections from the past, bestowing meaning upon them in the present. This is a key point. The past does not simply exist in memory but must be articulated. The past, for Elizabeth Jelin, 'leaves traces', but these need to be evoked and placed in a context giving them meaning to constitute memory. (Jelin, 2003:18)

Understanding memory as a 'narrative social construction' enables us to grasp several important points. (Jelin, 2003:23) First, if memories are communicated to

others, it is necessary to consider who narrates them and which institutions give or refuse speaking power to narrators. Second, memories are both personal and social. Individual memories do not exist *per se*, but reveal themselves, through 'the shared narrative act', recounting and listening. (*Ibid.*24) Third, memory is selective, marked by a constant tension between remembering and forgetting. Each memory is always incomplete, privileging certain aspects while obscuring others. Indeed, as Michael Lazzara rightly suggests, 'rather than confront difficult, painful realities, people often prefer to remember in ways that alleviate cognitive dissonance'. (Lazzara, 2006:2)

A key aspect of memory is the strong relationship between past, present and future. Memory is as much about the present and the future, as it is about the past. (Pennebaker et al., 1997) Memories are seen here not as simple recollections; rather, their meanings are fiercely contested. Both public and private memories do make claims about the past that are not acceptable to everybody. In these contests, questions are posed about what the past means in the present, the meanings of the present itself and ways of taking the past forward. (Hodgkin & Radstone, 2003)

Present circumstances affect which events are remembered as significant and how they are recalled. The past is subject to being reconstructed and rewritten according to present views and needs, 'a flexible process of composition and recomposition, of casting and recasting the past in its relation to present circumstances and future expectations'. (Lazzara, 2006:2)

However, the past opposes resistance and cannot be reconstructed at will. Although it is not immutable, the past cannot be freely recreated in the present. (Aguilar-Fernández & Oakley, 2002) Indeed, individuals, groups and nations wish and attempt to reshape the past through the lenses of the present. Given this,

collective memories have often been distorted. William Faulkner famously asserted that 'The past is not dead. In fact, it is not even past'. *In:* (Schudson, 1992:218) Still, there are obstacles to the reconstruction of the past in the present and confines to its manipulation for present interests and needs. (*Ibid.*)

Levels of Memory

It is easy to encounter a colourful vocabulary when talking about memory: national memory, public memory, social memory, counter-memory, and habit-memory. Three types of memory are discussed here, notably individual, collective and institutional.

Although valuable in theoretical terms, empirically it is difficult to draw clear boundaries among these categories. All three co-exist and should therefore be regarded as interdependent and interrelated, mutually relying upon each other to maintain their existence and sustainability. Thus, this author considers that memory encompasses all these three levels. Further, I agree with Jenny Edkins when she states that 'it is only the person as social being that can remember' and how 'remembering is intensely political'. (Edkins, 2003:54)

Individual memory is 'what individuals remember, or think they remember, about their past'. (Lebow et al., 2006:11) These narratives are not static, but they are constantly evolving and changing every time they are retold. Moreover, human memory is not objective. As Gabriel Ricci pertinently claims, what one remembers and how one recalls events very much depends on social conditions. (Ricci, 2003) In fact, the only true representation of an event is the event itself. Any memory of it is incomplete, biased and reconstructed: memory is a subjective recording of the

past that cannot be separated from observers with their motivated viewpoint(s).
(*Ibid.* 85-90)

Personal memory is only a starting point. Individuals do not live in isolation and most of their actions take place within a societal setting. Thus, remembering never occurs in a vacuum but is a social and collective phenomenon, with individual memory filtered through emotions and group experiences. (Hirsch, 1995) Consequently, processes of remembering are informed by individuals as social agents whom are defined by their social networks. The shift from the individual to the social and interactive level is accordingly 'unavoidable'. (Jelin, 2003:10-11) Individual and collective memories are not mutually exclusive, but coexist, reciprocally influencing each other. In sum, they cannot be divorced.

Collective memory has been defined as 'widely shared perceptions of the past', which shape 'the story that groups of people tell about themselves, linking past, present and future in a simplified narrative'. (D. Bell, 2006:2)

Maurice Halbwachs claimed that all memories were formed and organised within a collective context. Events, experiences and perceptions are shaped by individuals' interactions with others, with society as the framework for beliefs, behaviours, and recollections. (Pennebaker & Banasik, 1997:4) Halbwachs stressed the deeply social and constructive nature of memory, pointing to how individuals always remember a world in which other people also live. Memories therefore relate to an inter-subjective past, 'a past time lived in relation with other people'. (Páez et al., 1997:152) Collective memory does not however refer to a sort of 'group mind', but to individual remembering as a process with a shared collective nature. (Devine-Wright, 2003:11) Individuals can evoke their past

precisely because they belong to a certain social group. The interests and experiences of the group shape members' memories, while group membership enables individuals to remember and recreate their own experiences collectively. (Aguilar-Fernández & Oakley, 2002)

Collective memories particularly tend to arise in response to intense social events. Thus, examining collective memory of traumatic events is a subject that has recently attracted significant attention. In particular, credence has been given to examining how and why some collective memories reach hegemonic statuses.

Finally, *institutional memory* refers to attempts by political elites, supporters or opponents 'to construct meanings of the past and propagate them more widely or imposing them on other members of society'. (Lebow et al., 2006:13) Institutional memory is an appropriate analytical category for studying the politics of memory. Although struggles over different representations of memory exist at individual and collective levels, they are more clearly played out at an institutional level. In this arena, memory debates taking place within collectivities are thus exposed in these institutional spaces, where competing groups attempt to impose their particular memory on the rest of the society.

This is particularly relevant in the context of the memory of traumatic events. Social actors seek to define what is truthful and meaningful about a significant collective trauma and, in doing so, they are invariably selective. Social conflicts concerning representations of the past mirror struggles for power, legitimacy, and recognition. Furthermore, they involve different actors adopting strategies to officialise their own narrative of the past. These contests aim to expand the group

that accepts and legitimises a given narrative, incorporating it as its own or identifying with it. (Jelin, 2003)

Examining the level of institutional memory is important in understanding memory contests. It is interesting to look at the endeavours of various groups to establish an official narrative of past trauma. Often this takes the form of national trials or truth commissions, while also serving to further political agendas and objectives.

Memory is strongly linked to other similarly elusive concepts, like identity, history, and forgetting.

Memory plays a central role in virtually all conceptions of *identity*. Group identities necessitate a shared understanding of history and its meaning, a constructed narrative linking past and present, contextualising self and society in time. Such understandings facilitate a sense of belonging to unfold, creating obligations and loyalty to the imagined community. (D. Bell, 2006)

Shared experiences and memories, together with the values and commitments they create and sustain, provide distinctive identities for individuals and communities. Identity and memory mutually define and depend upon each other. (Lebow et al., 2006)

Memory and identity are not fixed, but are highly selective and inscriptive subjective constructions of reality, serving particular interests and ideological positions. They support one another, while simultaneously sustaining certain subjective positions, social boundaries, and power. Identity and memory are best understood as political and social constructions: in the words of John Gillis, 'not as things we think *about*, but things we think *with*'. (Gillis, 1994:4-5)

Memory and *history* were long regarded as being diametrically opposed. Their relationship is more helpfully conceptualised by considering memory as both integral to and separable from history, with the exact boundaries between the two being elusive. (D. Bell, 2006) Recently, history and memory have become problematic concepts. Peter Burke argues that recalling and documenting the past are no longer deemed the 'innocent' and objective activities they once were considered to be. Both include socially conditioned processes of 'conscious or unconscious selection, interpretation and distortion'. (Burke, 1989:100) Historical knowledge, like memory, includes interpretative processes, the construction and selection of facts and the adoption of narrative strategies on the part of the historian. (Traverso, 2007)

At a first glance, remembering and *forgetting* seem mutually exclusive. However, their relationship is much more complex and subtle. Memory necessitates forgetting, even presupposes it.

Memory is highly and intrinsically selective, comprising acts of recovering and 'practices of suppression'. (Meskell, 2006:174) As Maja Zehfuss contends, remembering by its very nature entails forgetting and forgetting is possible only where remembering occurs in the first place. (Zehfuss, 2006:213) In the constitution of memory, both processes co-exist. Every memory is necessarily a forgetting, since 'it is a choosing of what, among a multitude of possibilities, to keep in mind'. (Schudson, 1992:220)

Memory without forgetting is impossible. Forgetting is best seen as an inevitable part of remembering and not as its opposite. Remembering is

structurally dependent on forgetting; it is always already defined by forgetting. (Zehfuss, 2006:226-228)

If forgetting is inseparable from remembering, the claim of official memories to provide a final reconstruction of events appears fundamentally problematic. As selective constructions, official memories embody only one of many possible memories on a disputed past.

2.2 Analytical Framework

The term 'politics of memory' is a rather fashionable addition to several recent academic titles. See e.g. (Aguilar-Fernández et al., 2001; An-Na'im & Amadiume, 2000; Ashplant et al., 2000; Dawson, 2005; Lazzara, 2006; Lebow et al., 2006; Ricci, 2003) Nonetheless, the phrase is rarely expanded upon and it is often unclear what it actually refers to. Here, the politics of memory is taken to encompass all the actors and processes that are involved in disputes about different representations of a shared but contested past (of violence).

The analytical framework used to untangle the politics of memory in chapters five and six is outlined here. Its basic structure rests on three concepts. Communities of memory refer to the actors that are engaged in memory contests and the associated narratives held to make sense of the past. (Irwin-Zarecka, 1994) Memory knots relate to dates, places, individuals or groups that have the power to evoke memory and trigger discussion. (Stern, 2004) Finally, illusions of memory (my term) alludes to the pivotal role played by the state vis-à-vis memory construction and the use of TJ mechanisms to champion specific readings on the past.

This author believes that narratives over a contested past emerge. Henceforth, disputes among these competing versions and the actors that are involved in their creation unfold. Each agent (namely private individuals, civil society, the state, etc.) enjoys different access to resources and the capacity to mobilise in order to achieve recognition for the memory endorsed. The politics of memory are central in instances of TJ: as David Bell correctly claims, perceptions of the past have been essential in de-legitimising previous regimes and establishing new claims to political authority. (D. Bell, 2006)

Traditionally, the state enjoyed a privileged role in commemoration, especially regarding war. It has been able to sponsor specific memories thanks to its privileged access to resources and capacity to mobilise. Although still important, the state is neither ubiquitous nor omnipotent. Jay Winter and Emmanuel Sivan (1999) point to how civil society has especially grown, as the locus where many groups develop their own strategies of remembrance, sometimes in tandem with the state and other times against it. (Winter & Sivan, 1999)

Jelin (2003) aptly emphasises how controversies over the meaning of a shared past surface as soon as events take place. The politics of memory begin then, and continue into the present and future, for as long as events remain subject to contestation. Given this, it is likely to span decades, even affecting several generations. Therefore, it is necessary to look at memories of events both as they are articulated now and how they were portrayed when these occurred.

Communities of Memory

Struggles over memory revolve around opposing representations of a common but disputed past. This process generally involves a multiplicity of unequal

partners. Their impact on constructing memories depends on their resources, legitimacy, and the ability to extend the acceptance of their narrative within wider society.

The first part of our framework is premised on the concept of *community of memory*. (Irwin-Zarecka, 1994:47-49) It identifies actors that partake in memory struggles. A community of memory is created by 'one memory', in the sense that people develop and feel a sense of connection due to a shared experience, often of extraordinary, if not traumatic nature. The shared meaning attributed to the experience creates the bonding within the community, which comes to be defined by the personal relevance of the traumatic memory, rather than personal witness to the trauma. It is the *meaning* given to the event, not the event itself that may create and sustain a community of memory. (*Ibid.*)

Given that collective memory can exist at various levels (families, professions, political generations, ethnic and regional groups, social classes), individuals can simultaneously belong to several communities of memory. (Kansteiner, 2002) Bearing this in mind, it may be beneficial for analytical purposes to distinguish specific communities. In cases of human rights crimes, at least five can be identified: perpetrators, victims, relatives and families of the victims, bystanders, and external/international actors. These tend to emerge and differ in terms of their experiences of the traumatic event(s) and the various meanings attributed to them.

This list is neither complete nor exclusive. Communities of memory may persist, change, and be supplemented and/or replaced by new ones, all battling for the recognition of their versions of the past. (Kaiser, 2005) Post transition, another community may be added, namely that of the state. It is often the case that the

community of the perpetrators coincides with that of the state, as state agents usually carry out repression. However, a caveat is needed. Though in most instances of repression in both Central and South America, state agents committed the majority of crimes, abuses were also perpetrated by guerrilla groups, as was the case in Argentina and Uruguay, and notably in Peru.

The community of the state becomes relevant upon transition, fundamental if one wishes to consider issues of official memory. Additionally, the community of former militants, whether activists or guerrilla members, acquires importance, though they are generally marginalised.

The case of Quatro clearly exposes the struggle of former African National Congress (ANC) prisoners to include their voices and memories into the official narrative of the South African Truth and Reconciliation Commission (TRC). Ex-prisoners and members of the ANC formed two communities of memory that embodied diverse representations of a common past.

Officially opened in 1979 on a deserted Angolan farm, Quatro was a brutal detention centre, which until 1988 housed ANC members who violated the organisation's regulations or were accused of being apartheid regime infiltrators.¹⁶ Abuses began on the way to the camp and continued during detention.

In 1984, the ANC initiated investigations into camp violence, establishing three commissions. They concluded that the ANC was responsible for maltreatment, with the 1992 Skweyiya Commission particularly noting how it was violence for the sake of it.

Victims later gave testimony before the TRC, and the accounts of their horrific experiences in ANC detention centres challenged the official narrative. Although their

¹⁶ Section based on (Cleveland, 2005)

testimony was limited compared to that of other apartheid victims, it was potentially more damaging to the ongoing national healing process, as it implicated the ANC in behaviour reminiscent of that of the apartheid regime.

As the new ruling party, the ANC was reluctant to accept accountability for alleged human rights violations. Its leaders admitted that violence at Quatro was extreme, but denied that it had been ignored at the time or that it was part of standard operational policy. Party officials sought to rationalise transgressions, characterising them as unfortunate corollaries of the violent political struggle, whilst simultaneously attempting to bury them under the heroic nationalist narrative.

The ANC leadership had intended that the primary function of the TRC was to expose the atrocities committed by the apartheid regime. Failing to anticipate that its own conduct could be subject to scrutiny, the party evasively and defensively answered questions concerning own transgressions. It tried to link excesses to the political struggle, by combining them with the apartheid's regime many crimes. In doing this, it hoped to diminish their significance and downplay their seriousness in an environment where violence was an everyday and unavoidable occurrence.

The ANC vehemently confronted ex-prisoners' allegations, fearing that their crimes would be equated with those of apartheid. These testimonies threatened to challenge this distinction. In politicising and justifying detention abuses, the ANC resembled more and more the apartheid regime. In sidetracking political damage, the ANC failed to understand the significance of ex-inmates' testimonies and the nation's search for reconciliation.

The TRC provided former inmates with a forum to communicate their suffering. However, these could not be included into the national narrative that the Commission was shaping, even if they were legitimate constituent parts. The TRC's mission of forging a single collective memory based on a large pattern of events relating to human rights violations for a new South Africa left little space for the narratives of Quatro's former inmates. The ANC

endeavoured to prevent these narratives from being embraced, thus distorting the nation's collective memory, by attempting to erase accounts challenging its official version of events.

Each community of memory rests on a shared experience of and meaning attributed to a past event, what Steve Stern defines as emblematic memory. *Emblematic memory* does not refer to a single remembrance of a specific content nor to a concrete and substantive 'thing'. (Stern, 2004:104) It is instead a framework for collective remembrance, imparting 'broad interpretative meaning and criteria of selection to personal memory, based on experiences directly lived by an individual, or on lore told by relatives, friends, comrades, or other acquaintances'. (*Ibid.*105-106)

Emblematic memories emerge from multiple human efforts, conflictual and competitive, to give meaning to 'a great collective rupture, trauma, or turning point—an experience perceived as decisive or transformational and therefore "historical". (*Ibid.*120) They circulate in public or semi-public domains like the mass media, government events, street demonstrations and protests, music, books, and television. Although socially constructed and selective, they are neither arbitrary inventions nor manipulations.

In Chile, for instance, four emblematic memories recollect and impart meaning to the 1973 coup, the ensuing military regime and associated repression. (*Ibid.*108-113) The perspective of salvation sees the times of Allende's coalition as a nightmare that brought society to the brink of disaster. The military coup is presented as a new beginning that rescued the national community. The framework of unresolved rupture (in diametric opposition) presents military rule

as a personally-experienced violence by the state. It emphasises the loss of relatives and companions, and how the military government brought the country to an unprecedented hell of death and torture that continues into the present. Persecution and awakening recalls the regime as a time when society and individuals endured a long winter of repression and self-discovery, with the military regime testing one's deep values and social commitments, provoking a process of awakening. Finally, closed box considers military rule and violence as greatly troubling, divisive, and even a dangerous affair that is best put away and forgotten, not to jeopardise the chances of social reconciliation and progress.

Communities of memory frequently originate from the actions of *memory entrepreneurs*. (Jelin, 2003:33-34) Applying Becker's concept of 'moral entrepreneurs', Jelin (2003:33) defines them as enterprising moral leaders or social agents who mobilise their energies for the sake of a cause they strongly believe in. The contest among different memories in fact presupposes social actors creating, sustaining and fighting for them. These agents look to achieve social recognition and political legitimacy for their own interpretation of the shared past. (Jelin, 2003)

Memory entrepreneurs clearly resemble what Martha Finnemore and Kathryn Sikkink have labelled as 'norm entrepreneurs'. (Finnemore & Sikkink, 1998:896) Norm entrepreneurs are essential for calling attention or creating issues 'by using language that names, interprets, and dramatises them'. (*Ibid.*897) Memory entrepreneurs follow a similar dynamic to that of the 'norm life cycle' in creating narratives of memory. (*Ibid.*895)

Finnemore and Sikkink (1998:897) describe how norm entrepreneurs construct cognitive frames that, when successful, 'resonate with broader public understandings and are adopted as new ways of thinking about and understanding issues'. Norm entrepreneurs co-exist in an environment in which there are 'firmly embedded alternative norms and frames that create alternative perceptions of both appropriateness and interest'. Thus 'new norms never enter a normative vacuum but emerge in a highly contested normative space in which they must compete with other norms and perceptions of interest'. (*Ibid.*)

As we have seen, the social construction of the past is a site of intense conflict. Memory is not a given, a natural consequence of historical experience but rather it derives from vast amounts of work carried out by numerous actors, all endeavouring to secure public articulation for their past(s). (Irwin-Zarecka, 1994)

All aspects of remembrance are open to challenge, from the construction of collective memory, its successive employments, to revisions and dismantling. The idea of *memory projects* underscores how what is being remembered is neither automatic nor natural. (*Ibid.*133) Rather, all memory is constructed and maintained. Memory projects assert the power to define the past, especially seeking to counteract any absences deemed important.

The case of Spain exemplifies how individuals acted as memory entrepreneurs, in re-opening the debates over the crimes of the past, challenging the official version of events imposed since the transition to democracy.

During the Spanish civil war (1936-39) and Franco's dictatorship (1939-75) thousands of people were killed, imprisoned, tortured or disappeared.¹⁷ Spain's confrontation of its repressive past was characterised by a deliberate and tacit agreement to forget, a pact of oblivion (*pacto del olvido*), that was based upon an 'erasure of memory' and 'collective amnesia'. (M. Davis, 2005:863-864)

During the transition, risk-aversion and collective guilt inhibited the implementation of accountability initiatives: fear of a right-wing coup, even a return to civil war, led Spaniards to prioritise peace, order and stability. It has been suggested that this dominant perspective presented the civil war as a conflict between two Spains, Republican and Nationalist. As atrocities had been committed on both sides, the war was best forgotten. This became the accepted wisdom of transition. (*Ibid.*)

Recently, a campaign spearheaded by the *Asociación para la Recuperación de la Memoria Histórica* (Association for the Recuperation of Historical Memory, ARMH), focusing on efforts to locate and identify the bodies of republican non-combatants as well as demanding official recognition of Francoist crimes, has gathered momentum. (M. Davis, 2006) The *pacto del olvido* began to crack. (Blakeley, 2005)

The initial impetus came from a private initiative, the exhumation of a grave in the province of León in October 2000, containing the remains of thirteen Republican non-combatants killed by Francoists in 1936. Emilio Silva wished to discover, identify and rebury his grandfather, who was amongst those killed. From this, a broader objective progressively emerged. The ARMH, established in December 2000 by Santiago Macías, Emilio Silva and other grandchildren of the disappeared, coordinates investigations and exhumations, and collects stories of suffering. By 2007, some 900 bodies had been exhumed. Numerous

¹⁷ At least 300,000 were killed in the civil war; some 440,000 Republicans went into exile; mass trials and executions were commonplace after the war ended; some 400,000 people spent time in prisons, camps or forced labour battalions. Thousands more were killed in secret.

unmarked mass graves, containing approximately the remains of 30,000 people have so far been located.

The ARMH aims to establish the truth about the fate of Spain's disappeared, giving them dignified burials. It does not seek to blame or punish surviving perpetrators. Since its creation, it has received around 2,500 requests for information. Numerous other associations dedicated to historical memory have since surfaced, and together they have restored debate firmly within the public realm. The reactivation of social memory has received support and attention from politicians and regional authorities alike.

Despite the *pacto del olvido*, Spaniards had not really forgotten their past. Rather, a collective decision was made to develop a particular construction of the past that suppressed memories likely to endanger stability and consensus, and fore-grounded those promoting reconciliation. The *pacto* was reinforced by dominant political and cultural discourses, marginalising the stories of those on the losing side of the war.

Memory Knots

The second part of the framework rests on the concept of *memory knots*. (Stern, 2004:120-121) The idea comes from a metaphor inspired by the human body. A knot in the stomach when one is nervous or a lump in the throat breaking the flow of everyday life and routine that are experienced as demands to be noticed and acted upon.

Memory knots on the social body similarly disrupt normal social routines and habits, forcing charged issues of memory and forgetfulness into a public domain, making claims or causing problems, heightening attention and consciousness. Theoretically, they can be considered as sites of society, place, and time so bothersome, insistent, or conflictive to move human beings, temporarily, beyond daily routines. They are sites where the social body 'screams'. (*Ibid.*)

Memory knots are multidimensional, with 'specific human groups and leaders, specific events and dates, and specific physical sites all seem to stir up, collect and concentrate memories, thereby "projecting" memory and polemics about memory into public space or imagination.' (*Ibid.*121) They have three dimensions. (*Ibid.*121-124)

Sites of humanity refer to particular human groups (state officials, human rights networks, religious groups or victim organisations) that develop intense motivations to project particular emblematic memories into the public domain. Examples include the *Vicaria de la Solidariedad* in Chile, figures like Paulo-Evaristo Arns and Jaime Wright in Brazil, Desmond Tutu in South Africa, political leaders as Nelson Mandela in South Africa, and HROs including Guatemala's Mutual Support Group or Peru's Association for Human Rights.

The organisation HIJOS in Uruguay met for the first time in July 1996. Unlike their Argentine counterparts (5.3), the word HIJOS simply refers to their condition as sons of the *desaparecidos*, which was what brought its members together. The name has another specific connotation, as Diego Sempol points out. The J, always in red, alludes to justice and is written as falling over the letter O 'to express the idea that justice fights oblivion'. (Sempol, 2006:187)

Gabriela Fried emphasises how HIJOS confronted a reality of extreme silence and forgetting that had been championed by the state for several years, aiming to directly silence the memory of past violence. (Fried, 2001) Only a very small public space existed in which to think, remember, and act in relation to the recent past.

HIJOS fought against oblivion, and attempted to reintegrate the disappeared into the Uruguayan community, by re-claiming their humanity and identity, for society to see the disappeared as 'one of us'. (Sempol, 2006:197) For the organisation, disappearances had various levels: a physical disappearance, another relating to the disappeared's role as social fighters and a third as human beings, with their ideas and mistakes. Differences however existed on who the disappeared really were. The younger members of HIJOS, that had had little direct knowledge of their parents, tended to build an image that vindicated them as social fighters, while the older members did not share this stance, focusing more on family relations.

HIJOS worked to construct what Sempol (2006:200) defined as a 'reflexive memory'. It is a memory that never settles, that always stimulates analysis and personal development, through discussion and understanding of the inherited past. Everyone involved has a right to talk about and express an opinion, for memory to be 'an object of critical reflection, to go beyond oblivion and silences, and open the way to a plurality of actors, to "democratise memory". (*Ibid.*)

As the H.I.J.O.S. of Argentina, *escraches* were one of the ways employed to deal with the question of disappearances. These street demonstrations endeavoured to denounce people and institutions linked to past crimes. They aimed to make public where former repressors lived, to shatter their invisibility within neighbourhoods and society. A particularity of Uruguayan *escraches* was that the preparatory phase working in the neighbourhoods did not centre on repressors, but on the victims instead, trying to give back life to the *desaparecidos*, telling their life stories, the events surrounding their disappearance and only finally outlining who was responsible. One of the consequences of *escraches* was that the group seeing their parents as social fighters became hegemonic within the organisation. Several members thus left.

HIJOS has been particularly critical of the work of the Peace Commission (4.2). They contested the Commission's 'possible truth', talking instead of a 'real truth'. (*Ibid.*211-215) For the organisation, a real truth would place the question of the disappeared in its historical context, consider all past human rights violations (including torture and political assassinations), and address collaborators of impunity under democracy.

HIJOS does not share the vision of a war that took place in Uruguay in the 1970s and 1980s (6.2). Rather, they contend that several governments and the state itself were responsible for the events of state terrorism and the policies of oblivion and impunity that were implemented over the last decades.

Sites in time are particular events and/or dates that have the symbolic power to convene or project memory. Such anniversaries demand human efforts of interpretation, control and projection, widening the circle of attention to remembrance. (Stern, 2004)

In every country, Jelin contends, there are symbolic dates in which the past becomes present through public rituals, when feelings from the past are activated and meanings investigated, memories constructed and renovated. (Jelin, 2002) Some dates like 11 September for Chile, 31 March for Brazil, and 3 November in Paraguay were and, still are, so emblematic to be significant nationally. (Carvalho & da-Silva-Catela, 2002; González-Vera, 2002) Others are only relevant locally, while others still are personal and private, like the anniversary of someone's abduction or the birthday of a loved one no longer around.

Various social and political actors attempt to impose specific meanings on these markers of time so they become objects of dispute. Analysing commemorative dates shows how, over time, there have been transformations in both the actors

that remember, and the meanings attributed to commemorations, depending on the cultural and political climate in which they occurred. (Jelin, 2007b, 2002)

On **11 September 1973** (11/9), the Chilean Armed Forces led by General Pinochet carried out a coup against Allende's Popular Unity government.¹⁸ Since then, 11/9 has become a date of political and social controversy, when different understandings of the dictatorial past are openly, and even violently, debated. (LaNación, 2008a, 2008b) Looking at commemorations over the last thirty years demonstrates how various actors tend to bestow different meanings on this controversial anniversary. Despite evolutions and changes, two trends persist. Key confrontations occur between Pinochet supporters and opposition groups, and police repression is a rule.

Between 1974 and 1977, the government organised public and massive celebrations, emphasising the recuperation of internal peace and freedom, and the popular support enjoyed. 11/9 was presented as a heroic date, to thank the Armed Forces for the recovered peace. Two Chile(s) existed then: one triumphant and conservative, the other private and silenced.

The years 1978 to 1981 were characterised by official discourses which still focused on anti-Communism; the date was declared a national holiday in 1981. However, news of human rights crimes began appearing in the media. At this time, the opposition started to commemorate 11/9 as a date of mourning, with women dressed in black and visits to cemeteries, grieving not only for the loss of loved ones, but also democracy and freedom. The panorama of national peace and economic stability ended in 1982. At this point, conflict over 11/9 became violent. Anti-regime protests from opposition parties, HROs, trade unions, students and popular-urban sectors were no longer silenced and fragmented, but massively mobilised, showing how divided Chilean society really was. Until 1987, every September was characterised by increasing violence from both the government and the

¹⁸ Section based on (Candina-Polomer, 2002; Jelin, 2007c, 2002).

opposition. Between 1983 and 1987, approximately 47 people died, several were wounded, and thousands were arrested, with damage to public and private property.

Early during the transition, in 1988 to 1990, further memory conflicts emerged. At the end of the regime, Pinochet was presented as the founder of the new democracy and past crimes were human errors that had to be forgotten and pardoned.

Since 1990, a clear-cut demarcation has existed between the government's conciliatory discourses that label 11/9 a sad day of reflection and those struggling for justice. Three central features have characterised remembrance since 1991. Political elites distance themselves from the date, which was removed from the national calendar in 1998. The left and social movements continue to fight for justice, while hard-line Pinochet-supporters vindicate the heroic date.

In 2006, a new commemorative day, 30 August, the day of disappeared-detainees, was added to the official calendar. However, 11/9 continues to be commemorated, always accompanied by violence. In 2007, the Army commemorated the first anniversary without Pinochet with a mass in the Military School, while President Bachelet called for never again living 'through what happened in the past'. (LaNación, 2007a, 2007b)

For three decades, 11/9 has been a date in which interpretations of recent Chilean history are fought over. Despite attempts at reconciliation from political elites, the date is a time when fragmentations within Chilean society over the past and its several meanings are exposed. The death of young protestors on 11 September 2009 demonstrates how the issue of memory continues to transcend generations.

Sites of physical matter or geography refer to particular places or artefacts that evince a power of connection to the past, stirring up and projecting controversies about memory. (Stern, 2004) They can be divided in two categories. Projects that establish new physical markers, like museums or plaques that commemorate

specific events. Or sites that are already charged with 'history, memories, public meanings and private feelings', to which new connotations are added. (Jelin & Langland, 2003:5)

The establishment of public markers of the past can trigger political confrontations among various actors. These sites are important, often not for their own sake, but for embodying a specific meaning and a historical message that is charged upon them. They are 'vehicles of memory', material supports for personal memory introspection, collective action and identities, where memory is 'activated'. (Jelin, 2007b:146-147)

In the context of state terrorism in the Southern Cone, sites of memory do not transmit unique messages, but are places where debates over different meanings and distinct memories unfold, frequently between those that wish to eliminate them and their connection with the past, and others that hope to convert them into supports for memory into the future. (Jelin & Langland, 2003)

Notable examples include in Chile, the Paine Memorial, the *Nunca Más* Monument, the Monument to Disappeared and Politically Executed, Villa Gramaldi and Londres 38 detention centre as well as Santiago's General Cemetery and Estadio Victor Jara, or in Brazil the *Tortura Nunca Mais* in the city of Recife. (Bickford, 2005; Jelin & Langland, 2003; Wilde, 2008)

Peru lived through an internal armed conflict in the 1980s and 1990s. The 2003 Truth and Reconciliation Commission (TRC) confirmed 69,280 deaths, attributing responsibility for 54% to the Maoist *Sendero Luminoso* (Shining Path) guerrillas.¹⁹

¹⁹ Section based on (APRODEH, 2007; Hite, 2007; Theidon, 2006)

Following the TRC's recommendation, several HROs worked to establish memorials throughout the country. **The Eye that Cries**, inaugurated in August 2005, commemorates all the victims of the violence, whose names appear on the TRC's list of dead and disappeared.

It is composed of a representation of the ancestral goddess Mother Earth, that is shaped from an ancient pre-Inca stone. Another rock is affixed with water running continuously from it as an eye that cries, mourning the violence. Surrounding the stone is a labyrinth path made of bands of rock, with 27,000 names, ages and years of death/disappearance in alphabetical order. Visitors have to walk the labyrinth from the outside in, looking at inscriptions, finally arriving at the centre, face to face with the grief of Mother Earth.

The memorial became controversial, exposing Peru's politics regarding the past. In November 2006, the Inter-American Court of Human Rights ruled against the government in the 1992 Castro-Castro penitentiary case, when 41 prisoners were killed and others brutally tortured by the military. The court suggested that the names of these *Sendero Luminoso* militants be included in the memorial, only to find out they were already there.

Therefore, the Monument included as victims not only men, women and children, but also combatants. The sun had already erased most names. Still, Lima's Jesús-María municipality, where the monument is located, voted to remove the names in January 2007, while HROs and novelist Varga-Llosa mobilised to defend the Eye. Judging who was a victim of the internal violence became a political and a moral issue, exposing the difficulty in coming to terms with the violent past.

In September 2007, as ex-President Fujimori was extradited to Peru, a group of twelve people attacked the Eye, smashing stones, damaging the central Mother Earth, pouring all over neon-orange paint, the colour of Fujimori's political movement. The Monument became again a site of contestation over who should be recognised as victim and perpetrator.

Villa Grimaldi was one of the Pinochet's regime primary sites of repression from mid-1974 to 1978.²⁰ More than 4,500 Allende's followers were harshly interrogated and tortured there, with approximately 226 killed or disappeared. There were over eighty torture centres in Santiago but few have been formally recognised.

Villa Grimaldi was sold in 1987 to a construction company planning to flatten the site to build a modern apartment complex, in a sort of politics of destruction, erasing the torture centre from the urban landscape. By 1990, the site had been cleared.

Between 1991 and 1995, a group of survivors, local residents and HROs lobbied to establish a Park for Peace, as a space to gather and commemorate victims, as well as reflect on past human rights crimes. In the early 1990s, debates ensued among survivors and the relatives of the disappeared on how best to preserve this location. Several options were discussed: the ruins should be left as they were, adding a simple sculpture to the victims' memory; the site should be restored as it was during its functioning as a detention centre or totally redesigned as a Peace Park, a symbol of life and hope replacing death and destruction.

The latter option ultimately prevailed and the Park was inaugurated in 1997. The project however combines symbols of reconciliation (vegetation in tribute to the triumph of life, the park's design as a cross, a pilgrimage from the entrance gate to the central fountain symbolising life and hope) with reminders of the past horror (a swimming pool used to torture and kill a prisoner, the barbed wire surrounding the park and a wooden replica of isolation cells).

The Peace Park, conceived as a space of reconciliation, life, hope, unity, is in line with the government's agenda of consensus-based politics of reconciliation that dominated official discourse in the post-dictatorship years. However, the contrast between the beauty of trees, flowers and coloured mosaic sculptures and the world of darkness, fear and violence

²⁰ Section based on (Collins & Hite, 2009; Lazzara, 2006)

prisoners lived through, exposes the difficulty of transmitting meanings of the past violence and the narration of memory.

Studying memory knots provides us with the raw materials on which contestations and debates among alternative memories of a disputed past focus. They are similar to Nora's *lieux de memoire*, namely places like museums, archives, anniversaries or monuments, where 'memory crystallises and secretes itself'. (Nora, 1989:7) Nora suggests that they are 'created by a play of memory and history' but the essential precondition is the 'will to remember'. (Nora, 1989:19) As Lazzara rightly underscores, these 'sites of memory are open to critical interrogation precisely because of their dynamic quality, their "capacity for metamorphosis", the "endless recycling of their meaning", and the "unpredictable proliferation of their ramifications"'. (Lazzara, 2006:34)

It is through memory knots that the politics of memory and their inherent conflicts are played out in the open within society. Through memory knots, the evolution in memory discourses, actors and material supports can be traced.

Illusions of Memory

The final part of our framework rests on two ideas: first, the role played by the state in terms of memory construction, and second how TJ mechanisms (trials, truth commissions) often both reflect and endorse a specific reading on a disputed past of violence.

In instances of transition, official memory becomes significant given that governments tend to construct and/or select a narrative over the past violence as the leading memory. According to Timothy Ashplant et al., *official memories* are

dominant or hegemonic narratives that underpin and help to organise commemorations at state level. They are often articulated through permanent memorials and/or a calendar of ceremonies, repeatedly recalling important events and pondering on their meaning. (Ashplant et al., 2000:22)

Official memory differs from other types of memory because of its institutionalisation at state level and its endeavours to be the dominant representation of a particular event. In attempting to attribute a specific meaning to a contested past, the state enjoys a privileged position, having a special power in establishing and developing official memory.

Jelin (2003) underscores how official memories offer reference points for framing the memories of groups. Through them, the past is adjusted to present circumstances. Therefore, official representations rarely aim to simply give a factual account, but more often than not also embody the authors' position about these contested events. In this respect, Valérie Rosoux correctly claims that 'references to the past are rarely made *per se*' and that 'their importance derives from the intentions of the speaker'. (Rosoux, 2004:160) Given that the past is malleable, not an immutable narrative, it can therefore be chosen, with policy actors consciously deciding which particular historical episodes should be recalled, according to their objectives. (*Ibid.*)

Very often, official memory is the story of victors, but this does not prevent other stories, alternative readings of the past, from existing. These directly or indirectly challenge the homogenisation of memory which is often the ultimate goal of official narratives. As Jelin (2003:xviii) rightly maintains, at any given

moment and place, 'it is impossible to find *one* memory, or a single vision and interpretation of the past shared throughout society'.

Official memories are 'exclusive' (my term), in that they are unable to account for the myriad of experiences and stories relating to past human rights crimes. As a consequence, they are unacceptable to everybody and will accordingly be subject to contestation.

Counter-memories are those memories that 'challenge or rework official versions of memory'. (Saunders & Aghaie, 2005:21) Particularly in the context of traumatic events, their memory becomes the locus of conflict and competition among different narratives of that past, with opposing interpretations being suppressed, contested or subverted.

According to Rebecca Saunders and Kamran Aghaie (2005), counter-memories generally arise from informal, private or socially marginalised contexts, and normally coexist with, or overtly dispute hegemonic (official) perspectives. For Enzo Traverso, they are alternative narratives, at times hidden or prohibited, that emerge and counter any official memories that may exist. (Traverso, 2007) Counter-memories dispute the claims of official memories to providing the only all-encompassing narration, and endeavour to rework and dispute official versions.

The attempt by the state to establish official narratives of past violence, often through institutionalisation via investigatory and legal bodies of TJ, is problematic for several reasons.

Trauma is a very frequent concept within the literature on memory studies and TJ. The original meaning and connotation of the word trauma was physical, with τραύμα in ancient Greek signifying wound, invasive bodily injury. It has more recently acquired a psychological connotation. (Saunders & Aghaie, 2005)

There is normally no language to account for trauma. Fierke accurately claims that traumatic events are 'beyond representation', as traumatised people are unable to communicate and/or speak about such incidents to others. (Fierke, 2006:121) Trauma defies notions of time. Traumatic experiences are usually 'fixed or frozen in time', as they refuse to be represented as past, but are perpetually re-experienced 'in a painful, dissociated, traumatic present'. (Leys *in*: Edkins, 2003:43)

Edkins' idea of 'trauma time' is particularly interesting. Edkins (2003:229) defines it as 'the disruptive, back-to-front time that occurs when the smooth time of the imagined or symbolic story is interrupted by the real of "events"'. Edkins further elaborates that trauma and traumatic memory 'alter the linearity of historical, narrativised time, time which has beginnings and ends'. (Edkins, 2003:40) Traumatized people in fact live 'a sort of parallel existence', in the sense that they live in the 'realm of trauma and the realm of their current ordinary life'. (*Ibid.*) Traumatic events in fact defy normal conceptions of time and cannot be easily placed into narrativised accounts. Given this, communicating trauma is extremely difficult. For Edkins, people re-live traumatic events in their full horror and they cannot control the way in which trauma is recalled. (*Ibid.*41)

This may be why traumatic events are 'beyond memory' (my term). If memory implies recalling something from the past in the present, traumatic events can hardly be located within memory. The traumatic past is generally not recognised as such. Distressing occurrences are so devastating to be continuously re-lived in the present. Traumatic events thus pose an even greater challenge to memory than normal occurrences, since they cannot be easily placed within it. Furthermore, as Lazzara (2006) argues, post-traumatic memories provoke an ample assortment of

responses and narratives, from silence to the adoption of orderly and predictable tales.

It seems therefore almost counterproductive and a vain desire to hope to create official memories regarding past human rights crimes. 'Trauma is clearly disruptive of settled stories', Edkins asserts, as it cannot be located within prior schemes or frameworks. (Edkins, 2006:107) But still, after a traumatic event, the state usually moves in to close down any openings by putting in place as quickly as possible a 'linear narrative of origins'. (*Ibid.*) This is however often unsettling and resisted, as people might want to hold on to the 'openness that trauma produces'. (*Ibid.*108) Either they may either not want to forget or express 'the trauma in standard narratives that might include a form of forgetting'. (*Ibid.*) Edkins (2006) points to how trauma is 'something that unsettles authority', hence making settled stories impossible in the future.

In recent instances of TJ, investigatory and legal mechanisms, set up to look into past crimes like the Special Panels to try Serious Crimes of the Dili District Court and the Commission for Reception, Truth, and Reconciliation in East Timor, have been mandated to 'accumulate, synthesise, and interpret individual memories so as to offer society as a whole an official interpretation of its shared past'. (Lanegran, 2005:111) Similarly, in South Africa, the ANC government entrusted the TRC with the making of a specific account of apartheid horrors, in line with the objective of national reconciliation.

South Africa's TRC was groundbreaking, its model has been subsequently adopted in several countries including Nigeria and the Congo-DRC. (Nytagodien & Neal, 2004) To appreciate the kind of official memory that the TRC endorsed, the conditions leading to its establishment and its political goals need to be examined.

The TRC was a result of negotiations that ended apartheid in 1994. The vision for the TRC was that of a nation-building instrument to uncover details about the past regime. It was given various nation-building tasks, the principal one being to study the causes, nature and extent of gross violations of human rights occurred between 1 March 1960 and 10 May 1994. Its most controversial aspect was the granting of amnesty to people who made full disclosures of relevant facts relating to the crimes.

The TRC, divided into the Human Rights Violations Committee, the Reparations and Rehabilitation Committee, and the Amnesty Committee, held several hearings where thousands of citizens testified about past abuses. Proceedings received wide media coverage and brought ordinary, mostly black, experiences into the national public arena. (Wilson, 2001)

However, focusing on the political nature of past violations immediately restricted the scope of the investigation to acts linked to state rule, excluding actions without political motivations. Thus, routine abuses, legal under apartheid, were excluded. The commission's non-retributive nature allowed the state to install a process through which it could denounce past crimes, without breaching the negotiated settlement of the apartheid. This created a false distinction between 'the normative aspects of a racial authoritarian order and illegal forms of violent coercion, when in fact one implied the other'. (*Ibid.*217)

By concentrating its attention solely on excessive cases, and not the normal banal violent reality of apartheid, the TRC excluded from its investigation land dispossession, the pass laws, the policy of segregation, and the Bantu education policy. This overemphasis on quantifiable acts of violence prevented the consideration of levels of pervasive social and

symbolic violence that were embedded in everyday life, as opposed to its formalised state dimensions. This reduced the TRC's ability to articulate a clear break with the past. Additionally, the selection of witnesses favoured non-black Africans who were disproportionately represented to demonstrate how people of all racial groups had suffered, in line with the government's goal of reconciliation, but without recording apartheid's reality. (Chapman & Ball, 2001)

South Africa's post-apartheid memory was moulded primarily by political constraints and balances of power. The TRC was a compromise solution due to the fact those who had power were not going to give it up unless they had guarantees that they would not be prosecuted. (Rosoux, 2004) The Commission, a clear political settlement, was conceived as a bridge between past and future, healing the wounds of a deeply divided nation. Simply one of many components in creating the new South Africa, it institutionalised a great national narrative to reconcile a devastatingly fragmented society. The TRC confirmed that apartheid was a crime against humanity, incorporating into national history the view the system was based on a vicious ideology justifying economic and social privilege, with enormous and unjustifiable human costs.

The truth of the TRC was an institutionally produced truth, the outcome of a process of truth-seeking. The TRC's *raison d'être* was so narrowly defined and committed to reinforcing the new state that the boundaries of the political compromise turned into the analytical boundaries of the truth-seeking investigation. (Mamdani, 2000:177-178)

The TRC's commissioners did recognise the limitations of the truth that they produced, stating that the TRC's report is not and cannot be the whole story, but simply 'a perspective on the truth about a past that is more extensive and more complex than any one commission could [...] have hoped to capture'. (Lanegran, 2005:119)

This author argues that TJ bodies only create 'illusions of memory'. Official memories suffer from inherent limitations and are unlikely to be accepted and shared by all of society, given their selective and exclusive nature. Given this, what is the role of TJ mechanisms in memory construction?

Truth commissions and tribunals can profoundly affect the collective memory of traumatic events. Molly Andrews significantly suggests that truth commissions allow the people of a country to decide what shall be incorporated and what left out in the story that a nation tells itself about a traumatic past, mediating memories and intertwining a nation's post-traumatic identity. (Andrews, 2003) Their proceedings often come to frame the national experience. Thus, truth commissions are not just mere conduits for collective memory, but significantly influence 'which stories are told and how they are to be interpreted'. (*Ibid.*46) These bodies 'both produce and are produced by grand national narratives, and must be understood in the particular context(s) in which they emerge and the particular goals, either implicit or explicit, which guide their work'. (*Ibid.*)

Truth commissions elucidate the conflictual nature of collective memory, through the different voices and stories that are heard and recollected within them. Indeed, the struggle over memory within truth commissions is mainly 'interpretative': most facts are usually uncontested and, once revealed, what remains is 'the challenge of deciphering meaning' behind them. (*Ibid.*49)

This author believes that TJ mechanisms directly influence the memory they produce. As Tepperman (2002:140) pertinently suggests, the truth can be an elusive goal and historical narratives 'are partly constructed rather than merely discovered', and how 'power and interests affect the process'. In particular, truth

commissions 'have a bad habit of reflecting the prejudices and agendas of their framers'. (*Ibid.*) Kimberly Lanegran (2005:113-119) highlights, in this respect, numerous specific dangers we should keep in mind when examining TJ bodies, warning us from taking their reports and/or judgements as final and exhaustive.

Political factors are ever-present. Governments (and other actors) desire to control TJ initiatives, frequently wishing to keep investigations from outlining their own errors. Power balances and competing interests of relevant actors have to be considered, together with the endeavours to use interpretations of the past to achieve present political goals.

In the cases of East Timor, South Africa, Rwanda, Sierra Leone and Cambodia, truth-finding efforts were largely influenced by the political processes and dynamics on the ground. It is usually difficult for these mechanisms to be bias-free and several risks are associated with the official adjudication of memory. First, mandates, powers, structures, and budgets of TJ bodies are generally decided by deliberations by international and/or national actors, during which each agent attempts to further its own political objectives. Second, the manipulation of memory can be a powerful tool in the hands of influential actors, who regularly embark on and endorse such initiatives to further current goals, hoping to influence which features of a violent past are remembered and which forgotten. Third, if actors succeed in influencing the mandates, powers and eventual outcomes of TJ bodies, the memory that is consequently sanctioned is likely to be the one most favourable to them. Here, the past is sought to clearly serve present needs and goals, not for its own sake. Official memories necessarily remember and include some atrocities, while others are forgotten and excluded, in the interest of one or more groups. In selecting and constructing their narrative as the official

memory, TJ bodies indirectly (or purposely) favour one representation of the past over others. Their narratives should thus be seen as the outcome of political bargaining among the different actors who orchestrate the establishment of TJ mechanisms.

Given the influence of political variables, what is likely to be the nature of the official memory that results from TJ mechanisms?

The truth about the Rwandan genocide revealed by the ICTR, for instance, officially captures only a fraction of the sorrow and horror experienced. The Tribunal is at best likely to prosecute around 100 individuals, woefully inadequate, considering the thousands of victims and survivors. Due to political machinations and bargains that shaped the Tribunal's mandate, scope, and budget, a bias was injected into the 'official assessment of the genocide', affecting collective memory. (Lanegran, 2005:119) The genocide is portrayed as an internal tragedy, with no responsibility attributed to external actors: the resulting collective memory is consequently incomplete.

East Germany is another example that reveals how the country's truth commission backed a definite outlook on the Communist past, in line with the government's goals of national reconciliation and unification.

East Germany's **Enquete Kommission** was one of various mechanisms through which unified Germany confronted its communist past. It was created by the German Bundestag in March 1992 under the chairmanship of East German pastor Rainer Eppelmann to deliver a judgment on Communism and its methods. (Andrews, 2003; Müller, 2001)

Designed as a scholarly investigation into the history of the GDR, it drew upon academic opinion. There were 148 reports commissioned on ninety-five questions, and the

commission collected 759 academic papers on all aspects of the regime, publishing its findings in a fifteen volume compilation. Overall, the Kommission collected 15,378 pages of testimony and expertise, trying to produce a 'didactic public history', but could only present contending narratives and selective memories organised along party lines. (*In: Müller, 2001:268*) Establishing didactic public history created space for only some stories to be told about daily life in the GDR. Only 327 witnesses (out of a 16-million population) gave testimony and the Kommission often amounted to little more than a rehearsal of well-known positions.

The Kommission made a mindful endeavour to understand the history of the GDR as part of a common German history. Its report provided important historical documentation but did not really generate new information. It recommended that more research was required and the Bundestag established a second Enquete Kommission in May 1995, with an explicit agenda. This second Kommission was to consider the thousands of people who did not succumb to the criminality or immorality of the regime, individuals that complained and protested. Attention was paid to personalised accounts of life under communism, but again such interest was selective. The Kommission heard testimony from individuals, including teachers, journalists, students, who had to face significant obstacles in leading fulfilled lives under communism, and who had made substantial sacrifices to remain true to their convictions. These stories were useful in embracing the new national identity.

This second report highlighted the plight of the victims of Communism, at a time when memories of the horrors of the dictatorship were weakening in the face of "GDR nostalgia". (*Andrews, 2003:52*) The narratives endorsed have to be appreciated within the peculiar context of unification. The Kommission's ultimate goals were to help cement democratic consciousness and foster a common political culture for united Germany.

In selecting certain kinds of stories, the commission established a national memory and identity, part and parcel of the new Germany. Overall, it worked as a means of establishing

a shared history for newly united Germany but in doing so silenced the stories of the majority of East Germans, 'for whom state socialism was not the focus of resistance but merely a fact of daily life'. (*Ibid.*62)

To recap, politically selective remembering is risky. First, using public testimony to produce memory does recognise individual suffering, but it is the state that often determines who the victims are. Who is identified as a victim is a process shaped by the purpose of the official story to be told. For example, the mandate of the TRC that only investigated gross human rights violations in practice meant that not all the suffering produced under apartheid was regarded as such by the TRC's definition. Similar issues also emerged in Germany.

Second, the memory of traumatic events is hard to express, as it is often not encoded through verbal narratives, but rather through sensations and images. Memories become socially embedded through their employment in narrative, and when that does not occur, memories remain inaccessible and tend to be retrieved in fragments. Traumatic pasts are therefore difficult to be communicated and shared with others.

Third, the need to produce a stored collective memory as a defence against atrocities is problematic, given that memory is exclusionary. As we have seen, remembering also entails forgetting, it being 'a process of simultaneously constructing some subjectivities and doing violence to others'. (Taylor *in*: Humphrey, 2002:123) The homogenisation of disparate individual memories to create an official version limits access to other kinds of remembering, restricting them to private memory. As Brandon Hamber and Robin Wilson (2003) correctly point out, truth commissions usually aim to construct memory as a 'unified, static

and collective object, and not as a political practice or struggle over the representation of the past that will continue to be strongly contested after their existence'. (Hamber & Wilson, 2003:145) In doing so, truth commissions may fight against denial and public silence. However, this can concurrently establish a new regime of forgetting, which inhibits other memories and forms of psychological closure. (*Ibid.*)

The creation of a collective memory archive of the past is not in itself a sufficient protection against horrors. What is more crucial is ongoing moral engagement and dialogue. (Humphrey, 2002) Michael Ignatieff suggests that truth commissions can only provide a frame for public discourse and memory, facilitating new public spaces in which debate and discussion can unfold, defining the acceptable limits of argument over what happened, and reducing the range of permissible historical revisionism. (*in*: Hamber & Wilson, 2003:146) What in fact must be recognised and accepted is that the past is and will be subject to debate: memory is not static. There is the need to acknowledge that the past 'is a site of struggle', not a fixed object to which all members of the nation must identify. (Hamber & Wilson, 2003:165)

Fourth, the collective memory produced by trials is similarly limited by legal framing, the selective nature of prosecutions, and the translation of legal argument and judgment into accessible and compelling narrative for the public. For instance, the ICTR and ICTY's contributions to memory is likely to be of the form and substance that best serve the interests of the international elite according to Julie Mertus. Since legal institutions attempt to discover the truth, they are often incapable of hearing competing versions that may exist, generating at best an 'incomplete truth'. (Mertus, 2000:159)

Both truth commissions and trials are symbolic, given their necessarily selective methodology. The sheer scale and nature of mass atrocity effectively implies that neither all the perpetrators are prosecuted nor all the victims heard.

Political variables should, however, not undermine the positive contributions that bodies of TJ can make, in terms of bringing justice to some victims and punishment to perpetrators, as well as uncovering some of the truth about atrocities, and informing collective memory. They should nevertheless avoid presenting their findings as exhaustive and definitive. (Lanegran, 2005)

Truth commissions, and other TJ mechanisms, are channels for collective memory. The struggle for possessing and interpreting memory is rooted in and reflects social, political, and cultural conflicts within societies. Thus, truth commissions and trials are not only simple methods of remembrance and ways of developing shared memories. They can be extremely political projects, bridging between the traumatic past of a nation and its future. They clearly embody the dynamics of the making of collective memory, as well as its tensions and ambiguities. (Andrews, 2003)

Truth-telling and justice initiatives are accordingly best seen as 'only the first step towards coming to terms with a traumatic violent past'. (Aguilar-Fernández et al., 2001:35) They cannot provide definitive closure, whether in the form of a report, a judgement or an official memory. There are too many truths and too many memories associated with traumatic events for them to be captured and compressed into a single narrative. The past is and remains contested, regardless of the mechanisms developed and employed to address it.

Truth and memory are too elusive to be closed into a box, written and recorded into a single report or contained in a legal judgement. There are too many truths and too many memories of past crimes that the desire to harmonise them into a single memory appears to be both reductive and wrong.

Why is there a need to have an official memory? Might it be that some memories and some truths are too horrific and painful to defy both human understanding and the ability to accept them as part of our past? Are official memories just cover-ups for uncomfortable pasts?

This chapter contended that the memory of past human rights crimes is highly disputed within transitional societies. Struggles over memory are carried out by several social and political actors, and are closely interlinked to issues of power, legitimacy and recognition. The politics of memory is a helpful framework to understand many of the dynamics that occur during and after processes of transition. From the above discussion, it should be clear the desired path does not entail imposing one interpretation of the past or building a consensus among various actors. Rather, legitimate spaces for the expression and controversy about different memories should exist.

The framework (communities of memory, memory knots, and illusions of memory) is later applied to the cases of Argentina and Uruguay, to illuminate the struggles about memory which have spanned three decades.

Beforehand, chapter three provides a historical overview on the events of the twentieth century in Argentina and Uruguay, particularly the military dictatorship and associated human rights violence.

Twentieth Century History of Argentina and Uruguay

Until the mid-1950s Uruguay was an unusual polity in Latin America, perceived as one of the few real democracies in the region. Due to this, Uruguay was often labelled as the 'Switzerland of Latin America' and the 'Sweden of the South'. (González, 1991:3; Weinstein, 1988:23) This description is widely accepted in literature, with the country generally regarded as the 'Great Exception'. (Weschler, 1992:xviii)

In fact, Uruguay's experience during the twentieth century with liberal, pluralist and participatory democracy was distinctive and outstanding, and starkly contrasted with the turbulence and authoritarianism that characterised its neighbours. (Sondrol, 1992) However, the civic-military regime that took over in 1973 fundamentally undermined such a view. By the late 1970s, Uruguay had earned a new title as the Torture Chamber of Latin America, due to the brutality of human rights repression. (Pearce, 1980)

Similarly, Argentina was one of South America's most advanced and modern societies in the early twentieth century. Nevertheless, it acquired international notoriety in the 1970s for bearing witness to some of the highest levels of human rights violations in the region. (Brysk, 1994a) As Ernesto Sabato wrote, the *desaparecidos* (missing or disappeared) became 'a sad Argentine privilege', the Spanish word known throughout the world. (CONADEP, 2006:13)

The Argentine armed forces had a long history of interventionism in political life. However, as Patrice McSherry contends, the regime they installed in 1976 was

qualitatively different. The military assumed total control of the country, by using unprecedented levels of violence and terror. (McSherry, 1997a)

How did Argentina and Uruguay, countries that at first glance were generally prosperous, become vulnerable to violence first from guerrilla movements, and later from the armed forces?

This chapter reconstructs their history in the twentieth century, highlighting the reasons why they became engulfed in unprecedented levels of political confrontation and brutality. First, key events which provided a catalyst for the emergence of military rule are considered. Second, the essential features of the military regimes are outlined together with an account of the human rights repression. Finally, the transition to democracy is examined.

3.1 Argentina and Uruguay's Recent History, 1800s to the 1970s

Argentina and Uruguay could not be any more different, or any more similar. Uruguay, a flat and green land with rocky beaches and hills, is a small country of a few million people, sandwiched between Argentina and Brazil. Argentina is a continent in itself, with tropical, temperate and polar climates. Similarly, their political cultures are also diverse. Argentina has had a turbulent history of violence and polarisation, while Uruguayans are renowned for their politics of negotiation, with pacts between political parties being a constant feature of its history. (Weinstein, 1988)

Despite this, both countries shared a similar trajectory in the twentieth century. Starting from the mid-1950s, against the backdrop of the Cold War, a combination

of economic crisis, social conflicts, weak political systems, and extreme right and left-wing violence resulted in the establishment of military regimes in the 1970s.

Argentina's recent history has several phases. The early years of independence, 1810 to 1860, were characterised by recurrent civil wars between Buenos Aires and the interior, prominent popular leaders (*caudillos*) and largely unsuccessful endeavours to establish a constitution, which was finally achieved in 1853.

Buenos Aires' victory over the provinces prompted a period of political calm with limited democracy between 1860 and 1930. After the 1880s, a dramatic increase in immigration from Europe coupled with economic progress profoundly transformed society. Before 1900, Argentina's income per capita equalled Germany's, and was higher than most Western countries. Between 1800 and 1913, Argentina was indeed one of the fastest growing economies in the world. Economic growth continued even during the Depression and the Second World War (WWII), declining only from the late 1940s. (Marchak & Marchak, 1999) At the beginning of the twentieth century, Argentina was the seventh largest economic power in the world, and constitutional rule prevailed. Significant reforms were then undertaken, including free mandatory education, and the 1912 electoral law that introduced the secret ballot and universal male suffrage.

Nevertheless, authoritarian tendencies were already apparent. Participatory democracy was limited, with a third of the population unable to vote. Repressive measures were also employed, as for instance during the January 1919 Tragic Week when over 100 workers were killed by the army in a mass uprising in Buenos Aires. Similarly, the 1921-22 Patagonian Rebellion in which soldiers killed 1500 workers who had revolted against British and Argentine sheep ranchers

exemplify the increasing use of violence. (Nino, 1996) From 1930, increasing military involvement in political life began, together with rising social, economic and political instability.

The armed forces entered the political arena in September 1930, overthrowing President Yrigoyen. Thereafter, they became a central actor. Politics then were an alternation of authoritarian rule and democratic administrations, with constitutional governments often mere transitional spells between military regimes.

Military intervention took different forms and lengths. (Norden, 1996) In 1930, General Uriburu installed a fascist-type corporatist regime that was modelled on Mussolini's Italy. Trade unions were dissolved and a state of siege imposed; socialist and radical party leaders were arrested. Less than two years later, a civilian president returned to power, but this first intervention hallmarked a persistent trend.

The coup in 1943 ended the infamous decade of conservative rule, and opened the way for Juan-Domingo Perón's election as President in 1946. (Nino, 1996) For twelve years, Perón profoundly marked society and politics, forging a new political doctrine, Peronism (*Justicialismo*), and becoming a key figure, able to influence internal politics even from exile. (Romero, 2007) Inspired by his time in Italy, Perón established a 'populist dictatorship with democratic trappings'. (Nino, 1996:42) He was strongly supported by organised labour, but never by the Church or the Military which eventually overthrew him in 1955. (Marchak & Marchak, 1999)

Perón centralised government, concentrating power in the Executive and initiating a new style of political participation through social mobilisation. He paid particular attention to the workers' movement that had largely been ignored until then. In particular, Perón improved the living standards for the poorest, institutionalising a welfare state, and extended voting rights to women. Simultaneously, however, Perón created a police state. Political opponents were persecuted, killed, and tortured. Corruption was unchecked and the judicial system dismantled. (Romero, 2007) For decades, the military would unsuccessfully endeavour to eliminate Perón's influence from politics. (Norden, 1996)

The civilian-military rebellion, which ended Perón's government in September 1955, triggered a new period of instability. Between 1955 and 1983, politics were dominated by repeated cycles of civilian and military governments, each differing from the previous only by increased violence. (Cavarozzi, 1986) In 1962, the military overthrew the constitutionally-elected government of Frondizi. During these military interregnums (1955-58 and 1962-3), the armed forces did not intend to replace democracy. They in fact allowed the constitutional process to resume after a while, but they wished to eradicate Peronism, which was viewed as intrinsically opposed to democratic values and institutions. (López, 1994)

From the late 1950s, the military gradually changed its style of intervention, adopting a tutelary role, restricting democratic practices and principles, and deposing of constitutional authorities if demands were unmet. (Cavarozzi, 1986) The armed forces then adhered to the national security doctrine that endowed them with the exclusive responsibility to interpret the nation's interests and guarantee its values, acting to defend them whenever threatened. (Romero, 2007)

The doctrine spread throughout Latin America and, although interpreted differently, it essentially combined a cataclysmic vision of a global East-West struggle in which the armed forces were the bulwarks against Communism. It rested on a theory of counterrevolution and counterinsurgency and its key hypothesis of conflict emphasised internal enemies, especially Communism. Throughout the region, the doctrine provided the ideological foundation and rationale for the military regimes of the 1970s. (McSherry, 1997a)

By 1965, relations between the government and the military deteriorated anew. Military intervention occurred as a consequence of President Illia permitting Peronist participation in congressional elections. The June 1966 coup qualitatively differed from previous one. In contrast to retaining power for only a limited period of time, on this occasion the regime initially led by General Onganía, and later on by Levington and finally by Lanusse, lasted until 1973, effectively suspending politics in practice. (Corradi, 1982) The armed forces remained in power for a long period in order to achieve the political and socio-economic changes required for a stable democracy. (López, 1994)

During the so-called *Argentine Revolution*, the military governed through strong reliance on technocrats. This type of regime has been famously labelled by Guillermo O'Donnell as "bureaucratic authoritarianism". (*in*: Roehrig, 2009:726) Congress and political parties were dissolved, certain mobilised social sectors were excluded from politics and opponents were detained under a state of siege. The suppression of communism affected all sectors, especially the University, and censorship was widespread. (Romero, 2007)

While deaths and human rights violations had until then been rare and isolated episodes, from the mid-1960s Argentina spiralled into an era of political violence. Several factors foretold of the impending brutality.

First, various guerrilla groups, whose origins date back to 1959, consolidated and became increasingly violent. From 1970, kidnappings, assassinations, bank robberies and raids on military posts became commonplace. The most noted guerrilla groups were the *Ejercito Revolucionario del Pueblo* (The People's Revolutionary Army, ERP), formed in the late 1960s, which was anti-Peronist and originally Trotskyite, but later turned to Guevarism. Second, the *Montoneros* were the militant arm of the Catholic Peronist Youth that in May 1970 kidnapped and murdered General Aramburu. Adopting a cellular and militaristic structure, both organisations, largely composed of idealistic and middle-class students, carried out kidnappings and assassinations of trade union and business leaders, typically to gain funds. These organisations sought to remove the military government and establish a socialist society. (Marchak & Marchak, 1999)

Second, authoritarian governments progressively then resorted to brutality. For example, the May 1969 *Cordobazo*, a general strike by students, the urban poor and workers that took control of Cordoba, was violently repressed by the military. Similarly, the Trelew Massacre in August 1972, in which several imprisoned guerrilla leaders attempted escape and those recaptured were murdered by military guards. Moreover, the economic climate gradually deteriorated. Public debt rose to more than USD 4 billion and domestic capital worth USD 8 billion left the country; inflation sky-rocketed. (W. Davis, 1995)

An explosive mix of economic crisis, institutional instability and widespread political hostility thus existed. Facing progressive internal opposition and a

situation of violence, the military decided to hand over power and elections were held in March 1973, with Peronists allowed to run. Peronist candidate Cámpora won, paving the way for Perón's return after eighteen years in exile. Perón himself became President in October 1973, following Cámpora's resignation.

Perón adopted austerity policies that, combined with extremely high inflation, caused widespread strikes and demonstrations by workers and activists, as well as clashes with the police. (Roniger & Sznajder, 1999) His government was short-lived. Perón died in July 1974 and his third wife Isabel, the Vice-President, inherited the presidency.

Right and left-wing terrorism had by then created an unstable and violent environment. The *Alianza Anti-Comunista Argentina* (Argentine Anti-Communist Alliance, AAA), a right-wing death squad allegedly created by Welfare Minister López-Rega, murdered leftist guerrillas, priests, intellectuals, lawyers and politicians. In response, the *Montoneros*, numbering 5,000 in 1975, stepped up activities, targeting members of the security forces. (Nino, 1996)

Perón's administration fought violence with violence. In August 1974, the army joined the police's crackdown on the guerrillas and in November, a state of siege was imposed. Between February and May 1975, the military carried out anti-subversive operations against the ERP in Tucumán, while in June they were authorised to fight subversion nationally. Consequently, threats from the guerrillas substantially diminished. Nonetheless, the army pressed for Perón's resignation and by early 1976, with a deteriorating economy, political deadlock, continued violence and corruption, the armed forces took control of the government amid 'immense relief and high expectations' from the majority of the population.

(Romero, 2007:214) The darkest period in Argentine history had begun. (Nino, 1996)

Similarly to Argentina, Uruguay spent the first decades of independence since 1828 in turmoil. Until 1903, politics remained chaotic, with several governments ousted or liquidated by assassination. (Weinstein, 1988)

An important and enduring feature of Uruguayan political life developed early on. Its famous two-party system in fact dates back to the 1836 Battle of Carpintería, when warring factions differentiated themselves by wearing coloured hatbands, white for the Blancos and red for the Colorados. Another key feature was established, namely co-participation, a peaceful power-sharing system seen as fundamental for the containment of political conflict. It ensured the presence of the opposition party in government, and therefore legitimated the notion that traditional parties have the right to share power. (Arteaga, 2000; Weinstein, 1988)

Civil war between the Colorados and the Blancos, representing respectively commercial urban sectors and rural interests, exploded for the last time in 1903. The Colorado's victory ended violence that had spanned six decades. During the presidencies of José Batlle-y-Ordóñez (1903-1907, 1911-1915), the Executive was reinforced and the double simultaneous ballot law enacted. (Weinstein, 1988) According to that legislation, the winning presidential candidate is not simply whoever has the majority of votes, but the candidate with most votes from the party that gains most votes at elections.

A welfare state, with progressive legislation, was set up. In 1915, working days were limited to eight hours a day, while in 1918 night shifts were prohibited in bakeries. Provisions were introduced to enhance the welfare of workers. Social

insurance covering accidents also existed, as well as minimum wages, child care, unemployment benefits and paid holidays. (Heinz & Frühling, 1999)

For Batlle-y-Ordóñez, the state had to intervene in social and political problems, mediating between capital and labour, and bring about social justice. Important changes also occurred in state-economy relations, industrialisation, fiscal and agricultural policies, and social and labour legislation. The latter in particular improved the living conditions of society's poorest sectors, through the introduction of health provisions, and secondary and university education. (Arteaga, 2000; Caetano & Rilla, 1994) The party political system was strengthened and democratic life reinforced by the political consciousness which had developed among citizens after the adoption of secret universal male suffrage in 1916.

The 1920s Golden Decade of 'triumphant democracy' saw the adoption of the 1919 constitution, which separated the state and church, opened the possibility of political rights for women, and set up a two-headed Executive, composed of the President and a National Administration Council. (Caetano & Rilla, 1994:128) After 1929, the Great Depression affected Uruguay, notably sparking a decline in export earnings. In 1930, Colorado leader Terra was elected at a time when the economic crisis exposed Uruguay's economy structural problems, amongst them rising unemployment. (Caetano & Rilla, 1994; Weinstein, 1988) In March 1933, the first breakdown of constitutional rule since the 1903-1904 civil war occurred in a situation of institutional crisis. In a pattern later to be repeated, a democratically-elected President closed Parliament, and declared emergency rule. During Terra's *dictablanda* (soft dictatorship), March 1933 to 1934, the democratic system was temporarily suspended but the armed forces only played a secondary role.

(Caetano & Rilla, 1994) Between March 1933 and 1935, approximately 700 people were detained and there were several cases of torture, but a 1937 parliamentary commission nevertheless concluded that no ill-treatment had occurred. (Heinz & Frühling, 1999)

In 1934 Terra's new constitution replaced the National Administration Council with a Senate, whose members came exclusively from the dominant factions of the traditional parties. (Arteaga, 2000) The so-called good coup, February 1942 to March 1943, by Colorado leader Baldomir was also short and without military participation. It was informed by total respect for human rights, no closure of the press or prosecution of opposition politicians. Again, a new constitution was enacted, through which all political groups returned to government. (Weinstein, 1988)

At the end of World War II, a new reformist phase, *neobatllismo*, saw economic prosperity, euphoria for the end of the war, a stronger state, rising GDP, and the development of urban society. (Caetano & Rilla, 1994) The 1945-1955 'glorious decade' saw the economy rise by 8% a year. (*Ibid.*174) Economic prosperity produced a renewed consolidation of the welfare state which participated directly in the economy and industrial production, monopolised public services, and developed advanced social policies. Uruguay was then a prosperous and middle-class country, whose citizens enjoyed high levels of social services and welfare protection. This golden era however proved fragile.

In a context of rising trade union conflicts, the Prompt Security Measures (MPS), emergency powers within the Constitution, were used for the first time in 1952, as a response to strikes by workers from the public health, transport, and textile sectors. Initially, the economic crisis was eclipsed by remarkable political events,

namely the Blanco's electoral victory, their first triumph at the ballot box for ninety-three years. In reacting to the growing crisis, the government firstly adopted liberal economic policies in coordination with the IMF. However, a new constitution in 1966 marked the return to the presidential system, which had been replaced in 1952 by a nine-member collegiate executive. (Heinz & Frühling, 1999) Nonetheless, these measures were ineffectual. From the mid-1950s, Uruguay plunged into a spiral of economic crisis and decline, inflamed by social and political tensions, ideological divisions, the erosion of civil liberties and rising violence from the guerrillas. Since the mid-1960s, political life became vicious. Torture was not new, long practiced against criminals and lower classes. (Demasi, 1999) Nevertheless, it began to be employed by the police as a counterinsurgency technique against revolutionary organisations. (Corti, 2003)

Sustained economic stagnation, combined with the country's vast social welfare system, produced high inflation, and incrementally economic pressure destroyed the country's political balance, polarising class conflict and reinforcing economic decline and political problems. (Weinstein, 1975) Additionally, an urban guerrilla group, the *Movimiento de Liberación Nacional-Tupamaros* (National Liberation Movement-Tupamaros, hereafter the *Tupamaros*) escalated operations. In the 1960s and 70s, other minor groups had emerged, including the Popular Revolutionary Organisation 33 and the Oriental Revolutionary Armed Forces. However, neither of them had the same impact as the *Tupamaros*. (Lessa, 2002)

Originally the armed wing of the Socialist Party and founded around 1963, the *Tupamaros* eventually became Latin America's most successful urban guerrilla, garnering widespread support and sympathy. They believed that an independent and integrated national community could only be achieved through socialism. As

political and economic elites would not relinquish power peacefully, armed revolution was therefore necessary, and violence was an essential revolutionary tactic. (E. Kaufman, 1978) The movement's slogan during its most triumphant period was 'there will be a fatherland for all or a fatherland for none'. (Weinstein, 1988:39)

In 1968, dictatorial features were already being displayed. The economic, social and political crisis unfolded against the background of a long period of deterioration. (Caetano & Rilla, 1987) The authoritarian Colorado governments of Areco (1966-71) and Bordaberry (1971-73) increasingly adopted repressive policies, leading to growing military intervention in political life. Areco instituted a limited state of siege in 1968 and 1969, and invoked the MPS to repress strikes, allow the implementation of a ruthless programme of economic stabilisation and a policy to counter the guerrillas. These actions restricted the right to hold meetings, freedom of speech, the right to due process, habeas corpus, and increased police powers. (Brito, 1997) A freeze on prices and wages was declared and the military was charged with anti-guerrilla operations in 1971. (Broquetas & Wschebor, 2003) At this time, social conflicts polarised further and government's repression of the opposition deepened. Leftist parties and political organisations were declared illegal, opposition newspapers closed, and public and private officials militarised. Trade unions and even student movements witnessed assassinations, kidnappings, disappearances and torture. (Caetano & Rilla, 1994)

A state of internal war against the *Tupamaros* was declared in April 1972 by President Bordaberry. Later on, State Security Law 14.068 granted jurisdiction over civilians to military courts, limited public assembly rights, introduced repressive press legislation, and established martial law, effectively suspending

constitutional guarantees. (Martínez, 2007) Before the coup, individual liberties had already irremediably been undermined, with torture by then an accepted police practice. (Weinstein, 1988) Bordaberry continued the policies of his predecessor, and proposed legislation to abolish university autonomy, as well as increasing military and police powers. Nonetheless, the armed forces became irritated by civilian government and set about its downfall. The military takeover occurred in slow motion, as the Armed Forces had progressively been involved in politics since 1964.

February 1973 marked a key moment of political rupture, as civilian power succumbed to the might of the military. The Boisso-Lanza Pact, signed by Bordaberry, accepted policy supervision by the newly-created National Security Council and effectively incorporated the Armed Forces into government, sealing their hegemony. (Brito, 1997; Caetano & Rilla, 1994) The Pact occurred after the army and the air force rebelled against President Bordaberry's selection of Antonio Francese as minister of defence.

On 27 June 1973, a military-backed presidential coup took place. Bordaberry dissolved both legislative Chambers. As in previous cases, it was again a civilian President who executed the coup. The most totalitarian military regime of the Southern Cone had been launched.

3.2 Military Rule and Human Rights Repression

Political violence in Argentina and Uruguay cannot simply be explained by reference to internal causes and dynamics. The regional and global contexts were essential ingredients. (Arteaga, 2000) In fact, local events unfolded within the context of the Cold War and the spread of urban and/or rural guerrillas in Latin

America in the 1960s, influenced by the experience of the 1959 Cuban Revolution. The national security doctrine was at this point adopted throughout the region, informing the ideology and behaviour of the armed forces. Several other factors are also relevant, namely the dominant role of the US, the formation of Communist inspired popular fronts, and high levels of military involvement in internal problems.

The Argentine and Uruguayan military regimes of the 1970s went through roughly three phases. (Acuña & Smulovitz, 1996a; Caetano, 2008) In the early years, the fundamental objective was the subordination of society to state control, often achieved through an iron grip and the repression of all opposition. Second, the armed forces attempted to set the basis of new institutional orders, a model of a strong democracy. Finally, in a context of crisis and retreat, the Argentina Junta could only pursue limited objectives, while the Uruguayan military managed to negotiate agreements with moderate politicians to guarantee its return to the barracks.

The 1976 takeover saw the Argentine armed forces rule as an institution. They aimed to radically transform state and society, according to a messianic vision of national security. (McSherry, 1997a) The removal of Perón's weak government initially appeared similar to previous interruptions of political life to which Argentina was accustomed. (Aguila, 2006) However, it soon became clear that the regime was fundamentally different from past exercises of military rule.

The military openly aspired to transform the state, economy and society, and employed systematic violence and terror to do so. The new dictatorship, called the *Argentine Process of National Reorganisation* (the *Proceso* as normally shortened

to), combined reactionary defensiveness, sweeping totalitarian aspirations, and high levels of personal corruption. (Brysk, 1994a) Juan Corradi suggests that the regime had resolved to become 'more impersonal, autonomous, permanent, repressive' than anything before. (Corradi, 1982:65) As in Uruguay, the *Proceso* is not identified with a single individual. Rather, there was an explicit attempt to institutionally represent the armed forces, illustrated by the six Presidents and four juntas in power during this period.

Military rule in Uruguay similarly wished to demobilise and depoliticise the political environment. Military officers and civilian technocrats adopted a military approach to politics, emphasising hierarchy, authority, and discipline. They ruled the country without a *caudillo*, the generals remaining a faceless junta. (Sondrol, 1997) The dictatorship most closely resembled a totalitarian regime, as the country's small size and population enabled infiltration into public and private life.

The armed forces saw themselves as playing an active role in the country's economic and political affairs. In their view, sovereignty no longer resided with the people, but derived from the requirements of state survival. (Weinstein, 1988) The early years were characterised by chronic uncertainty, disagreements and improvisation as officers had little practical and intellectual preparation for government. The armed forces had been largely marginal in political life as Uruguay had experienced (almost) uninterrupted civilian rule until then. (Gillespie, 1991)

The two regimes shared several common elements. Censorship ruled. In Argentina, the regime assumed control of public radio, television and the press.

Editors and reporters were arrested and imprisoned, even disappeared, while several journals and newspapers were closed down. Correspondents of foreign radio and press agencies were expelled, and books and magazines burned. The few remaining newspapers had their content controlled. Additionally, songs and music, that were considered too political, were banned. In Uruguay, between 1967 and 1984, eighty-six newspapers, radio and television stations were subject to varying degrees of restrictions. Journalists were regularly persecuted and many arrested. By the early 1980s, only three morning papers and two evening papers remained.

The military paid particular attention to education. Universities were especially perceived as the stronghold of subversive ideologies. In Argentina, teachers and students were persecuted and disappeared, and all political activities eradicated from campuses. (Aguila, 2006) The military strived to reshape the educational system and the cultural foundations of society, imposing Western Christian values. A course called *Moral and Civic Formation* was instituted in all public schools, to instil values and warn schoolchildren of the dangers of subversion. Likewise, in Uruguay, intellectuals were persecuted, and education controlled. University were seized in October 1973, with members of staff dismissed or imprisoned. Education came under military supervision. Thousands of secondary and primary school teachers were removed from their posts. Educational content was controlled through the censoring of textbooks, and a rigid syllabus was imposed. A compulsory course entitled *Moral and Civic Education* was introduced, to encourage patriotism and traditional values.

Political and trade union activities were prohibited in Argentina, with citizens losing basic political rights. In Uruguay, political life was put on hold. The right of assembly for political purposes was limited, and all left wing parties and two student federations were banned in 1973. Political elections were suspended and anyone who had stood for a political post in the past was proscribed from political activity for fifteen years, so depriving about 10,000 former politicians of political rights. The country's biggest trade union, the National Confederation of Workers (CNT), was declared illegal in July 1973.

In Argentina and Uruguay, the remedy of *habeas corpus* was ineffective, suspended in practice. (AI, 1983b) Thousands of petitions presented by families and relatives of the disappeared on a daily basis in Argentina were unsuccessful. The standard reply was that the person had not been found in detention. One of the few cases resulting in the release of missing persons was that of Jacobo Timerman, the director of daily *La Opinión*, but only after strong international pressure. (IACHR, 1980) Supreme Court justices and other judges were replaced with trusted individuals. (Helmke, 2005) Civilians were subjected to military jurisdiction and detention at the disposition of the Executive.

In both countries, economic policy became pre-eminent. Argentine Economy Minister Martínez-de-Hoz launched an unparalleled free market crusade to eliminate inflation and set free the economy. Austerity plans resulted in de-industrialisation, sharp decreases in workers' salaries, and the accumulation of external debt totalling over USD 45 billion by 1983. (Nino, 1996) In Uruguay, economic performance also became the regime's ultimate claim to legitimacy and

justification for its harsh rule. Economic growth was identified as a surrogate for the authority that the regime lacked. Economy minister, Harvard-educated Vegh-Villegas, wished to dismantle the economy's protectionist structure, cut the budget, reduce employment, and reintegrate Uruguay into the world economy. (Caetano & Rilla, 1987; Gillespie, 1991)

Human rights repression was largely inspired and influenced by the national security doctrine, but also by French and Brazilian counterinsurgency techniques. Human rights violations had common elements. First, the state was 'Janus-faced' (my term). An invisible and clandestine terrorist structure tasked with repression co-existed with a government that was subject to norms and legal scrutiny. In this dual system, the visible state, a façade of legality, masked the invisible, characterised by expediency, arbitrariness, and military security overriding all laws. (Romero, 2007:233) Second, cultures of fear and inxile dominated. Lastly, cross-border repression -particularly strong between Argentina and Uruguay, however extended to Brazil, Chile and Paraguay. The framework of *Operación Cóndor* (Plan Condor) effectively established a borderless area of terror.

'If need be, as many people as necessary will die
in Argentina to achieve the country's security.'

General Videla - 1976

'First we will eliminate subversives, then their accomplices,
then their sympathisers and finally the indifferent and the undecided.'

General Saint-Jean - 1977

In: (Dussel et al., 2003:55)

In Argentina and Uruguay, human rights violations predated the coup. As Francisco Panizza rightly emphasises, 'these did not start with the military regimes'. (Panizza, 1993:210) In considering Latin American military regimes, Panizza stresses how 'it would be consoling to think of the atrocities of authoritarian regimes as an aberration by a group of fanatical men in uniform brainwashed by the national security doctrine and trained in counterinsurgency'. Rather, impunity 'is inbred in societies in which the principle of equality before the law has never been honoured in practice', and where the judiciary 'has historically been subordinated to the Executive'. (*Ibid.*)

Soon after the takeovers, policies of terror were implemented systematically to intimidate and demobilise society. (Brysk, 1994a; Demasi, 1999) In Argentina, state terror was applied as a political means to further economic and social projects, ensuring that no collective resistance was possible. Subordination was produced through the institution of a permanent state of terror and emergency, a culture of fear, to bring about support or at least passivity. (Corradi, 1982) Luis-Alberto Romero (2007) suggests that the regime's policies of fear and terror served a dual purpose. Indeed, direct victims of the repression also worked as a constant reminder to wider society of the potential and deadly consequences that non compliance could bring.

The suppression of terrorism was a top priority: in both countries the category of subversive was broad and blurry. For General Videla, a terrorist was not only someone with a gun or bomb, but also anyone who disseminated ideas incompatible with Western Christian civilisation. (Dussel et al., 2003) In Argentina, subversion was perceived as a highly contagious social disease. Subversives were seen as unsalvageable and as long as they were alive, they would continue to infect

others. Accordingly, the neutralisation of the enemy was not enough, only physical elimination would do. (Acuña & Smulovitz, 1995; Hodges, 1991) This approach reflected the national security doctrine and its organic conception of the nation. The elimination of the enemy was justified since no organs or cells should be allowed to deviate from the basic parameters of national values and traditions. National well-being had primacy over individual rights and needs that were to be subordinated to national aims when necessary. (Roniger & Sznajder, 1999)

This strategy of physical elimination of subversive had already been decided upon by high-ranking Argentine military officers between August and September 1975. It was considered the only solution, particularly after President Cámpora's 1973 extensive amnesty that had freed the guerrillas and allowed them to reorganise. To the military, this had demonstrated how only permanent physical eradication would terminate guerrilla activities. (Heinz & Frühling, 1999; Norden, 1996)

Though in both countries the guerrilla movements were specifically targeted, Peter King rightly suggests that repression in Argentina had an element of randomness that was absent in Uruguay. (King, 1989) Violence in Argentina touched almost all the sectors of society, especially the middle-classes, while in Uruguay it was plainly directed at political opposition.

'Uruguay does not torture, humiliate,
or ill-treat even the most dreadful of criminals.'

Uruguayan regime propaganda - 1976

In: (Caetano & Rilla, 1987:56)

Repression in Uruguay was characterised instead by totalitarian control over the population, ensured by the widespread use of mass, prolonged imprisonment

and systematic torture. Between 1970 and 1978, this led to an increase in police and military personnel from 42,000 to 64,000.

The country's small size and population permitted levels of surveillance and control reaching the upper limits of the authoritarian ideal type. A unique feature of the regime was the A,B,C classification of political reliability. Every adult was in fact investigated and given a letter of designation of democratic faith. [A] citizens were politically trustworthy and could be employed by the state. [B] were deemed ideological suspect, and of questionable loyalty, i.e. to be watched carefully. They could only be employed privately and their travel privileges were severely limited; they also faced continuous harassment by the security services. [C] were pariahs, deprived of their rights and the possibility of employment; they were not even issued passports. At any one time, anyone could suddenly find himself/herself reclassified as C. (Gillespie, 1991:50)

The regime created an oppressive atmosphere to paralyse society, and instil passivity and compliant behaviour amongst the public. (Perelli, 1992b) Paul Sondrol describes how the regime installed a 'culture of fear characterised by *inxile*: a sullen wariness, self-censorship and longing to maintain anonymity against the brooding omnipresence of the state'. (Sondrol 1992:194)

Previously active lower middle and working classes were demobilised and terrorised into avoiding politics. Around 500,000 Uruguayans, of a population of less than three million, fled into exile. Uruguay lost approximately 20% of its economically active population between 1968 and 1979 which was an enormous social cost. (Weinstein, 1988)

Repression followed clear political lines: in fact, 62% of those detained were active militants, 18% were political leaders and 9% trade unionists. There were

two major waves of detentions: the first, between 1972 and 1974, primarily targeted the *Tupamaros*. The second, between 1975 and 1977, was directed at the Communist Party and the trade unions. Overall, more than 60,000 people were arrested and detained. (Weinstein, 1988) Sondrol suggests that between 1973 and 1977, 'more than 1 in every 30 adults, were detained, interrogated or imprisoned, giving Uruguay the highest percentage of political detainees per capita in the world'. (Sondrol, 1992:196)

Repression in Argentina and Uruguay had comparable features and types of crimes, including systematic disappearances, extensive and methodical use of physical and psychological torture, extremely inhumane conditions of detention, and extrajudicial executions. Nonetheless, each country had a distinguishing method for which it became renowned.

Repression was most intense in Argentina between 1976 and 1979. It peaked again between 1980 and 1981, but disappearances were reported as late as 1983. Repression was implemented under orders from highest military authorities, and coordinated through the military hierarchy. Operations followed a territorial scheme and were carried out by task forces (*grupos de tareas*), composed of members of the armed and security forces. These had a permanent membership but officers also rotated to strengthen the blood pact. Though centrally coordinated and planned, repression was decentralised as every service, zone, even task force had considerable scope in deciding whom to detain, release, torture or execute, and how to dispose of their property.

The distinguishing mechanism of state terrorism in Argentina was the policy of disappearances. Thousands of people fell under this distressing category. *Desaparecidos* are persons apprehended at home, work or on public thoroughfares, by armed men in operations and conditions indicating that they were state agents. After abduction, seized persons disappeared: nothing was ever known of them. (IACHR, 1980) According to statistics, 30.2% of the disappeared were blue-collar workers, 17.9% white-collar workers, and 21% students; 30% were women (10% of which pregnant) while 70% men. (CONADEP, 2006) They were mostly men and women but children were also kidnapped with parents. The latter were sometimes released and delivered to relatives, abandoned in the street or remained as disappeared. A new crime also existed. Detained pregnant women were kept alive until they gave birth. Afterwards, they were killed and newborns were illegally adopted by military members, their friends or given to Church-related organisations. (Brysk, 1994b)

Romero (2007:215-220) suggests that the Argentine repression was a 'true genocide'. The initial estimate of 9,000 disappeared has been updated to approximately 14,000. However, HROs claim the figure is around 30,000. Notwithstanding exact numbers, the repression clearly embodied the state's resolve to exterminate all opponents through secret and clandestine methods. (Crenzel, 2008a, 2008b) David Pion-Berlin and George Lopez significantly point out how there were no clear ethnic, religious or racial patterns to the atrocities committed in Argentina. Rather, most victims 'had never engaged in any political activity, let alone activity of a clandestine, violent or radical nature'. (Pion-Berlin & Lopez, 1991:64)

Compared to the rest of the region, Uruguay's list of disappeared and dead is relatively short. In fact, there was no specific policy of disappearances like in Argentina. This mechanism was mainly used to cover up the death of prisoners, often during torture sessions. (Heinz & Frühling, 1999)

Several explanations have been suggested as to why this was the case. Pion-Berlin contends that the lower number of deaths was 'part of a strategy to prolong the suffering of detainees in order to facilitate the extraction of information'. (Pion-Berlin, 1993:110) These repeated cycles of torture and recuperation were employed to break 'the will of prisoners [...] to acquire information'. (*Ibid.*) One of my interviewees, lawyer Graciela Romero of the Peace and Justice Service, contended that a policy of massive disappearances could not have been sustainable in Uruguay, 'a small country, where everyone knows each other' (interview, 7/09/2007). Additionally, Romero points to the fact that 'Uruguay has a long and solid culture of respecting life'. So Romero continued, 'rather than wiping you off the face of the earth, they wanted to break you, to destroy your spirit through the use of torture, to annihilate you morally' (interview).

Another element that this author sees as relevant is the fact, as Lawrence Weschler contends, that Uruguay did not have any 'military to speak of, rather the one they had 'bore no resemblance whatsoever to that of any of its Latin neighbours'. (Weschler, 1992:xviii) The military's lack of experience of holding power may have played a role in its choice of repressive mechanisms.

Interestingly, Luiz González points out how 'the majority of political kidnapping that involved the military and whose victims remained "desaparecidos" occurred between 1975 and 1978'. (González, 1991:53) González further suggests that, during those years, the Uruguayan regime entered a second phase in which

political repression increased, 'probably in order to clear the way for the future regime' that the military was planning to establish. (*Ibid.*)

Finally, the *Nunca Más* report suggests that disappearances were 'used with increased frequency over time', becoming a preferred method between September 1981 and January 1982. (SERPAJ, 1992:216) The report further distinguishes between disappearances of Uruguayans which occurred in Argentina and those in Uruguay. Of the latter, the investigation claims that 'it is generally assumed that prisoners died as victims of abuse', with the authorities not wanting these cases to become public knowledge. (*Ibid.*:217)

The exact number of the disappeared remains unknown. The Peace Commission of 2003 claimed that twenty-six Uruguayans disappeared in Uruguay, 182 in Argentina, eight in Chile, two in Paraguay. (TomolV, 2007) On the other hand, more recent research suggested that 167 adults disappeared, thirty-two in Uruguay, 125 in Argentina, eight in Chile, one in Colombia and one in Bolivia, while three minors, kidnapped in Argentina, continue to be classed as disappeared. In addition, there were twenty-six people executed extra-judicially. (Rico, 2008)

Notwithstanding precise numbers, what is well-known is that most Uruguayans in fact disappeared in neighbouring Argentina between 1976 and 1978, courtesy of Operation Condor and the actions of Uruguayan officials in *Automotores Orletti* detention centre. Clear evidence of cooperation between the Argentine and Uruguayan militaries is the fact that 'only 5 had disappeared before the coup [in Argentina]' while the vast majority was arrested when both countries were 'under military rule, a situation favouring joint operations'. (SERPAJ, 1992:224) Exiled members of the *Partido por la Victoria del Pueblo* (Party for the Victory of the People, PVP) and the *Grupos de Acción Unificadora* (Unifying Action Groups) were

targeted in Buenos Aires, the first between June and September 1976, and the latter in December 1977. Disappearances also affected other organizations including the *Tupamaros*, the Communist Party, and the Revolutionary Communist Party. (Heinz & Frühling, 1999; SERPAJ, 1992) For Aldo Rico, disappearances in Uruguay were mostly politically motivated: 133-136 of adults disappeared due to their militancy in leftist political organisations, 36 because of the trade unions links, and 23 for their involvement in student organisations. (Rico, 2008)

Torture against political prisoners had been commonplace for decades in Argentina. (Crenzel, 2007a) It was an essential element in the repressive methodology from 1976, as the military considered it as an indispensable condition for victory against subversion. Indeed, those abducted were taken to various locations for interrogation, where they were almost invariably subjected to ill-treatment to obtain confessions, information about other persons, planned operations or simply for the purpose of intimidation. Generally torture aimed to break people's resistance, and crush their defences, obliterating their dignity and humanity. (IACHR, 1980) Graciela Fernández-Meijide of the CONADEP explained that the 'half-hour interrogation' method was commonly practiced on the guerrillas (interview, 17/08/2007). Upon abduction, the person was immediately beaten and humiliated, in order to supply as much information in the shortest possible time. This tactic was employed to prevent the rest of the cell from realising that one of its members had been detained, as otherwise they would have disbanded and gone into hiding.

Q: Prisoners are always tortured, or are there exceptions?

A: One can say that everyone arrested in Uruguay is tortured.

There is no one who is not tortured.

Army counterintelligence deserted soldier García Rivas

In: (SERPA), 1992:79)

Torture was similarly widespread and routine in Uruguay. As a counterinsurgency technique, it intended to generate terror and facilitate the disarticulation and defeat of armed organisations. (Corti, 2003) In the 1960s, it started to be applied to political prisoners and was primarily used to extract confessions of crimes. (Heinz & Frühling, 1999)

Torture in Argentina and Uruguay was scientific and systematic. Medical staff assisted or advised in sessions. Doctors examined detainees before interrogation, made medical information available, and were on hand to revive victims, provide temporary relief, and advise officers when the victims' life was at risk. (AI, 1983a)

Torture did sometimes result in deaths but in neither country it was ever intended as an execution method. Techniques routinely employed included: forcing prisoners to wear hoods, beatings, enforced standing for prolonged periods (*plantón*), electric shocks (*picana eléctrica*, electric rod), the *submarino* and dry submarine (progressive asphyxiation brought on by wrapping the head in a plastic bag or sack, similar to water-boarding), and sexual abuse. Psychological methods comprised simulated executions, forcing detainees to witness the torture of others, and techniques of sensory disorientation. Such a variety of techniques demonstrates how torture was a policy systematically planned and executed, rather than the aberrant behaviour of crazed individuals.

The policy of disappearances in Argentina relied on an extensive network of clandestine detention centres. The Human Rights Secretariat confirmed the existence of 498 centres throughout Argentina. (Ginzberg, 2006) They were employed for the first time during the army's campaign against the ERP in Tucuman in 1975. (Malamud-Goti, 1996) These centres were an indispensable precondition for disappearances, as they were purposely set up for torture to be carried out without interruption. (Crenzel, 2008b) A noteworthy feature was the fact that, though some were located in isolated areas, the vast majority was established in neighbourhoods and central locations in cities. For Martín Hernan-Fraga, this was not casual but planned. These centres in fact served the double purpose of dealing with prisoners, while at the same time installing fear in society at large, as people living in their vicinity easily 'saw what was happening there' (interview, 16/09/2008).

'We did not dare to kill them all (the political prisoners)
when we could have done so
and one day we shall have to release them.
We must take advantage of the available time
in order to make them go mad'
Major Arguimides Maciel – 1976
In: (Pearce, 1980:53)

Prolonged imprisonment was a deliberate long-term strategy in Uruguay. Former prisoners, upon being freed, knew they were closely watched and could be re-imprisoned at any moment. Prisoners were held in fifty-two centres, most of them official military sites. From 1975 onwards, due to overcrowding, the use of clandestine detention centres increased. Their location was not officially acknowledged, and this effectively placed them outside any control.

About 3,500 of the 4,993 people prosecuted between 1972 and 1985 were held at the military prisons of *Libertad* (men) and *Punta de Rieles* (women). Overcrowding was a fundamental problem and inmates were confined to indoors for most of the day. Conditions of detention were inhumane. Hygiene was poor, and water scarce. When prisoners met during recreation period, communication was absolutely prohibited. They were also subject to unreasonable restrictions on communications with families: visits and correspondence were strictly controlled, regulated, and subject to censorship. Inmates faced apparently arbitrary punishment for trivial offences, were intimidated and harassed by prison guards. Women and Jewish prisoners, like in Argentina, received particularly brutal treatment. (SERPAJ, 1992) A special category of prisoners existed, whom experienced harsher imprisonment. These seventeen hostages, the *Tupamaro* leaders, were moved to undisclosed locations immediately after the coup, remaining under constant threat of execution for over a decade.

Although the Argentine Junta had re-introduced the death penalty, it was never legally employed. Rather, all executions were carried out in secret. The decision on the fate of detainees was taken at high levels, based on a consideration of the person's background, possible usefulness and chance of rehabilitation. (Romero, 2007) The euphemism 'transfer' actually meant death in military jargon. Prisoners were told they would be transferred to other centres or rehabilitation farms. They were given injections to render them drowsy, unconscious, unable to resist. They were then loaded into trucks: some were thrown into the Atlantic or the River Plate from military airplanes. (Verbitsky, 2005) Others were murdered in open fields or left on streets in supposed exchanges of fire with security forces. In the

majority of cases, bodies were hidden and interred in unmarked section of cemeteries or mass graves, often dug beforehand by the victims themselves.

3.3 The End of Military Rule and Democratic Transition

The Argentine and Uruguayan military regimes endeavoured but abysmally failed to design and establish future institutional orders that would ensure military oversight over internal politics. The Argentine junta, totally humiliated by defeat in the Falklands, retreated largely powerless to the barracks. Their Uruguayan counterparts, despite having lost a plebiscite on the *democradura* (hard democracy) that they had wished to impose, could at least negotiate a way out and a (temporary) guarantee of impunity.

Conventional accounts of the Argentine transition take their starting point from the loss of the Falklands War in June 1982. Though this event signalled the beginning of the end of the dictatorship, it was not in itself a sufficient cause. Rather, it acted as the catalyst of a pre-existing situation. (Pion-Berlin, 1985)

In 1978, the Argentine junta had accomplished what it perceived as military victory against subversion. Efforts then focused on designing and constructing a political order in which the military would retain a major tutelary role. (Acuña & Smulovitz, 1997) Thus, the armed forces debated several questions, including the length of the exclusive military hegemony and possible political allies. (González-Bombal, 1991)

In the eyes of the armed forces, the legitimacy they had acquired from winning the war against subversion bestowed upon them a new historical and political role. Military leaders then discussed various political projects that had two common

elements: civilians had to (retroactively) endorse the repression, and future scrutiny of the past had to be avoided. (Acuña & Smulovitz, 1991)

The Junta began a political dialogue to obtain the backing of political leaders. The first round of these restricted discussions with political figures began in 1980 under President Videla. The debate centred around possible political solutions and the required legislation for political parties and their normalisation. (González-Bombal, 1991)

The failure of the government's economic policies and the collapse of the banks in 1980 was a critical juncture. It was against this backdrop of economic crisis and declining public support that General Viola became president. Similarly, Viola was also unable to achieve progress. Nationwide dissatisfaction with the government grew, together with mounting demands for change.

Several factors serve to explain why the regime was losing momentum. First, there were marked internal division surrounding economic plans and the political goals to be followed. Second, after years of silence, international and domestic support for HROs, together with rising accusations of human rights violations, deeply questioned the regime's legitimacy. Finally, escalating pressures arose from politicians, labour unions, the press and the judiciary to open up the system. (Arceneaux, 2001; McScherry, 1997a)

Under President Viola, a second round of dialogue occurred. Communications with political parties now became the norm, and suitable negotiators were party authorities, no longer individuals personally invited by the regime. Finally, the Peronist party was allowed to participate. At this stage, the government never hid the fact that its intention was to establish a political plan for transition, not just merely the discussion of technical questions on electoral legislation. (González-

Bombal, 1991) Viola's government lasted less than nine months, as in December 1981 he was overthrown in an internal coup by Army Commander Galtieri. This act further exposed the deep internal power struggles that were unsettling the military, while simultaneously highlighting the inability of the regime to ensure stability.

In a context of profound military disagreements and rising social protests, President Galtieri took the ill-fated decision of invading the Falklands in April 1982. The rationale for the invasion hinged on an attempt to unify the country and the armed forces, regain legitimacy and resolve the increasing economic and political unrest. (R. Munck, 1985) As it is well documented, this action ended in disaster, opening the way for transition. In fact, military defeat exacerbated the already existing internal conflicts and clearly exposed the government's lack of authority within society. (Acuña & Smulovitz, 1995; Romero, 2007)

Galtieri was forced to resign in June 1982 and Major General Bignone subsequently became president. At the time, the navy and the air force temporarily left the Junta, which was only re-established in September 1982. Meanwhile, political parties recovered their right to function and in July 1982, the *Multipartidaria* (uniting five parties, including the Peronist and the Radical) was created to devise a transitional programme to be agreed by civilian and military leaders. (González-Bombal, 1991) The ban on political rallies was removed and social opposition grew stronger: around 100,000 people gathered in May Square in December 1982 to call for the restoration of civilian rule.

As a result, the government was forced to re-define its political strategy. It no longer sought to generate its own party, but was forced to negotiate a way out with political opposition. Taking advantage of a lack of resolve and consensus among

political parties regarding the re-establishment of political institutions, the regime was able to retain control over the timing and the unfolding of the transition, imposing new statutes regulating political parties, electoral rules and attempting to limit the civilian government. (McSherry, 1997a; Romero, 2007)

Unlike Uruguay, the military did not achieve a negotiated exit, but nonetheless unilaterally imposed some intransigent conditions. The April 1983 Final Report on the War against Subversion and Terrorism contended that the 1975 constitutional government had authorised the war against subversion and all the disappeared were either terrorists or had gone into hiding/exile. The Institutional Act affirmed, on the other hand, that all military operations had been ordered by the high command and so should be considered as acts of service, i.e. not subject to punishment. Third, the September 1983 Law of National Pacification was in fact a self-amnesty enacted for members of both armed groups and the armed forces, covering the crimes committed between May 1973 and June 1982. Finally, Decree 2726/83 ordered the destruction of all documents relating to the repression.

National elections, held in October 1983, saw the victory of Radical Party candidate Raúl Alfonsín who had been the most vocal in stating his desire for the return to the rule of law, as well as a commitment to investigate the truth and provide justice regarding the events of the past. (R. Munck, 1985)

The seeds of transition in Uruguay were planted rather early into the dictatorship. In June 1976, a fundamental event occurred, labelled by the journalist Alfonso Lessa as 'a key historical juncture' (interview, 17/09/2007).

For some time, President Bordaberry had been discussing his political plans with the armed forces. Bordaberry believed that new institutions were needed for

the country. Political parties were the source of all ills and should be eliminated once and for all. (Caetano & Rilla, 1987; Lessa, 2007) However, his proposals were rejected and Bordaberry deposed. The armed forces did not want to share 'the historical responsibility of suppressing the traditional political parties'. (Zubillaga *in*: González, 1991:59) The military instead believed that it was not the political parties that were problematic, but its leaders (Lessa interview). Thus, they favoured reforming the parties and political lists. The military's approach was indeed consistent with its view that its participation in political life should be exceptional, effectively limited to a transitional phase (Demasi interview, 28/08/2008).

In August 1977, the government released a political *cronograma* (timetable) that provided for a national plebiscite on a draft constitution in November 1980, the reintroduction of political parties in 1981 and elections with a single candidate. (Martínez, 2007) The proposed Constitution was a hybrid that combined traditional roots and the national security doctrine. It was drafted by the Commission on Political Affairs (COMASPO) without consultation with political parties or the public. Amongst its main provisions, it included the application of military jurisdiction over civilians for subversive crimes, direct responsibility in national security for the armed forces, the concentration of power in the Executive and a reduced role for trade unions and political parties. It also guaranteed direct military presence in key decision-making bodies and provided for the conversion of all the institutional acts decreed during the regime into constitutional law. (Caetano & Rilla, 1987; Weinstein, 1988) Had the text been approved, it would

have effectively entailed the acceptance of all the previous actions of the military and the creation of a new type of authoritarianism. (Crespo-Martínez, 2002)

With a turnout of 85.2%, the constitutional project was rejected by 57.9% of votes. This result demonstrated beyond doubt a popular dismissal of the foundational attempt, and constituted one of the few instances in the world where the military lost a plebiscite and accepted its outcome.

This electoral defeat is normally taken as the conventional beginning in accounts of the Uruguayan transition. Nonetheless, this author agrees with Alfonso Lessa that, had the military accepted Bordaberry's proposal of eliminating the parties, events would have invariably been different.

Losing the popular consultation did create what has been defined 'an expected opening' for democratic actors. (González, 1983:63) Nonetheless, it did not produce a rapid transition.

In Uruguay there are purportedly two speeds, slow and very slow, according to MP Diego Cánepa (interview, 13/09/2007). It should thus not surprise us that, despite the victory of the NO, it still took another four years of negotiations, during which the military was able to hold on to power, despite lacking both internal and external legitimacy. (Achard, 1992; Arteaga, 2000)

The plebiscite only reduced restrictions but it did not automatically produce democratisation. In December 1980, the government declared the 1977 *cronograma* null and void, and a new political plan was to be devised. Eight months of political and military silence passed before a new political *cronograma* was in fact announced (Demasi interview). According to Demasi, 'it was a period of great uncertainty, [...] without a clear trajectory and no objective conditions to say

whether the regime would go or stay'. Significantly, the idea of transition itself only emerged in 1981, when General Álvarez became President.

In July 1981, the new *cronograma* put political parties at the nucleus of the transition, set up a dialogue with non-proscribed party leaders²¹, the appointment of a transitional President, internal party elections in 1982, national elections for November 1984, and the new president who would take over in 1985.

1982 was characterised by the return of political parties, with the opposition finally re-legalised. Fundamental Law n°2, the Statute of Political Parties, legalised the Colorado, Blanco and the small *Union Cívica* (Civic Union). Nonetheless, several political authorities still had their political rights suspended, including Blanco leader Ferreira-Aldunate. The internal elections of November 1982 yet again produced a disastrous political defeat. Anti-military candidates received 91% of Blanco votes and 72% of Colorado votes. (Weinstein, 1988) The military was for a second time massively repudiated and this legitimised political opposition, transforming it into a privileged interlocutor of transition. (Caetano & Rilla, 1994)

s. The regime loosened restrictions on political movements, and protest against the dictatorship was led by the new trade union, the Assembly of Inter-Union Workers (PIT-CNT), the students association, the Social and Cultural Association of Students of Public Education, and the largest human rights NGO, the Peace and Justice Service (SERPAJ). There were two key events. The first, on May 1, was organised by the nascent trade union movements under the slogans freedom, work, pay, and amnesty. The second on November 27, saw a substantial congregation of around 400,000 Uruguayans gather at the feet of the Obelisk in

²¹ All the parties constituting the Frente Amplio coalition in 1971 continued to be banned.

Battle Park of Montevideo, calling 'for a Democratic Uruguay, without exclusions', and an immediate return to the 1967 Constitution, and free and fair elections open to all. (Caetano & Rilla, 1994; Martínez, 2007)

Talks ongoing from May 1983 between military commanders and representatives of the Blanco, Colorado and *Union Cívica* at the *Parque Hotel* collapsed over issues of national security in July. Among the major points of contention were the length of time that subversive suspects could be held without trial, the jurisdiction of military courts and the definition of national security. (Gillespie, 1991)

At this time, a tension existed between two competing exit strategies. The approach of the Colorados focused on moderation and was less confrontational. It perceived the regime as strong and, hence, unrelenting mobilisation was seen as only delaying the transition. The Blancos were supportive of negotiations but called for a stronger approach. They wished to weaken the regime through continued mobilisation, pressure and radical opposition. This would accordingly produce a situation in which political parties would be stronger when sitting at the negotiating table and thus permitting them to make fewer concessions (Heber interview, 3/09/2008).

The transitional process, hesitant at first, became much more efficient and coherent by early 1984. In March, Frente Amplio leader Liber Seregni was freed from prison, and his plan for the Left focused on mobilisation, negotiation and compromise. At the same time, the military gave up its project of a party, softening

some of its requests. (Martínez, 2007) Finally, in July 1984, the regime also re-legalised the Frente Amplio and its constituent parties.

The military was then internally split. Hardliners, like Álvarez, wished to hold on to power and did not feel that enough guarantees were being provided (Sanguinetti interview, 21/08/2007). A more conciliatory sector favoured instead an exit from power that protected the institutional unity of the armed forces (González-Guyer interview, 29/08/2008). The pro-negotiating faction was strengthened when General Medina became Commander-in-Chief. Medina skilfully led the military's exit in a context of economic crisis, international pressures and a substantial risk that retaining power may result in the break up of the institution (Gonzalez-Guyer). His political counterpart was Julio-Maria Sanguinetti of the Colorado Party who has been regarded as 'the great architect of the transitional moment' (Lessa interview). Likewise, the journalist Bleier pointed to 'the political wisdom of Sanguinetti that coordinated the transition for his own personal benefit as he had ambitions of becoming President'. 'Of all the leaders, Sanguinetti was the most knowledgeable on the military question and this enabled him to be personally efficient in dealing with the military' (interview, 29/08/2008).

In late July 1984, the Colorado, *Union Cívica* and Frente Amplio parties meeting with the Commanders, agreed the *Acuerdo del Club Naval* that set up a timetable for the return of democracy. It restored the pre-existing political system (including the 1967 Constitution), called for national elections for November 1984, and the new president to take over in March 1985. As in Argentina, dealing with the legacy of past human rights crimes proved to be a thorny issue for this newly established democratic administration. It is to these questions that we now turn.

The Politics of Transitional Justice - Argentina and Uruguay, 1980s to 2009

In the early 1980s, Argentina was one of the first countries to emerge from military rule, second only to Bolivia. Kathryn Sikkink aptly defines Argentina's human rights trajectory as one from 'pariah state to global protagonist'. This description is forged by the remarkable evolution witnessed from the years of systematic disappearances in the 1970s to Argentina's pioneering developments with accountability for past crimes since the 1980s. (Sikkink, 2008:1) On the other hand, Uruguay, despite being a regional model for democracy, chose a rather different path in coming to terms with its legacy of human rights crimes upon democratisation. Uruguay's transition was possibly less exciting than the disastrous defeat of the Argentine Junta in the Falklands conflict. Nonetheless, the Uruguayan path of amnesty and oblivion –so strikingly different from Argentina's own efforts, offers an interesting comparison when looking at various ways to confront past evils.

In many respects, Uruguay's experience of TJ was very much Uruguayan. Negotiations, pacts, concern with stability and governability, slow and conciliatory attitudes have been enduring features of this tiny state. Conversely, Argentina required a clear break with a long heritage of military interventionism -six coups in just 46 years. As former President Raúl Alfonsín highlights, the issue was really one of 'establishing new foundations for an authentic democratic system', generating new institutions, routines, habits and novel ways for people to learn to live together. (Alfonsín, 1993:15)

This chapter contends that three phases of TJ can be identified in the wake of transition. In the first phase, Argentina and Uruguay adopted almost opposite approaches. Argentina, under the leadership of Alfonsín, confronted the inheritance of human rights violations head on via a truth commission and prosecutions. Uruguay, conversely, followed the lead of President Sanguinetti who successfully imposed oblivion and silence over matters relating to the past. In the second stage, Argentina and Uruguay's positions became increasingly aligned. In both countries, by the early 1990s a mantle of amnesia had been spread over the years of military rule and associated crimes. Or so the respective governments wished. In the background, HROs and committed individuals such as the Michellini brothers worked relentlessly to ensure that the issues of the past remained, in some way, under consideration. However, it was not until the beginning of the 21st century that issues of accountability forcefully returned to the social and political arenas. It is during this third and current phase that these two countries have adopted similar stances, attempting to explore their pasts from the perspectives of truth, justice and memory.

The progression of these three phases can be explained with reference to a number of factors. Particularly relevant were the following: the differing Presidential leaderships and the diverse approaches they adopted to the question of the past. Second, the attitude of the armed forces that, despite being politically defeated, had retained a significant amount of power. With this continuing influence, the military attempted to control TJ initiatives, enjoying more success in the early years and less so as time went by. Third, HROs were constant and persistent actors in Argentina and Uruguay that, notwithstanding defeats and

numerous obstacles, kept the flame of truth and justice burning over the years. Fourth, the judiciary was also essential; capable of influencing the momentum towards accountability or restraining it. Finally, equally significant were the developments on the international stage. When Argentina and Uruguay originally emerged from authoritarianism, human rights concerns were not a priority on the international political agenda. The end of the Cold War however prompted a move towards international justice. Especially significant for the region was the arrest of General Pinochet which sparked a renewed concern with issues of the past that reverberated throughout the Southern Cone, galvanising local actors.

4.1 Truth and Justice vs. Silence (1983 to 1990)

According to Ricardo Gil-Lavedra, judge at the 1985 Trial against the Military Commanders, Argentina is 'one of the most important examples in the world' for TJ. It had a truth commission, the 1984 CONADEP, it paid reparations to the victims of state terrorism and carried out justice 'in two phases', first against those with maximum responsibility –the Commanders, and then the cycle was completed twenty years later, culminating with the re-opening of the trials brought to an end by the amnesty laws adopted in the late 1980s (Gil-Lavedra interview, 22/08/2007).

On the other hand, there is the feeling that Uruguay is a kind of 'laggard' (my term) when it comes to questions of accountability. The lack of up-to-date scholarly material on Uruguay is evidence of this.

Argentina and Uruguay emerged from military rule within just over a year of each other, December 1983 vs. March 1985. As some of my Uruguayan interviewees told me, Uruguay is always a keen observer of events in Argentina

and there is a strong relationship between the two countries (Demasi, Miranda interviews, 28/08/2008; 29/08/2008).

So it should not come as a surprise that in framing its approach to TJ, Uruguay kept an eye on what was occurring just next door. On the other hand, this author concurs with David Pion-Berlin who contends that this 'contagion effect' should not be overestimated. Indeed, in this early phase, the spill-over from Argentina into Uruguay was limited. (Pion-Berlin, 1993:123-125) In fact, Uruguay was already set in its path of amnesty from the early days of transition. Events taking place in Argentina, particularly the military rebellions of the late 1980s, were neatly used by President Sanguinetti to prove the point that his approach to the past was the correct one. But let us start from the beginning.

In accounting for the different ways in which Argentina and Uruguay decided to confront their past evils, several factors should be considered. Both within the literature and my interviews disagreement abounds, clearly demonstrating how such complex processes of TJ cannot be reduced to mono-causal explanations relating solely to either specific actors or factors. Instead, several elements need to be explored in order to create a panoramic view of the processes of TJ.

With regard to Argentina, the decision to directly confront the crimes of the past can be explained with reference to the following: the collapse nature of transition, the legal strategy adopted by the government of President Alfonsín, the role of HROs, and the initial weakness of the armed forces.

When discussing the early years of transition in Argentina, most of my interviews pointed to different actors and events that shaped the way TJ policies were implemented. The mode of transition is an essential factor which makes the

Argentine case exceptional. Unlike neighbouring countries, the Argentine regime retreated from power in what I like to define as a case of 'peculiar collapse'.

Although there were no negotiations like in Uruguay, the military was not totally defeated either. Indeed, over fifteen months passed between the defeat in the Falklands War in June 1982 and the take-over of the democratically elected president in December 1983. This shows how the armed forces still retained sufficient power to supervise democratisation, whilst organising quite an orderly retreat. On the other hand, politicians were unable to fully exploit the situation, supporting instead the last junta of General Bignone that implemented a controlled and limited decompression of the dictatorship. (Agüero, 1998; López, 1994)

As Gastón Chillier, executive director of the Centro de Estudios Legales y Sociales (Centre for Legal and Social Studies, CELS) suggests, the defeat at the Falklands exacerbated an already existing situation in which the inefficiency of the regime was already under the spotlight, given the denunciation of human rights violations and the economic crisis (interview, 30/08/2007). Luis Fonderbrider of the Equipo Argentino de Antropología Forense (Argentine Forensic Anthropology Team, EAAF) concurs, pointing to the fact that the defeat in the war, the economic crisis and international denunciations triggered a series of circumstances that were conducive to the development of social mobilisation against the regime –even by those that initially had supported it, that forced the military to accept free elections (interview, 24/08/2007). In sum, the Falklands War, in the words of Pion-Berlin, was not in itself a sufficient cause, but acted as the catalyst of a pre-existing situation. (Pion-Berlin, 1985)

This unusual end to the regime is an essential building block for later TJ policies. For the academic Catalina Smulovitz, the adoption of a legalistic approach to the

question of the past is 'totally related to the exit from military rule'. Indeed, the collapse of the regime permitted the selection of this legalistic path and its strengthening over time (interview, 23/09/2008). Having said that, it is also important to emphasise how the elections were won by the candidate who had demonstrated a greater commitment to human rights. While the Peronist Candidate Ítalo Luder had contended that he would respect the amnesty law enacted by the outgoing junta, Alfonsín promised instead to investigate human rights violations. (Nino, 1991) The theme of human rights was indeed at the heart of Alfonsín's electoral campaign. His position was that Argentina could not achieve a full recovery without responding to the military's crimes. For Ricardo Gil-Lavedra, in selecting the path of justice, Alfonsín proposed something innovative: democracy could not be restored on the basis of immorality, it was necessary to work for truth and justice (interview).

It is highly likely, as the historian Vera Carnovale contends, that Alfonsín's victory was very much linked to his electoral platform and the promise of prosecuting the military (interview, 12/09/2008). Alfonsín's personal commitment to human rights is essential. He was a founding member of the *Asamblea Permanente por los Derechos Humanos* (Permanent Assembly for Human Rights, APDH), established in 1975 to respond to systematic human rights violations. Moreover, he had defended political prisoners throughout the dictatorship. As Pion-Berlin rightly suggests, had another candidate won, accountability policies would have been rather different. (Pion-Berlin, 1993) The sociologist Marcos Novaro agrees, stressing how the question of human rights in Argentina largely existed thanks to Alfonsín who introduced the idea of a revision of the past during transition, opening 'a judicial way that few really trusted in the

beginning and feared would end badly' (interview, 10/09/2008). Indeed in February 1982, when the Junta was looking for a negotiated exit from power, conditional on a commitment not to carry out revisionism, Andrés D'Alessio, judge at the 1985 trial against the Military Commanders and personal friend of the President, recalls how Alfonsín already believed that the judiciary could not refuse to provide answers to the question of the disappeared (interview, 17/09/2008).

For Catalina Smulovitz and the politician Graciela Fernandez-Meijide (also member of the CONADEP) Alfonsín's selection of a legal strategy for the past was facilitated by the existence of organisations like the CELS and APDH that had adopted such a perspective on human rights during military rule. Furthermore, several lawyers such as Rabossi, Nino and Malamud-Goti –later presidential advisers, had previously been working on the human rights question from such a perspective (Smulovitz, Fernandez-Meijide interviews, 23/09/2008, 17/08/2007).

Alfonsín's legal strategy had three elements. It was to equally condemn state terrorism and anti-state political violence. In fact, Presidential decrees 157 and 158 of December 1983 respectively ordered the trial of seven guerrilla leaders for homicide, illicit association, public instigation to commit crimes, apology of crime and other attacks against public order, and that of nine military commanders for homicide, unlawful deprivation of freedom and torture. Second, prosecutions would be carried out by the military itself, a policy of self-judgment or self-purification so that the institution could be rehabilitated into the democratic arena. Third, trials were to be restricted in duration and scope to officers in a position of command. This was to be achieved by applying the concept of due obedience and the three levels of responsibility. Both Raúl Alfonsín and Andrés D'Alessio recall

how it had been Jorge Sabato' idea (later State Secretary for Foreign Affairs and son of Ernesto Sabato that chaired the CONADEP) to distinguish between different degrees. The scheme was endorsed by all of the President's advisors as a way of reconciling demands for truth and justice from society and consolidating democracy at a time when the military still had enough power to destabilise the new government (Alfonsín, D'Alessio interviews, 7/11/2008; 17/09/2008).

Accordingly, different responsibility had to be attributed to first those who had planned, had the supreme authority over the repression and given the accompanying orders; to those who, regardless of whether they were acting in compliance with orders, had committed atrocious or aberrant acts; and, finally to those who, in the situation of general confusion and compulsion, complied with orders perpetrating lesser offences. (Roehrig, 2002:61) Only offenders falling into the first two categories would be prosecuted. Although the government had this rather clear vision of how accountability was to be achieved, the eventual outcome was, according to Fernandez-Meijide, beyond its control. Once the policy interacted with society, it took a dynamic of its own, changing from the original idea (interview, 17/08/2007).

Within a few days of taking over, President Alfonsín established the extra-parliamentary *Comisión Nacional sobre la Desaparición de Personas* (National Commission for the Disappearance of Persons, CONADEP). Created by presidential decree 187 and part of the Interior Ministry, the Commission was tasked with clarifying the facts relating to the disappearances that had occurred between March 1976 and December 1983. Composed of highly reputable public figures, the CONADEP worked for nine months collecting testimonies and inspecting former

detention centres. In September 1984, it concluded that during military rule human rights had been violated in a systematic and organic manner with similar features on a national scale.

As the first truth commission to ever complete its final report and receive widespread international attention, the CONADEP has attracted both criticism and praise. Alba Lanzillotto from the *Abuelas de Plaza de Mayo* (Grandmothers of May Square, hereafter *Abuelas*) contends that 'the CONADEP was not what was being requested [by the HROs]' that was instead a bicameral commission, as the latter would have more power to investigate (interview, 3/09/2007). Similarly, the Mothers were the only organisation that in 1984 requested their members not to give testimony before the Commission, although some did so in the end. (Crenzel, 2006) Many other groups and individuals were dissatisfied with Alfonsín's decision, in what some saw as an attempt to limit the investigation. (*Asociación-Madres* interview, 30/08/2007) The Executive, on the other hand, was against a bicameral commission, fearing possible adverse reactions and rebellions from the armed forces (Fernandez-Meijide interview).

Fernandez-Meijide, in charge of the CONADEP's office for denunciations, emphasises how the work of the Commission 'awakened' society by providing a lot of information. Several of its members gave an impetus to the investigation and 'we worked as if we were public prosecutor', something the government could not anticipate (interview, 17/08/2007). Despite the fact that the CONADEP was clearly mandated to investigate only the crime of disappearances, its work, according to the sociologist Emilio Crenzel, was fundamental in gathering information and constructing a corpus of evidence that was later used in the Trial of the Commanders (interview, 18/08/2007).

For Gastón Chillier, the CONADEP, together with the Trial, was one of the means employed by the President to comply with his electoral promises on human rights (interview). Overall, as several interviewees agree, the CONADEP was instrumental in lifting the veil of secrecy that surrounded the repression. Thanks to it, a vast majority of society is familiar with the events of the repression and, as Patricia Valdez (director of NGO *Memoria Abierta*, Open Memory) points out, the average Argentine citizen, unlike in other countries, has a good knowledge of what disappearances and clandestine detention centres were like. The CONADEP, and later the Trial, played a key part in this, raising awareness and challenging denial over events of the past that had prevailed during the years of military rule (Valdez, D'Alessio interviews).

The Executive eventually proved unable to contain the scope of the trials as originally planned. Amendments already introduced by the opposition to Law 23.049 (reforming the Code of Military Justice in February 1984) proved fatal in precluding the indiscriminate use of the concept of due obedience, so thwarting Alfonsín's strategy to limited trials from the start. (Acuña & Smulovitz, 1995)

The 1985 Trial of the Commanders still represented a noteworthy policy success. The trial was unprecedented in Latin America, where amnesia was traditionally the norm, capturing much public attention and scrutiny at home and abroad. (Pion-Berlin, 1997) Furthermore, the trial established a sort of 'global truth on the illegal methods of repression', disseminating information about the secret systematic violation of human rights, and endorsing the accounts of the survivors (D'Alessio interview). The Trial constitutes an emblematic moment in Argentine history: having produced parallels with Nuremberg (Pastor interview,

1/9/2007), it has acquired an almost mythical dimensions, coming to constitute a sort of 'founding scene of the Argentine democracy' (Carnovale interview).

Nevertheless, critiques do exist. The most outspoken are the Mothers from *Asociación Madres de Plaza de Mayo* (Mothers of May Square Association, *Asociación-Madres*) who labelled the Trial 'a parody for the world to compliment on the bravery of Argentina' (interview). Their position on accountability is extremely retributive, as they would like every single person who participated in the repression to be prosecuted, unlikely to ever happen both logistically and morally. Alba Lanzillotto further points to how the armed forces were never actually prosecuted for usurping power, which 'is the first of their sins', and were only tried for the crimes that they perpetrated (interview, 3/09/2007).

A more solid and interesting critique comes from Jaime Malamud-Goti, senior presidential advisor between 1983 and 1987. Malamud-Goti sees the Trial, and human rights trials more generally, as recreating the bipolar interpretation of the world of guilty vs. innocent that prevailed during state terrorism. Accordingly, society shifted its focus to the military as the sole explanation for their suffering, contributing to the widely shared perspective that those that were not prosecuted were simply innocent. By pinning blame only on the security forces, trials inevitably over-simplify history, as no middle ground exists between innocent and guilty. (Malamud-Goti, 1996, 2005) These two categories eclipse more nuanced understandings, blurring the social and political context that contributed to the state of affairs during state terrorism (interview, 3/09/2007). In sum, most Argentines refused to accept that terror had originated from the very entrails of their community.

By 1986, thousands of criminal charges against security forces were presented to the courts and prosecutions risked spiralling out of control. Consequently, the Executive took several measures to prevent this. Instructions to Military Prosecutors were issued, in order to radically reduce the number of proceedings and speed up trials. Outstanding cases were to be merged together according to repressive agencies or territorial jurisdiction as under the *Proceso*, and then all charges were to be dropped for those following orders, dismissing as many cases as possible. (Acuña, 2006; Lee-Crawford, 1990) However, the move totally backfired when the civilian judiciary decided to take over the case loads from military courts.

Over 6,000 cases had been presented to the courts by December 1986. It was then that, according to Malamud-Goti, the 'whole process was going astray' and the feeling was 'to secure what had been achieved or risk jeopardising everything if we carried on' (interview). It was in this context of rising charges, increased military restlessness and disputes to the authority of the Executive that the Full Stop Law was approved. It established a 60-day deadline for summoning alleged human rights offenders, otherwise all cases would be extinguished after 22 February 1987. The enactment of the law again had a boomerang effect, triggering a flurry of judicial activity. While it had been hoped that additional indictments would be minimal, 30 to 40, by the deadline almost 500 new cases had been filed. (Roniger, 1997b) The government's move was not enough to prevent the occurrence of the Holy Week military uprising of April 1987. For Gil-Lavedra, it is clear that continuing with the trials of lower-ranking officers triggered military rebellions that, in turn, led to the enactment of the amnesty laws (interview). Likewise, Malamud-Goti believes that 'we should have stuck to the top [leadership] and not

gone after the lower ranks' (interview). But, as he contended, where do you actually draw the line?

In light of the events, the Executive adopted, in June 1987, the Due Obedience law effectively ending prosecutions. It instituted the legality of following orders, exonerating chief officers, subordinate officers, sub-officers, and troops in armed, security, prison forces; rape, economic crimes and disappearance or identity forgery of minors were not covered. Although, according to Alfonsín, this proposal reflected his initial approach on levels of responsibility (interview), the fact that the Law was adopted so soon after the rebellion strengthened the perception that it had been a concession to the military. (Pion-Berlin, 1997) It goes without saying that the Full Stop and Due Obedience laws, despite their nice wording, were widely perceived as amnesty laws and thus forcefully rejected by the HROs. Alba Lanzillotto emphasised 'how the laws destroyed everything that had been achieved' (interview, 11/9/2008). For Gil-Lavedra, the laws were 'amnesties under cover' which 'reflected the military's dissatisfaction and the difficulty for the civilian government to continue progressing with the trials' (interview).

It is clear that, as time progressed, the armed forces recovered from their initial situation of political and military defeat. The military had in fact emerged from military rule vertically broken, due to inter-branch disagreements and power struggles. However, by the mid-1980s when human rights trials, seen as attacking the military's corporate identity, began reaching further down the hierarchy, the armed forces began to come out of their previous state of shock. (Gillespie, 1989) Although all the military rebellions were eventually suppressed, they still demonstrated how the use of force could bring results, with the number of judicial proceedings dropping from 450 to 20. Nonetheless, these uprisings led to

horizontal fracturing within the institution. For the academic and human rights activist Carlos Acuña, increasing tensions and factionalism arose, predominantly between junior officers and senior-level commanders. The former believed they were facing the brunt of prosecutions, when the commanders, who had given them orders, escaped all responsibility (interview, 18/09/2008).

Alfonsín was forced to resign six months ahead of schedule in July 1989 due to the poor state of the economy. Just a few months before, events at La Tablada had boosted military and right-wing's suspicions of connections between left-wing terrorism and human rights. This strengthened the position of the armed forces, weakening the government's image and the case for trials and justice. (Acuña & Smulovitz, 1991; Wright, 2007)

In such a context, President Menem set about his policy of forgiving-and-forgetting the recent past. The enactment of two sets of presidential pardons effectively reversed all the advances achieved under the previous administration, setting Argentina on a similar footing to Uruguay.

Responses to Menem's policy were mixed. Several of my interviewees pointed to the massive rejection by society. Alba Lanzillotto recounted how she could still remember demonstrations against the President's decision with people filling blocks and blocks (interview, 11/09/2008). Likewise, Vera Carnovale described how usually demonstrations in Argentina are loud and cheerful, with singing and dancing. However, during the marches against the pardons, silence prevailed, only interrupted by the word 'NO' being shouted (interview). Conversely, Malamud-Goti felt that 'people were not that depressed' or distraught over the end of the trials (interview).

Although it might appear *prima facie* that, through the pardons, impunity prevailed, this was not the case. As Inés González-Bombal rightly contends, the truth of the trials persisted and the pardons could not invalidate the crimes committed, but could only suspend punishment. (González-Bombal, 1995) Moreover, even though the pardons did minimise some of the punishments received by the military, the situation of Argentina still cannot not be compared to other cases where, from the very outset, amnesty laws or amnesia prevented any investigation or judgement. (Acuña & Smulovitz, 1995) Overall, as the academic Hugo Vezzetti explained, one needs to distinguish between Alfonsín's amnesty laws that did not apply to the military commanders and other symbolic chiefs like Camps, and Menem's strategy. With the latter, 'it was a different approach' as Menem was unwilling to establish any distinction, thinking it was simply necessary to forget and move on' (interview, 17/09/2008).

Uruguay's trajectory in TJ is very Uruguayan, reflecting the country's traditional culture of reaching consensus. The way in which the legacy of military rule was confronted resulted from a unique combination of factors: the negotiated nature of transition, the policy of oblivion endorsed by the government, the low profile and limited weight of HROs, and lastly, the residual power of the Armed Forces.

As human rights lawyer Pilar Elhordoy-Arregui points out, Uruguay is 'a country of pacts', where you can find a long tradition of negotiations and agreements (interview, 11/09/2007). Indeed, several other interviewees concurred on this point. Particularly, President Sanguinetti (1985-1990; 1995-2000) underscored how 'the uniqueness of Uruguay is in fact the long negotiation' that produced a different transition compared to Argentina (interview, 21/09/2007). The

President further outlined how the Navy Club Pact (NCP) had been an 'excellent' outcome, 'a fortunate agreement' that produced a democracy free from institutional limitations or military shackles unlike Chile's (interview).

In fact, the NCP stood at the heart of Uruguay's transition and directly affected the way in which the question of the past was addressed. Much mythology surrounds the NCP and the question of whether the amnesty for the military was agreed then. Sanguinetti vehemently denies that: 'we never talked about amnesties' (interview). The President recognises that it is now 'fashionable' to say that the amnesty was negotiated but he contends that at the time there were no denunciations against the military so the issue was not raised. 'The subject was another', he continued, 'what to do with political prisoners, and yes that was a subject that was there', but 'we kept our mouth shut, as it would have been stupid to talk about it'. 'We were not going to say, gentlemen hand over power and then we will set free those *guerrilleros* you were fighting against'. The military were not ingenuous and they knew something like this could occur: but they were the ones that wanted to leave, so they did not mention it either (interview).

The historian Gerardo Caetano concurs, saying that he does not believe that the future amnesty law was negotiated, similarly claiming that the subject was left on the side (interview, 4/09/2008). Alexandra Brito recounts how General Medina, the Army Commander sitting at the discussions, stated that 'we all knew that the issue of revisionism and trying the military was pending. We all knew as well that if these issues were placed on the negotiating table things would be complicated and we were all extremely interested in finding a way out'. (Brito, 1997:76-77)

Conversely, Graciela Romero, lawyer at the *Servicio Paz y Justicia* (Peace and Justice Service, SERPAJ) suggests that judicial protection was agreed then, to later

be crystallised in the Expiry Law (interview, 7/09/2007). Senator Luis-Alberto Heber of the Blanco party agrees, asserting that his party always denounced -to its own detriment, that the question of the amnesty was on the negotiating table, looking 'like the ones that did not want an exit from the regime' (interview 3/09/2008).

Whatever the truth on the matter is, the academic José Rilla summarises the state of affairs well. Despite there being no concrete proof or evidence that the amnesty was decided then, it is important to recognise that the logic of negotiated transitions presupposes concessions and silences from both sides (interview, 26/08/2008). Moreover, the NCP did generate some conditions, like the proscription of symbolic Blanco leader Ferreira-Aldunate at the 1984 elections that later converged in the amnesty law and complicated the revision of the past (Caetano, Michelini interviews). The NCP restored the previous political system and implied a tacit recognition of the military's institutional autonomy, legitimating them as political actors. It was therefore highly unlikely, according to Brito (1997), that the future executive would break the rules of the game, by promoting the trial of one of the parties to the pact.

Unlike Argentina where President Alfonsín won the elections thanks to his human rights manifesto, the election of Sanguinetti in Uruguay 'limited the chances of doing justice from the very beginning' for María-Elena Martínez, Director of the Human Rights department of the Ministry of Education and Culture (MEC) (interview, 21/08/2007). Luis González rightly argues that Uruguay's transition was a restoration, where the political regime existing before the authoritarian parenthesis was basically reinstated. (González, 1991)

Diego Cánepa, MP for the *Nuevo Espacio-Frente Amplio* coalition, remarked how Sanguinetti's emphasis was on the *Cambio en Paz* (peaceful change) which is very Uruguayan. Accordingly, it was important to know which direction was being taken, clearly 'defining where we are going', while the rhythm is less significant, 'taking more or less time' is not a problem, and radicalism or sudden changes are to be avoided (interview, 13/09/2007). Thus, the government argued that to render effective this peace, it was necessary to turn the page on the past and look to the future. The consolidation of democracy involved steering well clear of revisionisms of the dictatorial period. Claims of truth and justice were incompatible with this strategy, as they would provoke the military and cause institutional destabilisation. (Demasi & Yaffé, 2005)

Indeed, as Diego Achard highlights, the prevailing logic during transition and afterwards was that of coexistence. (Achard, 1992) For the journalist Gerardo Bleier, 'stability is a cultural factor': all the major political leaders of the time (Sanguinetti, Seregni and Ferreira-Aldunate) were fully aware of the importance of governability to avoid internal conflict (interview, 29/08/2008). Unlike its neighbours, 'Uruguay cannot afford conflict' and so the vocation of building stability 'is part of the national democratic culture' (Bleier interview). Indeed, when Blanco leader Ferreira-Aldunate was freed from imprisonment after the elections, he promised to support democracy and work for governability together with the winning Colorado administration (Heber, Demasi interviews)

Sanguinetti showed an ambiguous attitude regarding accountability, contending he would not undertake official policies to ensure justice, but neither would he prevent individuals from presenting cases to the courts. (Brito, 2001b) His main

emphasis was instead pacification, enacting Amnesty Law 15,737 for political prisoners. His administration adopted further provisions to facilitate the return of exiles and their reintegration, as well as targeting all those that had been unfairly dismissed under the regime. None of the political parties really took up the banners of truth and justice, as the Radical Party did in Argentina. (Brito, 1997)

Nevertheless, given the government's failure to make advances on the question of the past, in April 1985, the Frente Amplio and the Blancos -the two parties most committed to human rights, set up three investigative commissions²² in the legislature. Although this was a significant initiative, these commissions failed to produce a national truth and were unable to find conclusive proof of an institutional decision-making process which led to human rights violations. Additionally, the military neither responded nor provided explanations. Even worse, the reports were never officially announced or acknowledged, but rather Sanguinetti disqualified their findings, stating that the investigations neither clarified the authorship of the crimes nor produced credible conclusions. (Brito, 1997)

Throughout 1985, denunciations of past violations continued to increase, with cases being taken to courts as early as April 1985. The Executive was forced to respond and Sanguinetti immediately ruled out Argentine-style trials, contending that the past is best left to the historians. (Gillespie, 1991) The question of amnesty proved very controversial. Between October 1985 and December 1986, three bills were presented to limit or prevent prosecutions, but all failed to pass. By

²² These were the Investigative Commission on the Situation of Disappeared People and Its Causes of 1985; the Investigative Commission on the Kidnapping and Assassination of National Representatives Zelmor Michelini and Héctor Gutiérrez-Ruiz also of 1985; and the Investigative Commission in relation to the Conduct of Dr. Juan-Carlos Blanco Heading the Ministry of External Relations in the case of Ms. Elena Quinteros of 1990.

December 1986, 734 cases of past abuses were under investigation and the military became increasingly restless.

Unlike their Argentine counterparts, the Uruguayan military entered the democratic phase with a large dose of residual power that allowed it to shape and directly influence the government's policy on past abuses. Additionally, the military enjoyed a close relationship with the government. When General Medina became defence minister, this ensured a sort of continuity, producing a feeling of a *democracia tutelada* (guarded democracy), a veiled but present threat (Demasi, Navarrete interviews). The military initially rejected the idea of an amnesty, believing that they had committed no crimes. However as cases proliferated, the situation became increasingly risky, as summoned officers made it clear that they would not participate in trials and would resist any subpoenas to do so.

Opinions vary as to whether there was an actual risk of a military coup, but what is beyond doubt is that the government used this situation to enact the Expiry Law. For the journalist Alfonso Lessa, the fear was of 'a technical coup in case the military did not comply with orders to appear before courts' (interview, 17/08/2007). For Martin Weinstein, a full-blown constitutional crisis between the military and the Executive could break out. (Weinstein, 1988) Senator Heber talks instead of a 'situation of institutional instability' where no one really knew what would happen and there was the possibility that the President would become a 'puppet', if the military did not comply with judicial orders (interview). It was not really 'a threat of a golpe, but of disobedience to the judiciary and the President' (interview).

This peculiar situation generated the legend of Medina's safe, in which citations to appear before courts were supposedly stored. For the human rights activist

Margarita Navarrete, 'it did not really matter whether such a safe existed', as the fact remained that the military would not go to court to be held to account (interview, 19/09/2007). On the other hand, for academic Carlos Demasi who has been able to establish that in reality no such safe existed, it still 'had absolute symbolic reality', 'it was so solid as if it were real' and was 'central to the events' that unfolded (interview, 28/08/2008).

The enactment of the amnesty law for the military directly responded to the logic of stability according to Bleier. For Sanguinetti, there was no distinction between types of violence and terrorism, so after adopting the amnesty for political prisoners, the second had to be adopted: 'we cannot be discriminatory', he asserted. The military felt it had been sort of 'tricked': they had handed over power, the *Tupamaros* were pardoned, and the judiciary was now going after them (interview).

Law N° 15,848 Derogating the Punitive Capacity of the State (hereafter Expiry Law) of December 1986 protects military and police forces from prosecution for human rights violations committed before March 1985. Economic crimes, abuses before the period of the *de facto* government, and by members of the high command before and/or during the dictatorship are not covered.

For human rights activist Javier Miranda, the adoption of this Law constituted 'the defeat of hope' (interview, 29/08/2008). If upon transition, the return to democracy had been celebrated across the political spectrum, for Miranda the amnesty law represents the crushing of this joy, 'a sign that impunity had prevailed'. Indeed, the Expiry Law has affected political life until present

constituting a real and symbolic obstacle to the advances in truth and justice (Olivera interview, 30/08/2008).

Unlike Argentina, HROs in Uruguay developed rather late. Several reasons account for this. For Marisa Ruiz, from Amnesty International-Uruguay, the human rights movement did not exist until 1981 because repression 'was seen as a political problem', not really a human rights question (interview, 2/09/2008). Mara Loveman points to additional reasons. First, Uruguay is an extremely secular society in which the Catholic Church has little influence outside a limited religious sphere. Indeed, the traditional Colorado and Blanco parties are secular and most allegiances in Uruguay are of a political nature. (Loveman, 1994) Second, the country's geography and demography enabled the armed forces to develop a deeply repressive and monitoring apparatus that persecuted and paralysed all opposition. In fact, Uruguay was 'the closest approximation in South America of the Orwellian totalitarian state'. (*Ibid.*503) Finally, Vania Markarian highlights how potential spaces for organised resistance had already been restricted or eliminated by 1973, and the repression remained until the very end of the regime (interview, 27/08/2008)

Nonetheless, important HROs were active by the early 1980s: since 1981 SERPAJ and in 1983 the Mothers and Relatives of Uruguayan Disappeared-Detainees (MFDDU) became a significant voice on human rights. During transition, HROs maintained a low profile, except for 1983 when, with other groups, they played a key role in turning popular discontent into systematic mobilisation against the regime, calling for democratisation, respect for human rights and better standards of living. (Markarian, 2005) HROs acquired greater significance during

the first democratic government, given the failure of the political class to find a suitable way of dealing with the past. (Brito, 2001b)

As Priscilla Hayner suggests, despite significant limitations due to the lack of government support and military cooperation, partial human and financial resources, the “Never Again” report published by SERPAJ in early 1989 was far stronger than the earlier parliamentary inquiries. (Hayner, 2002) In fact, until 2003 the report was the only existing document that provided a complete overview on the repression, collecting victims’ testimonies, and preserving them for the future (Romero, Elhordoy-Arregui interviews).

The second noteworthy initiative was the campaign to subject the Expiry Law to a referendum. The campaign aimed to use for the first time the provision contained within the Constitution, according to which referenda can be held if 25% of the electorate signs to support the initiative within a year of a contested law’s promulgation. The Pro-Referendum Commission did manage to achieve the required number of signatures but the Expiry Law was upheld at the ballot box. For Senator Rafael Michelini of the Frente Amplio, this loss amounted to ‘a bucket of cold water’ on those that worked for human rights, that only recovered several years later (interview, 3/09/2008). Human rights activist Cristina Mansilla labels it ‘a moral blow’ for all human rights and political militants (interview, 27/08/2008). For Sanguinetti, the plebiscite was instead an important popular pronouncement and an adequate end to the matter, ‘a fair moral decision’ (interview).

Despite very different starting points, by the early 1990s Argentina and Uruguay found themselves in a similar situation regarding the issue of

accountability. In both countries, the executive was able to temporarily close off the discussion about the past, limiting advances in terms of truth and justice. However such terrible crimes as those committed under state terrorism cannot be covered up for long. Rather, at some point 'people will want to know why and what happened' even if it is a generation or two later, as former political prisoner Guillermo Reimann contends (interview, 10/09/2007).

In the 1990s, the mantle of silence started to be lifted to reveal some shocking truths. This is even more interesting in the case of Uruguay, whose transition was seen as exemplary and a model to be exported. As Gerardo Caetano suggests, this was not really the case as it rested on weak democratic foundations: how can the future be rebuilt on the basis of imposed oblivion? (interview, 4/09/2008)

4.2 Fighting Silence (1990s to 21st century)

The second phase of TJ covers the 1990s. In Argentina and Uruguay, this decade was a significant time for accountability. The events that occurred were probably not as momentous or controversial as the ones of the 1980s. They nonetheless constituted essential building blocks for the third and present stage of accountability.

In Argentina, in clear contrast to Alfonsín's policy that, despite setbacks, endeavoured to clarify the truth surrounding the fate of the disappeared and achieve limited justice, Menem deliberately worked to move beyond the past.

The President favoured a forgive-and-forget policy regarding accountability. Pardons were at the heart of his strategy, seen as necessary to restore the military's faith in the government. They embodied the President's strategy of

forgiving past crimes, while at the same time punishing present and future disobedience by the armed forces. (Acuña, 2006)

The Argentine public did not endorse Menem's policy of pardons. It is estimated that 70 to 80% of society opposed this move, but this did not prevent the President from going ahead. Indeed, as Hugo Vezzetti suggests, Menem did not encounter a strong opposition within the political and institutional system (interview).

During Menem's first term (1989-1994), the subject of past crimes was virtually off the agenda and HROs were marginalised. The Executive reduced political costs by only making progress in areas of human rights that were deemed less confrontational, like economic reparations and the search for missing children.

In complying with the IACHR 1992's decision that had found Argentina responsible for compensating the victims of state terrorism, the government adopted a comprehensive policy of economic reparations. It initially addressed the victims of detentions to later include those that had disappeared or died. As Smulovitz rightly suggests, this policy, originally intended to appease those that had been upset or were against the pardons, produced repercussions that were unthought-of in the beginning. In particular, it provoked an important debate regarding who should be considered as 'disappeared', and generated a legal discussion as well as the creation of the specific legal category of 'absent by forced disappearance' (interview).

The question of reparations provoked fissures within the HROs that had already been debilitated by the events of the late 1980s. Reparations were especially greeted differently by the two associations of the *Madres*. A Mother from the *Asociación-Madres* emphasised how accepting compensation from the government was like 'selling the blood of the disappeared' and how the *Asociación-Madres* were

the only ones that were standing firm in their position of 'permanent fight for memory and for their children' (interview). This situation, she recognised, had produced a distancing between the *Asociación-Madres* and other organisations that accepted compensation (interview).

A Mother from the *Madres de Plaza de Mayo Linea Fundadora* (Mothers' of May Square–Founding Line, *Linea-Fundadora*) described to me how she applied for reparations for her grandchild, given that both of his parents were disappeared. The child was in her custody but as she told me, 'I was already over 60, if I died who would look after him?' This Mother was visibly upset that the *Asociación-Madres* coined a slogan, labelling the mothers who accepted compensation as 'prostitutes' (interview, 22/09/2008).

Indeed, the question of reparations raised not only ethical and moral issues on whether or not to accept the money, but people also had to confront practical day to day issues of survival and guaranteeing the future of loved ones.

Since 1991 the government directly supported the search for missing children – the sons and daughters of the disappeared that had been illegally appropriated. The National Commission for the Right to Identity (CONADI) was created in 1992 to work jointly with the National Bank of Genetic Data, established by the previous administration in 1987. Nevertheless, it was the *Abuelas*, set up by twelve women in 1977 to identify and reunite missing children, the "Living Disappeared" or *nietos* (grandchildren) with their biological families, that was instrumental in this task. *Abuelas* estimate that approximately 500 children were appropriated during state terrorism of which ninety-eight have so far recovered their true identity.

The legal basis grounding their work is the right to identity contained in the so-called Argentine articles 7 and 8 of the UN Convention on the Rights of the Child. Since the 1994 Constitutional reform in Argentina, international law is directly incorporated in domestic legislation. Therefore, these articles allow judges to order blood tests to establish the true identity of people who have doubts about their true biological background (Sikkink, 2008) Further, *Abuelas* could prosecute those who had kidnapped their *nietos*, since the crime of child stealing was not covered by the Due Obedience Law. (Bonner, 2005) Unsolved cases of missing children are in fact considered ongoing crimes, as the forgery of official documents, fundamental in the process of changing an identity, has not been corrected.

Having said that their path has not being smooth. Alba Lanzillotto contends that through their work, *Abuelas* gave continuity to justice, despite an uphill struggle. *Abuelas* often used to say that 'the grandchildren were growing up in the boxes and dispatches of the judges, because proceedings were left dormant for so many years' (interview, 11/09/2008). Nonetheless, all these steps were important in advancing knowledge of the truth and HROs took advantage of all the opportunities that opened to them (interview).

A breakthrough happened in June 1998, when General (ret.) Videla was arrested and detained in connection with the abduction and false adoption of children. Later in November, former Admiral Massera was similarly charged with the kidnapping three children born in detention. In a landmark decision in October 1998, former generals Videla, Massera, Nicolaides and Bignone, and five lower-ranking officers, were charged and jailed for 194 counts of illegal abduction and adoption of children in seven clandestine centres, leading to the first imprisonments of the 1990s. (Brito, 2008) Since 1999, courts have been investigating a systematic plan

by the military regime to illegitimately appropriate children, given that this crime had not been included in the Trial of the Commanders (*Familiares* interview 18/09/2008).

During Menem's second term (1995-1999), concern with the past strongly re-emerged. A number of factors account for this. During the 1990s, the military remained watchful of TJ developments but it no longer had either sufficient political power or operative capacity for collective action to really impact on their trajectory (Fernandez-Meijide, Acuña interviews). Just before the second pardon, in December 1990, disenchanted with Menem and coupled with declining military influence and control over active units, the Special Forces Unit *carapintadas* made a last attempt to gain control of the Army General Staff. This latest rebellion was the most violent and bloody, but was forcefully crushed by loyalist forces.

The year 1995 brought produced a watershed event that was mentioned by several of my interviewees as one of the factors that helped the question of the past return to the public arena. Navy Captain (ret.) Scilingo temporarily broke the pact of silence in March 1995, when he publicly confessed to having participated in two death flights, throwing 30 people -alive but drugged, into the open seas. HROs and survivors of the repression had been denouncing these practices all along. ESMA survivor Carlos Lordkipanidse recounted how during his detention, the famous repressor Acosta pointing to a world map had told him: 'you will end up on the second A of Atlantic', which was located in the middle of the ocean. For Carlos, that was Acosta's way of saying that they would throw him alive into the open seas (interview, 22/09/2008).

For HROs like *Abuelas* and *Familiares de Detenidos y Desaparecidos por Razones Políticas* (Relatives of Imprisoned and Disappeared for Political Reasons, *Familiares*) until that moment people had not really believed the accounts of those that were perceived as 'subversives' or their relatives (interviews). However, when a member of the military finally confessed, people 'at least believed him' and accepted that what 'we had been saying for so long was indeed true' (interview).

This event triggered not only the *mea culpa* of Army Chief Balza but also developments relating to the right to truth (R2T). Building on the 1992 IACHR's report declaring the Full Stop and Due Obedience laws incompatible with the American Declaration and Convention, and recommending that Argentina adopt measure necessary to clarify the facts of state terrorism, the CELS began working on the idea of the R2T in 1995. It argued that, although the amnesty laws effectively blocked criminal proceedings, family members nonetheless had a right to know the truth regarding the final fate of loved ones and for society to be aware of the methodology of state terrorism.

Since the late 1990s truth trials have been ongoing throughout Argentina, thanks to the IACHR's intervention that helped broker a friendly settlement. Truth trials are judicial proceedings investigating and documenting past human rights abuses to find out the truth about the fate of the disappeared. Their outcome is not a judgment and there are no defendants. Rather, people –relatives, victims, military officers, are summoned to appear and are questioned as if they were ordinary witnesses, in order to obtain information about the destiny of the *desaparecidos*. Catalina Smulovitz suggests that all the actions that occurred after the pardons are frequently seen as not relevant or with 'contempt', as they did not have a strong retributive element. Nonetheless, in her opinion, all the contemporary advances

would not have been possible without the developments in the 1990s, particularly the truth trials that gathered information that was utilised when criminal proceedings resumed (Smulovitz, D'Alessio interviews).

For Hugo Vezzetti, the truth trials obliged members of the military to make declarations in order to satisfy the R2T of the relatives (interview). Overall, the impact of truth trials was quite varied, stronger in places like La Plata and Buenos Aires, and less so in other provinces. In any case, they were helpful in collecting a wealth of information as a means of discovering what had happened, and for Carlos Acuña 'they made sure that the theme of the past remained present in public opinion, putting pressure on politicians too' (interview).

The question of the past has been reactivated since the mid-1990s by the work of HROs that obstinately explored all available avenues to make advances in truth and justice, also using their creativity to open new ways. As Carnovale suggests, on the twentieth anniversary of the military coup in 1996 there was an enormous mobilisation. Until that moment, attempts to break the situation of silence had been unsuccessful. But on that day over 150,000 people participated, when normally only a few thousands did. For Carlos Lordkipanidse, this demonstrated how support for the question of the past always existed, but was never manifested. 'Otherwise we do not understand how people suddenly became aware from one day to the other, as 24 March is a simply a date'. 'So clearly something that had been latent finally came out' (interview).

It should not be forgotten that since 1995, a new organisation, *Hijos por la Identidad y la Justicia contra el Olvido y el Silencio* (Sons and Daughters and for Identity and Justice against Forgetting and Silence, *H.I.J.O.S.*) formed by offsprings

of disappeared, survivors, political prisoners, and exiles was established 'bringing fresh air to the human rights movement, new perspectives, and younger voices to the ongoing discussion' (Carnovale interview). The arrival of a new generation was indeed significant and their method of *escraches* was instrumental in fighting impunity and making society aware of the consequences of state terrorism (APDH interview, 24/08/2007).

International actors worked as a catalyst. For Novaro, during military rule, international factors such as the Carter administration or the IACHR's visit in 1979 had drawn international attention to the question of human rights that was at the time largely ignored inside Argentina. In the late 1990s, the subject of the past was approached 'with all the peculiarities of Argentine politics' but simultaneously reflected an attempt to be in-line with an international culture that is worried about human rights (Novaro interview). For *Familiares*, trials abroad, particularly proceedings in Italy and Spain, were an important tool in fighting against the amnesty laws and pardons. Being prosecuted abroad 'was offensive for the military that would rather be prosecuted at home for nationalistic reasons' but also because sentences were lower, and they could be granted home detention (interview). Hugo Vezzetti emphasises how trials abroad significantly created a contrast between local and international justice: trials in France, Italy and Spain, together with the arrest of Pinochet, showed that crimes of the past 'could still be prosecuted notwithstanding the internal situation in each country' (interviews).

Finally, although the Chamber of Deputies had derogated the amnesty laws in March 1998 (thus preventing them from being applied in the future), their effects

remained as far as past judicial proceedings were concerned. Given this, the CELS began working towards achieving their unconstitutionality, which was finally obtained in 2001.

The CELS developed an innovative legal argument. It was built on the case of the appropriated Claudia Poblete, daughter of José Poblete and Getrudis Hlaczik who had disappeared in November 1978. The case was opened by *Abuelas* in 1998 and in 2000 the CELS asked the judiciary to investigate the crimes of enforced disappearance and torture of Claudia's parents, demanding that the amnesty laws must be declared unconstitutional. The CELS pointed to a fundamental contradiction in the judicial system. (CELS, 2002) Lawyers argued that the amnesty laws put the judicial system in the untenable position of being able to find people criminally responsible for kidnapping a child and falsely changing her identity, but not for the more serious original crime of murder and disappearance of her parents that later gave rise to the crime of kidnapping. (Smulovitz, 2008) However, as Carnovale highlights, judge Cavallo could only declare the unconstitutionality in the *Poblete* case because, as a federal judge he did not have the power to declare the unconstitutionality for all the cases (interview).

President De la Rúa (1999-2001), who had promised co-operation on human rights issues in his electoral campaign, instead opted for a mainly hands-off approach, continuing Menem's practices of promoting officers accused of participating in the repression. Furthermore, the Executive adopted Decree 1,581 in December 2001, to reject all extradition requests relating to events that had occurred on national territory or territory under national jurisdiction. (CELS,

2002) The December 2001 severe economic, social and political crisis temporarily overshadowed the issues of past crimes.

Three days after the 1989 referendum, President Sanguinetti stated that the transition was complete in Uruguay. With the plebiscite, the country had resolved all the problems relating to the dictatorship and was finally facing its future. (Roniger & Sznajder, 2003) Time would however prove that nothing was further from the truth.

As in Argentina with the pardons, losing the 1989 referendum marked the first half of the 1990s in Uruguay. Members of the NGO *Servicio de Rehabilitación Social* (Social Rehabilitation Service, SERSOC) emphasised how the years after the plebiscite constituted 'a second period of silence', the first being the one under Sanguinetti's presidency (interview, 19/09/2007).

The referendum was widely perceived as closing the question of the past. This is a peculiarity of Uruguay where, according to MP Cánepa, the vote 'is sacred' (interview). This was already apparent in November 1980 when the military accepted its defeat following the constitutional plebiscite and they made no attempts to manipulate the results to their advantage. Similarly in 1989 the outcome of the referendum was seen 'as something definitive, we lost and that was it' (interview). The feeling was 'brutal, a conviction that impunity was a natural state of affairs, that could not be modified and that you had to look at other things' (interview). Whether the referendum was lost because of continuing and widespread fear (Martínez, Elhordoy-Arregui interviews) or because people realised the military had given up power and should not be provoked (Sanguinetti interview), the confirmation of the Expiry Law was politically very strong,

representing a tremendous blow to those that had supported the campaign (Lessa interview). Most of my interviewees underscored the importance of voting in Uruguay where the ballot box is seen as a tool to resolve problems and where 'nothing has more legitimacy than voting for the citizens' (Cánepa interview).

For Miranda, the period between April 1989 and the end of 1996 constituted 'seven long years of the most absolute silence' regarding the theme of accountability that simply 'did not exist' in the public agenda (interview). During the Blanco administration of President Luis-Alberto Lacalle, 1990 to 1995, concern with past human rights crimes was non-existent, and was additionally notably absent during the electoral campaign in 1989.

According to article three of the Expiry Law, the judiciary needs to consult the Executive whenever cases relating to past human rights crimes are presented as only the latter is empowered to decide whether proceedings fall under the law's remit or not. While Sanguinetti had included under the amnesty law all the cases for which the Executive was consulted (Rilla, Heber interviews), between 1990 and 1995 the judiciary never received denunciations and the Executive was accordingly not involved. Miranda is rather critical of this perspective, highlighting how 'Lacalle pretends that during his government nothing happens [...] but really it was because there was no strength to do anything, not because of his policy' (interview).

This situation of silence did not change even after the pronouncements of the IACHR and the UN Human Rights Committee that recommended effective measures to clarify past events and abuses, and locate those responsible. (IACHR, 1992; UNHRC, 1993) Although these critical reports had no immediate effects, for

Senator Rafael Michelini the IACHR's decision constituted a symbolic condemnation of impunity. 'On the side of the repressors, you had the Colorado leader Perti, ambassador to the OAS, and defending the victims you had Felipe Michelini [Rafael's brother] from the Left that had presented the case before the Commission'. So symbolically 'you could see who was on one side and who was on the other' (interview).

The traumatic legacy of the past remained nonetheless present within sectors of society, despite the silence imposed from above. MP Cánepa recounted during our interview how the question of the past affected Uruguayan culture. He highlighted how some popular singers composed songs asking for the disappeared: *Donde están? Donde está Simon? Donde está Mariana?*²³ The subject was also present at the typical *murgas* during the summer carnival (Cánepa interview). This musical theatre, performed throughout neighbourhoods in Montevideo, has traditionally been a form of popular resistance, particularly during the dictatorship.

It was during Sanguinetti's second mandate (1995-2000) that concern with past abuses resurfaced. The topic was reactivated not because of a government's wish. Rather, the Executive had to respond to several events at home and abroad.

The renaissance of the subject partly resulted from the shock of military confessions in 1995. Scilingo's declarations reverberated well beyond Argentina, also mobilising public opinion in Uruguay. This was not surprising, considering that many of the disappeared in Buenos Aires had been in fact Uruguayans in exile

²³ Where are they? Where is Simon? Where is Mariana? Simon Riquelo was the 20-day-old son of Sara Méndez and Mauricio Gatti; he was taken away from his mother when both were detained in Buenos Aires in July 1976; he recovered his identity in 2002. Mariana Zaffaroni-Islas was kidnapped in Argentina in March 1975 when she was 18-months-old with her parents that are still disappeared; she was located in Buenos Aires, recovering her identity in 1992. (Demasi & Yaffé, 2005)

or hiding there. Given this, the confession was so disturbing because 'some of the people thrown into the seas could indeed be Uruguayans' (Ruiz interview).

For Demasi, Scilingo 'exposed the dimension of the flights [...], people suspected something more artisanal, not something like an extermination camp' (interview). This new information immediately catalysed the MFDDU and the Michelini brothers that came up with the idea of mobilising people on 20 May (Ferrario, Demasi interviews). In the early days of April 1996, when the acknowledgement of past human rights abuses continued to be muted, Rafael Michelini decided to call the first March of Silence via the press. The Senator argued that people had to march in silence, demanding the truth on May 20 [the date of the murders of Zelmar Michelini and Héctor Gutiérrez-Ruiz in Buenos Aires in 1976]' (interview). The march was a success, with thousands of people participating. The banner was then taken up by MFDDU and other HROs, and the march is a tradition that continues every year. For the human rights activists Balsamo and Navarrete, the march was a breakthrough, instrumental in unblocking the situation (interviews). MP Cánepa emphasises how the re-activation of the question of the past cannot 'be explained without reference to the work of Rafael and Felipe [Michelini]', that through their political actions re-instated the topic onto the public agenda (interview).

As concern with past human rights crimes resurfaced, during 1997 several suggestions (a truth commission, mediation by the Catholic Church or direct negotiations between the military and former guerrillas) were proposed to uncover the fate of the disappeared, including by Senator Michelini and *Tupamaro* leader Rosencof. However, none of these proposals were accepted by the

government, that responded by stating that the Expiry Law made further investigation impossible, accusing those seeking information of intolerance and of threatening democratic values, or it simply ignored them. (Brito, 2001b) The government's position was so intransigent that it even rejected the possibility of compensation to the victims' relatives.

For María-Elena Martínez, the impact of the momentous arrest of Pinochet was significant in Uruguay, creating a new dynamic for human rights (interview). Indeed, several of my interviewees highlighted the significance of the General's arrest throughout the region (González-Guyer, Caetano interviews). For Raúl Olivera of the Human Rights Secretariat for the *Partido por la Victoria del Pueblo* (Party for the Victory of the People, PVP), whose members account for a large number of victims during repression and was one of the few organisations working for accountability, 'the ghost of the dictatorships persisted until Pinochet was arrested'. This event 'demonstrated that the king of dictators could be imprisoned' without major consequences in Chile (interview).

For Vania Markarian, conversely, the arrest of Pinochet 'can be seen as a consequence of the reactivation of the theme of the past throughout the region', at a time when various events (Scilingo, the consideration of disappearances of a particularly aberrant crime, and the march of silence) illustrated that the past was already coming back (interview). Indeed, for Markarian, the return of this theme since the mid-1990s cannot be solely understood within the internal borders of each country. Rather, 'it was a regional wave' that, as had been the case during the onset of the authoritarian regimes in the early 1970s, saw a favourable regional climate vis-à-vis the consideration of the past (interview). In fact, a 'conversation'

was already ongoing between human rights activists across the region, where similar strategies were adopted, including the identification of missing grandchildren and the attempt to circumvent amnesty laws through exceptions like economic crimes and prosecutions of high-ranking officers (Elhordoy-Arregui, MFDDU interviews).

The case of the Argentine poet Gelman was particularly important in placing the concern with the past back onto the national agenda. Juan Gelman was looking for his missing granddaughter who was allegedly born in secret in 1976 and was presumed to be in Uruguay. In 1998, Gelman contacted President Sanguinetti, asking for help to locate her and find information on the fate of his disappeared daughter-in-law. (Demasi & Yaffé, 2005) Sanguinetti denied that any of Gelman's missing relatives had disappeared in Uruguay and accused the poet of having carried out a campaign that had discredited Sanguinetti internationally. (H. Achugar & Caetano, 2005) The question then seemed temporarily muted. Unexpectedly, in the beginning of 2000, the newly elected Colorado President Batlle announced that he had located Gelman's granddaughter. Macarena was born after her mother was illegally transferred from Buenos Aires to Uruguay and was raised by a policeman and his family in Montevideo, until she recovered her true identity. This case, together with that of Simon Riquelo, the son of Sara Méndez of the PVP who, at the age of twenty-six in Argentina, recovered his true identity, deeply moved Uruguay. For Adrianna-Beatriz Yelpe-Vega of the Human Rights Commission of the *Plenario Intersindical de Trabajadores-Convención Nacional Trabajadores* trade union (Inter-trade Workers Plenary-National Workers Convention, PIT-CNT), the cases of missing children 'opened the eyes of society'. If

before that, people saw the victims of the repression as 'communists' or 'guerrillas', once cases of missing children entered the news, society started to doubt and think: what had these children done? How could they be somewhere else [Argentina]? These cases had an incredible symbolic impact on society. (Yelpo-Vega interview, 9/09/2007)

Under President Jorge Batlle (2000-2005), for the first time, the Executive began to show an interest in finding a solution to the question of the disappeared, with the President talking about 'sealing peace forever between Uruguayans'. (Dutrénit-Bielous & Varela-Petito, 2006:345) President Batlle believed that peace had to be achieved. The latter was not a result of justice but rather 'a condition of the soul' (Demasi, Rilla interviews). As Miranda recounts, 'we did not expect Batlle's inaugural discourse in which he said he would open doors to the truth'. The appearance of Macarena and the fact that the President agreed, for the first time to receive a delegation from MFDDU, to initiate a dialogue on the disappeared in April 2000, 'marked the beginning of his presidency and was a very strong rupture in comparison to previous governments' human rights policy' (interview).

Undoubtedly, Batlle's most important decision was the establishment of the truth commission, the *Comisión Para la Paz* (Peace Commission, COPAZ). Presidential resolution 858 established that the Commission was to receive, analyse, classify and collate information relating to enforced disappearances under military rule. Composed of political and religious figures, the Commission worked for three years. In April 2003, it released its final report, confirming the disappearance of 26 Uruguayans in Uruguay, 182 in Argentina, 8 in Chile, 2 in Paraguay. It concluded that citizens that disappeared in Uruguay had been

detained in official or unofficial actions and submitted to physical torture in clandestine detention centres, dying in the majority of the cases as a consequence of the torments received.

The Commission received a mixed reception. On the positive side, Rilla outlines how the COPAZ was important at the time as, despite its problems and limitations, it was 'the first and only instance' when the state recognised and assumed responsibility for the crimes of the repression (Rilla, Markarian interviews). Similarly, for Elbio Ferrario, coordinator of Montevideo's Memory Museum, although the COPAZ only made limited advances in terms of achieving truth, it still constituted the first official initiative from the state (interview). For long a time 'people kept on thinking that the *desaparecidos* had gone to Spain or had been bored with their lives'. At least the Commission discussed openly and publicly the themes of disappearance, torture and the kidnapping of children (Martínez interview). Overall, the Commission was 'a positive signal representing a change of attitude by the Executive' (Caetano interview).

Nonetheless, serious critiques exist. First, human rights activists reject the commission's general findings, which concluded that the remains of the disappeared had been cremated and their ashes had been thrown into the sea. Specific conclusions regarding the fate of individual victims, some of which turned out to be incorrect as the case of Fernando Miranda, were also discounted by HROs. As Elhordoy-Arregui suggests, 'we were left with an aftertaste': the relatives only received a certificate testifying that X had 'effectively disappeared at a certain time and place' but provided no other information (also Olivera, MFDDU interviews). When incorrect information was given, that was 'not only cruel [...] but relatives once again felt they were being lied to and ridiculed', which

discouraged some of them from undertaking prosecutions to avoid further disappointment (Elhordoy-Arregui interview). Second, the commission's work was incomplete, given that it only focused on disappearances, and not crimes like torture and prolonged imprisonment that in fact characterised repression in Uruguay (Destouet, Elhordoy-Arregui, Ruiz interviews). Third, the Commission did not meet international standards, having only been granted limited powers and resources. It especially had to rely only on voluntary testimonies –unlikely from the military; it was also unable to subpoena witnesses and was not given access to state archives (Balsamo, Mansilla, Romero interviews). Finally, the commission was widely perceived as another attempt by the Executive to close the theme of the disappeared, by providing a 'dose of truth' to the relatives, and then moving on. For SERSOC, with the COPAZ 'the intention was another [...] to close the subject', but luckily that did not work out as the topic instead gained media attention (interview). Likewise, Romero suggests that the COPAZ 'had no intention to achieve truth and justice and [...] that the President felt he had to respond to society's demand' on the past that had been building up. Some interviewees also pointed out that the Commission was really the product of a personal struggle amongst the leaders of the Colorado party, Batlle and Sanguinetti (Martínez interview), a sort of 'political vendetta' to challenge Sanguinetti who had always contended that 'you could not know what had happened' (Elhordoy-Arregui interview).

This author agrees with Diego Sempol who suggests that the acknowledgment of state terrorism through the COPAZ reflected the search for 'a possible truth', one compatible with the goal of national reconciliation. (Sempol, 2006:211) For Raúl Olivera, this idea of possible truth basically 'means telling you when your loved

ones died' 'but no other information on who is responsible is then given' (interview). 'This does not help' he continues 'it simply tells you that the disappeared are no longer so, that they are dead or murdered, just to terminate the permanent crime' (Olivera interview).

During the 1990s, Argentina and Uruguay's TJ trajectory can be seen as a long but persistent process of 'awakening' (my term), during which human rights activists employed several means to challenge the silence and amnesia that had been imposed. If the 1980s were a time when the Executives could quite successfully control TJ policies, their predominance was increasingly challenged in the 1990s. In fact, various actors like the Michelinis, HROs such as the *Abuelas* and the MFDDU, and political parties like the Frente Amplio continued working on the question of the past, preventing that it 'would be obscured' (Yelpo-Vega interview).

As Caetano rightly suggests, attempts to turn the page on these questions in Latin America have not succeeded (interview). Rather, during the 1990s each small achievement brought incremental success over time and constituted a precondition for further developments. Moreover, the seeds that had been planted with difficulty during this decade would indeed bear fruit soon enough –but not without problems.

4.3 The Challenge of Transitional Justice in the present.

At the beginning of the 21st century, the third and current wave of TJ started. This phase has seen a consolidation of the search for truth and justice that continued relentlessly through the dark years of the 1990s, when civil society

fought against the Executives' desire to close the door on the past. Despite the significance of these new developments, the question of the past remains divisive.

As Chillier suggests, the process of TJ in Argentina has been convoluted. The situation was initially one that focused on truth and justice; second, there was a move away from imposed impunity to truth via the truth trials, and finally a return to justice and memory (interview).

In May 2003, the quest for accountability found an unexpected ally in President Nestor Kirchner who surprisingly backed efforts to prosecute those responsible for state terrorism. (HRW, 2004) As Sikkink and Booth-Walling point out, Kirchner belonged to the generation of the Peronist party that had been severely repressed in the 1970s. (Sikkink & Booth Walling, 2006) Carolina Varsky and Leonardo Filippini outline four major areas in which Kirchner's work is significant. (Varsky & Filippini, 2005) The President favoured the recuperation of former-detention centres to construct memory spaces. Second, he removed from governmental positions those linked to the dictatorship, forcing in particular dozens of generals and admirals into retirement. Similarly, Kirchner purged the federal police. For Acuña, by doing this, the President removed the last remaining connection with the dictatorship. Finally, Kirchner supported the re-opening of trials, and international co-operation on these issues. In fact, the President pushed for the effective annulment of the amnesty laws. Relying on the precedent of Law 23,040 of December 1983 that had declared the self-amnesty law enacted by the outgoing junta as 'null and void', in August 2003 Congress adopted Law 25,779, declaring the Full Stop and Due Obedience laws 'null, as if they had never existed'. (ICTJ, 2005)

The President created a favourable climate to progress on truth and justice, by appointing three new judges to the Supreme Court, and repealing Decree 1,581, that barred compliance with extradition orders. The President also ratified the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, obliging the government to punish such violations, and making extradition possible. In August 2004, the President completed the policy of reparations, providing compensation to minors that had been victims of state terrorism. (J. M. Guembe, 2006) Exiles are the last group who remain to be compensated. Proposals on this issue have been under discussion since 2004 but Smulovitz doubts that this will ever be adopted (interview).

Though the amnesty laws were derogated in 1998, declared unconstitutional in 2001, and annulled by Congress in 2003, a final decision on the constitutionality of their annulment was delivered by the Supreme Court in June 2005. (CELS, 2005) The Court upheld the constitutionality of Law 25,779 and simultaneously declared the invalidity and unconstitutionality of the Full Stop and Due Obedience Laws, claiming that they were contrary to international norms of constitutional hierarchy. The Court took into account recent developments in international human rights law, like the 2001 *Barrios Altos* case at the IACtHR, to conclude that the State was obliged to investigate and sanction crimes committed under the dictatorship as the latter cannot be amnestied. The Court considered enforced disappearances as crimes against humanity, and continuous and multiple violations of international human rights law.

Since 2004, several federal judges have also denounced Menem's pardons, the last legal obstacle to prosecutions. Some of these rulings like the one on the pardon of General Riveros were later confirmed by the Supreme Court in 2007, opening the way for other pardons to be deemed null and void. (HRW, 2007)

Prosecutions are now well under way throughout Argentina. As of February 2010, 1,422 people are implicated in crimes against humanity, 280 have been charged, sixty-eight condemned, 410 are currently under pre-trial detention, seven have been acquitted while 226 have passed away.²⁴

In 2006, the first trials in twenty years were held. In Buenos Aires a former-police official received twenty-five years imprisonment for the illegal deprivation of liberty, aggravated by torture and the appropriation of a minor, committed against the Poblete-Hlaczik family. In September, a former-police official, Miguel Etchecolatz, was sentenced in La Plata to life imprisonment for the illegal arrest, torture and homicides of six disappeared, and the kidnapping and torture of two survivors. (CELS, 2007; HRW, 2007) For the first time, the court in La Plata contended that these crimes had occurred within the context of the genocide in Argentina between 1976 and 1983. (La-Nación, 2006)

In 2007, two momentous prosecutions occurred. In October, Von-Wernich, a former-chaplain of the Buenos Aires provincial police received life imprisonment for involvement in murder, illegitimate deprivations of liberty and torture. (BBCNews, 2007) In December, seven high-ranking members of Intelligence Battalion 601, including former-Army Commander Nicolaidis, and one police officer, were sentenced to terms of between twenty and twenty-five years for aggravated illegitimate deprivation of liberty. (CELS, 2008)

²⁴ State Terrorism Blog, updated by the CELS, accessed 9 February 2010, <http://www.cels.org.ar/wpblogs/>.

Trials continue in 2008 and 2009. In April 2008, in the first judgment of its kind, a couple was sentenced to eight and seven years' imprisonment for the appropriation of María-Eugenia Sampallo, born to disappeared parents and stolen by an ex-Army captain. The latter was sentenced to ten years. (AI, 2009) In Tucumán in August 2008, former-General Menéndez and former-Governor Bussi were condemned to life imprisonment for the illegitimate deprivation of liberty, torture and disappearance of ex-Senator Vargas-Aignasse. (La-Nación, 2008) Menéndez, and several other military and civilian officials, were also convicted for the kidnapping, torture and extrajudicial executions of four people in 1977.

The re-opening of trials has been both welcomed and criticised. For Martín Hernan-Fraga of H.I.J.O.S., trials are 'a chance not to be missed', and H.I.J.O.S. is in particular working to disseminate information to keep society updated on these developments (interview, 16/09/2008). For Alba Lanzillotto recent prosecutions constitute a 'continuation of what was begun in the 1980s'. 'Everything to achieve justice should be attempted' she contends, 'as a country without justice is neither serious nor real' (interview, 11/09/2008). For Lordkipanidse, absolute justice is required 'not only to avoid the repetition of such crimes, but also to stop people from taking justice into their own hands'. A particularity of Argentina (but also Uruguay) is that there have never been instances of personal vengeance, although they could have easily occurred given that 'repressors were free to walk the streets' for years. As Lordkipanidse recognises, 'direct victims will run out of patience soon' and this risk of personal justice should be avoided through the work of the judiciary (interview). Trials are seen as providing moral reparations to

victims (Smulovitz interview), helping to 'restore their dignity' (Malamud-Goti interview).

An intermediate position was taken by former-President Alfonsín, and Judge D'Alessio. Alfonsín contended that although the trials were 'a source of personal joy', he still pointed to the appropriate implementation of constitutional principles and the difficulty of collecting information over thirty years later. He was additionally concerned that innocent people may be wrongly condemned. For D'Alessio, the revival of the trials 'worries him as a jurist' particularly because it looks like it is going to be an extremely long process. Together with Gil-Lavedra, D'Alessio tried to develop a proposal to speed up the trials but 'the government has an interest in maintaining the trials as propaganda, the longer they last the better'. 'This is never going to finish' he continued, 'and this process ends up converting these people that were monsters into victims': so 'I think you need to do this very quickly, also because some symbolic figures like Suarez-Mason have already died' (interview).

The most critical perspective is voiced by Graciela Fernandez-Meijide that, in addition to agreeing with D'Alessio on the risk of transforming repressors into victims, highlights the limited amount of new information acquired. 'I am sure that if you ask victims' relatives what they would prefer, another trial or specific information on their missing loved ones, I can tell you that, starting from myself, I already had enough with trials' (interview). Similarly, Lanzillotto points out how in these new trials it is once again the victims' voices that are heard: 'now the perpetrators' amnesia is worse than before, they do not know anything, they do not say anything and have forgotten everything [...] they are cowards of the worst kind' (interview, 03/09/2007). Fernandez-Meijide emphasises that the military

'will not speak out as the information will be used against them', 'so it will not happen'. She suggests instead the development of a plea bargain system, for the government to develop a 'special code' according to which if new facts are given, like burial locations, appropriated children or archives, lesser sentences can be offered to enable progress on the truth (interview, 12/09/2008).

The re-opening of trials had some negative consequences. Several witnesses have been intimidated to dissuade them from providing testimony. Some like Luis-Ángel Gerez and Juan-Evaristo Puthod were abducted and temporarily disappeared. The most disturbing case was that of Jorge-Julio López, a key witness at the Etchecolatz trial, who disappeared the day before the verdict was delivered. He continues disappeared at the time of writing. For Acuña, recent intimidations are linked to the police. Around 90% of threatened witnesses are giving testimony in cases related to the police, while 10% to the gendarmerie. No-one has been intimidated in proceedings against the military, which shows 'that the armed forces have little operational capacity, almost none' (interview). 'The most you get' Acuña insisted 'are signs of solidarity and loyalty from colleagues, but it is ironic that those most annoyed [by recent trials] are the ones with the least capacity to do something about it' (interview). The historian Lorenz shares this perspective, contending that 'the military only has symbolic power nowadays', 'they will not carry out a coup if they do not like a trial but obviously they collaborate very little' (interview).

Overall, Kirchner's human rights policy triggered mixed responses within the community of human rights activists and society. For many, the former President

has been instrumental in re-opening the question of accountability. For others, he has '(ab)used' (my term) the past for his own political purposes.

After years of fighting against Executives that attempted to strictly circumscribe the scope of truth and justice, several HROs rejoiced to have found a President that was finally willing to take up their cause. Marcelo Brodsky of *Buena Memoria Asociación Civil* (Good Memory Civil Association) stresses how, unlike previous administrations 'the government facilitated the process of justice' (interview 30/08/2007). An *Asociación-Madre* representative recounted of their meeting with Kirchner during which he told them: 'Mothers, I understand your pain. I was also a militant while I was a student [...] they took away my best friends, I could have also disappeared'. She underscored how there has been a 'friendlier relationship with the Kirchner's administration', 'when different winds were blowing', and that the 'Executive actually listened to our demands' (interview). Vera Jarach from the *Linea-Fundadora* pointed how 'the Kirchner's administration had a direct interest in the matter, given it was made of people who belong to the generation of the disappeared [...] that today work for human rights, against impunity and for the social changes they desired [back then]' (interview).

However, as this author also agrees, there are several problems with Kirchner's (ab)use of human rights. First, as Enrique Peruzzotti contends, the President's policy focuses on the past to the detriment of current human rights issues, especially problems relating to the police, the judiciary, governing by decree and the separation of powers. (Walger, 2006) Second, how deep really is Kirchner's commitment to human rights? Fernandez-Meijide highlighted how Kirchner (and now Cristina) was never preoccupied with the subject of the past before. Upon being elected, Kirchner was a little known figure in political centres like Buenos

Aires or Rosario, so he 'selected this topic in the attempt to garner support from the middle classes' (interview, 12/09/2008). The academic Daniel Lvovich shares this position, suggesting that the Kirchners took up the human rights banner 'as a differentiation strategy' within Peronism (interview, 19/09/2008).

Others accuse the President of 'appropriating himself of the question of human rights'. Carlos Lordkipanidse criticises how Kirchner credited himself with the nullification of the amnesty laws that 'instead resulted from the work of people that relentlessly continued to demand' accountability over the years. 'It is in the President's power for instance to cancel the pardons through decree law', Lordkipanidse told me, 'to cancel their validity, but that he has not done' (interview). Similarly, the academic Vicente Palermo suggests that Kirchner has the pretension that policies on human rights 'began with him, that everything that went on before was tantamount to appeasing the military'. 'However key events like Balza and Scilingo occurred before' (interview, 5/09/2008).

The strong link that developed between the Executive and some HROs, especially the *Asociación-Madres*, has been criticised as detrimental to activism. For Palermo, the so-called 'campo crisis' between the government and the agricultural sector that occurred between April and July 2008, saw the active participation of the *Asociación-Madres* in this political issue displaying behaviour 'that had nothing to do with the spirit of human rights' (interview). Federico Lorenz also emphasises how some HROs participated with Cristina in all the events during the crisis, which was 'negative and made people see human rights claims as sectarian' (interview, 8/09/2008). For Novaro, this close association caused a 'big deterioration in the human rights movement that moved away from a liberal and universalist discourse of human rights to become a tendentious group that

vindicates the victims [of repression] as the representatives of a political project, not as subjects with rights'. Indeed, Novaro considers that 'recent trials have less historical value as they feel like historical revenge, rather than really working to strengthen the rule of law'. They 'have been politicised so much' Novaro continues that 'the only thing that matters is that the government is using them politically and for petitioners to convert them into the vindication of the revolutionary fight [of the disappeared]' (interview).

The intertwining of politics and questions of accountability in Argentina is complex. Vezzetti underscores how 'you have to recognise that those that voted for the amnesty laws in the 1980s are the same that voted to re-open the trials in 2003, the same Peronist party': 'you cannot say that the governing party really is devoted to this question'. 'It is difficult for us to understand' he went on 'so I cannot imagine for you!'

Although advances against impunity are important on the long road to achieving truth and justice, there are also some risks. As I see it, if the question of past accountability becomes entangled with present problems, as during the campo crisis, legitimate demands for clarifying the fate of the disappeared and establishing responsibility for these atrocious deeds can be overshadowed by problems of current interest. As several of my interviewees emphasised, everyday there is less interest from the public because people feel they have had enough of this topic (Fernandez-Meijide, Carnovale interviews). So the challenge is how to capture and sustain society's interest with the past in order to achieve accountability for the crimes of state terrorism?

The reactivation of the past in Uruguay resulted from several local and external factors. However, an interesting and convincing argument relates to what Demasi calls 'the unfulfilled pact', according to which the Expiry Law did not produce the results that were expected from it (interview). Likewise, Caetano adds that the logic installed by the Law 'that the cost of truth was allegedly [giving up] justice failed: events demonstrated that although we limited justice, truth had not progressed' (interview). As Elhordoy-Arregui puts it well, the *cambio en paz* strategy turned out to be a *paz de mentiras* (peace of lies). The peace that was promised 'was never achieved, the disappeared did not return, there were no investigations and people still suffer from the consequences of torture'. 'So this peace was never real' Elhordoy-Arregui added 'the results that were pledged were not obtained and thirty years later people are realising that they have a right to ask about what happened, but this is only occurring now' (interview).

The election of Tabaré Vázquez of the Frente Amplio in 2005 raised hopes that finally the time had come for truth and justice. The President announced he would personally manage the question of the disappeared. (Carro, 2005) Caetano highlights the four pillars of Vázquez's human rights policy as outlined in the President's inaugural speech. First, memory 'because the past never rests in peace', and it is necessary to know and understand it. Second, the truth that is 'the only path to overcome wounds and the shady areas that each society has', to obtain a better future for all Uruguayans. Third, justice understood as a set of rules and norms that enable proper coexistence between people and institutions. Finally, reparations understood 'not as a *punto final* (end point)' but as embodying the

'acknowledgement and responsibility of the State' for the suffering of so many Uruguayans. (Caetano, 2008:190)

In terms of justice, the President did not abolish the Expiry Law, as many had hoped, but instead worked within its framework. In addition to the procedures established under article 3, article 4 entrusts the Executive with the responsibility for investigating disappearances. (Skaar, 2007) On this issue, President Sanguinetti had delegated his authority to Defence Minister Medina in May 1987, who in turn had assigned the task to military prosecutor Colonel Sambucetti. This first attempt was largely rejected by HROs. For Miranda, the work of Sambucetti 'was a joke, absolutely a joke and absolutely offensive'. 'It was a political error' Miranda added 'that Sanguinetti ridiculed the investigation and in this way liquidated the theme for several years' (interview). The relatives of the *desaparecidos* refused to cooperate with the Colonel who was an active duty officer and therefore lacked the necessary guarantees for independence and impartiality. (AW, 1989; Heinz & Frühling, 1999) For the academic Lilia Ferro, 'Sambucetti was trying to justify so much to obstruct the investigation' that he ended up almost saying 'yes, these things did happen but we are not going to investigate them' (interview, 03/09/2008).

Vázquez's approach has been more successful in that, by complying with the Expiry Law, he has allowed prosecutions to start. Up to March 2009, the administration excluded a total of 58 cases from the law's remit. (Fasano-Mertens, 2009) Some of these include the symbolic cases of the Michelini/Gutiérrez-Ruiz murders, María-Claudia García de Gelman, mother of Macarena, Simón Riquelo and Ubagesner Chávez-Sosa. (LaRepública, 2009f)

The President also initiated investigations to establish the fate and burial places of the disappeared, ordering several excavations within military sites, including the La Tablada compound and the 13th and 14th Battalions. These searches resulted in the identification of two disappeared. In 2005 the EAAF confirmed that human remains found at the Pando farm belonged to Ubagesner Chávez-Sosa, a member of the Uruguayan Communist Party that had disappeared in May 1978. In March 2006, DNA analysis confirmed that the complete skeleton found at the 13th Battalion was that of Fernando Miranda, Javier's father, who had been kidnapped by military officers in November 1975. (EAAF, 2007) The President decreed a third set of excavations in April 2008, but no further discoveries have so far been made.

Additionally, the administration adopted some significant and long overdue legislation. Law 17.894 enacted in September 2005 created the legal category of 'absent due to enforced disappearance' for 26 citizens who disappeared in Uruguay. (ParlamentoUY, 2005; TomoIV, 2007:47) Law 18.033 adopted in October 2006 restored pension rights to all those that, for political, ideological reasons or trade union involvement had been forced to leave the country between February 1973 and 1985, had been detained, lived clandestinely or had been fired as a consequence of Decree 518/973. A special reparatory pension (around USD500 a month) was granted to those that had been deprived of liberty. (ParlamentoUY, 2006)

In 2007, the Presidency released a detailed publication drafted by several academics. The *Historical Investigation on Disappeared-Detainees* aimed to honour the memory of the victims, strengthen tolerance and respect among Uruguayans, and to emphasise the importance of democracy as a form of government. (TomoI, 2007:5) Composed of five volumes, the investigation deals with several questions

relating to the past, including the reconstruction of the repressive context. It disseminates data relating to victims of disappearances, missing children and bodies washed up on Uruguayan shores during the 1970s. The manuscript also gathers documentation such as reports of investigative commissions and denunciations presented to international organisations.

For the first time in June 2005, the armed forces were ordered by the Executive to carry out investigations into the fate of the disappeared-detainees, to comply with the Expiry Law. Their reports, submitted in August, represent a noteworthy event. The Army report outlines the cases of twenty-two people detained during military operations who subsequently died in detention. Information was provided on the site of their burials but the report claims that in 1984 graves were disinterred, remains cremated, and the ashes scattered around. No details are given on the causes of death.

The Navy distinguishes two periods in its operations. Until 1974, clear procedures were in place relating to detentions and those carrying them out. Between 1974 and 1985, activities were undertaken by smaller groups, thus making information scarce and unreliable. The report states that disappearances resulted from death during interrogations under torture, but no specific information is given on either detentions or the specific circumstances of death. In a later report dating September 2005, the Navy significantly admitted that co-ordination and exchange of information had existed between the Uruguayan Marine Corps Unit (FUSNA) and the ESMA in Buenos Aires.

Finally, the Air Force supplies quite specific information on the fate of two disappeared-detainees and the details of their burial locations were also disclosed.

Additionally, it admitted that two flights occurred, on 24 July and 5 October 1976 to clandestinely transport political prisoners from Buenos Aires to Montevideo. Details of a third flight emerged in June 2007 when a declassified US State Department document confirmed the illegal transfer in 1978 of 20 Uruguayan exiles that had been kidnapped in Argentina in December 1977. (Rodriguez, 2007) Up to twelve flights were mentioned during my interviews; however, I was unable to verify this information (Romero, Ferrario interviews).

The reports received a mixed response. For Alfonso Lessa, they 'constituted a historical event' in officially recognising for the first time the employment of torture in military sites, the *desaparecidos*, deaths in barracks, the illegal transfers of prisoners back to Uruguay, and the practice of clandestine burials and cremation of their remains (interview). For Caetano, the reports assume what can no longer be denied, that officers were responsible for detentions and disappearances, but interestingly enough they never use the word torture with the Navy using '*apremios físicos* (physical pressure)'. 'This is the eternal *elusión uruguaya* (Uruguayan elusion)' Caetano continues, pointing to the name of the Expiry Law that does not mention the word 'amnesty', the founding text of the Peace Commission that uses four different verbs but not 'investigate', and the use of '*de facto* regime' instead of dictatorship 'not to hurt the sensibility of the military'. 'This is a society of circumvention, where things are not called by their own name' (interview). Caetano also points to the limited impact of the reports that were incomplete and/or provided incorrect information, as in the case of the supposed burial location of Macarena's mother.

Vázquez's policy on human rights constitutes the first instance since democratisation where the Executive takes a real interest in developing the question of the past. Several of my interviewees highlighted the positive contributions that the President's policy had made. Alfonso Lessa pointed to the significance of military prosecutions and the excavations of military sites that had never occurred before. Lessa emphasises how the Expiry Law 'has been interpreted differently by each president' and that 'Vázquez permitted what had never been done before'. What is more significant for Lessa is the fact that the Vázquez's administration 'is the first ever government from the Uruguayan Left' and thus it also had to manage the armed forces 'that had traditionally been their enemy'. Along these lines, Bleier referred to the 'old questions of the stability', contending that 'the Left government was already de-stabilising *per se* and that it had to worry about stability more so than other governments'. Nevertheless, the President 'had the courage to exclude some cases from the Law', generating political and cultural conditions to break the silence (Bleier interview). Others point to Vázquez's consistent behaviour in not derogating the Expiry Law, living up to his electoral compromise to work with it (Rilla, Mansilla interviews). Indeed, although some prosecutions had already begun in 2002, notably the case of former Foreign Affairs minister Blanco, the beginning of trials is clearly one of the main advances in terms of accountability. Senator Michelini emphasises how the current Executive represents a change in the fight against the impunity, coupled with the championing of human rights. The Senator highlights how the amnesty law has been nullified *de facto*, although some judges and prosecutors continue to apply it regardless of what the Executive decides (interview). Indeed, although the current government 'has not been as radical as one would have wished', 'it still acted with

intelligence and, by applying textually the Expiry Law, still achieved important progress' (Caetano interview).

Symbolic prosecutions are now occurring against important figures of the regime, including former Presidents Bordaberry and Álvarez. For Markarian, the decision that civilians also had responsibility and therefore need to be prosecuted is significant, and is 'a good interpretation of what happened at the time, beyond those that were the ones with dirty hands' like the famous repressors Gavazzo, Campos-Hermida or Silveira. 'Otherwise' Markarian continued 'it would be easy to just dismiss these people as sadists or perverts, their crimes as excesses that were too brutal to be justified, and then they become scapegoats' (interview). Rather, the prosecution of the civilian and military leaders of the regime is fundamental in accurately challenging the justification usually employed by the Armed Forces that human rights crimes were simply deviations, pointing instead to a policy of state terrorism that was implemented top-down.

Nonetheless, Vázquez's policy has been criticised by HROs that wished for a more forceful and aggressive approach. Members of SERSOC do recognise that achievements like prosecutions and excavations 'were unthinkable just a few years ago', but still highlight the need of a comprehensive reparations policy' that is still absent (interview). Elhordoy-Arregui contends that 'this government is not the panacea that I wanted, but I expected more clearly defined steps like the immediate nullification of the Expiry Law'. 'From the perspective of human rights, we all placed our hopes in this government' Elhordoy-Arregui asserted (interview). Similarly, Romero acknowledges how 'we thought it would be much easier to gain answers with a left wing government, but it has not been so' (interview). Caetano, while recognising the significance of current achievements,

adds 'that they left an aftertaste as, for instance, the military did not carry out comprehensive investigations and they provided very little documentation, pointing to the fact that only two of over 200 disappeared have actually been identified (interview). Lastly Rilla suggests that the President attempted to control the past and close the discussion on it, for example through the Historical Investigation and the Day of Never Again, but 'he has not been very successful so far' (interview).

Although the current Executive has adopted a much more proactive stance on the question of accountability, this does not mean that other actors have taken a secondary role. Rather, they have, through various projects, continued to pursue the question of truth and justice. Two of the most significant initiatives relate to the Expiry Law. First, in October 2008, public prosecutor Mirtha Guianze presented an unconstitutionality appeal against the Law relying on, amongst other things, the 1992's IACHR report. The appeal, endorsed by the Executive and the Legislature in February 2009, is now pending before the Supreme Court. Second, another attempt to submit the law to plebiscite has been ongoing since September 2007. In April 2009, well over the required number of signatures were submitted to the Electoral Court, and in June the plebiscite was scheduled for October 25, 2009.

The unconstitutionality of the Expiry Law remains a source of debate. First, several legal problems exist. The category of 'nullification' rests on dubious ground in Uruguayan law (Caetano interview). As the Law was voted by Congress, declared constitutional by the Supreme Court and ratified by national referendum, Rilla suggests that 'talking of nullity is an exaggeration, nonsense from a juridical

perspective'. 'How can we nullify a law that has been so influential over the years? Maybe it can be derogated but not nullified' (interview). Navarrete considers that the Law should be nullified by Parliament, as the referendum route already failed in 1989. In contrast, Markarian contends instead 'that it is a good idea to have another plebiscite as it was firstly confirmed in that way'. Bleier conversely argues 'that it does not really matter whether the law is derogated by parliament or referendum'. 'The law was an instrument adopted by the political system to obtain specific objectives at a certain time and therefore it cannot be more than that' (interview).

Although many emphasise the symbolic power of the campaign and the removal of the law, they still contend that it is possible to achieve justice, as has occurred under the Vázquez's administration, namely by working within the law's framework. As Miranda stresses, 'pretending that you cannot prosecute because of the Law minimises the problem: the question of impunity cannot be reduced to the Expiry Law' (interview). Bleier agrees that 'it does not really matter whether the Law exists or not', pointing instead to how impunity is a consequence of the attitude of the judiciary and the political establishment (interview). Third, even if the Law is nullified, many question how this would change the situation, stressing that it would not make the military talk which is a fundamental requirement, considering that the majority of information is still missing (Martínez interview). 'I do not think it makes a difference' Demasi told me, 'without the risk of justice, the military did not talk; threatening them with trials now will make them talk even less!' Finally, Caetano and Trivelli highlighted the risk that the Law may be maintained through the referendum, constituting a (second) terrible blow in the quest for truth and justice.

A particularly interesting perspective is suggested by Rilla and Olivera. Rilla, referring to the 1989 vote, stressed how 'Uruguayans have not completely realised what it means for a political community to renounce truth and justice; you can do that but you need to be aware of what you are giving up. Back then, there was still a lot of fear, backed by the government and its threats' (interview). Olivera underscored how it was an error to use the referendum, 'we did not realise that then [1989], how can we submit to plebiscite a right that we own? We were risking our right while they [executive, military] did not risk anything'. Losing the plebiscite saw several people giving up and terminating their interest in the subject, 'it was very demoralising [...] and effectively sealing impunity'. Now Olivera stresses that the same is happening, 'we are again subjecting *our* right to a plebiscite so what happens if we fail again?'

Looking at the Argentina and Uruguay's experience with accountability highlights how the trajectory of TJ is often unpredictable, its evolution having highs and lows, as well as pauses and sudden developments. In both, TJ initiatives were cumulative in the sense that they evolved in a 'step-by-step' way (Rilla interview), whereby each project was built upon previous achievements and they all complemented each other (Fonderbrider interview).

Upon democratisation, Argentina and Uruguay addressed differently the legacy of violence. Initially, in the mid-1980s they adopted opposite accountability policies, prosecution and truth-telling in Argentina, and oblivion through amnesty in Uruguay. By the early 1990s, accountability demands had been exhausted, sliding off from the political and social agenda. Since the mid-1990s, a propitious combination of local and international dynamics set the conditions in which it was

possible for TJ to resurface, with renewed and sustained claims for truth, justice and memory. This renaissance successfully challenged the situation of imposed silence to re-open questions on the past that had been left unaddressed. At present, 'the regional and global protagonist of TJ' (Argentina) (Brito, 2008) and the 'laggard' (Uruguay) have reached similar positions, something few could have predicted only a few years ago. Nowadays, the biggest challenges are the ongoing prosecutions, the October referendum and the construction of memory to which we now turn our attention.

The Politics of Memory – Argentina, 1976 to 2009

Unlike Uruguay where the state successfully implemented a policy of oblivion in relation to the years of political violence, the politics of memory in Argentina were a muddled and complicated affair.

This chapter contends that the Argentine state endeavoured, like its counterpart across the River Plate, to play a hegemonic role in memory since transition. Nevertheless, it never successfully achieved its goal.

This chapter recounts attempts by the state to try to establish an authoritative account of what had happened during the years of military rule and human rights repression. Differently from Uruguay, the Argentine state faced many challenges in its desire to be a hegemonic actor. It was forced to endure a difficult co-existence in the landscape of memory with other two players, HROs and the military. In fact the state's narrative was always actively disputed, in particular by human rights activists.

It is argued here that three phases of memory policies existed. Each democratic administration since the mid-1980s has effectively championed, whether explicitly or not, a specific narrative over the years of military rule, often through TJ mechanisms.

To illustrate this argument, the chapter starts off with a brief introduction on questions of memory. Afterwards, it describes the origin and the transformation of three emblematic memories (the military, the government and HROs) that tried to attribute meaning to the events of the recent past. Second, particular cases relating

to dates, places and groups are examined to account for the politics of memory that unfolded in the social, political and cultural arenas. Third, the interrelationship between memory and TJ initiatives is considered, examining CONADEP and the Trial of the Commanders.

5.1 The Memory of Military Rule

Carina Perelli suggests that 'has-been countries', like Argentina, are places where nostalgia flourishes. (Perelli, 1994:39) Argentines especially use the mythologized past as a source of strength. Although the country 'doesn't count any more in the roster of the nations', Argentines still obtain a measure of comfort and self-esteem from remembering a past in which Argentina was different, better than the rest. (*Ibid.*) In Argentina, a shared account of the past is particularly significant, as much of people's sense of worth and identity depends on what is perceived as the country's heritage and historical tradition. Nonetheless, the events of the last few decades have prevented the development of such a grand narrative.

Ironically, the recent past could not be any more present, easily found in the media on almost a daily basis. The past however exists as a fragmentary force, a source of constant confrontation. The years of political violence continue to trouble society: Argentines have yet to come to terms with such an uneasy heritage. As a consequence, the memory of what occurred is constantly being 'constructed, destructed and reconstructed', with the process having no end in sight and without a definitive image becoming crystallised. (Bergero & Reati, 1997:12)

Over time, Argentina has been rocked by waves of memory that continuously reminded an often unwilling society of the heavy burdens of its not so distant past. In fact, society cannot escape issues of memory. For Marcelo Brodsky, 'human rights are part of an ongoing discussion [...] What you think about this matter is important [...] it is part of our culture and identity [...] the fact that thousands of people disappeared as a consequence of the actions of the state only a generation ago, we are still brothers, parents and sons of those people. Therefore it is present in everyday life, in one way or another. Of course it is more so in the case of direct victims, but I would say that it transcends human rights groups' (interview). As Patricia Valdez, Director of *Memoria Abierta* (Open Memory) NGO, rightly suggests, the landscape of memory is one of 'memories in conflict'. 'In fact' Valdez continues 'even within HROs we can see obvious differences as to how the memory of the past should be updated and exercised in the public scene, although the object of memory is not itself disputed' (interview).

The clash among opposing memories pre-dated transition, having actually started under military rule itself. Controversies surfaced as soon as events unfolded and discourses were later revised according to different economic and political conjunctures.

Two preliminary points can be suggested. First, several narratives circulate and exist side-by-side in the public scene (Carnovale interview). The memory of the *afectados* (those directly affected, namely victims and their relatives) rests on a portrayal of the crimes and the moral offence caused. It traditionally presents a de-politicised view of the past, an image of innocent victims. A variant that has recently emerged among some sectors focuses on a vindication of the

desaparecidos' revolutionary projects. The Two Demons Theory has been championed particularly by the executive. Then, two further ideological perspectives co-exist. The first is the framework of the dirty war proposed by the armed forces and their supporters. The second is the guerrillas' account that has recently begun to philosophically and historically reflect on the Left's responsibility for the events of state terrorism (Lvovich interview). Finally, there is also a juridical memory of the crimes, based on the investigation and proof, and embodied in the Trial of the Commanders. (Vezzetti, 2007)

Second, these different representations share public and social spaces, and attempt to gain audience and supporters. Still, a sort of consensus prevails within society concurring on the fact that human rights were violated by the state and that this should not happen again (Brodsky interview). In Argentina, the experience of the military dictatorship is widely perceived as a 'very harmful event' (Valdez). This produces a clear repudiation of the exercise of political violence, state crimes and authoritarianism (Crenzel). As Luis Fondebrider rightly points out, this common 'floor' is shared by many sectors but then 'if one starts to dig deeper, disagreements and different visions start to appear, particularly in relation to the reasons behind the [1976] coup' (interview).

An important question that recently emerged relates to the ownership of memory (my term). Since transition, HROs and the *afectados* have played an essential role as the guardians of memory. For Hugo Vezzetti, this however created an ill-fated situation as policies of memory are largely self-centred on HROs, and thus fail to generate a broader social compromise. Although HROs and victims do

have a direct and close relationship to the past, are they the only owners of memory?

As Alba Lanzillotto contends, 'society has been silent for a long time and was terribly scared, but if you give it a chance, it will talk'. 'It is important to gather these memories too' she continues 'it should not only be the memories of those directly affected but also people from the neighbourhoods that may have not been personally involved, but still listened and had to see' (interview, 03/09/2007).

If the memory of state terrorism is not sustained by society as a whole, there is a risk that once direct victims are no longer around, it may be lost. In fact, Vera Jarach, a *Madre*, underlines that it is vital to create what she labels 'bridges of memory'. 'In the last few years, I see that our need to transmit memory has been combined with the necessity from society to listen and receive it [...] this is very significant as only then bridges of memory can be established [...] it is not only about us talking, but also society discussing its needs and current problems with us [...] then you create this civic commitment and participation [...] and this is the key goal, because we will die, but the bridges will remain'. Nonetheless, as we later examine, this is only partially true.

5.2 Argentine Communities of Memory

Chapter 2 described how several communities of memory are present within societies attempting to tackle a legacy of human rights abuses. Although their borders can be quite porous, the discussion here focuses on three of them: the military, the government and HROs.

As we saw, each community rests on an emblematic memory, namely a framework for collective remembrance that assigns meaning to the years of

political violence and military rule. It is contended here that each memory has two features. It has a central nucleus comprising of elements that, since its initial creation, have endured over time. Nevertheless, these frameworks are also flexible enough to be able to evolve to reflect the new political, cultural and social contexts in which they exist. Despite this elasticity and variation, they still remain true to their essential cores. In the case of the military and HROs, their emblematic memories are 'exclusive' (my term), in the sense that their interpretation of the past often relies on the negation of each other's position.

The Military

According to Jelin (2006:7) and Marchesi (2005:175), the armed forces of the Southern Cone developed comparable narratives when explaining the events leading to military rule and human rights violations. These discourses presented two actors pitted against each other: Marxist subversives vs. the military. (Jelin, 2006; Marchesi, 2005)

The Argentine military was no different. In fact, as Heinz and Frühling (1999) suggest, their perspective was quite comprehensive, addressing the reasons for the coup, images of the enemy and broad ideological questions. The military shared the regional narrative of salvation. There are four key ingredients in the case of Argentina: heroism, rationales for the coup, the war against subversion and human rights issues.

As in Uruguay, the discourse of the Argentine military was not static. Three phases exist: the dictatorship, transition and recent developments. Although it effectively adjusted itself to changing environments, the military institution remained true to its central narrative, notwithstanding individual exceptions.

First, this account rests on a heroic image of the military that, being the defenders and ultimate guarantors of the nation, protected it from the infiltration of international communism. (Jelin, 2006) Indeed, for the military what was at stake was nothing less than the nation's future, whose 'unity and national objectives' were being threatened. (Agüero & Hershberg, 2005:4)

According to the Armed Force, military takeovers in the region were due to democratic administrations' poor governance and the actions of subversion that provoked a power vacuum beyond control. Due to this, political parties and civil society had requested the military's participation that accordingly responded to 'the call of the fatherland'. (Marchesi, 2005:194-195)

The *Proclama* (manifesto) of the Argentine Junta of 25 March 1976 clearly states the rationale for the intervention: 'before a terrible lack of power and the inability of the national government [...] in economic management, speculation and corruption, the military in complying with an inalienable obligation have taken over the control of the state' and this decision 'had the purpose of terminating with bad governance, corruption and the plight of subversion'. (Lorenz, 2002:58)

The idea of subversion is a fundamental building block. Marchesi (2005) rightly stresses how the notion of subversive conspiracy was important for the consolidation of the regimes and the achievement of some type of public legitimacy. It acted as an as explanation for those sectors in society that experienced a situation of socio-political polarisation and economic crisis that had preceded coups in the region.

For the Argentine military, subversion was 'an evil figure that through armed struggle and its ideological offensive sought to question the very foundations of the

nation'. (Jelin, 2003:53) General Videla defined subversion 'as a global phenomenon that has a political, economic, social, cultural and military dimension that [...] tries to penetrate within a population to subvert its values, create chaos and through these means assume power violently'. (*in*: Pion-Berlin & Lopez, 1991:70) More specifically, Videla claimed that a subversive was 'anyone who opposes the Argentine way of life'. (*Ibid.*71)

Thus, the military was engaged in a war against subversion, more specifically, a dirty war. This image of war automatically justified the actions of the military. The threat of communism validated the defence of the country, as well as the establishment and endurance of the regime. (Marchesi, 2005)

The notions of war and subversion allowed human rights crimes to be presented as excesses or deviations. For the military, war was an event where ethics were suspended: in such situations of chaos and uncontrolled violence, there may be unintended consequences. In the words of the Junta: 'In this period, almost apocalyptic, mistakes were committed that, as it happens in all wars, could go beyond, at times, the limits of respect of fundamental human rights, and that remain subject to the judgment of God in each conscience and to the understanding of men'. (Marchesi, 2005:199)

The military argued that human rights violations were the result of a process of violence that had been unleashed by the guerrillas. In fact, the fight against subversion had implied not only a new type of enemy, but also novel forms of struggle that went beyond the classical training that the armed forces received. In attempting to explain the problem of the disappeared, the Junta stated: '[...] in traditional warfare, where combatants have different nationalities, use uniforms

that differentiate them and are separated by clearly identifiable lines, there still exist numerous disappeared. In a war with such unusual features as the one lived, where the enemy did not wear uniforms and its identification documents were fake, the number of dead not identified increases significantly'. (Marchesi, 2005:200)

Through strict media censorship and control of education, the Juntas curtailed all alternative interpretations, while policies of denial and misinformation created mechanisms of rationalisation and disbelief within society. (Brysk, 1994a; Jelin, 2007a) For instance, General Videla stated in 1977, at the height of disappearances: 'I categorically deny that in Argentina there exist any concentration camps or prisoners being held in military establishments beyond the time absolutely necessary for the investigation of a person captured in an operation before they are transferred to a penal establishment.' (Heinz & Frühling, 1999:672) Similarly, General Viola explained in 1978: 'There are no political prisoners in Argentina, except for a few persons who may have been detained under government emergency legislation and who are really being detained because of their political activity. There are no prisoners held merely for being political, or because they do not share the ideas of the government'. (Heinz & Frühling, 1999:672)

Even when human rights abuses became an international issue, the military responded by speaking of national dignity and reaffirming the path taken. The Junta adopted the slogan '*Los argentinos somos derechos y humanos*' (we Argentines are upright and humane), playing with the words human rights

(*derechos humanos*). (Roniger & Sznajder, 1999:183) Despite widespread condemnation, the military kept a monolithic attitude and never accepted any responsibility. The *Military Junta's Final Document on the War against Subversion and Terrorism* in April 1983 is exemplary. It states that many of the disappeared were *guerrilleros* that had gone into exile, some had been buried as unidentified bodies in an unconventional war, and that any remaining unresolved cases should be considered dead for legal purposes. The military added that all operations had been conducted under orders, called for national reconciliation and reserved itself to the judgement of history.

During transition, when the human rights question dominated, the armed forces modified their interpretation of events from the one in which they were heroes to another in which they were victims. This was so in two respects. First, they presented themselves as innocent victims of subversion: 'the exercise of human rights was at the mercy of the selective or indiscriminate violence imposed by terrorist actions that resulted in assassinations, kidnappings, revolutionary trials [...]' (Marchesi, 2005:201)

Second, a new ideological war was now being waged against the institution. The military could not understand why, after it had defeated subversion, sectors of society that had asked them to intervene and supported the regime, were abandoning them, actually putting them on trial for practices that had also been used by the armed organisations. For the military, the return of democracy had only been possible because their intervention had neutralised subversion. How could society not see that, and even be ungrateful? (Marchesi, 2005)

During the 1990s, challenges to the military account began to emerge; nonetheless, the pact of silence continued largely unscathed and, if anything, old solidarities and discourses have been recently reactivated.

The most significant test to the unity and strength of the military occurred in March 1995 when Navy Captain (ret.) Adolfo Scilingo publicly confessed to having partaken in death flights. Scilingo estimated that approximately 1500 to 2000 people were killed in this manner between 1976 and 1977. Scilingo, who had been stationed at the ESMA, recounted how virtually every officer partook in the flights that were 'considered "a form of communion", "a supreme act we did for the country"'. (Feitlowitz, 1998:196) Scilingo participated in two flights, in April and June 1977, and threw thirty individuals to their death. Upon return, Scilingo went to confession where he was assured that it had been a Christian death. (*Ibid.*)

The response to Scilingo's declarations was diverse. On the one hand, several leaders sought to discredit him. President Menem branded him 'a crook', and 'cautioned former military torturers and executioners to keep quiet, telling them not to "rub salt in old wounds" by publicly recounting their deeds, but instead to confess their actions, if they felt so obliged, privately to priests'. (Di-Paolantonio, 2004:365) The head of the joint chiefs-of-staff stated that Scilingo had lost all his virtues as an officer and gentleman, while the Navy labelled him a petty criminal and an untrustworthy individual. (Sznajder & Roniger, 1999) Admiral Massera insisted that no crimes had been committed and no-one had been killed illegally.

On the other hand, the response of Army Chief-of-Staff Balza in April 1995 overturned half a century of Argentine military discourse. (Sznajder & Roniger, 1999) Balza recognised how major crimes were committed and stressed that

responsibility laid with the military leadership, implying that criminal conduct had been ordered vertically through the chain of command. Importantly, Balza moved away from the due obedience justification, asserting: 'No one is obliged to obey an immoral order or one that violates military laws or rules [...] It is a crime to violate the national Constitution, It is a crime to give an immoral order, It is a crime to execute an immoral order, It is a crime to employ unjust, immoral means to accomplish even a legitimate objective'. (Feitlowitz, 1998:224) Balza's speech was especially significant for what it did not say. He did not mention the fight against subversion, nor did he plead for excesses that may have occurred, nor vilified perpetrators that confessed. (*Ibid.*)

Feeling cornered, the Commanders of the Navy and the Air Force were compelled to speak. In May 1995, Air Force commander Paulik admitted that errors and horrors had been committed in the fight against terrorism, while Admiral Pico acknowledged that the Navy had acted with no respect for the Constitution, the law or the rules of war, causing unacceptable horrors. (Verbitsky, 2005)

Balza's *mea culpa* received a mixed reception. Novaro suggests that 'there are two versions, one favourable to Balza, the other not so much' (interview). For some, Balza 'took advantage of the circumstances for his own ends, as he always had political ambitions'. Through the *mea culpa*, Balza 'became a modernising figure within the military and managed to distance himself from the Menemist project, becoming an autonomous actor' (interview). Others instead see Balza 'as an innovative actor that attempted to reconcile the military with society' (interview).

In the aftermath of Scilingo, there were further confessions. Nevertheless, these remained isolated and seldom provided specific information on the final fate of the disappeared. As Lorenz points out 'Scilingo and Balza received much publicity' but 'the pact of silence remains strong and confessions should not be idealised'. 'The public effect was much more important than the one it had within the institution' Lorenz continued 'as Balza was thrown out of the Military Circle, where he is seen as a traitor' (interview). Likewise, Acuña stresses how Balza's expulsion 'shows the kind of hegemonic discourse that still prevails within retired officers' (interview).

In the context of the thirtieth anniversary of the coup, additional self-criticisms occurred. Admiral Godoy called for redeeming the debts contracted with the tragic past, labelling the coup one of the saddest and most emblematic events of Argentine history. (Clarín, 2006) Army-Chief Bendini condemned the terrible consequences, referring to the numerous deaths and the methods employed. For the first time Bendini mentioned the ill-fated economic legacy that destroyed the productive apparatus, causing poverty and marginalisation, the impact of which still resonates in the present. Finally, Bendini pointed to the tragic wounds within society that have yet to heal. (Página12, 2006)

Even though younger generations have seemingly distanced themselves from traditional discourses, retired officers that directly partook in the repression continue vindicating their past. For example, during a trial in 2008 the former-head of the Third Army Corps, Menéndez justified the repression against the armed invasion of Marxist terrorism. He talked of a total war in which subversion had threatened the soul of the nation and suggested that terrorists continued to be present within society and the government. (La-Nación, 2008)

In fact, the re-opening of judicial proceedings since 2005 has strengthened the pact of silence (Carnovale interview). Lorenz contends that recent developments under the Kirchners produced a justification of military rule that 'is much stronger than just a couple of years ago' and that 'those in favour of the dictatorship are becoming much more visible' (interview). Likewise, Lvovich underlined how 'what was silenced before is now being said: since the Kirchners took up the human rights banner, the Right regained some legitimacy to speak out again' (interview).

Contemporary advances have triggered the development of organisations like *Argentinos por la Memoria Completa* (Argentines for Complete Memory, AMC) and publications such as *B1 Vitamina para la Memoria* (Vitamin B1 for Memory). According to Valentina Salvi (2008:7), these groups reconstruct the past in such a way as to defend the repression, by establishing a parallel with the insurgent violence of the guerrillas. On their website, the AMC describes itself as an organisation of young argentines that want to express their gratitude to those that fought against subversion in Argentina. They also mention that those who combated terrorism are now being persecuted by a minority that is manipulating justice.²⁵

Building on precedents of the 1980s, the rhetoric of the AMC focuses on remembering the suffering of fallen military officers, and questioning the legitimacy and discourses of HROs. (Salvi, 2008) They try to minimise the significance of state terrorism and appropriate slogans that traditionally belonged to HROs. In correspondence to the symbolic image of disappeared-detainees, they

²⁵ <http://www.memoriacompleta.com.ar/Quienes.htm> - Accessed 15 July 2009.

establish that of the terrorist-victim, i.e. soldiers that died a 'noble death', martyrs killed by armed organisations in the early 1970s. (Salvi, 2009:9-10)

Carnovale outlines how, while the military is still closed up in silence, the Right started speaking out through the AMC and its most outspoken representative, Cecilia Pando. Carnovale highlights that it had been several years since 'anyone had vindicated the actions of the military during the regime.' The AMC 'not only does that, but also has elements of revisionism like for instance regarding the number of the *desaparecidos* and of appropriated children' (interview).

Human Rights Organisations

Argentine HROs need little introduction. Groups like the *Madres* and *Abuelas* are known throughout the world. As Elizabeth Jelin suggests, however, organisations protecting human rights predated the repression. The *Liga Argentina por los Derechos del Hombre* (Argentine League for the Rights of the Man, LAPH) was created by the Communist party in 1937, while the APDH was established by politicians and intellectuals in 1975. (Jelin, 1994)

HROs are quite heterogeneous but nonetheless share a similar interpretation of the events of the past. As in Uruguay, the emblematic memory of HROs in Argentina is one of disruption and suffering. It presents repression as years during which the state perpetrated systematic violations of human rights. Torture, but especially disappearances, created a climate of anguish, fear and insecurity for all the families that had loved ones missing. This perspective has endured, largely unchanged, but there have been significant evolutions.

Alison Brysk differentiates three categories of HROs. Civil libertarians (LAPH, APDH and CELS) collected and reported crimes mainly through legal activity; they

appealed to universal principles and respect for legal norms. The *afectados* (*Madres, Abuelas, and Familiares*) used highly symbolic protests (weekly vigils, marches, petitions) as their chief tactic and based their action on a sense of loss, the right of families to protect their members, and the obligation of the state towards families. Lastly, *religious movements* (SERPAJ, the Jewish Movement for Human Rights) emerged because religious activists felt they could not provide pastoral services to victims within traditional structures. (Brysk, 1994a)

Under military rule, the 'politics of silence' reigned supreme. (Jelin, 1994:42) Two common lines of action by HROs emerged: dissemination of information and national and international denunciation of violations, and solidarity and support for victims and their relatives. (*Ibid.*) Their public activity, especially symbolic actions, attempted to challenge the hegemonic paradigm of the dirty war, trying to shift the interpretation of what was occurring to 'a framework of human rights violations'. (Jelin & Kaufman, 2000:90) An *Asociación-Madres* member emphasised how they were able to change the terms of the discussion: 'people stopped talking of subversives and terrorists, and began discussing instead of disappeared-detainees and later just the disappeared' (interview).

The narrative of HROs centres on suffering and the value of human rights. Its emblematic figure is the *desaparecido*, seen as the 'victim of the unimaginable'. (Jelin, 2003:53)

Disappearances left families and society in a situation of uncertainty. In the words of a *Linea-Fundadora* mother: 'We did not think they had disappeared. We would go to police stations to ask if our sons were being detained there. The pain

was like that, we did not know immediately, we thought they were imprisoned, *never disappeared*. [...] We did not realise the scope of the massacre [...] until some of those freed courageously talked, allowing us to comprehend' (interview). Similarly, members of *Familiares* recalled: 'Two years into the disappearance of our loved ones, we still had the hope [of finding them alive]; we did not know if our disappeared was alive, but we knew that several still were. When we went to Puebla in 1979 to see the Pope [...] we were still looking for our sons alive, although we had no guarantees' (interview).

HROs stressed the randomness of repression and the fact that many of the disappeared had no links whatsoever with the guerrillas. They challenged the military portrayal of human rights abuses as excesses, claiming instead that the crimes committed were part of a 'grand strategy', with the military being fully responsible for what was happening. (Perelli, 1994:59) This image of innocent victims prevailed for a long time but was not unproblematic.

An APDH member contended: 'those were crazy times, in the clandestine detention centres there were people who had nothing to do with the guerrillas. It was madness' (interview). The CONADEP later also contributed to this image, constructing an inclusive and heterogeneous profile of the disappeared as those that confronted injustices, opposed the dictatorship or attempted to change the social order, but also 'any of their friends, friends of their friends, people reported for personal revenge or by those under torture'. (CONADEP, 2006:13) 'Everyone would fall during the raids [...] all, in the majority of cases, were innocent and did not even belong to the guerrillas' as the latter normally died during confrontations or killed themselves, so only 'a few would reach the hands of the repressors alive'.

(*Ibid.*)

This prevailing image of innocence was sometimes combined with the idea that the disappeared were people working for social change. As Vera, from the *Linea-Fundadora*, claims: 'finally people started to understand who the victims were, this big generation of youths from all social classes that altogether worked in different ways to improve society, to have social justice and carry out important changes' (interview).

Carnovale warns of the risks of this perspective according to which 'my son was only taking spaghetti to the shantytowns, teaching the poor and was taken away for thinking differently'. For Carnovale, the problem associated with this position is that 'if we think that it is wrong to abduct those that are innocent, then what we are implicitly condoning is the kidnapping, torture and disappearance of those that are not, so that becomes acceptable' (interview). Indeed, this humanitarian narrative of the disappeared, glossing over connections with armed violence and political activism, is quite extended and widespread. In it, the denunciation of the violated rights of the *desaparecidos* relies only on their moral condition as victims, and not the universal and inalienable character of human rights. (Carnovale, 2007)

The space of action of the HROs was the public scene, May Square in Buenos Aires and other centres power. Slogans were a key tool, like the famous *aparición con vida* (appearance alive) that negated the military's discourse claiming that the disappeared should be presumed dead, or *ni olvido ni perdón* (neither oblivion or pardon), summarising the commitment to justice and memory. (Jelin, 1994, 1995)

Despite these efforts, the wall of silence was strong, as Borges himself admits: 'We lived in the time of Rosas [Argentine autocratic leader of 19th century], without being aware. I was deceived concerning what happened. Some conservative friends

made me believe that people had been freed and left the country. But we have been able to attest [...] that terrible things occurred'. (Roniger & Sznajder, 1999:183)

Silence, fear but also indifference predominated as these excerpts show: 'Each family was scared, my in-laws were dying of fear, they let me stay for a few days but not longer. We also had to respect that, I respected the fear. I often walked the streets alone as I did not know where to go. My own parents had such sad faces that I could not tolerate seeing them when they also took away my daughter. I could not cope with that silence' (*Familiares*). 'My sisters all distanced themselves' a *Madre* recounts 'and even told my mother to keep away. My mum only called fifteen days after Irene [her disappeared daughter] was kidnapped. When the phone rings, someone asks: Aurora? And I answer, who is it? She responds: your mother. And I ask: are you my mother now? My daughter has been missing for fifteen days and you call now? She responded that my sisters had told her that they could take her away too' (interview).

HROs existed in an environment characterised by denial and disbelief. The propaganda of the regime was very strong and difficult to challenge. HROs strived to assume a public and political role, acting as 'a lonely voice, persistent and stubborn, denouncing atrocities and violations, a voice demanding redress and justice'. (Jelin, 1994:46) Despite members of the APDH, CELS and *Madres* being directly targeted and some disappeared, their work continued unabated. Initially, efforts were rather limited but finally the idea of human rights exploded into the public sphere just before transition. According to Luis Roniger, the language of human rights became the tool civil society and politicians used to articulate the need to restructure collective identity under democracy, focusing on the

condemnation of authoritarian rule and the commitment to ethical behaviour in public life. (Roniger, 1997b)

The struggle for the construction of memory then became fundamental. The need to remember was actively promoted, developing different ways through which to preserve the memory of the traumatic experience. Upon transition, HROs had to defend their view against other perspectives, especially discourses of reconciliation that wished to heal society's wounds and conflicts through forgetfulness, focusing on the economic and political urgencies of the present and the future. (Jelin, 1994, 1995)

The narrative of state terrorism then co-existed in the social arena with several others. According to Verbitsky, it was mainly as a consequence of Scilingo's confession that the perspective of the HROs finally ceased to be treated as those of 'pariahs and madmen', and began to reach out to broader audiences, becoming 'the common sense of society'. (Verbitsky, 2005:142)

Since the 1990s, the preservation of memory has become central. Lanzillotto contends in this regard that 'the human rights movement and large parts of society keep memory alive and kicking: 'if we left it on its own, it would end'. However, this duty of preserving memory created fissures within HROs in terms of how to express and activate it.

A key challenge has been highlighting the connection between individual and group experience of state terrorism. Particularly, it has become important to emphasise how diverse groups were all affected, to different extents, by the violence and encourage individuals to connect their personal history with that of

others, reading own experiences in collective terms. (M. L. Guembe, 2008) For the CELS, the construction of collective memory also requires reflecting on a complex subject, and acknowledging that the existence of different memories can only enrich the way people look at the issue, constantly formulating new questions and debates. (CELS, 2007) Additionally, one of the main issues is persuading an often disinterested society that the repression was not a problem simply limited to those directly affected, but everyone, understanding state terrorism as a social problem.

Other challenges are analysed in more detail below and relate to how the memory of the past should be transmitted. In this respect, the transformation of former-detention centres into places of memory, and the construction of monuments and museums have become sources of heated discussion on how best to actualise the memory of the past.

Since the 1990s, the image of innocence of the *desaparecidos* examined above has been replaced by some HROs, especially the *Asociación-Madres* and H.I.J.O.S., with another that presents them as revolutionaries. These extracts are illustrative: 'Why were they taken away? Because they wanted revolutionary change, because they were politically active, like real patriots' (*Asociación-Madres*). For the mothers, their sons were militant revolutionaries that died in the struggle for a socialist revolution in Argentina. In fact, one of their slogans is vindicating the revolutionary compromise of our sons and raising the same banners. The Mothers believe that only a revolution can bring about a real democracy with social justice and dignity for people.²⁶ Similarly, Enrique Pastor pointed out how H.I.J.O.S. is 'trying to give meaning and content to those described as the guerrillas'. 'Carrying

²⁶ <http://www.madres.org/asociacion/showit.asp?act=5> – Accessed 17 July 2007.

a weapon de-legitimised them, obscuring the fact that it was popular violence, a tool in the people's fight for liberation' (interview).

The question of armed violence is mostly sidelined by HROs in favour of the humanitarian image. During my interviews, various positions were adopted. Fernandez-Meijide of the CONADEP, also the mother of a disappeared, emphasised 'how terrorism was absolutely ours, yes there was influence from socialism and the Cuban revolution, but it was absolutely folkloric, local terrorism [...] Everyone had more than one revolutionary in each family [...] I belong to a generation that looked to Cuba with admiration, though I never supported armed violence'. The use of language is quite interesting, as words like revolutionary and militant are always used, but it is generally unclear what the boundaries of the activism and militancy mentioned really were. A couple of *Familiares members*, also mothers of disappeared, recounted how they knew about their sons' militancy. An interesting position is outlined by an *Asociación Madre* who stated 'we did not know what our kids did, they had some *bad* projects, but we knew they did not want a military government'.

The Government

In Argentina, every democratic administration has attempted to develop a particular understanding of events of the recent past. The essential elements of this perspective, despite variations, are the images of war and the existence of demons.

Three phases can be distinguished. First, the Alfonsín administration that, in wishing to signal a clear break between democracy and dictatorship, largely

employed the Two Demons Theory (2DT). Second, President Menem endorsed narratives of pacification and reconciliation that presented truth, justice and memory as threats to the peace achieved. Menem also developed what could be called a One Demon Theory (1DT) that attributed responsibility for past events only to the guerrillas. Lastly, Kirchner based his human rights policies on a vindication of the political activism of the victims of state terrorism. Kirchner similarly developed a strand of the 1DT, one that placed exclusive blame on the armed forces.

In the attempt to move away from past confrontations and repeated cycles of military interventions in political life, the Alfonsín government endeavoured to depoliticise the question of the past (Lvovich interview). As Novaro suggests, it was the only administration that attempted to develop a state-level human rights policy (interview).

Hugo Vezzetti suggests that the 2DT actually pre-dated transition. In fact, the image of the crisis as produced by two extremisms was already established in the early 1970s, particularly among Leftist and progressive sectors that did not endorse the guerrillas' armed fight. They strongly condemned the guerrillas and their strategy of violence, arguing that it would create fertile conditions, allowing the Right to deepen the escalation of brutality, and provide an excuse to perpetrate the coup. (Sabato, 2007)

For Vezzetti, it is important to acknowledge the origins of the Theory given that, upon transition it was exactly those same sectors (Alfonsín and Ernesto Sabato, chair of the CONADEP) that reproduced this approach (interview).

Alfonsín interpreted the past based on this scenario in which the violent forces of the military and the guerrillas confronted each other, while the population at large, that favoured peace and democracy, was caught in the middle, unarmed and defenceless. This silent majority was external and absent from these struggles, suffering from their consequences without being an active participant. The demonisation of the revolutionary groups and the military absolved society from any responsibility both before and after the coup. (Jelin, 2003; Palermo, 2004) For Carnovale, the 2DT enjoys wide circulation in Argentina, given the country's tradition of binary representation of political conflict (interview).

Fernandez-Meijide suggests how the Alfonsín government never explicitly equalised the two demons, but the adoption of decrees 157 and 158 did so in practice (interview). In fact, in carrying out parallel trials of members of the military and the guerrillas, the executive promoted a vision of Argentina as breaking clear from political violence and clandestine actions, a country that was returning to normal life and the rule of law. (Vezzetti, 2002) Roniger and Sznajder (1999:233-234) recount how this perspective was diffused through the media and education as 'a psychological artefact' that limited violence to reduced sectors and emphasised the need to marginalise such forces.

Several of my interviewees stressed how the Theory was clearly a political tool employed by the President in a climate of tense feelings. For Fernandez-Meijide, it was a tool of governability, used to prevent military rebellions. Similarly, Chillier highlights how its key objective was to 'deal judicially with what had happened, to find a political margin to curb prosecutions so that these would not be without limits' (interview).

Carina Perelli contends that the 2DT solved two political dilemmas for the President. First, how to hold the military to account for the crimes committed, while simultaneously saving the institution? How to condemn revolutionary organisations, without adding to the anguish of many survivors that had suffered family losses, torture and disappearance? The theory tried to provide 'an adequate frame to reprocess memory without increasing the chasms that separated Argentine society'. (Perelli, 1992a:431) For Novaro, this approach produced a clear demarcation between a few violent authoritarian elements, a victimised society and legitimate democratic actors, establishing in this way the limits of tolerated practices and ideas by the new order. (Novaro, 2006)

Although the 2DT attempted to establish a parallel between insurgent violence and that of the military, it is generally recognised that one demon (the military) was worse than the other, as the crime of enforced disappearances is attributed a special status (Crenzel).

Despite its popularity, the Theory remains problematic. First, it strives to compare what is really incomparable, namely the crimes perpetrated by irregular groups with the State's illicit plan. (Novaro, 2006) Gil-Lavedra correctly points out how the state employed 'the same criminal methods of those it was fighting, but the state cannot be a criminal' (interview). Second, it exonerates ample sectors of society that either supported or practiced violence, reducing widespread practices to simply the actions of 'a group of lunatics, bloody bad military and crazy guerrilleros' (Lorenz). In doing so, the Theory attributes 'a sort of certificate of innocence to society', while state terrorism was a much larger and more complicated process. (Vezzetti, 2002:128) Third, the partiality of this view does not promote a genuine coming to terms with the complex developments that

fostered military terror in the first place. One of the deepest crises in Argentine history was simply dismissed as merely a succession of episodes in which the country was victimised by rival gangs of kidnapers and killers apparently coming from nowhere. (Roniger & Sznajder, 1999)

Menem's politics of oblivion and reconciliation, and Kirchner's focus on the militancy of the disappeared share two common elements. First, both Presidents gave foundational tones to their discourses, as a means of differentiating their perspectives from what had occurred before. Second, they endorsed two strands of a One Demon Theory (1DT). In fact, each President attributed responsibility for the past violence exclusively on either the guerrillas or the military.

Menem's policies clearly attempted to lay to rest the ghosts of the past once and for all. Palermo cites some examples, in which the President exhorted Argentines 'to look to the future, to forget what divided us in the past'. (Palermo, 2004:173) His vision trivialised the past, negating differences and placing everyone on a same level of insignificance: 'it was a massive confrontation, a sort of dirty war that scattered our land with the blood of young Argentines'. (*Ibid.*)

Pardons for the military and the guerrillas were accordingly justified by this necessary pacification, presented at home and abroad as acts of national reconciliation, putting the past to rest to address more pressing concerns. (Di-Paolantonio, 2004) For Menem, conflicts preventing Argentines from moving forward could only be overcome once the memory of past events was switched off, a position diametrically opposed to Alfonsín's who had activated memory.

Menem's response to the Scilingo effect is evidence of this. During a TV appearance, Menem stated: 'Now I ask, what is the reason to go back to a past that

leads nowhere?’ and, as families and friends of the disappeared gathered for a symbolic funeral, dropping flowers into the waters of the River Plate, he insisted: ‘The Argentine people are tired of hearing about the Dirty War’. (Feitlowitz, 1998:198) Despite requests by several organisations that, as Commander-in-chief, the President required each military branch to provide lists of the disappeared, this never materialised. However due to the electoral campaign, Menem was quick to change his attitude. Given the warm public reception received by Balza’s speech, the President tried to capitalise on it, announcing that the General had spoken at his suggestion and this should be taken into account.

The most emblematic symbol of Menem’s policies was his (unsuccessful) attempt in 1998 to relocate the Navy institutions from the ESMA, demolish the site, and replace it with a green space and a symbol of national union.

Lvovich and Novaro however, emphasise how Menem’s policies went beyond just reconciliation and oblivion, to actually vindicating the actions of the military. For instance, when the Buenos Aires City Council voted to declare the former-Commanders *personae non gratae*, in a radio interview, Menem scorned the project as ‘pointless’, taking issue with the ‘biased view of history’, insisting instead that the ‘Dirty War’ was begun by leftist opposition: ‘What about them? ‘Should they not be *personae non gratae*?’ (Feitlowitz, 1998:250) Frequently, the President extolled the armed forces, saying it was thanks to them that ‘we had triumphed in the dirty war that brought our community to the brink of dissolution’. (McSherry, 1997b:75) He often publicly praised members of security forces, calling Alberto Villar, a notorious police officer linked to the paramilitary death-squad AAA, ‘one of the greatest police chiefs’. (*Ibid.*)

The President not only defended the dirty war on several occasions, but also linked worker strikes and protests to a resurgence of subversion. In the early 1990s, for instance, Menem contended that the ERP guerrilla was behind demonstrations by students and teachers, and warned parents not to send their children onto the streets as they may become victims of subversion. He stated: 'Be careful... so we don't end up with another contingent of the *Madres* of the Plaza de Mayo clamouring for their children'. (*Ibid.*)

President Kirchner similarly hoped to re-write history but in an opposite opposing direction (Lorenz, Palermo interviews). Belonging to the 1968 generation and sharing similar political beliefs as some of the victims, the President centred his memory discourse on a vindication of the social and political militancy experienced in the 1970s. (Dutrénit-Bielous & Varela-Petito, 2006) According to Crenzel, the novelty of Kirchner's discourse is this political and generational tone that was absent before (interview). Nonetheless, some continuities endure, especially the authority of the *afectados* in the public scene.

Kirchner's discourse has two features. First, in describing the repression, the President distanced himself from both the military's narrative on human rights as excesses and Alfonsín's 2DT. According to Novaro (2006), Kirchner's policies are bringing politics back into the picture, especially as the President is recuperating the victims' political projects that were persecuted and repressed at the time. For example, in his 2004 speech at the ESMA, Kirchner emphasised how there had been a systematic plan of imposition of terror and physical elimination of thousands of citizens. This had implied 'a repressive model, coldly rational [...] that exceeded the characterisation of abuses or errors', with the President directly

challenging the idea of excesses as the representation of human rights crimes. (N. Kirchner, 2004) The President highlighted that he was a member of the generation of militants that struggled for a better society, with frequent references to his *compañeros* and *compañeras* (comrades). (Jelin, 2007c) Significantly, as controversially, the President asked for forgiveness in the name of the state: 'as President, I come here to say sorry on behalf of the State for the shame of having kept silent during twenty years of democracy for so many atrocities'. (N. Kirchner, 2004)

The president's speech was widely criticised, despite it being true that the state had never asked for forgiveness before. (Ginzberg, 2006) The Radical Party reminded the President about the Trial of the Commanders. (Curia, 2004) Others remain critical. Beatriz Sarlo highlighted how there have always been different views on the recent past and this is likely to be the case for the future. Thus, the State should not be endorsing exclusivist perspectives. (Sarlo, 2004) For Vezzetti the event 'looked like one of those you see at university'. 'It was a kind of paradoxical situation' Vezzetti continues 'as if a group outside of the state took over the ESMA headed by the President, not in that capacity but just as a leader. [...] It lacked all the evidence and the imprint of a state event [...] the state did not negotiate or construct some sort of viable proposal' (interview).

In his speech at the National Military College in 2004, Kirchner qualified the coup as one of the most painful and cruel moments in Argentine history. He stressed how 'the institutional order should never again, be jeopardised', that nothing can justify state terrorism, concluding that the weapons of the Armed Forces 'should never again be used against the Argentine people'. (N. Kirchner, 2004) During the event, Kirchner ordered Army-Chief Bendini to remove Videla

and Bignone's portraits from the College walls. (Veiras, 2004) Historian Lorenz is rather disapproving of this: 'it would have been much better to keep the portrait than creating martyrs so that now the military can say "we are being persecuted". 'The government sometimes forgets that the military is part of the state, so it would have been better to simply put a note underneath the portraits stating what this person had done' (Lorenz).

As Palermo rightly suggests, Kirchner's policies have both 'lights and shadows' (interview). Palermo underscores how 'this is a clear case of a government wishing to establish a new account on the past, talking in the name of the state'. For Palermo, Kirchner's official discourse is almost saying that 'human rights policies began with him, that everything that was done before was being condescending to the military, but this is not the case, it distorts history and undermines the good that was achieved before' (interview). For Palermo, Kirchner's vision 'is a worse lie than the 2DT, for presenting the victims of state terrorism not only as such, but also as fighters for democracy'. This portrayal 'gives a blessing, and places all the victims in the category of heroes for some ideals and values, as well as using methods that were admirable' (interview). Likewise, Lvovich underscores how Kirchner 'is not really vindicating human rights in general, but a certain revolutionary past'. This perspective is a very selective reading that justifies those fighting for national liberation or human rights, but does not talk about political violence or historicise events (Lvovich).

For Lorenz, Kirchner is trying to break the logic of the two demons by asserting 'that it is not the same when the state violates the law as it is when the guerrilla does so'. The result of this is however a 'largely a-historical and a-critical representation of the period, where the victims are portrayed as idealist youths

and militants'. Lorenz points to the ESMA, where now each part of the museum of memory has been named after symbolic victims of state terrorism, like journalist Rodolfo Walsh or writer Haroldo Conti 'as the saints of this new religion' (interview). So the 2DT is now being replaced by a generic vindication of the 1970s. As Lorenz asks, what does this mean? Does it also justify the element of armed violence that the guerrillas employed?

In comparing Menem and Kirchner, Novaro stresses how Menem never managed to be hegemonic or as powerful as he wished to. Likewise, Kirchner only achieved a rather superficial social consensus that is likely to last less than the Menemist one: 'this is a floating cloud of gas' Novaro claims 'signs of it falling apart are already evident as for the majority of people current human rights trials are only secondary issues' (interview).

5.3 Argentine Memory Knots

Memory knots are particular dates, places or groups that may trigger debates about memory (2.2). They can distract society away from daily routines, to look instead at the contested events of the past. Memory knots re-energise the discussion, drawing attention to such questions.

Sites of humanity are particular groups or individuals that project specific memories onto the public arena. Here we consider two cases, the *Madres* and H.I.J.O.S., that in different ways have called on Argentine society to face up to the legacy of state terror.

The Madres de Plaza de Mayo

The *Madres de Plaza de Mayo* and their white headscarves have become worldwide symbols of non-violent protest. Under military rule, they were an emblem of resistance in a country that had lost its voice. Through the use of language, with mottos like *Prison to the Perpetrators of Genocide* and *Judgment and Punishment of All Guilty* as their peaceful weapon, the *Madres* captured public consciousness, claiming an ethical, political and historical presence by continually speaking out. (Bouvard, 1994)

In Buenos Aires, May Square is for many the Square of the Mothers. For 32 years since April 30, 1977 at 15:30 every Thursday afternoon, the *Madres* march around the Pyramid of May located at the centre of the Square.

Since the time of independence, the Square has been a symbol of power and faces the *Casa Rosada*, the home of the Executive. Every week, and on other dates relating to the dictatorship, the square becomes the location where the memory of military rule and its denunciation are activated. (Jelin & Langland, 2003) The *Madres* have kept the plight of the disappeared in the public consciousness and reclaimed the Square for their children, where they are given 'a social and political existence'. (Bouvard, 1994:231,254)

The marches were ironically initiated by the state itself. The *Madres* unsuccessfully looked for their missing children in morgues, prisons, cemeteries, offices and military chaplaincies: 'We met while trying to find the missing, to see what we could do, like presenting habeas corpus petitions to locate our loved ones' (*Linea-Fundadora*).

Finally, the Interior Ministry decided to provide office space to receive inquiries about disappearances and that became their initial meeting place. (Schirmer, 1988) In one of those instances, Azucena Villaflor, one of the founders, suggested that they ought to be in the Square and 'when there are enough of us, we'll go to the *Casa Rosada* and see the President about our children who are missing'. (*Ibid.*46) As standing around was tantamount to holding a meeting which was then prohibited, the *Madres* were forced to move around the Square in a great circle, hence initiating their marches.

As the *Madres* themselves admit, it was the experience of losing their children that drew them out of their houses, forcing them to mobilise –something particularly innovative in a patriarchal society as Argentina. 'When they took away our sons' an *Asociación Madre* recounted 'we knew nothing of politics, we learnt afterwards, walking, knocking on doors, hearing denial and negation, and we learnt what politics is' (interview). For the mothers, 'it was "natural" and not political [...] to leave the home in search of her missing son or daughter'. (Peluffo, 2007:82)

The Mothers used a whole range of techniques to rescue the disappeared from oblivion: 'from our ongoing pain, creativity emerged' (*Asociación*). In fact, they created paper cut-outs shaped like human hands to symbolise the hands of loved ones, released balloons with names of the *desaparecidos*, and paraded wearing identical masks symbolising the common plight of the victims of state terrorism. (Femenía, 1987)

If initially the pain and the trauma produced by the loss of the children represented a source of strength and common purpose, but by the mid-1980s fissures began to emerge, later proving fatal to the unity of the movement. In fact, the organisation split in 1986. Initially, conflict originated from disagreements over issues of organisation and leadership style, but other questions followed.

A group of fourteen women, led by Renée Epelbaum, left the *Asociación* due to their disapproval of the increased centralisation and vertical leadership structure. (Taylor, 1997) The *Linea-Fundadora* was so established, claiming that this new group was closer to the original intention of 1977. (Bosco, 2004) One of the mothers from the *Linea-Fundadora* recalled with sadness the moment of the split: “[in 1977] Hebe [de Bonafini] becomes the leader and we all accompanied her, I will always say that she has a big flaw, that you have to do what she wants, and that is a mistake so we confronted her [...] But then I always respect her as in the worst moments she was always the one fighting’ (interview).

In chapter 4, the question of economic reparations was mentioned as one of the grounds leading to the split up. Another important issue was the question of the death of the disappeared. Exhumations became a matter of contention. ‘Hebe is very strong willed’ Aurora from *Linea-Fundadora* said ‘and she was against exhumations, so when the EAAF found some unmarked tombs, Hebe said that those found should remain there and not be disinterred’. ‘But many mothers held that they wanted to exhume the bodies, that they had a right to talk and that Hebe could not decide for us all’. Peluffo (2007:91) also recounts how several *Linea-Fundadora* mothers wanted to recover the remains of loved ones, that it was a ‘personal decision’ to gain closure by burying their remains.



Madres Linea Fundadora

Other disagreements related to differing opinions over the question of memory, whether it was right and convenient to commemorate the past and how to do so. The *Linea-Fundadora* argues that remembering the disappeared is a way to keep the human rights movement alive. In contrast, the *Asociación* claims that commemorating, opening mass graves or constructing memorials, is equivalent to accepting the death of the disappeared, thus putting an end to their struggle.

Additionally, for the *Linea-Fundadora*, the return to democracy meant that some of the strategies used previously were no longer adequate to obtain their goals and that it had then become possible to work with the government. Conversely, the *Asociación* increasingly saw itself working for social change more generally, including but not limited to human rights. They adopted a more revolutionary, anti-capitalist and anarchist stand. (AsociaciónMadres, 2007)

The *Madres* have different positions on how to remember the disappeared. The *Linea-Fundadora* stresses the importance of making the events of the past visible to transmit memory to other generations. They do so through the construction of

temporary and permanent physical markers in the urban landscape. They have created temporary exhibitions with pictures of the disappeared in parks or other public places. Standing by, they tell of their struggle and the story of their missing ones. They remind people that the *desaparecidos* were people like everyone else, with families, projects and dreams. They favour the creation of permanent memorials, including naming streets after the *desaparecidos*, and are involved in efforts to save the location of former-detention centres. Vera Jarach emphasises how the past can be remembered in many ways, through the cinema, theatre, images, artworks, through school education and symbolically through living museums, like one of her latest project, the '*paseo de los derechos humanos*' (human rights walk). A small wood with groups of trees, it represents the relationship between the lives of the *desaparecidos* that were cut short and these trees that need to be nurtured.

For the mothers of the *Asociación*, the search for the truth is counter to their goals and detrimental to their continuous activism. Their official position is not to publicly accept that the disappeared are dead, as commemorating death would entail the end of their work for social justice. They reject memory strategies and commemorations representing the disappeared as dead or as individuals, and oppose the creation of permanent landscapes of memory. As one *Madre* contended 'the mothers want neither posthumous museums nor statues for our children, because they talk of death. We talk of life and defend life. We feel that instead when we march, we attract people and their attention, we bring them [the disappeared] back to life and they are with us, we do not know where, but the disappeared do accompany us' (interview). She described a recent project, in one of the poorest

parts of Buenos Aires, Villa 15, Ciudad Oculta that sponsored the building of 72 houses, a nursery and two schools, by training local men and women in construction. Following this success, another 400 houses are to be built in Villa Soldati, Buenos Aires and another 500 in Chaco province.



Asociación Madres

The split also reflected class differences. Peluffo (2007) suggests that the majority of the *Linea-Fundadora* mothers came from privileged and educated middle class backgrounds. Conversely, Hebe de Bonafini was from the working class, the daughter of a factory worker. Another difference whose impact is, however, difficult to establish, is the fact that several of the *Linea-Fundadora* mothers were Jewish or married to Jewish men. (Peluffo, 2007)

While the *Linea-Fundadora Madres* remain loyal to the original a-political mandate, the *Asociación Madres* 'chose to embrace the revolutionary cause of their deceased sons and daughters'. (Peluffo, 2007:94) 'We say that they left us a path and we are following it. We continue to fight for what they wanted, [...] for the revolutionary change that the country needed' (*Asociación* interview).

Additionally, it is important to note how, despite differences between the two groups, differentiation –sometimes bordering on resentment, exists towards the mothers that did not mobilise, as in highlighted these excerpts: ‘many mothers stayed at home, cried and simply said they [the disappeared] will never come back. We decided to go out and demand answers, to confront the military’ (*Asociación*). Likewise, a *Linea-Fundadora* mother asserted how ‘several mothers joined after 1986, after the danger had subsided, this is very nice, to receive the flowers, applauses and everything’.

The work of the mothers is indeed really interesting. In one sense, they defied the ‘traditional maternal roles and called attention to the fact that motherhood was a social, not just a biological construct’. (Taylor, 1997:185) Simultaneously, however, their unrelenting struggle and mobilisation in a way reinforced their traditional role as mothers responsible for their children. They indeed left the confines of the household but once again it was women, and particularly mothers, who were on the front line, worrying about their sons and daughters. The lack of male figures, with the exception of Emilio Mignone (founder of the CELS) is telling in this picture. Although it may be true that men would have been targeted and responded to differently by the military, it is also certain that several mothers disappeared.

The role of the *Madres* is fascinating in the sense that, although they were able to defy the traditional position allocated to them by society, they nonetheless re-played their duties as guardians of the household. As Diane Taylor (1997:194) states, they decided ‘to actively play the roles that had traditionally been assigned to them: [...] the powerless who cannot speak yet witness and testify to the crimes’.

Taylor emphasises how their position as mothers was attractive because it offered them a certain legitimacy, authority but also protection –or so they believed, ‘for a military that sustained itself on Christian and family values could hardly attack a group of defenceless mothers inquiring after their missing children’. (*Ibid.*195)

H.I.J.O.S. and their *Escraches*

Throughout the 1990s, Susana Kaiser suggests that Argentines lived in a climate of normalised impunity, where former repressors freely circulated in public spaces. In this context, the association H.I.J.O.S. developed a new form of public demonstration, the *escraches*. (Bonaldi, 2006)

The word *escruchar*, from Italo-Argentine slang, means uncovering, ‘bringing to light something that has remained hidden’. (Thomas, 2005:92) These protests actively remind society of how the dictatorship left behind a bloody legacy of the disappeared, dead and political prisoners.

Escraches are acts of public shaming, campaigns of condemnation that target former-repressors to expose their identities, break their anonymity and the apparent normality in which they live, and publicise their crimes to produce moral condemnation. (Taylor, 2003) As Vezzetti puts it well, *escraches* actualise the past and activate memory in the city. (Vezzetti, 1998)

With a clear generational imprint, *escraches* are festive, loud and mobile demonstrations that involve 300 to 2,000 people that invade neighbourhoods where ex-repressors live with music and dance. Demonstrators walk around the streets carrying banners, giant puppets, or huge placards with photos of the *desaparecidos*, singing slogans like: ‘Alert! Alert! Alert all neighbours, there is an

assassin living next door to you!' or 'Just like the Nazis it will happen to you, wherever you go we will go after you'. (Kaiser, 2002:499)

Martín Hernan-Fraga of the *Escrache* Commission described to me the three typical phases of an *escrache*. First, the Commission investigates possible targets, receiving information and developing a personal file, the so-called *prontuario* that outlines who they are and what they did. The Commission also checks whether the person is under judicial investigation as if that is not the case H.I.J.O.S. prefers to make a formal report to the judiciary, to prevent the person from later escaping justice.

In the second phase, H.I.J.O.S. prepare the community affected, by canvassing the neighbourhood in which perpetrators live and/or work, showing their photographs and disseminating information. Flyers outline facts about the person including a photograph, name, address, position under the regime, crimes, current occupation and place of work. Local political and social organisations are also invited to participate.

Third, when the *escrache* occurs, it consists of a march from a pre-arranged point to the person's house. This goes on usually for around ten blocks, walking around the neighbourhood to involve everyone, convoking people, with singing, dancing, and *murga* (musical theatre). Often the police prevent them from reaching the house, but if possible, H.I.J.O.S. paint the repressor(s)' name(s) and crimes in yellow paint on the pavement. (Taylor, 2006) Red paint, symbolising blood, is usually thrown at the house leaving a mark for all to see even after the *escrache* is over (interview).

Escraches inform the community about atrocities that repressors committed. Hernan-Fraga outlined how 'the ultimate objective is social condemnation'. This was particularly significant during the 1990s 'when given the lack of judicial verdicts, we wanted to at least produce social disapproval, so that society condemns and rejects former repressors, that people from the neighbourhood no longer talk to them or allow them into their shops' (interview). These theatrical and non-violent acts are innovative for drawing attention to both past crimes and the continued impunity in the present. For an APDH member, another key contribution is that 'society at large is made aware and can participate'. 'It is of course good to have HROs' she continued 'but it is important to engage civil society through community organisations, to make society see the continuities between the present and the past' (interview). Likewise survivor Lordkipanidse stressed how *escraches* are 'very effective at involving whole neighbourhoods, spreading awareness and generating consciousness about the repression' (interview).

H.I.J.O.S. vow to continue until justice has been done: '*Si no hay Justicia, hay Escrache*' (If there is no Justice, there will be *Escraches*). Hernan-Fraga highlighted how recently civilian accomplices of all kinds, from the Church, the judiciary and to big businesses, are being targeted, to call attention to the fact that 'it was not only police or the military, but also sectors of the civilian power that actively endorsed the regime' (interview).

Escraches impact on three levels. On a personal level, they enact collective trauma, making not only the crimes that were committed visible, but also illustrating the lasting trauma suffered by victims and the whole country. (Taylor,

2003) *Escraches* challenge the normalised impunity in which former-repressors comfortably live, trapping 'torturers and assassins by building metaphorical jails in neighbourhoods throughout Argentina'. (Kaiser, 2002:512) On a social level, these performances suddenly interrupt the apparently calm of day-to-day life and, being disruptive, noisy and provocative, are hard to ignore. They force society to confront its own denial, emphasising how everyone suffers from the long-term effects of traumatic violence, whether they understand it or not. (Taylor, 2006) They compel society to become aware, informing people so they cannot excuse themselves by saying they did not know and make people realise that they cohabit with repressors, sharing the same streets, neighbourhoods, workplaces, and bars. (Banega, 2006) Finally, on a political level, *escraches* expose the weakness of the democratic governments and their refusal to deliver truth and justice. They remind that the chapter on the past is still open, by publicly challenging political amnesia and impunity, and opposing discourses encouraging artificial and premature reconciliation. (Kaiser, 2002) *Escraches* remind spectators not to forget their role in the drama. Even if those witnessing performances may not be direct victims, survivors or perpetrators, it does not mean they had no part in the drama of state terrorism: the tragedy concerns all Argentines. (Taylor, 2003, 2006)

Sites in time are specific dates that evince memory and stir up debate. In Argentina, several exist. September 16, the Night of the Pencils, is particularly remembered by high school students, especially in La Plata. Other dates are commemorated locally as the *Jornada de derechos humanos y culturas* (day of human rights and culture) in the province of Jujuy. (Jelin, 2002) Others include 22 August, the date of the 1972 Trelew massacre in southern Argentina and more

recently, 18 September, when a key witness in a human rights trial disappeared in 2006. The most emblematic of all is 24 March, the day of the military coup.

24 March

24 March (24/3) was bestowed diverse meanings over time and has been continuously commemorated since 1976 with diverse narratives. (Jelin, 2007b)

During military rule, Lorenz (2002) suggests that 24/3 was portrayed as a foundational moment in moving beyond the situation of disorder and chaos that had preceded the coup. Between 1976 and 1980, this anniversary was remembered with a military ceremony in which government representatives and Church authorities participated. There were two key events: the military parade and the inspection of troops, and a mass in the Stella Maris chapel, the home of the military vicarage.

At this time, the Junta completely controlled commemorations. The media largely reproduced discourses that stressed how the military had been obliged to take power, that their central objective was fighting subversion and that they were interpreting the aspirations of all Argentines, to achieve the destiny of national greatness. (Lorenz, 2002) During those years, the military's voice was the only one publicly talking. Though there were alternative commemorations by trade unions and/or private remembrances, these could not openly dispute the meaning of 24/3 which put forward an unquestioned public image of a country at war against subversion. (*Ibid.*)

Between 1981 and 1983, the dominance of the military discourse was broken. Critical and opposing voices started appearing, even from those sectors that had initially been supportive. HROs become more vociferous too. By its last year in

power, the anniversary saw a government that had completely lost legitimacy and was preparing its exit. During the dictatorship, the regime had successfully installed certain icons and symbols that remained in the imagery of 24/3 for some time, like the situation of chaos, repression as a response to the guerrillas and the idea of subversive conspiracies.

Upon democratisation, the government was largely absent from remembrances. It did not really pay attention to the date, with the exception of sporadic messages in the media. It left commemorations in the hands of HROs, and only organised a small event on 23 March 1984, to commemorate the 100 days of democracy. (Jelin, 2007b) Lorenz (2002) points out how the government's silence marked a clear contrast to previous years, when the Junta monopolised commemorations.

Since 1983, HROs have displaced the military as key actor in commemorations, organising marches, performances and various activities. Between 1990 and 1994, remembrance had limited appeal in a climate of forgetting and reconciliation championed by the first Menem administration. The reduction in attendance was however balanced by the development of new ways of protesting, that ranged from denunciations, memorials, didactic efforts to outright vindication. (Lorenz, 2002) It was at this time that the *Asociación-Madres* attributed a new identity to the victims of state terrorism, away from the traditional image of innocence: they now were '30,000 revolutionaries'. (Lorenz, 2004:18)

The year 1995 was marked by military confessions. The two main events organised by HROs both took place near the ESMA. Military confessions resulted in a widespread diffusion of information on past crimes allowing the perspective of state terrorism to be strengthened.

The twentieth anniversary in 1996 was a momentous occurrence. For the first time, HROs combined their mobilisation with that of other social and political organisations and began examining the long-term political reasons that had triggered the coup (Carnovale interview). For Lordkipanidse, the massive mobilisation in 1996 is what produced a different response by the government on 'whether this subject can continue to be covered up or not, as popular support is what now makes the question much stronger' (interview). Lorenz (2002:85) outlines three innovations. For the first time, a democratic president spoke on the day. President Menem broadcasted a message, labelling the date 'a day of horror, death and intolerance'. Second, H.I.J.O.S. made its first public appearance, vindicating the political identity of their parents. Third, the Committee for Memory, Truth and Justice held one of the most important rallies, with over 100,000 people.

During the late 1990s, fragmentations surfaced within HROs. In March 1999, while members of *Abuelas* and *Linea-Fundadora* were laying the foundation stone and erecting a plaque at the Monument to the Victims of State Terrorism, members of H.I.J.O.S. and the *Asociación-Madres* who opposed the initiative, carried out an *escrache* and a demonstration against the project. In 2001, remembrances showed a complex panorama of different lines of thought. This year was also characterised by the public re-appearance of the *Montoneros*. Several events were organised, including public commemorations, exhibitions, and book and film presentations.

Lorenz argues that commemorations in 2004 constituted a watershed. For the first time, the government took an active role, becoming directly involved in the

dispute about attributing meaning to the past and entered the scene as the organiser of the main commemorative event. (Jelin, 2007b) It was on this occasion that, through an agreement between the National Government and the Buenos Aires City Government, the ESMA was destined to become a Memory Museum.

On the thirtieth anniversary in 2006 different groups like banks, the judiciary, and state and health trade unions unveiled plaques or realised acts to commemorate the disappeared. Schools arranged events, and written and visual media aired programmes relating to the dictatorship and the repression. Moreover, special publications were released, and art exhibitions and poetry readings were organised. The traditional march was summoned under slogans of 'Thirty Years, Memory, Justice and Truth', and 'Trial, Punishment and Imprisonment for all Perpetrators'. The government sponsored several initiatives, including a re-edition of the CONADEP's report and a law declaring 24/3 a national holiday.²⁷ (Fernández-Moores, 2006; Gutiérrez, 2006) President Kirchner led ceremonies, unveiling a plaque with the words Never Again in Buenos Aires in homage to the disappeared. (Bruschtein, 2006) A minute of silence was also held.

2007 commemorations displayed typical features, but there were also significant changes. The President once again led commemorations, in this case of La Perla in Cordoba, where he announced the creation of a Memory Museum there. (Clarín, 2007) HROs organised their annual demonstration in May Square, under three banners: '30,000 Disappeared Present', 'Against Impunity, Trial and Punishment' and 'Julio López to Appear Alive'. (Pertot, 2007) The march was heterogeneous, with members of trade unions, community assemblies, student organisations, and individuals and families.

²⁷ In 2002, Law 25.653 had instituted 24 March as 'National Day of Memory for Truth and Justice' commemorating the victims of the last military regime.

During remembrances in 2009, traditional HROs demands like the acceleration of trials and the end of impunity were combined, for the first time, with present human rights concerns, like the inappropriate use of deadly force by the police. (LaNación, 2009; Vales, 2009) This is a welcomed development in attempting to achieve a holistic approach to human rights questions, one that is not temporally limited to the crimes of the 1970s but that takes into account ongoing human rights concerns.

For some, 24/3 is a key date of remembrance, to sustain the memory of the past and avoid the repetition of similar deeds (APDH interview). According to Crenzel, the date is 'so emblematic for memory in Argentina to the point that it was declared a national holiday' (interview). On this point, Enrique Pastor of H.I.J.O.S. however, illustrates how the decision to annex 24/3 to the holiday calendar caused a strong debate. First, this decision 'makes the state look good and allows it to shape the date' (interview). Second, there is the risk that 24/3 then becomes like any other holiday, a day 'of laziness, not of commitment, a day to go to the beach or to the mountains. Over time the meaning associated with the date is emptied'. 'I do not know if this will happen' Pastor continued 'as 24/3 is a fundamental day in our calendar', but it is an issue worth bearing in mind (interview).

Over thirty years, commemorations on the 24/3 championed conflicting visions of the past. Additionally, an alternation of voices was authorised to speak. While in the 1970s the date was covered by silence and commemorations were limited to the military, since the 1980s HROs have occupied public remembrance spaces, becoming a hegemonic actor. Finally, the executive carved out a role for itself.

It is interesting to note how, unlike Uruguay where the narrative of the military and that of the HROs revolved around two different dates, in Argentina 24/3 embodied both positions over time. Until the mid-1980s, it was associated with the image of a country at war against subversion. Since then, the framework of state terrorism has become dominant and remembrance has since focused on a repudiation of violence and authoritarianism.

Sites of physical matter/geography are specific to places, old or new that have a strong connection with the past. Given this, they can awaken memory debates, pushing society to think about these issues. Argentina has a wealth of these. Among the most symbolic are the Ford Falcon cars that during the 1970s became 'the single most recognisable icon of repression'. (Robert, 2005:12) Since then, they have remained in the public imagery as the embodiment of horror, disappearances and torture (Mansilla interview). Its emblematic charge is so strong that some artists suggested placing one outside of the ESMA premises and leaving it there to the mercy of the elements, so that nature and life could take over and destroy the horror it represents.

The Desaparecidos

The emblematic figure of the *desaparecidos*, those forever absent, has been a powerful projector of memory. Who were the *desaparecidos*? How can they be represented, given that 'they persist in a limbo *between* life and death -like spectres haunting the living, wanting to be heard, acknowledged and remembered.' (Lazzara, 2006:102)

General Videla's own definition of the disappeared ironically summarises well its status: 'the disappeared does not exist; he is neither alive nor dead, he's disappeared.' *In: (A. Kaufman, 2007:235)*

This ghostly figure began haunting Argentina early on. In the mid-1980s, society went through what Inés González-Bombal labelled 'a horror show'. (González-Bombal, 1995:204) The media continuously broadcasted the opening of mass graves and unnamed tombs, and released the details of thousands of disappearances and hundreds of detention centres, irrefutable proof that the political confrontation had trespassed all acceptable limits. (González-Bombal, 2004) The crime of disappearance violated deep cultural principles and the *desaparecidos* escaped any admissible political logic and justification. (*Ibid.*) In addition to individual suffering and, as Mario Di-Paolantonio rightly contends, the bodies of the disappeared reflected the image of a dismembered nation, producing a 'crisis of identity [...] [that] questioned post-dictatorship Argentina with the limits of its Being'. Argentina did not simply see the bodies of the *desaparecidos*, 'but also gawked at its national cadaver'. (Di-Paolantonio, 2001:446)

Coming to terms with the disappearance of loved ones was a traumatic and painful process for families, as these excerpts underscore: '[...] in the first months of my son's disappearance, I used to say "I will find him, I will find him", only after a long time did the doubt emerged. But no-one said one day "that's it, he died". It was something that slowly one came to realise. Even today it is difficult to accept and feel the death. One thing is what we rationally know and think, that they cannot be but dead, another is feeling it' (*Familiares* interview). Mabel pointed out:

'until recently, I could not talk in the past about my son. I could not say: he would be... No, I could neither talk in the present because it is ridiculous to talk in the present about someone that is not there'. Likewise, another member of *Familiares* emphasises how 'psychologists say that without a body there can be no mourning. Mourning cannot exist and it is true. I go to the cemetery where my mother, father and husband are, but I never pray for my sons there. I do not place them in the cemetery'.

The *desaparecidos* profoundly mark the political temporality of Argentina, forcing people to undertake a difficult and complex memory labour. (Oberti & Pittaluga, 2002) In fact, the disappeared rupture traditional spatial and temporal categories around which human life is organised. (Crenzel, 2007a) Di-Paolantonio captures well this problematic situation, stating that the disappeared are 'neither alive nor sufficiently (ever) dead'. (Di-Paolantonio, 2001:446)

The *desaparecidos* exist in their own time, their images forever frozen in the past instant of kidnapping but simultaneously inhabiting the present. These quotes clearly exemplify how relatives feel about their loved ones and the challenges they lived through: 'My son was twenty-five when he was taken away' Mabel said 'his son now has two children to whom my son is a grandfather but for me he continues to be twenty-five. And I tell you more, the day the Monument to the Victims of State Terrorism was inaugurated, my grandchildren came. His little granddaughter who is five asked what the plaque [with her grandfather's name] said: "Alejandro Rodriguez-Gutierrez, twenty-five". So she questioned: "Why twenty-five?" "Because he was twenty-five." She continued: "But grandfathers are meant to be old!!!" So we had to explain that her grandfather was killed and could not grow old'. Another *Familiares* member similarly stated: 'when I remember my

partner, I remember him at that time, I cannot imagine him old. None of us do. I do not imagine him like at my age now. It is like he's frozen in time, at that time. All of our companions that were with me. You have the image of all these people of how they were then. You do not see them growing up or at another age'.

The *desaparecidos* are a testing image as they are a no-place, a presence made of physical absence. For Ludmila da-Silva-Catela, the *desaparecido* has a threefold condition: 'there is no body, no moment of mourning or burial'. (da-Silva-Catela, 2001:121) Very often, they are prisoners of their photographs and beliefs at the time of fading away: the disappeared became icons to be venerated. (Vezzetti, 1996)



Photos of *Desaparecidos*

Similarly, Mabel points to this: 'Alejandro was twenty-five when he was taken away while Ramiro is thirty-one. My grandson [Ramiro] is six years older than his own father [Alejandro]. For Ramiro, his father is a photo because he was very small when his dad disappeared. So he does not remember him: his father is a photo of a 25-year-old person'. Likewise, another interviewee recounted of an event in 2007 in Trelew, during which photos of those executed there in 1972 were shown.

'There was a grandmother with a nephew that was five or six years old' she narrates 'and they were showing the photos on the walls and the grandmother was saying "wait, wait that now comes your grandpa", and there appears the photo of a beautiful youngster in his twenties. I did not talk to the child as I did not know him, but I wondered: "what does this child think?" "How handsome my grandpa is!" This child probably said I should take him to school with me, what a grandpa!'

The lack of tombs or bodies turned the traditional stages of life and death upside down: 'Those parents that have found the bodies of their missing, between ourselves we have this joke, we say that they are privileged. One of our companions, Hugo, has found his brother's remains and is also carrying out a trial [...] so he feels he is privileged compared to the others' (*Familiares*). Recovering the bodies of the disappeared or having information on their final destiny thus becomes a fortunate situation to be, in, given that the vast majority of people never reach this stage.

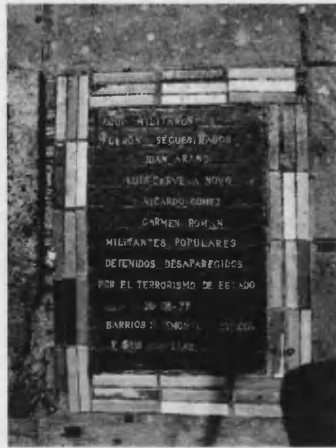
Despite being constituted by a materiality made of physical absence, the *desaparecidos* are present in many ways. HROs have developed a variety of methods like the silhouettes and the Thursday marches, during which the disappeared are rescued from the fogs of oblivion. Silhouettes were used for the first time during the Madres' third March of Resistance and are now a conventional representation of the disappeared, in addition to personal photographs. (Broquetas, 2008)

The empty silhouettes represent physical absence and can be found on buildings, columns, phone boxes and trees. (Jelin & Longoni, 2005) They are used throughout cities, as in this photo outside El Olimpo in Buenos Aires.



On a daily basis, personal notices are also published by relatives in the Buenos Aires newspaper *Página/12* to remember anniversaries of disappearances of loved ones. (Dussel et al., 2003) A couple of examples from August 22 and September 9, 2008 read: '31 years after your kidnapping and disappearance, those who love you and do not forget you, we carry on demanding justice. Your son Santiago, your wife Sarita, and your grandchild Nicolas.' 'Dear Elena, you continue to live in our memories, we will never forget you, and so we continue looking for the truth so those responsible will be punished. Your daughters Clarisa and Natalia'.

Moreover, in several universities, schools, streets and squares, plaques commemorate the disappeared, as the one below (left) remembering four political activists kidnapped in June 1977, or identify the location of former clandestine detention centres such as the one outside Garage Azopardo in Buenos Aires (right).



The song *Época* (epoch) by the band Gotan Project is another example of how the preoccupation with the *desaparecidos* has shaped Argentine culture and society. The lyrics²⁸, which sound like a poem, indirectly discuss Argentina's recent history and the drama of disappearances. Eduardo Makaroff, the composer, emphasised how it clearly endeavours to talk about Argentina in a poetic way (interview, 29/07/2009). There are obvious references to some symbols that we have already encountered like the *pañuelo blanco*, the white headscarves of the *Madres* and the 25th anniversary of the military coup. According to Makaroff, the idea behind the song, came to another band member and related to the fact that 'everything that dies comes back to life': so in the same way 'those that disappeared will return' (interview).

Interestingly, the song, over three decades after military rule, is trying to challenge discourses claiming the death of the disappeared, calling instead for life, as in this line: 'if it disappeared, it will appear in me, they thought it had died, but here life is reborn'. For Makaroff, the attempt by the military regime to obliterate the disappeared totally backfired. The figure of the *desaparecidos* has haunted

²⁸ Lyrics in Spanish can be found at <http://www.gotanproject.com/releases.php?id=3&lang=en>, Accessed 29 July 2009.

society to the point that music and culture confronted this question. The significance of the song is also the fact that, through music, new generations who did not live through the years of the dictatorship can be challenged to look at these issues that form part of Argentina's identity and recent history.

The *desaparecidos* challenge traditional social categories of time, space, life and death. They are an open wound that constantly triggers memory and shows no sign of healing any time soon. As the *Madres* said: 'Let there be no healing of wounds [...] let them remain open. Because if the wounds still bleed, there will be no forgetting [...]'. (in: Di-Paolantonio, 2001:463)

It is interesting to observe how the traditional image of the silhouette, the anonymous representation of all the disappeared, now coexists with a very specific image of a particular disappeared. Since Julio López's (second) disappearance, his iconic hat has been stencilled across Buenos Aires' walls, continuously reminding society of the impunity of today and yesterday.



The Memory Park

The project of a *Memory Park*, to remember the victims of state terrorism, was approved in July 1998 by the Buenos Aires legislature. (Di-Cori, 2002; Melendo, 2006) The Park lies on fourteen hectares along the coast of the River Plate, between the University Campus and the Costanera Norte, in the immediate neighbourhood of the ESMA. Upon completion, there will be a Monument to the Victims of State Terrorism designed by the Baudizzone, Lestard, Varas Studio and associated architects, a Sculpture Park, other memorials and a Centre for the Promotion of Education, Research and Memory.²⁹ The Monument was officially unveiled by President Kirchner in 2007.



The Monument offers a place of reflection for visitors, to think about the relationship between history and politics, but also the river and the city, in-between which the memory of the disappeared lies. (Huysen, 2001, 2003; Silvestri, 2002)

²⁹ In the centre a database will collect general information on each victim. The public will be able to provide missing data or formulate new denunciations.

The Monument, facing the river, looks like a wound in the landscape. Visitors move through the zigzag structure until they reach the river and the shoreline walkway. Approximately 9.000 names of the victims of state terrorism, disappeared or murdered are engraved, sequenced alphabetically by year, on the structure of four non-contiguous walls of Patagonian porphyry.



The Monument provides a site of mourning, personal, familial, social and national. For a long time, the victims' relatives particularly longed to see and touch the names of their missing loved ones. (Tappatá-de-Valdez, 2003; Vezzetti, 2005)

The Park becomes symbolic in the context of ongoing legal struggles, the quest for truth and the attempt to articulate a national memory. (Vales, 2008) Most significantly, the state participated for the first time in a project relating to state terrorism. Thus, the private drama of relatives was finally recognised as a deeply tragic event that deserved the allocation of a space for national mourning. (Di-Cori, 2002)

Nonetheless, its establishment remains full of controversy. First, some HROs, like the *Asociación-Madres* and H.I.J.O.S. do not participate. For the *Madres*,

material metaphors of memory are perceived as consolidating death in stone while they would rather be talking about and defending life (interview). Second, disagreements relate to the location of the Monument, in a space that is invisible to citizens. (Vezzetti, 2005) The out-of-the-way location is perceived as marginalising the memory of a national trauma, which should instead take centre stage in the city's government or business districts. For others, the present site is fundamental: the river is the symbolic tomb of thousands of disappeared, many of which were university students; finally, its proximity to the ESMA.

This project split the HROs. Brodsky points to how the project will affect everyone who had a missing or murdered relative, but it will of course be interpreted differently by each individual who visits the park. For Brodsky, the Park together with additional elements like music and literature, 'constitute the ground for the construction of personal memory' (interview). Jarach underscores the importance of 'living museums that narrate a story and can successfully involve people'. Jarach points to the creation of a space that is to be used for a number of activities, such as art and culture, 'for people to get involved, understand and commit' (interview). On the other hand, H.I.J.O.S. distanced itself from the project. Enrique Pastor explained why this was so. 'What is important is the meaning that you attribute to the Park' he highlighted, 'the way it is created affects how memory is activated and constructed'. 'If it ends up simply being another plaque like many others that we have, then you lose meaning and we vehemently want to prevent this, that meaning is taken away from places of memory [...] and with the park you have to be very careful that this does not happen'(interview).

The project currently reflects a landscape of social memory that continues to be dominated by the *afectados* and HROs. Although it is important for families to have a place for mourning and memory, this initial nucleus needs to be expanded. If the memory of state terrorism is to be kept alive, inclusive debates with other social and political actors have to be generated to take into account alternative perspectives. Only such an approach will prevent the risk that organisations that sponsor the project are in effect commemorating themselves, with them being the only receivers of memory as Vezzetti (2005) rightly suggested. In our interview, Vezzetti expanded on this contending that 'while the judicial path is by now established, the problem lies with the politics of memory'. 'The Park is for instance managed by some HROs with support from the state, but they do not create conditions to convert these spaces into a broader compromise, involving the rest of society' (interview). This author agrees with Vezzetti (2005:16) that the worse risk for a place of memory is not discussion, but 'indifference'.

The ESMA

In 2004, it was agreed the **ESMA** would become a site for memory. Thus, HROs have since begun considering the opportunities and challenges that locating a museum in there would entail. They could not reach a consensus. (M. L. Guembe, 2008; Tandeciarz, 2007) Debates revolved around three questions. Should the museum be located in the whole or just parts of the site? Should its content focus exclusively on the ESMA or have a national dimension? Should it be opened in stages, given that parts were still being rebuilt and/or were occupied by the Navy?



Despite strong agreement that the ESMA should become a memory site, two different proposals arose. (Vezzetti, 2006) The Association of Ex-Disappeared Detainees contended that the objective was the preservation of the ESMA as judicial proof and material testimony to the genocide, and its reconstruction during its time as a detention centre. No other institutions or public offices should be allowed, even if related to human rights. The CELS conversely proposed that the project should go beyond the denunciation of state terrorism, to include reflection on its antecedents and consequences, as well as the present reality of human rights. (CELS, 2005) Until 2007, another schism erupted. Some HROs considered the possibility of sharing the site with military schools, hoping to establish a new coexistence that reaffirmed respect for human rights as a central theme for future officers. Others viewed that as an insult.

The transformation of the ESMA into a place of memory has been rife with debate. Although the idea is generally perceived as positive, several issues are raised. For Gil-Lavedra, the scale of the project is disproportionate: 'it is one thing

to have a museum there [...], another is taking the whole of the area that had nothing to do with it' (interview). Crenzel raises several significant points. He highlights the fact that what is lacking is 'a conscience on the historical character of constructing a place of memory in the ESMA'. Like Vezzetti, Crenzel points to the lack of a public discussion given that 'the debate is closed to other voices that are not those of the *afectados*, [...] though there have been some intellectuals taking part this is still insufficient, they are not thinking if the university or other actors have anything to say'. Crenzel also underscored how the ESMA 'was a particular place where there were different levels of collaboration between the prisoners and the repressors', will this be reflected? Will it examine the complicity of civil and political society?

For Crenzel, the 'museum should help reflect on what happened and raise questions for those visiting it'. Crenzel seems rather sceptical of its success. 'The Director of the ESMA is a survivor' he mentions 'she is not someone with experience in constructing sites of memory, so she gets this position due to her personal story and then becomes an expert [...] this shows the authority of the *afectados*, it is not intellectuals but those that directly suffered'.

Chillier illustrated in this respect the importance for society 'to appropriate these places of memory and contribute to the debate about what happened'. 'The process of memory construction is dynamic, and museums have indeed a central role in this, but then how these places are used determines the extent to which memory is democratic, effective and sustainable, and not one where only one sector of society agrees on' (interview). H.I.J.O.S. member Pastor also points to similar issues, especially 'what should be represented in those spaces of memory'. 'It is good to leave a record that a genocide occurred by transforming former

detention centres, [...] but we are against crystallising a static image of the past, a past that still has a lot of relevance in the present'. For H.I.J.O.S., 'when you enter a place of memory you should not just see something that happened 30 years ago' Pastor continues 'the repression did not simply kill people [...] but aimed to impose specific social and economic policies [...] our key point is that when you enter those sites you should see things that happened then are still occurring today, there are contemporary effects, it is not something that it is over' (interview).

Abuelas share a similar stand. Lanzillotto emphasised how 'we do not believe in traditional museums, we want something alive, based on the past, with repercussions in the present and projected into the future'. 'This is exactly what we want to do at the ESMA [...] a long-term memory to study the origins of the dictatorship, its purpose, but also its current implications [...] this is the story of a living museum, where men can recognise their history' (interview).

An overall strategy for memory is still missing at the ESMA. The end result for now is that different parts of the site are managed by diverse organisations like the *Asociación-Madres* and their Cultural Space Our Children project. Others house various institutions such as the National Memory Archive, the Entity Space for Memory and the Cultural Centre "Haroldo Conti", where a library, exhibition rooms, a cinema, an area for theatre and a space for studies are to be located.

There is no coordination between the different projects and no accountability. The irony of this, Vezzetti points out, is that 'Hebe de Bonafini [leader of the *Asociación-Madres*] who always opposed the idea of a Museum is now the key voice of this project [...] with statements like "everyone does whatever they have in mind". Some of these HROs effectively have a sort power to veto', Vezzetti asserted,

so 'as a result you have moderate and well grounded organisations like the CELS that are totally left outside of this discussion' (interview).

This situation is perilous. If compromise is limited to a few HROs and the current government, once there is a change of administration, everything may evaporate. Vezzetti claims that the state has until now delegated its responsibility in memory to HROs, 'HROs that are so heterogeneous that cannot even agree among themselves about the objectives and methods to be used' (interview). This focus on the relatives and survivors has in turn produced a rejection of the question of memory by large parts of society (Fonderbrider interview). Fonderbrider in fact concluded that Argentina has not yet reached the stage where the whole of society is involved: the commitment to memory does not really transcend beyond the *afectados*.

5.4 Argentine Illusions of Memory

Issues of TJ and memory have been closely interconnected in Argentina. In particular, the official discourse of democratic administrations has centred around two key concepts: war and the demons. We will closely analyse these here.

Two strands of 'demonic theories' have been popular in Argentina, championed and endorsed via TJ mechanisms, especially the CONADEP and the Trial of the Commanders.

The prologue to the 1984 CONADEP report is the place where Alfonsín's 2DT is most clearly expressed. In it, it is stated how 'during the decade of the 1970s Argentina was torn by terror that was coming as much from the extreme right as from the extreme left [...]'. (CONADEP, 2006:11)

The prologue has become the place where different interpretations of the past have been put forward. In the original, Crenzel points out how the early 1970s are presented without discussing the historical context or attempting to explain unfolding events. Rather, the ongoing violence is simply described as transcending national borders. (Crenzel, 2008b)

The initial reference to the two demons is soon replaced by a clear qualifier that attributes a special status to disappearances: 'to the crimes of the terrorists, the Armed Forces responded with a terrorism infinitely worse than the one they were combating, because [...] they relied on power and impunity of an absolute State, kidnapping, torturing and assassinating thousands of human beings'. (*Ibid.*) As Crenzel suggests, although the prologue is taken to be the classic exposition of the 2DT, this stance is actually limited to the first few paragraphs. The rest, as the remainder of the report, labels one demon worse than the other. Indeed, Sabato (2007) similarly underscores how the repression is explicitly condemned as state terrorism and how the State that acted outside the law is considered criminal.

Nonetheless, the prologue still exhibits elements of the Theory, and a specific understanding of Argentine society during the violence.

Crenzel emphasises how the foreword and the report propose a reading of the past that reflects the perspective held on the events of the past by the Alfonsín's administration. The distinction between the dictatorship and democracy is clearly emphasised, but a mantle of the silence is then spread over the respective responsibility of the government, the military, political and civil society for the events before the dictatorship. (Crenzel, 2007b) The characterisation of society is in line with the Theory, it being simultaneously presented as both a possible victim

and a distant observer of the unfolding terror, in any case not involved in the violence.

The CONADEP and the Trial were fundamental in revealing the horrors of repression. However, they sanctioned a specific construction of collective memory. The experience of the dictatorship was presented as something exceptional, not only because of the magnitude of the crimes committed. Vezzetti stresses how it was acknowledged for the first time that the State had perpetrated terrible abuses, effectively eliminating certain groups of citizens. (Vezzetti, 2002) Di-Paolantonio (2001:448) further claims that both the CONADEP and the Trial 'were mainly informed and motivated by the protocols for national reconciliation'. Di-Paolantonio convincingly argues that the excessive legalism allowed the vast majority of Argentines that had remained silent during the years of terror, to be described as simply "caught in the middle" of the violence. (*Ibid.*452) The 'dirty war' could accordingly be portrayed as a 'period of "barbarism and chaos" that was the result of a "minority" of people'. (*Ibid.*)

The CONADEP was fundamental in signalling a clear departure from previous political behaviours and the climate of impunity (Brodsky, Gil-Lavedra interviews). The very title of its report, *Nunca Más* (Never Again), embodied this commitment of change, and the moral position to be taken for the future. Nevertheless, the Commission only provided a partial account of the past, one in which many relevant issues are missing. These include for instance the national and international causes of repression and the role played by revolutionary groups. As Malamud-Goti asserted, state terrorism cannot be simply reduced to 'a bunch of

military officers', it being a much larger process that depended on the support of large sectors of society (interview). On a similar note, Di-Paolantonio (2001:450) correctly contends that the CONADEP 'reinforced the predominant interpretation that frames the period of disappearances as an aberration from the "national character", which thus maintains that present Argentina need only to "deal" with these "criminals" and reclaim itself'.

Similarly, the Trial has come to represent a foundational moment in democratic reconstruction, over time acquiring mythical dimensions. (Schorr, 2006) It reaffirmed law as the democratic tool to resolve conflicts and constituted a sort of point zero for the new democracy. One of its greatest contributions was indeed fighting silence, demonstrating the illegal methods of the repression and that crimes until then denied had effectively taken place. Judge D'Alessio narrated a curious incident that occurred at a conservative club where he had gone for lunch with a friend: 'somebody came up and invited us for coffee at their table. When we got there, one of them said: "we do not know this gentleman (D'Alessio's friend) but we do know Dr. D'Alessio for his work during the Trial. We called you here to express our displeasure that you are eating here after your participation in the Trial." I responded: "I do not like to hear what you are telling me but it makes me happy in a way. I do not like to play around, but please allow me to demonstrate that you are talking nonsense. Please tell me whether the acts that were proved by the Chamber, that the Commanders ordered the kidnapping of whoever was suspicious, their torture to see whether they were in fact the enemy, and then gave the freedom to decide whether to kill, free or keep them under legal detention, was that true or not? They responded that yes, that was the case" (interview).

Despite its significance, the Trial, like the CONADEP, was limited. First, it recreated the bipolar interpretation of the world of guilty vs. innocent that had prevailed during state terror. This limited truth released from blame all the actors not directly involved and especially allowed society not to face up to its responsibilities for its role as passive bystanders or accomplices to terror. For Malamud-Goti (2005:641) courts and truth commission are sources of 'narrow blame', for merely casting culpability on singular agents or a defined group of actors. This is possibly not the best approach for societies in transition. They rather need to acquire a richer and more complex view that goes beyond establishing simple deeds of specific individuals or collective agents, or exposing the suffering of those who bore the brunt of the abuses. A more realistic explanation requires a broader perspective including deeper contextualising notions of how power and interests combined together to generate conflict and dictatorial trends. (Malamud-Goti, 2005:641)

Both the CONADEP and the Trial failed in this respect, presenting only a partial picture in which the military was the only one to be blamed. In this respect, Di-Paolantonio (2001:454) suggests that 'the trial produced a decidedly disconnected and individualised narrative of the event', one in which 'the collective dimension of repression' was lost. Furthermore, 'the way that the trial's narrative framed the 1976-83 period as an aberrant and isolated episode of state violence dehistoricises the authoritarian ethos that has been entrenched in Argentine society since its inception'. (*Ibid.*:455)

The *Nunca Más* report, re-edited in 2006, became yet again the site for memory contests, with the Kirchner's government exposing (its own) reading of the past

that, like in 1984, placed the state as a central actor. (Crenzel, 2007b) The new prologue, written by the National Human Rights Secretariat, displays this new official memory.

Crenzel suggests how this new foreword no longer rests on the differentiation between dictatorship and democracy, but instead between democratic presidents since 1983, qualifying the present as a historical and exceptional moment. (Crenzel, 2008b) Significantly, civil society is described as fighting united against terror and impunity. This however is not only incorrect but minimises the difficult efforts of those that did denounce the violence under the *Proceso*. (Crenzel, 2007b) This depiction also dismisses the plurality of different narratives that exist in relation to the contested past.

The new perspective endorsed openly challenges the 2DT of the original foreword that supposedly established a “justificatory symmetry” between the violence of the state and guerrilla. The 2DT is openly branded as false and a validation for the employment of state terror. (CONADEP, 2006:8) The 2006 prologue plainly sanctions the view of the violence as state terrorism, emphasising its scale and methodology. It stresses how ‘state terrorism was unleashed massively and systematically when [...] the guerrilla had already been militarily defeated’. (*Ibid.*) It furthermore highlights how ‘the dictatorship set out to impose a neo-liberal economic system and destroy the social achievements made over several decades’. (*Ibid.*)

Similarly to the original, the new prologue describes the disappeared along the lines of the humanitarian narrative, which dodges the issue of guerrilla and/or political violence. Significantly the report mentions that 30,000 people

disappeared, the estimate endorsed by HROs, when usually 9,000 is given as the official number.

The preface ends by focusing on the role of the state to permanently remember this stage of history, to teach present and future generations the consequences of illegal violence. It also highlights how democracy continued some of the practices installed under the dictatorship, and notably applies the 'Never Again' slogan not only to the crimes of the past, but also to 'social injustices that offend human dignity'. (CONADEP, 2006:9)

On the question of official memory several positions exist. Regarding Alfonsín, Valdez for instance suggests that it is not clear whether his administration attempted to impose an official perspective. What is true is that the CONADEP 'failed to satisfy all and there were enormous critiques to its prologue and the two demons' perspective (interview). Others clearly consider Alfonsín's 2DT as an attempt to forge an official memory. For Pastor, the CONADEP was a loyal representative of the government's position and was promoted as the official version. 'There were crimes for sure, but then the same victims of state terrorism were also criminalised. What is even worse is the fact that those that adopted armed fight were in fact a very small percentage of the victims. But this allowed society to isolate the victims of state terrorism as if they were not legitimate parts' (interview). Likewise, Fonderbrider considers the 2DT as an official perspective but he suggests that 'it was not totalitarian [...] in the sense that the state never explicitly said that we all had to accept it' (interview).

Examining Kirchner's use of memory, Palermo maintains that the President's discourse is characterised by a total absence of criticism and attribution of responsibility (interview). Palermo suggests that the President was in an easy situation given that there 'were really no opposing social and cultural organisations' that could counter his voice. Lorenz points to how the government is still unable to 'overcome this dualist conception of history'. 'Is it possible to ever develop a multi-causal explanation at state level, beyond that of the military vs. the guerrillas? For Lorenz, 'we are still too close to the events of the past, to be able to bring back the complexity' (interview).

Novaro interestingly points to the fact that 'a hierarchy of rights is now being established' and that there is 'an offensive distinction regarding which victims we can legitimately talk about and the ones we should not'. 'So the guerrillas victims for instance' Novaro continues 'they do not matter and the state does not recognise them'. For Novaro, this end result is unfortunate as overall it lessens the legitimacy of human rights and diminishes consensus surrounding their protection.

In fact, as Gil-Lavedra also points out, what is missing 'is a consideration of guerrilla violence, which we also need to condemn together with the terrible methods employed by the military' (interview). Indeed, any exercise of memory would be incomplete without considering the role played by guerrilla groups that, in a setting of indiscriminate violence and institutional chaos, offered a good pretext for military intervention. (Vezzetti, 2002)

Explanations identifying either one or two demons are too simplistic, and prevent the consideration of several key questions about the past. In particular, they gloss over the conditions that favoured the coup, and the element of collective responsibility for the climate in which human rights abuses became possible. For

Sabato (2007), these prevailing approaches thwarted further investigation into how military rule really involved all Argentines. It was not simply the two demons...

The Politics of Memory - Uruguay, 1973 to 2009

President Sanguinetti's slogan '*no hay que tener los ojos en la nuca*' (you should not have eyes at the back of your head) characterised the politics of memory in Uruguay for 15 years. This was a period when the government actively imposed a policy of silence and forgetting in relation to the years of political violence, 1973 to 1985.

This chapter contends first, that the Uruguayan state has been the most successful in the Southern Cone in reducing discussion about the crimes committed by the dictatorship –at least temporarily. In fact, until the late 1990s, several administrations effectively limited debate over these issues to the reduced sphere of HROs and those directly affected (relatives of the victims, *afectados*).

However, this policy proved short-lived. It is later shown how the hegemonic aspirations of the Uruguayan state were eventually undermined, as the human rights question started to return to the public and social agendas in the mid-1990s. Although the vision of the state had always been actively disputed by human rights activists, since the late 1990s concern with the past attracted wider discussion and attention, reaching out to society as a whole.

To demonstrate this position, the chapter begins with a brief introduction on memory debates. Afterwards, it traces the emergence and the evolution of different narratives that existed in order to better comprehend the events relating to the contested past of violence. It focuses on three communities of memory: the military, the government and HROs. It particularly highlights how successive

democratic administrations wished to impose different interpretations of the past. Second, specific examples through which the politics of memory were played out in the social and political arenas are investigated returning to the idea of memory knots. Third, the interrelationship between memory and TJ initiatives is examined, focusing on what I like to label a 'Uruguayan style Two Demons Theory' and the work of the COPAZ.

6.1 The Memory of Military Rule

As in Argentina, the years of re-democratisation in Uruguay were informed by a conflict between the will to remember and the endeavour to forget. According to Adriana Bergero and Fernando Reati, democratic governments aimed to impose collective amnesia on society to anesthetise it from the pain suffered. (Bergero & Reati, 1997) Official silence was institutionalised, suppressing from collective memory both the culpability of the repressors and the desire for justice of the victims. (Moraña, 1997) A tension therefore ensued between a majority that wanted to forget the burdensome legacy of terror, and a wounded minority that was unable to do so. (Viñar & Viñar, 1993)

Coming to terms with the legacies of military rule and state terrorism was particularly difficult for Uruguay, a country that until a few decades earlier had prided itself with epithets as 'the Switzerland of America' and Montevideo as 'the Athens of the River Plate'. (González, 1991:3; Rial, 1993:64) According to Juan Rial (1993:64), the country's self-perception rested on foundational images like '*como el Uruguay no hay*' (there is no place like Uruguay) and '*el Uruguay feliz*' (Uruguay, the land of the merry). These portrayed Uruguay as a European country, with high

levels of educational attainment. Furthermore, it was peaceful and profoundly democratic, characterised by political stability, regular democratic procedures, growing financial and economic markets, and a large urban class. (Demasi, 1995) For Luis Roniger, this idyllic view started to crumble in the 1960s, but it had always implied overlooking some of the least pleasant aspects of the country's history, like the lengthy civil wars, the genocide of Indians and the dominant violence in the nineteenth century. (Roniger, 1997a)

Upon re-democratisation, the image of 'happy Uruguay' no longer existed. (Rial, 1993) Rather, the military dictatorship became one of the pending matters of transition, to be reflected upon in terms of its genesis and impact. (Roniger & Sznajder, 1999) Rial (1993) highlights how components of the previous myths were thus reappraised. Civility and consensual mechanisms of conflict resolution became particularly cherished in this new setting, especially when confronting explosive issues like the human rights question. The basic myth then became that of 'Democratic Uruguay', where consensus must prevail at all costs. (Rial, 1993:76)

Military rule fundamentally disrupted not only Uruguay's founding myths but also social interactions and relationships. For instance, Marisa Ruiz of AI-Uruguay pointed out how 'the dictatorship revealed to us as a country something new about the ethical reality and the nation's imaginary that we did not know about like, for example, that human life was not respected at the time' (interview). Likewise, A MFDDU member highlighted the impact and effects of the regime on individuals. She recalled how before 'people would drink the *mate* (a traditional South America infusion, national drink in both Argentina and Uruguay) together and would be

sociable, but this no longer happens, people are much more closed and everyone just looks after himself. 'The mentality of the people changed' she added 'and this is very much related to the regime and its harshness' (MFDDU interview).

Roniger and Sznajder (1999) outline several perspectives on the dictatorship. Some portray the interregnum of the *decada infame* (infamous decade as the dictatorship is often labelled) 'as a phenomenon of cataclysmic character that was imposed upon Uruguayan society "from the outside" and which "victimised" that society as a whole'. (Roniger, 1997a:234) Others, like Demasi (1995), claim that this experience was not essentially different from previous ones, it simply being a further example of events that occur much more frequently than Uruguayan history would like to remember.

Whatever side one takes, one thing was clear: Uruguay was no longer exceptional, it had become a Latin American society with recurrent crises. If before the 1970s the possibility of military rule was not part of the social imaginary given the long tradition of democracy, since then it has entered the realm of the imaginable and the plausible. The rupture of the dictatorship not only modified the country's self-image, but also produced an intergenerational separation. According to Hugo Achugar, for young people the possibility of a dictatorship forms part of the real, not that of the speculatively possible. (H. Achugar, 1995:16)

Given that the experience of military rule was so unsettling, how is it remembered? What narratives and interpretations exist within society over these contested years?

The politics of memory became more relevant and explicit following transition. However, it is important to note that they already existed already under military rule when the armed forces attempted to develop and establish an official interpretation on what had been occurring since the late 1960s (Lessa interview).

The relevance of memory, as in Argentina, is also the unintended result of state terrorism. As Maren and Marcelo Viñar correctly stress, the institutionalisation of torture, fear and disappearance produced a situation in which those affected by state violence were not only the direct victims, but in fact society as a whole. (Viñar & Viñar, 1993:124) This produced what Marcelo Viñar labels as 'fractures of memory'. Political terror created long-lasting effects, resulting not only in individual suffering, but also attacks on culture, the way of thinking and the community, with state terror tearing apart the social fabric. (Viñar, 1992; 1995:53)

Until 2000, the policy of silence and amnesia imposed by the democratic Executives remained unchanged, successfully cloaking the public memory of state abuses under a mantle of oblivion. In this context, according to Gabriela Fried, the memories of the victims became politically invisible and were only recounted in the intimate spaces of private homes. (Fried, 2006)

Chapter 4 outlined how renewed concern with truth and justice had begun to resurface since the mid-1990s. In parallel, the memory of the authoritarian spell re-emerged more strongly through books, films and citizens' debates (Felipe Micheli interview). HROs were an essential catalyst for this. In this respect, several new organisations were also established, like the Association of Former-Political Prisoners of Uruguay (CRYSOL) in 2000, *Memoria para Armar* (Piecing

Memory Together, MPA) in 1997 and HIJOS in 1996, uniting the children of disappeared and political prisoners.

For Oscar Destouet, the reactivation of memory is also a consequence of the passing of time. In the beginning, victims found it hard to talk, as that often entailed re-living their experiences of torture and imprisonment. Additionally younger generations played a key role, by asking new questions about the past and thus re-opening the discussion. Lastly, Destouet points to the role of the state that can either facilitate or hinder debate. While until 2000, the state completely marginalised these matters, since then Presidents Batlle and Vázquez started to cooperate, encouraging and facilitating discussion.

Although Uruguayans allegedly have a tendency to avoid dealing with unpleasant things, pretending that they do not exist (Elhordoy-Arregui interview), this proved almost impossible in relation to state terrorism. As several of my interviewees pointed out, the consequences of the dictatorship are still present in Uruguay today, whether or not this is acknowledged (Romero, Trivelli interviews). Laura Balsamo of SERPAJ highlighted the social, economic and cultural 'leftover' effects of the regime. She recognises that 'yes, you need to forget some things, but you also need to know where we came from and what happened to us as a society' (interview). In challenging criticisms that examining the years of state terrorism constitutes looking back, Elhordoy-Arregui forcefully contends that 'it is not really looking back, but looking at the present we are living in now, a present where in the same block the torturer and the person that suffered torture meet and both pretend that nothing happened'. 'Why do we need to investigate?', she continues,

'because we need to know what we were capable of doing as a people, what we were able to tolerate and continue accepting, the question of impunity' (Elhordoy-Arregui interview, Mansilla).

As in Argentina, more than one memory exists in relation to the recent past. As deputy Culture Secretary Felipe Michelini contends, memories are effectively 'broken' as every one remembers differently, depending on the personal context and the experiences they lived through during military rule. Elbio Ferrario, Coordinator of the Memory Museum, suggests that there continues to be a struggle among competing memories, whose construction entails political clashes and disputes (interview). In this respect, Alfonso Lessa stresses that 'political sectors use the past to their convenience, in accordance to their reading of present events'. Lessa also pointed to the existence of many 'black and white interpretations, and that several sectors attempt to sell the official truth' (interview).

Most of my interviewees nevertheless recognised that there is a shared consensus that repudiates the years of military rule, seen as a period without freedom, and characterised by strong authoritarianism (Destouet, Martínez interviews). It goes without saying that some minority groups still continue to vindicate the military intervention, justifying it as a prerequisite for the return of democracy.

It is to the more detailed discussion of these different communities of memory that we now turn.

6.2 Uruguayan Communities of Memory

In Uruguay, as in Argentina, each community rests on an emblematic memory that shares two essential features. It has a central core of elements that have endured over time since its initial establishment. Second, these frameworks are also flexible enough to be able to evolve, to reflect the new political, cultural and social contexts in which they exist. Despite their elasticity and variation, they remain true to the essential core of their position.

The Military

Mariana Achugar recounts how the Uruguayan high command embarked on a special effort to document and explain its actions in the fight against subversion. More than elsewhere in the region, the Uruguayan military stood out for its obsession with justifying itself and undertook a considerable endeavour to organise its thought in an intellectually coherent manner. (M. Achugar, 2005)

The military discourse emerged in the 1960s and had three phases: the years of military rule, democratisation and recent developments. There are three core and enduring elements: the notion of subversion, the role of the military, and the view over human rights crimes.

The military shared with other regional dictatorships the common narrative of salvation, according to which the motherland was being threatened by external forces (Marxism) and their internal allies (subversives). Hence, the Armed Forces are portrayed as the 'guardians of the fatherland' operating to defend it. (*Ibid.*36)

The concept of subversion is the first fundamental element of this narrative that provides a justification for action both during and after the dictatorship.

Subversion was seen as mainly an intellectual and moral problem. In the eyes of the military, it had an all-pervasive nature and included 'actions, violent or not, with ultimate purposes of a political nature, in all fields of human activity within the internal sphere of a state and whose aims are perceived as not convenient for the overall political system'. (Heinz & Frühling, 1999:342) The tentacles of subversion had no limits, but the military particularly targeted trade unions, communist parties and universities as its breeding grounds.

The conceptualisation of subversion as a infection attacking the body of the nation enabled the military to present itself as the saviour of the *patria* (fatherland) as exposed here: 'In facing the aggression of subversion, that constitutes a disease of the Uruguayan nation, it must be concluded that the primary role of defence is, and always will be, that of protecting the fundamental basis of society, [...] against the disruptions that may threaten them, because the diseases of the social body are the same as those of human beings: it is necessary to prevent them and attack them when they manifest'. (M. Achugar, 2005:47)

Characterising society as a human body and deviations from order as disease automatically defended the repression, legitimising its very existence. In their discourses, the armed forces appeared as the guarantors of order, people and democracy, representing and embodying the traditions upon which the country was built, the *orientalidad* (orientality from Uruguay's full name as Oriental Republic of Uruguay).

Second, the military presented itself as responding to explicit requests by democratically-elected governments that had placed them in charge of fighting subversion during a state of internal war. This quotation is illustrative: 'Our enemies [the *Tupamaros*] avoided a noble fight, but still they pushed us and we

could not refuse but do so because it was demanded by the country and we had to comply with our duty of defending the patrimony of the *orientales* [People of Uruguay]'. (Lessa, 2007:72) This image of war would become particularly useful when the military endeavoured to place human rights crimes within such a context.

The military assigned particular responsibility for the situation of chaos to the political parties and democracy. The former had led Uruguay to economic decline, were corrupt and unable, even hindering, the fight against subversion given that some MPs were seen as colluding with the terrorists. Liberal democracy, too weak and permissive, had been similarly incapable of dealing with communism. (Demasi, 2003) Therefore, a new institutional structure was required with the military at its apex, the only one indeed able to handle and detect subversion. (Heinz & Frühling, 1999) A common saying at the time was in fact that of *poner la casa en orden* (putting things in their place), in a country perceived as on the brink of collapse. (Lessa, 2007) The failures of democracy and traditional parties, together with the subversive threat, provided a sophisticated justification that, in reality, the armed forces had not taken over the government; they had been asked to do so.

Upon democratisation, the Armed Forces employed justificatory elements that were similar to those of their Argentine counterparts: the idea of excesses and of the military as a victim.

First, when countering mounting accusations of human rights violence, these were defended as excesses and deviations that were inevitable consequences of the war. The academic Julián González-Guyer highlights how the military talked of

reference points being lost, but that they would not accept anything beyond this (interview). These passages exemplify their stand: 'There may have been errors, or better said, there were errors. But in a war, when are there no errors? If a war is constituted by acts of violence, how can there be no errors? All wars are bad and there are no good wars [...]'. (Marchesi, 2005:189-190) Similarly, 'in a war the winner does not have to pay. In no war, human rights have any priority. I don't believe there was torture. There was a war of information. We did not know who the enemy was. Some errors were committed, but not abuse.' (Heinz & Frühling, 1999:362) Finally, in the words of General Medina: '[...] we have to consider that there was an armed confrontation. We recognise responsibilities and [...] that in cases of this nature one has lost points of reference with regard to rules to judge and to regulate human behaviour [...]'. Heinz & Frühling, 1999:295) These examples show how the armed forces did not contemplate having committed crimes. Their view was that they had merely complied with the mission that was entrusted upon them by democratic governments. In fact, they actually considered their actions extraordinarily humane, especially when compared to Argentina. General Medina for instance stated: 'We do not reject the accusation of *apremios* [instances of compulsion] in dealing with prisoners. Because there were *apremios*. But if we had done what they did in other countries [...], if we had given way to other kinds of repression, then of the five thousand or so prisoners that there were here, four thousand or so might have been killed.' (Weschler, 1998:205)

Finally, Aldo Marchesi outlines how the military portrayed itself as under attack from various sources, the victim of unjustified accusations by an ungrateful society that neither recognised the necessity of the military's actions nor appreciated how they had actually enabled the return of democracy. (Marchesi, 2005)

Throughout the 1990s, the pact of silence concerning the repression persisted. Gerardo Caetano stresses that in many respects the military discourse continued to be monolithic. It never expressed a commitment to avoid a repetition of the past, but rather continued to represent the military coup as a product of the armed subversion and the political vacuum of the time. (Caetano, 2004) Overall, the military preserved a high degree of internal solidarity, contending that its actions had saved the country from communism and anarchy.

Having said that, according to Sznajder and Roniger (1999), it is important to recognise that Scilingo's 1995 confession did re-open the wounds of past violations, since most Uruguayans that disappeared were in reality abducted in Argentina. Nevertheless, the impact of military confessions was limited and there were only two cases when Uruguayan military officers came forward to discuss their past actions.

In March 1996, there were anonymous declarations by members of the Marine Corps that admitted to human rights violations. (M. Achugar, 2005) Later on, in May, Navy Captain (ret.) Jorge Troccoli admitted in a letter to *Brecha* magazine that, although he had not participated in the worst acts of torture and assassination, he had still fought a war in which the armed forces had treated their enemies appallingly, referring to torture, disappearance and murder. (Troccoli, 1996) Although Troccoli did acknowledge violence, disappearances and his responsibility for inhumane treatment, he nevertheless stressed how at the time Uruguayans had hated, killed, and tortured one another.

Despite the significance of his acknowledgement, Troccoli, like Scilingo, continued endorsing the thesis that the armed forces did not have an alternative at the time, but faced a brutal enemy in the context of a dirty war that was heroic on

both sides. (Sznajder & Roniger, 1999) Troccoli was exceptional in acknowledging his participation in repression, given that no other fractures within military's discourse occurred. As González-Guyer rightly suggests, 'the narration of what happened remains in the hands of the same officers that partook in the repression or those that listened to their predecessors, as several retired officers continue teaching in military schools' (interview). Additionally, Caetano points out how until 2000, the political system 'expressly recommended military members not to talk about human rights violations', fearing this would open Pandora's Box (interview).

Unlike their Argentine counterparts, the Uruguayan military never assumed responsibility for past abuses nor asked for forgiveness. Rather, both retired and active officers continue to vindicate the necessity of the anti-subversive war against international communism (Ferrario interview). In fact, in 2006 ten former commanders assumed total responsibility for the actions of their subordinates during the repression, labelling them as acts of service. (LaRepública, 2006a)

Current Commander-in-Chief Rosales particularly asserted in 2007 that the Army as institution does not wish to be judged for eventual incorrect individual actions carried out by some of its members. The Commander pointed to the existence of a defamatory campaign, highlighting how hatred, revenge and incredulity joined up to prevent society from moving beyond revisionisms and reaching the real 'Never Again'. (LaRepública, 2007d) For Caetano, 'the Commander should have been dismissed *ipso facto*', highlighting how even current commanders 'that are young and could not have been involved in the repression simply because of their age, have been pressured by their predecessors and made incredible declarations' (interview). Declarations such as the above mentioned are

not only historically incorrect but also demonstrate how 'the attitude of the military has not changed as much as one would have wished, especially because young officers have no reason to continue covering up these issues' (Caetano interview).

A new feature of contemporary military discourse is the focus on the necessity of leaving behind revisionisms on the past, concentrating instead on the future. The speech of the Army Commander-in-Chief Daners in 2003 exemplifies this perspective: "Living in the present and looking at the future with eyes of the past does not seem to be the best option, in that the future runs the risk of remaining trapped in that past. On the contrary, looking to the future without resentments, moving beyond aversions, leaving aside vindications [...] should be the plan transmitted to new generations, in that they will be the ones with the hard task of consolidating the new Uruguay [...]. (M. Achugar, 2005:58)

For Mariana Achugar (2005), this narrative attempts to achieve a consensus and pay off the debts of the past. Despite differences, continuing to debate the past is considered unnecessary and, by appealing to common objectives of the nation and a shared history, disagreements can be overcome. In this view, different social actors with fundamentally diverse ideologies should work to enable harmony in the community.

The military's interpretation of the past has evolved, changing depending on the political context of the time. Some aspects remained immutable, like the metaphors of 'war' and 'disease', and the image of 'human rights crimes as excesses', the latter employed as recently as 2007. According to Mariana Achugar (2005), military discourse nowadays confronts an international context in which it is repudiated as

immoral and therefore it now has to appeal to reconciliation and look to the future in the name of the Nation and future generations.

Human Rights Organisations

As highlighted in chapter 4, HROs only emerged in Uruguay towards the end of the dictatorship and played a more limited role compared to their counterparts in the rest of the region. Despite this, similarly to Argentina, they developed an emblematic memory that depicted the years of military rule and associated repression as a time of disruption and suffering.

The essential element of this perspective was the qualification of political violence as state terrorism, a specific type of brutality emanating from the state and informed by systematic and methodical crimes that affected direct victims and society. In particular, the violence unsettled the victims' world in that it provoked the loss and/or imprisonment of loved ones, in this way forever upsetting familiar relations and producing a world of horror and misery. Throughout the decades, these ingredients have consistently featured in HROs discourse, but over time, new elements have also been added.

The perspective of state terrorism arose in response to the military's narrative that presented human rights crimes as exceptions or deviations committed during a legitimate war fought against subversion. Conversely, the memory of HROs pointed to the harshness of repression, particularly to the fact that, even though there had been a threat from armed organisations, these had been totally defeated by September 1972. As Graciela Romero points out, HROs challenged the representation of political violence as a war as suggested by both the military and the government, drawing attention instead to the fact that most of the victims were

defenceless human beings. 'None of the disappeared had weapons and only a few of them belonged to guerrilla organisations' (interview). What HROs put forward was a view according to which the state used all its powers and resources to violate the rights of the citizens, and later covered up and manipulated this information: the state, Romero continues, still 'has to assume responsibility for these deeds' (interview).

On the question of the guerrillas, Elhordoy-Arregui contended during our interview: 'let us suppose that the armed groups indeed constituted a threat, why did the military not leave when all *guerrilla* fighters were imprisoned? That did not happen. [...] and, after imprisoning them, what was the point of daily torture? I really do not comprehend that' (interview).

Although armed organisations in Uruguay, as in Argentina, did play a role in triggering the coup, it has however been recognised that by late 1972 these had already been totally dismantled. Even President Sanguinetti, a supporter of the war vision, admitted during our interview that 'the pretext of the guerrilla was a bad one [...] there is no doubt that the guerrilla had been liquidated [...] the coup had no justification [...], there may have been some remaining guerrilla elements but its leaders had already gone by September 1972' (interview).

How did the discourse of HROs emerge? Between 1964 and 1981, nearly 14% of the population left Uruguay. Vania Markarian outlines how from the mid-1970s, exiles became pioneers in using the language of human rights to talk about the repression, denouncing the methods of state terrorism in Uruguay before the UN, the Organisation of American States, Amnesty International and the US. They

appealed to international public opinion and moral ethics, putting under the spotlight the repeated crimes of the regime, in the hope that this would stop repression. (Markarian, 2005) The impact of their actions is especially important as they were the first to employ the language of human rights to press for concrete goals. It is important to underscore, as Markarian and Mansilla do, that the language of human rights did not really exist until the 1970s. Freedoms and guarantees for citizens were indeed mentioned in the Uruguayan Constitution. Nonetheless, human rights became mainstream and entered the international public agenda largely as a consequence of the grave abuses in Latin America, particularly the crime of enforced disappearance (Mansilla, Markarian). Likewise Javier Miranda points out that, although the Uruguayan Parliament had discussed accusations of torture in the early 1970s, the concept of human rights had not been forged before the dictatorship (interview).

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During military rule, a period characterised by denial, silence and disbelief, victims of human rights abuses faced a difficult environment. As writer Eduardo Galeano puts it: 'For the twelve years of the military dictatorship, the word *libertad* [freedom] referred to nothing but a plaza and a prison. [...] But every Uruguayan was a prisoner except for jailers and exiles –three million of us, though only a few thousand seemed to be. One in every eighty Uruguayans had a hood tied on his head while the rest, doomed to isolation and solitary confinement even when spared the pain of torture, wore invisible hoods as well. Fear and silence were mandatory'. (Galeano, 1993:103)

This culture of fear created what has been labelled as 'inxile'. Paul Sondrol defines it as 'sullen wariness, self-censorship and longing to maintain anonymity

against the brooding omnipresence of the state'. (Sondrol, 1992:194) Carina Perelli further suggests that *in-xile* became as important as exile itself, as for internal exiles fear was ever present. (Perelli, 1992b)

For instance, the wife of León Duarte, a union leader and member of the PVP who disappeared in Buenos Aires in 1976, recounted how when her colleagues saw her on the bus or in places outside of the factory where they all worked they would tell her: 'I am sorry but I cannot talk to you because you burn (i.e. you are dangerous)'. Colleagues were very much afraid to risk being seen talking to the wife of an important political and union leader that had disappeared (MFDDU interview). Overall, the attitude was generally one of disinterest to the plight of the disappeared or other victims, with common sayings at the time being *no te metás* or *algo habrán hecho* (don't get involved/they must have done something).

Several members of MFDDU highlighted the difficulties they encountered in coming to terms with disappearances and the impact these had on their families. 'What story can my son relay about his disappeared father to his own children?' asked one of the ladies during our interview. 'It is not easy, everyone wants to know what happened to their loved ones, you need to have something to tell to that the part of your family that continues to exist.' 'This is why we cannot stop, with the hope that one day we will know'. Another lady that joined us later immediately showed me the photo of her disappeared son, that she carries everywhere. Although the disappeared are no longer present, they continue to exist in some way and are remembered by their loved ones at different moments.

Adrianna-Beatriz Yelpo-Vega of the PIT-CNT Human Rights Commission underscored the particular nature of the crime of enforced disappearance, 'as the

most cruel'. 'When you can bury your loved ones', she continued 'you can go through the process of mourning. Without a body, you cannot, you know the disappeared are dead but you have not seen or buried them, so you cannot achieve psychological closure' (interview).

Until the early 1980s, human rights activism largely occurred abroad. Some organisations were established in Buenos Aires to deal with the question of disappearances there, but it was only in 1981 that SERPAJ was set up in Montevideo, becoming the leader of the human rights movement.

Unlike Argentina, Uruguayan HROs had little experience in human rights lobbying and they formed largely as a result of searching for missing loved ones. Nonetheless, their activities in the early 1980s were fundamental: in 1982 they submitted the first petition by relatives of political prisoners to the government. In 1983 SERPAJ made the first public denouncement of torture and demanded justice for the abducted of members of the youth branch of the Communist Party, and also released the first list of disappeared. (Demasi & Yaffé, 2005)

One of the strategies that HROs adopted in the endeavour to counteract the apparent apathy surrounding the issue of the disappeared was to focus on the plight of missing children. They portrayed the question in terms of a violation against the family, the right of children to their legitimate parents, and the fact they had been adopted and were living with the same people that possibly disappeared their rightful parents. (Perelli & Rial, 1986) This discourse enabled them to reach out to the wider public, given the innocence of the victims, and permitted that the question remained in public consciousness.

The death of Doctor Vladimir Roslik in April 1984 openly prompted for the first time a discussion on human rights abuses. This development can also be credited to the scale of publicity given to the case by the Colorado newspaper *Jaque*. Even though only two members of the military were finally prosecuted, the case importantly provoked a response from the Doctors' Union that established medical ethics tribunals to investigate possible violations of the Hippocratic Oath by doctors who had participated and/or certified actions relating to torture. (Perelli & Rial, 1986)

The discourse of human rights further flourished in the context of the 1987-89 Referendum Campaign on the Expiry Law. The message was simple. Only by bringing to justice those responsible for past violations would victims be afforded legal redress, such abuses prevented from reoccurring, and after learning the truth the country would be finally reconciled. (AW, 1989) The campaign for the green vote to revoke the Law appealed to the general principles of truth and justice, calling for the clarification of the whereabouts of the disappeared and the trial of those responsible. It focused on ethics, hope and the reaffirmation of the basic values of society.

During the early years of transition, the discourse and work of HROs focused on the slogan of 'truth, justice and never again'. As a consequence of the victory of the yellow vote, it changed to 'truth, memory and never again' taking into account the new juridical situation. (Demasi & Yaffé, 2005:72)

Despite their attempts, the government and the military were eventually unable to prevent the older generations from remembering the past and younger ones

from reopening all the silenced questions. (Fried, 2001) Thanks to their unyielding efforts, HROs could re-introduce the question of accountability on the social and national agenda. In addition to the March of Silence (see below), a particularly important event occurred in 2005, when human remains found on farmland in Pando near Montevideo were identified as those belonging to disappeared Ubagesner Chávez-Sosa. This discovery was made on the basis of information provided by the Air Force report (4.3) in a location, the farm, that had been under the control of the military during the dictatorship. (Clarín, 2005) According to Destouet, this event was a 'watershed, marking a sort of before and after in terms of memory construction and the search for the truth'. 'You could no longer say "presumed disappeared", as this discovery had demonstrated that Uruguayans had indeed disappeared'. Destouet further highlights how the presence of the President, civilian and military authorities and the victim's relatives at the military site that was shown on TV for all to see proved once and for all that these crimes did indeed take place, as did their cover up. 'In order to confirm the existence of the disappeared' Destouet added 'one's remains had to appear' (interview). Similarly, Miranda recounted 'how the appearance of the disappeared totally shook national reality', it being a strong symbolic act that changed the whole dimension of the human rights question, 'allowing to touch and to de-disappear'. Miranda stressed how the materialisation of the bodies had a profound social impact, challenging the crime of disappearance that is normally something that cannot be categorised or made sense of. 'I really should not say this' Miranda concluded 'but I personally think that public opinion was affected much more by the re-appearance of the *desaparecidos* than by the imprisonments of Blanco, Bordaberry or Álvarez; the latter events were indeed symbolic but they did not

have the same emotional charge as the discovery of human remains' (Miranda interview).

The de-disappearance of two *desaparecidos* fundamentally undermined the politics of memory based on forgetting and denial. Attempts at silencing the past with arguments pretending that nothing significant had occurred during the dictatorship could not longer be sustained. The disappeared had not gone abroad or escaped with another woman, as rumours frequently contended, but had been murdered by the state.

Despite the significance of these recent events in reinforcing the arguments of human rights activists and their testimonies, HROs continue to fight for truth, memory, justice and never again. Activists are particularly critical of the silence that still pervades the final fate of the disappeared, as only two bodies have been recovered and identified.

In June 2008, Macarena Gelman for instance called for information to be brought forward to facilitate the search for the remains of the missing. She stated that neither her mother nor she had been a risk to democracy or the dictatorial regime in Uruguay and that they had not taken part in any war, if there had been one. A MFDDU representative similarly spoke of a kidnapped truth, as the military has yet to provide information to locate further burial sites. (LaRepública, 2008c)

This alternative discourse of suffering and disruption directly challenged the official portrayal of events advanced first by the military regime and later by democratic administrations. It strived, and continues still, to instead install a framework according to which human rights abuses were systematically perpetrated by the state.

The Government

The Uruguayan government strived to be, and successfully was for some time, a hegemonic actor in the politics of memory. Over time, it developed and attempted to impose specific emblematic memories endorsing particular understandings of what had occurred during the years of political violence. The government adopted what can be described as a mixed approach: in fact, each executive drew differently upon features of both military and HROs discourses. Its enduring ingredients are the concepts of war and peace.

The government was successful in its hegemonic aspirations until the late 1990s, when the HROs eventually started challenging its supremacy, effectively displacing the predominant narratives of silence and gaining audience for its perspective of state terrorism.

Between the late 1960s to the present, various democratic administrations have endorsed different memories. First, before the military coup, the government supported the vision of 'war'. Upon democratisation, Presidents Sanguinetti and Lacalle encouraged discourses of 'reconciliation and forgetting' until the late 1990s. Under President Batlle narratives of state terrorism acquired more space while finally, President Vázquez returned to discourses of 'reconciliation', but also blended this with elements of state terrorism and other narratives, producing an ambiguous result.

According to Aldo Marchesi, between 1972 and democratisation, different interpretations of political violence existed. They all agreed that Uruguay was going through a war, but they presented nuanced understandings: war against

subversion as suggested by the military, civil war as contended by the Left and revolutionary war as presented by the *Tupamaros*. (Marchesi, 2002:105-108)

The Colorado Party, in power between 1971 and 1973, and especially President Bordaberry and Minister Sanguinetti, principally advocated a view that depicted Uruguay as engulfed in a war against democracy. The actions of subversion were thus portrayed as irrational and alien to the nation, while a heroic image was painted of fallen members of the military. This perspective described subversion as threatening the traditional harmony of democracy but simultaneously glossed over the political violence stemming from the extreme-right. From this outlook, only two actors were relevant: the traditional parties and the military that were defending the nation, vs. subversion and its supporters that were considered the enemies. (Marchesi, 2002)

Julio-Maria Sanguinetti, Education and Culture Minister in the early 1970s and later President for two terms, is a key figure in the construction of the memory of reconciliation and forgetting that dominated until the late 1990s. Thus, his thinking deserves careful consideration.

When looking at the onset of military rule, Sanguinetti identifies several reasons such as the economic and social crisis, a confrontational and passionate political environment, the role of trade unions, an intellectual climate of confrontation, and the phenomenon of political violence that was unusual for Uruguay. (Lessa, 2007) Nonetheless, the President attributes particular responsibility to one of these factors, as he stated during his interview with the journalist Lessa: "The incidental cause here were the *Tupamaros*. I do not take the simplistic position that the coup

is their exclusive responsibility, but there is no doubt that without the *Tupamaros* the Army would not have gone onto the streets and reached the position in which it found itself to be to carry out the golpe'. (Lessa, 2007:189) Similarly, in my own interview, the President stated: 'here the military did not come out of the barracks because one morning they woke up and said: we will carry out a coup. It was the guerrillas that drew them out' with the climate of tension, kidnappings and thefts. After defeating the guerrillas, 'the military felt like they were the winners, they were acclaimed by the people that respected them for the tranquillity they had brought about, so the military felt like they were drunk with power', the President concluded.

Upon democratisation, the legacy of the repression became potentially disruptive, a source of renewed polarisation and destabilisation just like the years that had preceded the military takeover. As Roniger and Sznajder (1999) aptly contend, in Uruguay, as in the rest of the region, arguments of national reconciliation were adopted to reach social peace and achieve a difficult balance between demands of impunity by the military and those of justice by victims.

Sanguinetti's stand on these issues is summarised by his famous slogan '*no hay que tener los ojos en la nuca*', for which he has become renowned. According to Destouet, what the slogan means is that 'you do not need to look at the recent past, as it was a dark and bad period, and therefore there is no need to analyse or know it. Rather, we should silence and hide what occurred, as if it had never happened'. For Destouet this approach had political reasons and was also functional in covering up the responsibilities of civilian, economic or political powers that cooperated with the regime and that continued with other faces and discourses

under democracy' (interview). Likewise, for Laura Balsamo, the President wanted to forget everything when he was in power and still 'wants to now [2007], he would say that talking about these things was like having eyes in the back of the head, that people should forget, leave the past to historians and just look forward' (interview). Former-political prisoner Reimann also pointed to how Sanguinetti's discourse constituted 'a veiled but strong threat not to investigate anything, because these things had passed so people should stop looking back to avoid upsetting the military and provoke a return to authoritarianism' (interview). In this respect, Lawrence Weschler emphasises how Sanguinetti believed his approach to question of the past explained why Uruguay was stable unlike other places, the bottom line being 'either we're going to look to the future or to the past'. (Weschler, 1998:189) For Sanguinetti, it was imperative to live in the present and solve current problems. Thus, as Caetano puts it well, 'there was a clear attempt by the state to generate an official history by omission, a policy of imposed oblivion, as you can produce a official history not only by writing it but also by leaving the page blank' (interview).

When Sanguinetti's policy of silence was being threatened, as during the 1987 referendum campaign, the President worked hard to protect it. Weschler (1998) details how, when speculating on the results, the President stated that should the law be overturned, he could not promise anything and that it would be like entering a blind alley. The campaign was presented by the government as directly threatening the stability that had been achieved. Signatures were depicted as being for rancour and revenge, and so citizens would be taking the country back to a period it had already overcome. (Brito, 1997)

Sanguinetti's policies of silence continued until 2000. During the 1990s, whoever attempted to make progress regarding the truth was labelled as disturbing "the waters of the past" and having "eyes in the back of the head": "Uruguayan society had already voted for peace". (Caetano, 2004:27; Demasi, 2003:74)

This changed with the election of President Batlle, who was the first leader to begin to undermine the prevailing impunity and lack of information. In his inaugural speech, the President stated: '[...] in the next five years we will be reaching out to all political and social sectors of our nation, to listen and inform, to initiate dialogue and to maintain it, still with firmness and clarity, our ideas and points of view, in searching for understandings and agreements that will ensure harmony and seal, forever, the peace among Uruguayans. That is our duty. We have gone through so many things, and have suffered as many, but no one can affirm that somebody is guilty or innocent, this is not the result of a Manichean scheme of good vs. evil, we all share the fundamental obligation to *seal forever the peace* among Uruguayans' (original emphasis). (Batlle, 2000) The speech, according to Silvia Dutrénit-Bielous and Gonzalo Varela-Petito, can be taken as embodying the desire to find a solution to the question of the disappeared. Nonetheless, the words of the President still refer to a 'shared responsibility' in relation to events of the past. (Dutrénit-Bielous & Varela-Petito, 2006:345) Despite the Presidency endorsing COPAZ's final report (4.2) which depicted the years of the dictatorship as an instance of state terrorism, several elements of Batlle's discourses still revolved around the idea of peace. This emphasis, combined with the limited efforts undertaken by the President's administration to achieve truth and justice, can be seen as implicitly backing the vision of a war that supposedly existed within

Uruguayan society in the 1970s. Overall, although the discourses under Batlle became closer to the perspective of state terrorism, elements of the previous narratives were still lingering. The idea of war and the goal of sealing peace forever clearly hint at a project of national reconciliation, which can be achieved via a limited disclosure of truth and an even smaller portion of justice.

The current administration under Vázquez has paid special attention to human rights concerns. His opening speech in March 2005 already embodied this stand: 'We want to know what happened, what happened to those citizens [the disappeared], if they are buried there or not; if they are, they will be found and identified, and their remains handed over to their relatives and if they are not, we will have to know why they are not there and where they are and what happened to them'. The President talked about the problem of the disappeared as one affecting the whole of society: '[...] the citizens that disappeared have transcended their families and are citizens of the whole of Uruguayan society, and society in its entirety has to know what happened to them'. In this respect, the President vowed to release all information for the purpose of advancing the truth but then also employed some elements of previous discourses: 'We will publish what we know [...] not to fuel hatred, not to prosecute outside the limits of the Expiry Law but [...] so that never again these things will occur in Uruguay, never again brothers vs. brothers, never again Uruguayans vs. Uruguayans'. These references to brothers vs. brothers and a confrontation among Uruguayans are drawn from the perspective of war and the two demons theory, presenting Uruguay as engulfed in an internal conflict. Furthermore, the President also mentioned the idea of peace and reconciliation: 'It is important to confront this burden as soon as possible [...]

because we all want to live in peace [...] and we need to face the future that we want and deserve, [...] so that our children and grandchildren can live through better times than the ones we had to endure [...]' (Vázquez, 2005b) It is interesting to note that the President combines traditional HROs demands like the uncovering the truth surrounding the disappeared and elements of previous discourses like calls for reconciliation and achieving peace.

In the President's speech before the General Assembly, the President similarly pointed out how 'twenty years after recovering democratic institutions, there are still dark patches in the field of human rights'. There too Vázquez exposed his strategy on questions of accountability 'so that peace can definitely settle in the heart of all Uruguayans and our collective memory can incorporate yesterday's tragedies with their stories of commitment, sacrifice and catastrophe as indelible lessons for tomorrow. And with the truth we shall seek to regain peace for our society, as well as justice and above all, that the horror of past times never happens again'. (Vázquez, 2005a)

As these extracts demonstrate, the President's discourse is a mix of new and old narratives. On the one hand, there is an obvious desire and concern about making advances vis-à-vis questions on truth and justice. On the other, the President's approach hints at reconciliation and, similarly to Batlle's, at reaching peace within society. In this respect, several of my interviewees highlighted this ambiguity: 'I still do not understand what Vázquez is doing' (Demasi interview). José Rilla highlighted how the President has attempted through several means, like the Historical Investigation and the Day of Never Again, to close the subject but has not been very successful. Likewise, Romero criticises this perspective of brothers vs. brothers as one that 'dilutes political responsibility and the obligations of the

state'. 'The message has to be clear' she continued 'you cannot give a confused message to people' (Romero interview). Caetano instead defends the position of the government, stating that if one reads the Historical Investigation 'you can see that it is totally not a type of official history' (interview).

Towards the end of his mandate, there has been a significant change in the President's discourse. In a speech in Costa Rica in April 2009, the President commented on the upcoming plebiscite on the Expiry Law, stating 'personally, I believe that Uruguayans do not deserve an impunity law like the one we have. I am absolutely against it'. Distinguishing between his position as President and his personal capacity, Vázquez added that he had been against the Law since the late 1980s but that he remained consistent with his electoral promise of working within the Law's framework. Vázquez plainly stated that he considers the law 'unconstitutional' and that he hopes that people nullify it in the next referendum'. It was the first time during his administration that the President, albeit in a personal capacity, spoke in favour of nullifying the Expiry Law. (LaRepública, 2009e)

6.3 Uruguayan Memory Knots

A consideration of memory knots enables the identification of specific dates, places or groups that have the power to stir memory debates within a given society, drawing its attention to issues of the past. Although these are always latent within Uruguay, the memory of the contested past at specific moments emerges with more energy, able to generate debate and heighten attention to such questions.

Sites of humanity are particular groups or individuals that transmit specific kinds of memory into the public arena. Attention focuses here on three such cases that at different times over the years called on society to address the legacy of state terror.

The National Pro-Referendum Commission (CNPR)

The CNPR, established in January 1987, launched a campaign to collect the signatures required to hold a referendum on the Expiry Law (4.1). The Commission counted on the participation of notorious public figures like writer Mario Benedetti, several human rights activists and was also supported by members of political parties, and the *Tupamaros*.

The CNPR's chief argument was that signing the petition did not imply how citizens would vote on the actual day. But signing would give society a chance to decide and express itself on the matter. (Roniger & Sznajder, 1997) The CNPR was portrayed as integrating citizens inspired by basic principles of liberty, democracy, justice and peaceful coexistence. The goals of the commission were summarised in its signature slogans "I sign for the people to decide" and "All equal before the law". (Demasi & Yaffé, 2005:67)



Museum of Memory

Between February and April 1989, the debate extended beyond the referendum itself to include broader issues as the type of democracy wanted, the principles on which it should be established, its ethics, and the institutions that would substantiate it. (Demasi & Yaffé, 2005) Miranda recalls how 'the campaign was a significant milestone not only in the fight against impunity but also because it was able to divide the country beyond party lines: Uruguay is largely structured around such political allegiances but the campaign effectively turned the country into yellow vs. green' (interview).

Supporters of the yellow vote to retain the Law (the Colorados, the majority of the Blancos and the military) focused on the importance of consolidating and strengthening the recently restored democracy. They claimed that this could only be achieved by ending confrontations and pacifying the country, through tolerance and reconciliation. It was necessary to forget the past and focus on the future. Additionally, they also argued that the repealing of the law could provide fertile ground for the military to carry out another coup.

Supporters of the green (including SERPAJ, PIT-CNT and the Frente Amplio) appealed to general principles of truth and justice, calling for the clarification of the whereabouts of the disappeared and prosecution of human rights violators. They focused on ethics, hope and the reaffirmation of the basic values of society. According to Roniger and Sznajder (1997:67) 'the referendum was part of the fundamental process of overcoming fear and learning to trust people's capacity for decision making again after the military interregnum'. It was emphasised how legitimised impunity would not prevent the repetition of similar events.

On 16 April 1989, 85% of the population voted: 41.3% cast the green ballot, while 56% the yellow. The Referendum constitutes the only instance when a society decided through a vote that the country's security forces should not be rendered accountable for human rights crimes.

Despite the negative result, the referendum and the signature campaign remain significant in that society was given the chance to express itself directly through the ballot box. Even though many blamed the persistent culture of fear, the campaign placed the human rights question at the heart of the political and public arena for a considerable period of time. This allowed society to acquire knowledge of the human rights violations, effectively undermining claims by the armed forces denying that crimes had ever been committed. As a consequence of the defeat of the green vote, the theme of past abuses faded. The result was accepted as definitively closing the debate from political and legal points of view. (Roniger & Sznajder, 2003)

The National Coordinator for the Nullity of the Expiry Law (CNNLC)

Twenty years later the CNNLC, composed of social, human rights and trade union organisations, cultural and public figures, MPs, political parties and the Michelini brothers, was established to promote the annulment of the Law.

The CNNLC believes that, despite recent progress, there are still many obstacles preventing justice (4.3). The Committee's work is justified on ethical and moral reasons, as well as juridical evidence. It contends, as several of my interviewees agreed, that the Law was unsound from the start, as it violates fundamental principles of international and human rights law that Uruguay voluntarily ratified (Martínez, Rilla, Demasi interviews).

On 4 September 2007, at a historical site of resistance against the dictatorship, the Galpón Theatre, the campaign was officially launched. Its goal was to achieve nullification via a constitutional reform project that required the collection of the signatures of 10% of population registered to vote, around 250,000. Through the work of commissions and individuals, who amassed signatures throughout Uruguay, the required number of signatories was collected.



Signature Collection Stands, Montevideo, August 2008

According to Luis Puig, a CNNLC member, the principal objective of this initiative is not to send more members of the military to prison; rather, ending the culture of prevailing impunity: 'we cannot keep on giving the message that there are two categories of citizens, those that are prosecuted and those that are not'. (LaRepública, 2007a, 2007e) Similarly, Yelpe-Vega stated that 'we do not want revenge [...] but we cannot continue with this impunity law, things need to be brought to light, to have prosecutions with all the guarantees of the law, something that the military did not respect [during the regime]' (interview).

Over 300,000 signatures were submitted in April 2009, and the referendum was finally scheduled for 25 October 2009. The famous Uruguayan writer Galeano signed in favour of the campaign, contending that 'it is correct to fight against

compulsory oblivion and against selfish amnesty'. Furthermore, he emphasised that impunity triggers crime at all levels, personal and collective, and that the Law 'transformed Uruguay into a paradise of impunity'. (LaRepública, 2008a)

The Committee's work was noteworthy in placing the subject of past crimes and the question of legalised impunity again at the core of political and public discussion, raising a set of ethical, moral and legal questions that demand answers from all Uruguayans. A lot is at stake with this initiative and society is being given a second chance to express itself on questions of truth, justice and memory that affect all of its citizens

Memoria para Armar

According to Fried (2006), *Memoria Para Armar* (MPA), established in 1997 and which reunited ex-female political prisoners, played a significant part in breaking years of silence in Uruguay. MPA pieced together the fragmented memory of a society's suppressed history, and recovered aspects of memory that were dormant under the seal of oblivion and social silence. (Fried, 2006)

At a time when silence reigned, especially on the subject of women's imprisonment, MPA emerged, founding member Isabel Trivelli recalls, from casual encounters: 'what we felt was the need not to be forgotten [...] and we had the necessity of recounting our experiences, to leave it written down somewhere' (interview).

The organisation was divided into subgroups working on themes like gender, life experience, and testimony. Overall, they published four books. Their testimonies highlight in particular how female prisoners endured distinctive forms

of pain specifically imposed because they had broken traditional female social roles, as mothers and guardians of the home, venturing instead into the realm of militant politics, joining political and/or military branches of revolutionary movements. (Fried, 2006)

If the first reason leading to MPA's establishment was the desire to talk, the second step was deciding to open up the discussion to society and involve all women, not only former prisoners. The goal was to demonstrate how state terrorism had produced not only death, torture and disappearance, but how it had also affected the whole of society in differing degrees, notwithstanding political allegiances (Trivelli). Through piecing memories together, these women were no longer 'passive victims' but became 'active political and cultural agents with a voice' that rescued the memory of political repression that was slowly fading away, bearing witness to future generations. (Fried, 2006:550)

A significant aspect of MPA's work is that the organisation has challenged the traditional position of the victims or *afectados*. 'What troubled us was the fact that memory appeared as the property of those that lived through those times, that we had to speak when we wanted and others had to listen'. 'This annoyed us' Isabel continues 'others did not only have to listen, but also had to discuss and appropriate these conclusions, results and assessments, even if they had not live through that [time]'. So over time, they invited academics and included more analysis into their work; finally, in their last project, they invited young people. The goal was to discuss the memory of the dictatorship, but also listening to their voices, for them to take possession of the memories of the recent past. (MPA, 2005)

MPA drew attention not only on the experience of all women under the dictatorship but also made a conscious effort to expand the traditional audience of

the state terrorism narrative beyond the *afectados*. Its contribution is significant in endeavouring to involve the whole of society on the question of the dictatorship that in reality affected all Uruguayans.

Sites in time are particular dates that have the power to evince memory and stir up debate. In Uruguay, quite a few exist like April 14, May 20 and June 19. It is interesting to note that June 27, the date of the military coup in 1973, unlike other occasions, generally attracts limited attention, beyond headlines and a few articles in newspapers.

14 April

On the morning of **14 April 1972**, the *Tupamaros* perpetrated several attacks in Montevideo that caused the death of four people, including a Navy Captain. In the afternoon, the armed forces responded, and eight *Tupamaros* perished.

Since then, April 14 has been vested with different commemorative meanings, though all always associated with the vision of a war allegedly ongoing in Uruguay. Marchesi distinguishes at least three phases. (Marchesi, 2002:108-124) The first period between 1972 and 1975 is defined as 'homage to the victims of insanity'. Remembrance emphasised the irrationality of subversion, and stressed the suffering of the victims that defended democracy and the nation. After the 1973 coup, commemorations were limited to the restricted environment of the military.

In August 1975, the official day of remembrance, the *Day of the Fallen in the Fight against Sedition*, was instituted and a location to mark the day was purposely built, *La Plaza de la Bandera* (Flag Square). The scope of the event extended beyond the military and counted upon the compulsory participation of school

students, and the universities. The population as a whole was also invited. According to this view, the Fallen had saved Uruguay and therefore were martyrs that had generously offered their blood. In the early 1980s, commemorative events continued as normal, without any mention of ongoing negotiations to transition, but there was a particular emphasis on the necessity of relaying the experience of the dictatorship to younger generations. (Marchesi, 2002)

The return of democracy brought about important transformations. President Sanguinetti modified the meaning of the remembrance to achieve national pacification, reaffirm democratic institutions and emphasise how all types of violence were disruptive to national harmony. All those that had lost their lives while protecting democracy and the Constitution would then be remembered and a new name was coined; the *Day of the Fallen in the Defence of Democratic Institutions*. The President endeavoured so to move away from the strong identification the day had with the military at a time when the institution was largely discredited. Nonetheless, commemorations did not garner a consensus.

For the *Tupamaros*, April 14 represented the beginning of the end, as by late of 1972, the organisation was militarily and politically defeated. Marchesi (2002) highlights how the great forgotten of this date are indeed the eight dead *Tupamaros* that were never officially remembered, and were only commemorated by private individuals (also Destouet interview).

Two events continue to occur on April 14. Those are the act of commemoration amongst right-wing civilians and that of the Military Circle. The latter continues to

preserve the name of the *Day of the Fallen in the Fight against Sedition* and takes place every year at 12pm at the Military Circle.

The 2009 act of the Association of Permanent Homage to the Fallen in Defence of Democratic Institutions and Freedom was headed by Colorado MP García-Pintos and former-Army Chief Mermot. SERSOC members pointed out to me how García-Pintos 'is the spokesperson for the military within his party' (interview).

The act, still in the *Plaza de la Bandera*, saw the participation of retired officers, relatives of the victims and some politicians. According to *La República* newspaper, Mermot stated how April 14 constitutes the only opportunity to publicly express 'the real feelings of love towards the fatherland and its traditions' remembering fellow citizens that were 'victims of the revolutionary insurgency that devastated our country'. Mermot further described the date as a 'deep mark, painful and indelible, and for this we fight against the deliberate amnesia that is being imposed'. In the rest of his speech, the former Chief branded the Vázquez's administration as Marxist that, through an arbitrary interpretation of the Expiry Law, 'is inciting resentments and hatred, channelling the political revenge of those that were militarily defeated'. Likewise, García-Pintos used the occasion to carry out a critique of the government, particularly 'the use and abuse of article 4 of the Expiry Law', arguing it is not justice but revenge. The MP further criticised presidential candidate and former-*Tupamaros* leader Senator Mujica for his links with the Kirchners and public prosecutor Guianze who is currently challenging the constitutionality of the Expiry Law. (LaRepública, 2009a)

It is interesting to note how this year's act became the outlet for the military to vocalise its stance regarding recent progress on accountability. The speeches described above employed typical elements of the military narrative, as the idea of

war and how the armed forces are now the victims of revenge coming from the Marxist administration. As in Argentina, the possibility of justice and advances in the clarification of the facts has shaken the military from its comfortable life of impunity, catalysing their response and the return to the old images of the past in attempting to justify their actions.

20 May

May 20 is a date with a meaning diametrically opposed for its rejection of state terrorism and human rights crimes.

As Marchesi (2002) recounts, on 18 May 1976, the ex-President of the Chamber of Deputies from the Blanco party, Héctor Gutiérrez-Ruiz and Frente Amplio Senator Zelmar Michelini were kidnapped in Buenos Aires. A few days later, their bodies appeared in a car along with the bodies of *Tupamaro* members William Whitelaw and Rosario Barredo. Argentine police attributed responsibility for the act to subversive groups. An alternative version, advanced by Blanco leader Ferreira-Aldunate, who had narrowly avoided a similar fate, instead stated that kidnappers were linked to state security organisations.

Remembrance of May 20 unfolded in politically different contexts, but always embodied meanings linked to a repudiation of state terror. Silence prevailed until the early 1980s, due to the lack of public space for expressing memory, and the strict control over the media, and political and social actors in Uruguay. Abroad, remembrance became an opportunity for denouncing violations perpetrated back home. In Uruguay, the ex-legislators became the symbols of the democratic sectors fighting against the dictatorship. (Marchesi, 2002)

Upon democratisation, remembrance came to express a feeling of rejection of the dictatorial experience, and the hope for the new democracy. The Municipality of Montevideo, along with several others local authorities, named streets after the legislators. (Broquetas, 2007) In the late 1980s, commemorations were however overshadowed by the debate on the question of amnesty for the military and eventually lost prominence after the defeat of the Green vote.

The 20th anniversary became a special occasion. As recounted in chapter 4, Senator Rafael Michelini, Zelmar's son, called on HROs and political parties to hold a demonstration in Montevideo's main avenue, demanding clarifications on the situation of the disappeared. This first March of Silence had around 50,000 participants and the support of the PIT-CNT, the Student Federation, and various political parties. Marching under the slogan "Truth, Memory and Never Again", it called on the Executive to investigate the fate of the disappeared.

Since then, the March has become a yearly recurrence, with some enduring features. It is carried out in absolute silence, a silence however full of questions, When? Where? How? Why? People carry candles and photos of the disappeared, resembling a funeral procession but no political symbols are permitted, only the national flag. The names of around 200 disappeared are read out, with people responding with "present" after each name is read out. Finally, it always begins at the same location, intersection of Rivera and Jackson, at the same time, 7pm, ending in Liberty Square, where the national hymn is sung (Destouet interview).

The March constitutes a broad act of remembrance of past crimes and vindication of the disappeared. Every year it is carried out under a specific slogan:

“End of Impunity, Justice for human rights crimes” in 2006 (LaRepública, 2006c); “Where are they? The Truth continues kidnapped. Never Again State Terrorism” in 2007 (LaRepública, 2007b); and “We demand Truth and Justice” in 2008 (LaRepública, 2008d). The 14th March, held in 2009, was the biggest ever. Over 90,000 people walked under the slogan “In 2009 we chose truth, justice, memory and never again”, reflecting the successful signature collection campaign for a second referendum. (LaRepública, 2009c, 2009d)

Unlike 14 April, Destouet highlights how May 20 does not generate conflict in terms of memory. Instead, what is remarkable is that ‘it is one of the biggest demonstrations in the country and there is very little publicity about it’ (interview). ‘It is not advertised on the radio, TV or in pamphlets but you always have thousands of people taking part’. ‘In other situations, to gather such a large crowd, you require a lot of publicity beforehand, but the march has no press coverage until the evening itself’ (Destouet). In fact, the date is so well known that almost all my interviewees mentioned it. The importance of May 20 transcends the national borders. In fact, the MERCOSUR selected it as a common date for the region to commemorate the violations of human rights that were committed in the context of the Plan Condor (Martínez, Navarrete interviews)

19 June

By contrast, a controversial decision has been taken by the Vázquez’s administration in selecting **June 19** as the *día del Nunca Más* (day of Never Again). Resolution 832 of December 2006 established that ‘[...] for the country to look to the future and find paths to national reconciliation, June 19 is to be established as

the only commemorative date that never again should such episodes occur in Uruguay [...]. (Presidencia, 2006) The President contended in his speech that the majority of Uruguayans want to make progress with 'reconciliation and re-encounter', 'so that these sad and negative events that have occurred will never again take place, never again brother vs. brother'. Vázquez stressed that this 'does not imply deleting the past' or a *punto final* (end point). (LaRepública, 2006b)

Mariana Iglesias suggests that the selection of the date has to be put into the context of Vázquez's project for the country, according to which he would work as 'the President for all Uruguayans'. (Iglesias, 2007:4) In this respect, June 19 is another element in working towards the creation of a new Uruguay, 'more brotherly, and more human'. (*Ibid.*) Nonetheless, Iglesias (2007:9-14) emphasises that several disputes over the meaning of Never Again have emerged, especially between the Left and the Right, and the question of the Two Demons Theory (2DT).

Official acts in 2007, 2008 and 2009 garnered good political support from the governing coalition and opposition members, but failed in the objective to establish an occasion for national commemoration. (*Ibid.*) Indeed, several key figures such as former Presidents Sanguinetti and Batlle, all HROs and retired military officers have distanced themselves from commemorations. (LaRepública, 2007c) Here are some of the arguments raised.

Luisa Cuesta from MFDDU contended in 2007 that the date does not 'have any meaning' and that we still miss 'several years, a lot of truth and will from the state before this commitment can become effective'. (LaRepública, 2007c) Romero of SERPAJ underscored how 'June 19 is an imposed date, which has nothing to do

with the fight against impunity'. Furthermore, Romero suggested that 'the government attempted to obtain a consensus and homogenise memory, but human rights activists and society do not identify with this discourse'. Romero outlines how June 19 triggered much debate over 'what kind of memory and Never Again we want'. 'While the government talks of Never Again Uruguayans vs. Uruguayans, we respond with Never Again State Terrorism' (interview).

In 2008, the Presidency called upon the citizens to observe a moment of reflection so that never again will there be distrust, confrontations and violence among Uruguayans, and that state terrorism will never re-occur. The CNNLC did not participate in the event, suggesting that the act continues to fuel the 2DT, while MP García-Pintos of the Association 14 April declared that the call from the President 'is not really peaceful but provocative'. (LaRepública, 2008e)

On the other hand, in 2008 Army Commander Rosales pointed out how the Armed Forces 'accompany the decision of the President', while Air Force Commander Bonelli expresses his desire that 'the country can start looking forward and leave the past behind'. (LaRepública, 2008b) Finally, Senator Mujica commented that 'Today is first the day of Artigas [founding father of Uruguay] and possibly that of the grandfathers; and then, what the President is asking is that people reflect. But there is no *punto final*.' (Ibid.)

Carlos Demasi and Oscar Destouet spontaneously admitted that 'they do not understand the President's project'. They stress that the date already has many meanings attached, notably Artigas' birthday, Flag Day and grandfather's day. For Demasi, the President 'should have selected a neutral day, without any history to it'. Destouet outlines how, despite there was limited participation, 'not at all like May 20', the attendance by young military officials was remarkable: 'it was a

private act so they would not be sanctioned for not participating'. Marisa Ruiz instead outlines how the President 'wanted to impose a *punto final*' but it did not transpire, as 'Uruguay is not ready for that' (interview).

Debates over the meaning of the past become evident on specific dates that, for their symbolism, evoke discussion and challenge the day-to-day routine of life. April 14 and May 20 respectively reflect the emblematic memories of salvation, disruption and suffering. They constitute key moments during the year when such narratives are activated and forcefully transmitted. Conversely June 19 has sparked much debate and was significantly rejected by some of its intended targets, especially HROs. Given the forthcoming presidential elections in October 2009, only time will tell what the fate of June 19 will be.

Sites of physical matter/geography are particular places, old or new, that by their connection with the past provoke memory debates.

Punta Carretas: from prison to shopping centre

The transformation of the *Punta Carretas* prison into a modern and shiny shopping mall is one of the clearest embodiment of the policies of national reconciliation and imposed oblivion that dominated in Uruguay until the 1990s. The Punta Carretas prison, in the homonymous neighbourhood in the south of Montevideo, was operational since the beginning of the twentieth century. It witnessed in 1921 the escape of a group of anarchists and in 1971 the emblematic flight of more than 100 *Tupamaros* via an underground tunnel dug from within the

prison. Elizabeth Jelin further highlighted how it was the site of years of systematic torture of political prisoners during the dictatorship. (Jelin, 1998)



Punta Carretas Cell Door, Museum of Memory

Its transformation into a shopping centre occurred between the late 1980s and the mid-1990s. The context was one in which various governments, both Colorado and Blanco, endeavoured to cancel the memories of recent violence from public spaces, to normalise in this way the legacy of the dictatorship.

Magdalena Broquetas (2007:233) aptly emphasises how although prolonged imprisonment was the defining feature of repression in Uruguay, nevertheless former detention centres have not been recuperated as 'vehicles of memory'. Rather, the transformation of the prison constitutes an obvious example of 'public politics of memory that favoured the elimination of these spaces'. (*Ibid.*)

In 1989 the prison possessed a great economic value and various possible functions to be attributed to it were explored. Between 1989 and July 1994, when

the shopping centre opened, a new hegemonic discourse of public memory was established. According to Hugo Achugar, it portrayed Uruguay as a democratic community without mayor violence. This vision reflected an economic project that aimed to transform the country into a place of services, tourism, communication and banking. This vision of Eden was sold by the ministries of Tourism and Economy that attempted to promote the country abroad and defended its exceptionality as a refuge from criminal violence and economic instability plaguing its two neighbours. (H. Achugar, 2004)

This representation nonetheless glossed over some relevant features that would have contradicted such idyllic portrayal. Particularly, these discourses depicted the years of the dictatorship as an anomaly that were best forgotten and did not deserve the attention of the citizens. This perspective denied that military rule had constituted a fundamental rupture in the national imagery. In this respect, the Punta Carretas shopping centre is part of this idyllic Uruguay, a safe space from which the old violence has been eradicated.



The transformation of the site has been completed with the addition of an exclusive hotel at the back. Few people are aware of what the shopping centre used to be and what remains of the original site are only the main entrance and one side wall. The shopping centre facilitates the act of forgetting for its visitors, a memory of absence that trumps alternative memories of military rule and wipes out remembrance of the past from this metaphorical space.

Jelin (1998) rightly illustrates that the urban space of Punta Carretas has been permanently altered as a consequence of this transformation. An important and emblematic legacy of the dictatorial period has been erased and, together with it, the materialisation of memory. In contrast, the Shopping Mall embodies a new memory of absence that reflects the hegemonic discourse of democratic restoration that portrays military rule as an abnormality in Uruguay's past.

It can be suggested that the government has been rather successful in its goal. Only two of my interviewees actually mentioned the prison and both were human rights activists. Romero stressed how it had been a symbolic place of memory where several prisoners had died. She also pointed to the fact that in another emblematic prison during the dictatorship, *Libertad*, 'common criminals now suffer in the same place where political prisoners were detained in the 1970s'. 'They are possibly not tortured [unlike political prisoners]' she continued 'but Uruguayan prisons are terrible, a torture in and of themselves'. Unlike Argentina where several symbolic detention centres have been transformed into spaces of memory, in Uruguay they continue to be invisible and their memory is disappearing. According to Mansilla, 'the appropriation of symbols, spaces and locations of memory is a more recent development in Uruguay'. In the case of Punta Carretas, 'there was really no collective debate that was strong enough to

defend the place as a location of memory'. The discussion was limited to some former prisoners and activists that 'considered it despicable that a place where people had been detained and tortured' would be a shopping centre (interview).

So the transformation of Punta Carretas, a few years after the defeat of the green vote, constituted another defeat for human rights activism.

The Memorial to Disappeared-Detainees

The **Memorial to Disappeared-Detainees** constitutes an example of endeavours to commemorate the memory of state terrorism via a new physical marker of memory. The campaign for the Memorial was launched by MFDDU, legislator Singlet and Montevideo Mayor Arana in 1998. (Demasi & Yaffé, 2005) The winning project, designed by Architects Kohen, Otero, Sagradini and Dodera, was funded by public donations. The collection campaign was led by the Pro-Memorial Commission, composed of numerous public figures from the arts, sport, politics, journalism and the church. The Memorial, whose construction was declared of national interest by President Batlle in August 2000, was officially inaugurated on 10 December 2001. (LaRepública, 2001)



The location, decided by the Municipality of Montevideo and the Commission, is the symbolic site of the Parque Vaz Ferreira in the Cerro. Broquetas (20007:226) emphasises how the working-class Cerro neighbourhood was selected for its importance as 'emblematic area of popular fights'. The Memorial was clearly inspired by the Vietnam War Memorial in Washington, and won awards at the Architecture Biennales in Quito and São Paulo.

The Memorial is surrounded by trees in a quiet location. High resistance glass was used for the two double walls, framed by metal, and the Memorial rests on a geometrical concrete structure, on which natural rocks are left visible, as an aesthetic provocation. The names of disappeared-detainees are engraved on the walls. The specific tranquil location, with a view of Montevideo's bay, calls for rest, peace and reflection.



The location and the materials used have specific meanings and symbolisms. According to Nelson Di-Maggio, the route to the memorial is like a pilgrimage to a place of meditation while surrounding trees suggest the support of society to the search for truth. The rocky surface represents truth, from which we cannot

ultimately escape. The excavations in the land represent the complicated search for truth and the irregularity of the rocky surface denotes the discomfort the theme provokes. The surround of natural rocks represents the collective effort in finding the truth; the glass walls symbolise life, its fragility and the respect it deserves. Finally, the location of the walls, breaking the natural view, indicates hiding, the mystery of disappearance. (Di-Maggio, 2004)

Demasi and Yaffé (2005:87) contend that the Memorial represents a 'symbolic reparation to victims that 15 years of governmental politics of oblivion wished to condemn to oblivion'. Furthermore, the Memorial broadly aspires to contributing to collective memory by strengthening the bases of the commitment of "Never Again" and the hope for coexistence based on respect, tolerance and justice, through the construction of an emblematic representation of state terrorism in a public space of the city. (*Ibid.*) The Memorial favours a climate of sober reflection on what happened, perpetuating the memory of state terrorism through physical reminders, not just relying on human actions. (Broquetas, 2007:227)



Mansilla suggests how the Memorial exemplifies this recent concern with memory initiatives. However, only a couple of my interviewees actually talked about the Memorial when asked about significant places of memory. In this case, as in the Memory Park in Buenos Aires, the location of the memorial is relevant. Despite the symbolisms mentioned above, its far-out location results in the fact that only those that already have an awareness of these issues will make the effort to go visit it. There is a lack of publicity and there are no guided visits to the site. So as in Argentina, here too there is the risk that the Memorial remains limited to human rights activists, and does not generate memory debates that include society as a whole.

The Museum of Memory

Another project, only a year old, has been more successful in extending the memory of state terrorism to broader society, transcending its traditional audience of *afectados* and human rights activists. The idea of the **Cultural Centre Museum of Memory** (MUME) dates back to the return of democracy but was only finally inaugurated on 10 December 2007.



The MUME works to promote peace, human rights and the memory of popular fights for freedom, democracy and social justice; these concepts are seen as socio-historical dynamics that are in constant evolution. The museum is a space dedicated, as its introductory leaflet outlines, to the recuperation of the memory of state terrorism and the efforts of the Uruguayan people in its struggle against the dictatorship.

According to Elbio Ferrario, the MUME coordinator, the project was supported by both the Montevideo Municipality and the national government through the MEC.

One of the debates focused on where to set up the museum. One proposal was the former Campomar factory in a traditional working class district. However, renovating the factory would have meant further delays to the project, so the estate of 19th century dictator Máximo Santos was selected so that it could open immediately (Ferrario interview). This choice is significant in combining the house of a former dictator with the memory of the recent dictatorship. Further, the park is a historical site and the museum can be expanded beyond the house in the future.

The museum is organised along six themes: the onset of the dictatorship, popular resistance, prisons, exile, the disappeared, and the recuperation of democracy and the fight for justice. A seventh theme, to be established in the outside space, is unfinished histories and new challenges. Finally, a library for public reference is under construction.

The establishment of the museum was endorsed by several social organisations and institutions, including MFDDU, SERPAJ, CRY SOL and SERSOC. Elbio Ferrario

emphasised how the MUME welcomes contributions and testimonies from anyone in the community and it is still a work in progress. Mauricio Rosencof, Director of the Department of Culture for the Montevideo Municipality, highlights how there was 'the need to have a place where the new generations can know what happened to their parents, how they lived, and what they were fighting for'. Rosencof further emphasises the spirit of the museum which is not one of revenge. 'We all agreed that remembering the resistance does not entail exposing and accusing those responsible for altering the constitutional order and the violations of human rights'. 'In the museum' he continues 'there is not a single photo or phrase that ridicules' them. (MUME, 2008:8)

During my stay, the guide pointed out how 12,000 people have already visited the MUME, making it the most visited museum in the country. The museum also holds several theatre, *murga*, literature and cinema workshops in the attempt to involve and make people feel part of the museum. The guide emphasised how the work of the museum has just started, that it needs to be proactive and build on the contribution of everyone that visits. Reimann from CRY SOL importantly underscores how the scope of the museum is not to be a 'museum of horrors, but rather to collect testimonies to teach to future generations so that we do not forget what happened in the past' (interview).

These three examples accentuate how the construction of memory is a complex process. Physical markers do not, in themselves, support memory. Rather, they need to be lived and shared by society to achieve their goal of establishing an open and inclusive debate over the memory of military rule and its various meanings.

6.4 Uruguayan Illusions of Memory

Upon democratisation, one of the leading narratives that existed on the years of political violence was, like in Argentina, the Two Demons Theory (2DT). There is debate on whether or not this approach was actively endorsed by the government. According to Ruiz, the Theory exists in the background, 'it is a kind of latent ideological framework that permeates the social fabric, and appears and disappears depending on developments surrounding accountability'. While Ruiz and Martínez argue that it never came to constitute an official memory, the vast majority of my interviewees associated the 2DT with the Presidency of Sanguinetti.

Rilla highlighted how Sanguinetti used the Theory to justify his approach of looking to the future, given that society 'had nothing to do with the fight between two intransigent demons' (interview). For Bleier, the Theory 'was constructed as a convenient formula to re-edit and write the past, where you already see Sanguinetti [...] with the exaggeration of impunity and the obsession with covering up' (interview). Likewise SERSOC members pointed to the widespread endorsement enjoyed by the Theory, not only by the government but also political organisations from the Right and the Left. Finally, Balsamo underlines the fact that 'it is a politically correct discourse, but that it is not so historically' (interview).

The 2DT adopted in Uruguay was slightly different from its Argentine counterpart and can be labelled as 'Uruguayan style' 2DT because of its specific features. The theory is, according to Demasi (2003), a classic explanation of institutional breakdown but in Uruguay, interestingly enough and unlike Argentina, it was constructed *post-facto*. The theory would have been untenable in 1973 given that the guerrillas had been defeated well before the coup and secondly

that the civilian government had actually requested the military to deal with subversion. In fact, it became popular during the political opening of the early 1980s.

Since 1985, President Sanguinetti has developed his own version of the Theory but the appeal of the 2DT was generally quite broad. According to Sanguinetti, and in contrast to Argentina, in Uruguay there was clearly a worse demon. In fact, the President held the *Tupamaros* fundamentally responsible for having directly attacked democracy, consequently triggering the response from the military.

For the government, as traditional political parties, the Theory was a valuable tool in removing responsibility for the coup from them, allowing them to present the political class as unable to carry out any action. (Demasi, 2003) According to Demasi, this is particularly striking as at all other times in Uruguayan history, traditional parties always tend to be the protagonists (interview). For the government, blaming the left-wing guerrilla for the political violence also effectively placed responsibility on the Left as a whole (interview).

Importantly, the Theory's appeal extended to civil society as it could present itself as a victim of this confrontation. In doing this, it could be exonerated from any responsibility, although large parts of population actually accepted the military takeover as a solution to ongoing disorder and social unrest. For Demasi, even more significantly, the Left similarly championed it because of the lack of an alternative discourse and the fear of institutional destabilisation. Interestingly enough even the *Tupamaros* employed the Theory, as it elevated them to 'demon' status, so depicted as protagonists of important institutional events in the country's history, when these actually occurred well after their defeat (Demasi).

The parallel amnesties for political prisoners and the military were the clearest embodiment of Sanguinetti's 2DT. The rationale for the President's policy was the following: 'we proposed an amnesty [...] It was a question of moral equivalency: we felt that if we were going to have a settling of accounts for the left and the terrorists the military should be amnestied, too'. (Weschler, 1998:188) This author agrees with Weschler who rightly suggests that the administration did not appreciate the fundamental difference existing between the plight suffered by political prisoners that endured long prison sentences and psychological and physical torture, and the military that administered these torments, while submitting the whole of Uruguay to a long reign of terror.

Although between 1985 and 1990, the State was totally absent in terms of reparations, truth and justice, it was however extremely active in memory. As a matter of fact, the state's enforced amnesia extended beyond simply the judicial setting, preventing any discussion of the past in the media and schools (Destouet interview). For Destouet, this memory of silence and oblivion blatantly obscured aspects of the recent past, limiting the narrative to the actions of 'a few half crazy military that lost their way and nothing more. This vision was 'not only extremely partial' but also 'reduced a problem that was much more complex', discounting, for instance the civilian element (Destouet interview).

Only in 2000 did a significant shift in memory occurred. The government then officially (but only partially) endorsed the interpretation of the past that traditionally belonged to human rights activists, the vision of state terrorism.

The Batlle administration acknowledged for the first time that the dictatorship had committed systematic abuses and political crimes but it nonetheless attempted to limit once again the clarification of the past and impose an official memory through the work of the COPAZ. In fact, government decree 146/2003 asserted that the Commission had produced a '*definitive truth*' that from now on has to be considered the *official version* of the situation of disappeared-detainees'. Further, it stated that the Commission's work had fulfilled *once and for all* what had been stipulated under article 4 of the Expiry Law. (Dutrénit-Bielous & Varela-Petito, 2005:115) The President's words on that occasion referred to the idea of peace, and indirectly backed the vision of a war, returning in this way to earlier narratives. In presenting the commission's final report, the President stated that the COPAZ had done a wonderful job in consolidating 'peace among Uruguayans', emphasising how the country had lived through very difficult and painful circumstances. The President pointed to the fact that people had gradually resolved their differences and healed wounds. Uruguayans have suffered 'over the last forty years many things that made it very difficult to live in peace amongst ourselves' but we were able to overcome such a situation and today 'more than ever we can build a great country at peace'. (Batlle, 2003)

According to Dutrénit-Bielous and Varela-Petito (2005), although the Commission marked an important development, the desire was in fact one to close off any further investigation into these matters. Indeed, the scope of the commission's investigation was clearly limited to disappeared-detainees and, as Sempol (2006) contends, it implicitly endorsed the policy of amnesty to the police and military, by not considering cases of torture and political assassinations.

The position adopted by the President is not only disturbing but also ambiguous. First, how could the COPAZ, so severely criticised for its shortcomings (4.2), have possibly investigated all that had occurred under state terrorism? Second, as Caetano suggests, 'what is regrettable about COPAZ is how the administration tried to satisfy the military and leave the waters quiet' (interview). Caetano also rightly points to the fallacy that official memories constitute: 'the intent of official history is in vain, as you cannot control the cultural fields of memory, remembrance and testimonies' (interview).

Debates over the memory of the past are far from over in Uruguay. In March 2009, the University of the Republic released its (second) Historical Investigation 'on the Dictatorship and State Terrorism in Uruguay' that emphasised, in the words of its leading researcher Professor Rico, that 'the objective of the dictatorship was the whole population, surveillance and discipline'. (Mazzarovich, 2009) The three-volume research document emphasised how, beyond the immediate purpose of dismantling the opposition, the military regime had the long-term goal of restructuring social relations, installing distrust and insecurity. The research clearly challenges the Two Demons Theory by contending that the 'repression was institutionalised and the State was the central actor'. (LaRepública, 2009b)

Conclusion

Transitional justice and memory were the central concerns at the heart of this thesis. The research focused on the following questions: How do TJ policies emerge and evolve over time? (Q1) Second, what is the connection between TJ and the memory of past human rights violence? (Q2)

The Politics of Transitional Justice

In addressing Q1 (how do TJ policies emerge and evolve over time?), a holistic and multilayered framework was developed in endeavouring to understand the emergence and the evolution of TJ policies over time.

As contended in chapter 1, TJ initiatives result from the interaction amongst various dynamics, actors and power balances at the local, national and international spheres. These three levels have to be taken into consideration when trying to account for the origins and later progression of TJ.

In line with recent academic literature, this thesis contended that TJ has to be made relevant not only to individuals but to communities as well. This can be achieved through the employment of a variety of mechanisms, including judicial, investigatory and alternative methods. Recently, the latter have attracted increasing attention, with the recognition that in order for TJ to achieve its objective(s), it cannot be implemented top-down. Rather, it has to be owned and concern the very people to which it is addressed. A long-term perspective also needs to be adopted when looking at issues of TJ. Although the word 'transitional' in both TJ and transitional societies does imply, in theory, a change from one

situation to another, it is hardly the case practically speaking that the time frame for transition can be fixed or clearly delimited. As a consequence, decisions of TJ are never permanent but they constantly evolve and are subject to scrutiny over time.

Argentina and Uruguay exemplify all of the abovementioned issues. Looking at the trajectory of TJ in these countries clearly demonstrates how the course of TJ is frequently unpredictable. In fact, TJ rarely follows conventional paths. Rather, it has highs and lows, pauses, set backs and sudden developments. It is this unpredictability that makes TJ such an interesting subject to study.

In Argentina and Uruguay, TJ initiatives were cumulative: each initiative built upon previous achievements, complementing them. Even during periods when there appeared to be little progress in TJ policy, developments -albeit minor were still occurring that would bear significant fruit at a later and often unexpected date.

In chapter 4, it was suggested that three phases of TJ could be discerned in Argentina and Uruguay: Truth and Justice vs. Silence (1983 to 1990), Fighting Silence (1990 to the 21st century), and The Challenge of Transitional Justice in the Present. The development of these three stages was explained with reference to the following factors. First, the different attitudes of the various Presidents were essential in countries like Argentina and Uruguay where the Executive tends to be dominant. In fact, every administration tackled the question of the past differently. Over the years, every President has brought his own unique approach to this matter, consequently shaping TJ policy. Second, despite the transition to democracy, the armed forces continued to be an influential and significant political

actor. Although politically and symbolically weakened by the experience of holding power, both the Argentine and Uruguayan military tried to shape, or perhaps more accurately obstruct, efforts of TJ. However, their ability to do so decreased with the consolidation of democracy.

Third, HROs were often a lonely but unrelenting voice, constantly challenging both society and the government not to ignore the nation's past. Instead, they were constantly mobilised to keep questions of accountability in the spotlight. Even in the darkest years of silence, HRO remained a constant force in the areas of justice, truth and memory.

Fourth, the judiciary played an important role due to its ability to either favour the momentum towards accountability or restrain it. Lastly but significant nonetheless, the international context provided the necessary background conditions against which local and national events unfolded. When Argentina and Uruguay initially returned to democracy, human rights questions were emerging as issues of concern on the international stage. The end of the Cold War, the move towards international justice and, especially significant for the Southern Cone, the London arrest of General Pinochet, all triggered renewed attention to issues of the past. These events finally laid to rest the symbolic ghosts of past military rule in the region.

In Argentina and Uruguay, a variety of TJ mechanisms were used. Argentina pioneered several of them that are now regarded as established practices like truth commissions. Notable examples of this are the creation of the CONADEP in late 1983, and domestic prosecutions such as the 1985 Trial of the Military Commanders which was unprecedented at the time, especially in Latin America.

Uruguay was also an innovator, as it was the only country in the world to submit an amnesty law to the public ballot, giving society a chance to express itself in 1989. A second referendum is now scheduled for October 2009.

Argentina also successfully led the way with hybrid mechanisms, establishing the truth trials in the late 1990s, combining elements of truth commissions and prosecutions. Finally, it challenged the constitutionality of its amnesty laws, resulting in them being declared unconstitutional by the Supreme Court in 2005. Uruguay is now following these steps.

Both countries employed diverse methods of the 'transitional justice "toolbox"'. (Roht-Arriaza, 2006:5) In the attempt to address the legacy of the evils of state terror, Argentina and Uruguay strived to provide truth, justice, reparations and memorialisation of the events of their recent pasts.

Finally, these two cases also illustrate how despite the word 'transitional', TJ is rarely a situation of 'let's quickly gloss over past injustices and move on' (my phrase). Instead what is more likely to occur is that issues of TJ may span over several years, even decades as in our case studies. A long-term perspective is therefore essential. In Argentina and Uruguay, questions of TJ are still heatedly debated and there is no indication that these discussions are likely to subside any time soon.

The Politics of Memory

Q2 (what is the connection between TJ and the memory of past human rights violence?) was the second concern of this thesis. Studying the relationship

between memory and TJ was a particularly innovative aspect of this work, given the lack of attention paid by current academic research.

This thesis argued that memory is both integral and central to TJ policies. This is not only in reference to specific memorialisation initiatives (museums, memorials), which are sometimes examined by the literature. This author challenged the fictional separation between institutional and symbolic TJ initiatives that is the most commonly adopted approach in contemporary works.

Instead, it was contended that TJ and memory are deeply interconnected. Indeed, the interaction that exists between memory and TJ is fascinating and interesting. Both are slow-burning, dynamic and multilayered: they continuously interact, influencing and shaping one another.

More specifically, an interaction, which works in two ways, exists between memory and TJ. First, TJ initiatives do not simply result from the various dynamics, actors and power balances at local, national and international levels. They are also informed and influenced by ideas and representations of the past violence that are deemed relevant by social and political actors, labelled in chapters 5 and 6 as communities of memory. In this thesis, attention focused especially on the government, but also the military and HROs. Additionally, it is possible to argue that other agents in different countries maybe of significance in the TJ debate. Drawing out and examining these narratives on the past facilitates the achievement of a deeper understanding of how TJ policies were implemented and evolved.

Second, TJ mechanisms, especially trials and truth commissions, can be (and have been) used to produce and endorse specific understandings over what

happened during the contested years of violence. These perspectives often reflect political goals and objectives both from the past and the present. In particular, the role of the state and its attempts to develop official memories over the past violence become particularly fascinating topics to examine.

When examining the cases of Argentina and Uruguay, the following conclusions can be suggested. First, the commitment to TJ in both countries varied over time, and was particularly dependent on the Executive in power and the competing interpretations held on the past violence.

While Uruguay successfully limited the discussion of past crimes to the reduced sphere of human rights activism for over fifteen years, in Argentina, the Executive never achieved such a hegemonic position in the landscape of memory and TJ. Rather, it was forced to endure a difficult co-existence with the military and human rights activists.

More specifically, in Argentina in the early years of democracy, President Alfonsín worked to clarify the truth on the disappeared and achieve justice not only due to his personal commitment to human rights, but also in light of his understanding of what occurred during those fateful years. Reflecting the Two Demons Theory, his government held parallel trials of military and guerrilla leaders. Only limited attention was however paid beyond those deemed directly responsible for the atrocities, considering society as just a passive victim of the violence.

President Menem's view on the past is equally mirrored in his policy decisions. Convinced that Argentina should be moving forward, the President adopted a policy of pardons for the military and guerrillas in the early 1990s. This policy was

adopted also to ensure the subordination of the armed forces to the constitutional government. During Menem's tenure, the possibility of justice remained off the agenda and advances were made only in less divisive issues, like economic reparations and the right to identity.

Finally, under Kirchner, a third shift occurred. Echoing once again a precise perspective on the past, President Kirchner, a member of the 1970s generation that had been targeted by the violence, endorsed the view of state terrorism as the framework for understanding past human rights crimes. Accordingly, the President reopened the option of trials against members of the security forces, worked on reparations and favoured the creation of sites of memory.

Likewise, in Uruguay, a clear parallel between the state's policies on TJ and specific visions of the past can be highlighted.

President Sanguinetti's strong support for policies of oblivion and silence is evidently reflected in his granting of amnesties. While considering the guerrillas directly responsible for triggering the dictatorship, the President still resorted to the Two Demons Theory with arguments of moral equivalency to justify amnesty laws for both political prisoners and members of the security forces. The vision of a war existing between these two actors was also shared to different extents by his successors. Even though President Batlle finally acknowledged that acts of terror had been committed by the state, nevertheless, he focused on the idea of creating lasting peace between Uruguayans. In his discourses, the President still hinted to the existence of confrontations and disagreements amongst Uruguayans that had provoked the violence of the 1970s.

Similarly, President Vázquez combined ideas on state terrorism with a focus on the 'Never Again' discourse and the intolerance between Uruguayans, the two approaches clearly at odds with each other. One in fact attributes responsibility to the state for past crimes, while the other points instead to conflicts between Uruguayan brothers and the need of reconciliation to prevent further in-fighting. This ambiguous view is reflected in his policies that simultaneously searched for the disappeared while retaining the Expiry Law.

Second, in Argentina and Uruguay, instruments of TJ became preferential tools through which specific understandings of the disputed years of past violence were championed.

In more detail, it was suggested that in Argentina two strands of demonic theories were fashionable throughout democratisation. The 1984 CONADEP and the 1985 Trial of the Commanders endorsed the Two Demons Theory. Such an understanding was particularly popular for apportioning responsibility for the past to only a few extremist, violent and authoritarian elements, the military and the guerrillas. Society and political parties were accordingly exculpated of any blame for what had taken place during political violence. Over twenty years later, the Kirchner administration then developed its own brand of the One Demon Theory that, again through the CONADEP, sanctioned the understanding of the past as systematic and methodical crimes of state terrorism perpetrated by the military.

Both types of demonic theories reduced the very complex political and social events of state terrorism, which trace back to the mid-twentieth century, to the actions of a limited number of actors. It is clear that both the truth commission and the trial served precise political and social goals of national reconciliation. Still,

they failed to uncover the multifaceted dynamics and issues of power that were behind the origins of state violence in Argentina. By only attributing blame to the two demons, disturbing but necessary questions on the past, and especially the extent of social complicity, were avoided. However, only disclosing a limited truth on the recent past may not bode well for the future.

Similarly in Uruguay, policies of TJ implicitly sanctioned specific representations of the years of military rule and human rights repression. The adoption of amnesties in 1985 and 1986 by the Sanguinetti administration mirrored the President's perspective on past events. His administration further endorsed a memory of silence and oblivion, being totally absent in terms of truth, justice, reparations and memorialisation on the past. In Uruguay, a specific strand of the Two Demons Theory existed. Unlike Argentina where the Theory had been developed since the early 1970s, in Uruguay it only emerged in the early 1980s. Furthermore, in Uruguay the Theory accorded the guerrillas demon status, when in fact they had been well defeated before the military coup. Furthermore, in Uruguay, the Theory removed all responsibility for the past from political parties and their leaders. In doing so it reduced the violence to a limited sector of society, when in fact the picture was much more complex. Finally, in 2003, the Peace Commission did portray past violence as state terrorism. Despite this, much of the language employed still reflected previous images of war and confrontations between Uruguayans.

The battle for the ownership of the past is still ongoing in both Argentina and Uruguay.

Further Research Questions

From a PhD thesis several interesting questions inevitably spring up that cannot be discussed and so must be put aside for the moment. However, they may lay the ground for future projects. Here, two sets of questions are briefly pondered. The first relates to TJ as a discipline, while the second refers to Argentina and Uruguay's experience of TJ.

In the introduction, it was highlighted how this author felt that at present, the boundaries of TJ were being overstretched as some scholars have attempted to have TJ focus on issues as varied as structural violence, social injustice, corruption or the economy of war. Indeed, this broadening of the discipline does reflect the new nature of violence in the 21st century and therefore such concerns do need to be addressed. Nonetheless, it may be a risky endeavour for TJ to undertake.

In this respect, an interesting avenue for research would explore how best TJ can be synthesised with other subject-areas (development, IR, conflict studies...). The goal is to develop a comprehensive framework that simultaneously addresses what Ellen Stensrud defines as the 'backward-looking roles' of accountability mechanisms, like punishment, and 'forward-looking' objectives as prevention. (Stensrud, 2009:6) Also see (Snyder & Vinjamuri, 2003/2004:44)

Addressing the root causes of violence, often to be found in poverty, lack of resources and inequality, is a new and principal challenge that TJ has to confront. This is an avenue worth studying further to ensure both the continuity and the integrity of TJ as a discipline. This author believes that only by working in tandem with other academic subjects, TJ will affirm its status as more than merely an instrument of retribution. In doing so, TJ can also be a means of effectively

safeguarding human rights and preventing future atrocities, by addressing the reasons that trigger human rights violations.

Argentina and Uruguay's experience of TJ over the last three decades is a source of fascination but also of concern for this author. First, in both countries, there is a risk of saturation with the topic. As the historian Carnovale asserted, there is no lack of voices talking about state terrorism. 'My fear is' Carnovale states 'that we are all talking at the same time and that society cannot really listen anymore' (interview). Her apprehension was shared by other interviewees that pointed to the cacophony of fragmented and separated discussions that are ongoing and may be ineffective in societies where parts of the population are prone to feeling that it is time to move on.

Second, a key question is the following: how can the debate on past violence be more inclusive, transcending its traditional audience of *afectados* and HROs, reaching out to society as a whole?

As highlighted during discussions in chapters 5 and 6 on the Memorial to Disappeared-Detainees in Montevideo, the ESMA and the Memory Park in Buenos Aires 6, memory risks fading away once the *afectados* are no longer around unless these traditional guardians of the memory of state terrorism open up to include other members of society.

Of course, this is not an easy task and may require some serious reflection on how best to achieve participation from younger generations and those not currently interested in memory. One thing is clear: the current approach is not successful.

Third, the present human rights situation in Argentina and Uruguay, namely the persistence of *impunidad* (impunity) see e.g. (Humphrey & Valverde, 2007, 2008) and continued violence like torture, excessive police brutality and disappearances, significantly calls into question the important advances that have been achieved under the rubric of TJ. Focusing on past crimes should not prevent diligence to be exercised vis-à-vis the present human rights situation. The two are interdependent and need to be addressed in tandem. They are not mutually exclusive.

From Argentina and Uruguay's experience of TJ, a general conclusion can be drawn: despite democratisation, there has been a failure to create an inclusive notion of human rights. This can be understood on two levels.

First, on a temporal level, the concept of human rights is often understood as only referring to the years of military rule and the crimes of state terrorism, particularly the *desaparecidos*. Human rights are not generally regarded as applicable to the present, owing to the misplaced perception that the resolution of all human rights issues was an inevitable consequence of the return to democracy. As the academic Markarian remarked about Uruguay, the language of human rights is normally associated with the systematic violations of the authoritarian period. 'When you mention human rights, people immediately think back to the time of the dictatorship. But now that this language is available, it should be used for other things too, like state responsibility in relation to women, children and the state of prisons' (interview). 'It is a language' Markarian stresses 'to be used to make these themes visible, think about and discuss them'.

Similarly, Carnovale suggested that the political culture of human rights in Argentina is very superficial and that 'if you dig deeper, you still find strong

authoritarian components'. This is particularly evident now that Argentina has become rather insecure given the high rates of criminality in comparison to the last twenty years. The idea of the *mano dura* (strong hand) prevails and answers to problems of rising crimes are usually tougher laws and responses, without really comprehending that these are in reality problems related to social exclusion and/or poverty. As Carnovale states, the general feeling is that 'human rights are for the others, not for common people' (interview).

On a second level that we could define as conceptual, a multi-faceted notion of human rights remains absent. The term human rights is often taken to refer to violations of civil and political rights. What are traditionally called second generation rights (namely the right to education, work, etc.) are largely left out. This is particularly worrisome, given that in both Argentina and Uruguay problems relating to increasing poverty, unemployment and social justice have recently increased.

The language of human rights violations continues to be used for crimes similar to those of military rule (torture, disappearance, detention) but it has failed to be extended to violations of economic, social and cultural rights. The academic Hugo Vezzetti, for instance, highlighted the so-called *cartoneros* situation, referring to the thousands of people that basically 'scrap by, living off whatever they can find in other people's rubbish' (interview). Vezzetti underscores how society seems indifferent and that this does not trigger a political response. Similarly, survivor of the repression in Argentina, Carlos Lordkipanidse, told me how several families in his neighbourhood live under the motorway, 'without any basic access to health care or education' (interview).

As the Uruguayan human rights activist Javier Miranda emphasised in our interview, what is required is the development of tools to think about human rights in terms of 'all human rights, not just the consequences of the military regime' (interview). 'Otherwise the disappearance of my father' Miranda carried on 'would have had no purpose, if it had any sense at all and for it to have any meaning, it is to convert this pain into strength [for human rights]'

'What is the purpose of memory if not illuminating the present, making it visible?' asks Ana Cacopardo. (Cacopardo, 2007:4)

Are we able to see the current risks and problems in terms of human rights? How can we point to the continuities that exist between the impunity of the past and that of our present? How can TJ escape being 'stuck in the past' (my term) to impact the present and human rights here and now? Are we able to move beyond the traditional distinction of human rights generations, to finally create inclusive and complete conceptions that transcend the dominance of civil and political rights?

Finally, building on the unquestionable basis that state terrorism in Argentina and Uruguay was a systematic and repressive policy implemented top-down by the state, how can an inclusive memory of the recent past be achieved?

A memory that is wholly democratic, that is composed of shades of grey, rather than being black and white. A memory that does not strive to ensure homogenisation, rather that acknowledges, embraces and thrives on difference. Disagreements and disputes on the recent past will undoubtedly remain. Nonetheless, an inclusive memory will be flexible enough to encompass the full

spectrum of opinions and perspectives that exist, for the entire society to be able to talk about its past. A memory that can look at the experience of social and political activism of the 1960s and 1970s, that includes the victims of the guerrillas, that discusses all of the aspects of state terrorisms, not only selecting some of them. How do we avoid policies of memory that simply become 'attempts at closure, at stitching up wounds'? (Cacopardo, 2007:8) How can we generate instead open and fruitful debates?

These are the challenges for Argentina and Uruguay in the 21st century.

Annex 1 – Chronology of events - Argentina and Uruguay, 1930-2009

<u>Year</u>	<u>Argentina</u>	<u>Uruguay</u>
1930	(Sep) The first in a series of military coups is carried out by General Uriburu.	
1933		(Mar) First breakdown of constitutional rule. In a pattern to be later repeated, a democratically-elected President, in this case Gabriel Terra, closes Parliament, declaring emergency rule. During his <i>dictablanda</i> (soft dictatorship until 1934), the democratic system is temporarily suspended.
1942		(Feb) The Good Coup by President Baldomir.
1943	(June) A military coup opens the way for Juan-Domingo Perón's election as President in 1946.	
1952		Prompt Security Measures (constitutional emergency powers) are used to respond to strikes by workers from the public health, transport, and textile sectors.
1955	(Sep) A military coup led by General Lonardi ousts Perón from power.	
1962	(Mar) The military overthrows the constitutionally-elected government of Frondizi.	
1963		The <i>Movimiento de Liberación Nacional - Tupamaros</i> (National Liberation Movement Tupamaros, <i>Tupamaros</i>) is established.

<u>Year</u>	<u>Argentina</u>	<u>Uruguay</u>
1966	(June) A military coup establishes a permanent regime. The dictatorship, the <i>Argentine Revolution</i> , is no longer a temporary interregnum as in previous instances.	(Apr) Authoritarian Colorado government of President Pacheco-Areco (until 1971).
1972		President Bordaberry (1971-1973) declares a state of internal war against the <i>Tupamaros</i> . (Apr 14) The <i>Tupamaros</i> perpetrates several attacks in Montevideo and the interior, resulting in the death of four people, including a Navy Captain and an ex-Interior Sub-secretary. In the afternoon, the Armed Forces respond: eight <i>Tupamaros</i> perish.
1973	(May) Peronist candidate Campora is elected President, paving the way for Peron's return after years in exile. (Oct) Peron becomes President.	(Feb) Pact of <i>Boisso-Lanza</i> , signed by President Bordaberry, effectively incorporates the Armed Forces into government. (June 27) The military-backed presidential coup occurs. The most totalitarian military regime of the Southern Cone is launched.
1974	(Jul) Peron dies and his third wife, the Vice-President, inherits power.	
1976	(Mar 24) The <i>Argentine Process of National Reorganisation</i> is launched. (Sep 16) <i>Noches de los Lapices</i> (Night of the Pencils) 10 secondary school students are kidnapped in La Plata. The ESMA functions as a clandestine detention centre between 1976 and 1983.	(June) The military deposes President Bordaberry. (Jul 24) 23 Uruguayans detained in Automotores Orletti (Buenos Aires) are clandestinely transported back to Uruguay. They all survive. (Oct 5) Five Argentines citizens and 16 Uruguayans are illegally transferred to Uruguay. They are not thrown into the open seas, but are later assassinated.

<u>Year</u>	<u>Argentina</u>	<u>Uruguay</u>
1977	<p>(Apr 30) First march of the <i>Madres de Plaza de Mayo</i>.</p> <p>The <i>Abuelas de Plaza de Mayo</i> is established, an offshoot of the <i>Madres</i>.</p>	<p>(Aug) The military releases its political <i>cronograma</i> (timetable).</p>
1978		<p>20 Uruguayan exiles kidnapped in Buenos Aires in December 1977 are forcefully transferred to Uruguay. They remain disappeared.</p>
1980	<p>General Videla establishes a dialogue with civilian political leaders.</p>	<p>(Nov 30) With a turnout of 85.2%, the population rejects the constitutional reform project with 57.9% of votes.</p>
1981	<p>(Mar) General Viola succeeds Videla as President. A more open political dialogue is initiated.</p> <p>(Jul) The Multi-party coalition is created and calls for re-democratisation.</p> <p>(Dec) Internal coup through which General Galtieri removes Viola.</p>	<p>(Jul) A new <i>cronograma</i>, putting political parties at the heart of transition, is released.</p> <p><i>Servicio Paz y Justicia</i> (Peace and Justice Service) is established, the first to work on behalf of victims of repression under military rule.</p>
1982	<p>(Apr) The military junta led by Galtieri decides to invade the Falklands islands.</p> <p>(June) General Galtieri is forced to resign and General Bignone becomes President.</p> <p>(Dec) Around 100,000 people gather in May Square calling for the restoration of civilian rule.</p>	<p>(Nov) Internal party elections produce another disastrous political defeat: anti-military candidates receive 91% of Blanco votes and 72% of Colorado vote.</p>

<u>Year</u>	<u>Argentina</u>	<u>Uruguay</u>
1983	<p data-bbox="308 322 687 488">(Apr) The Final Report on the War against Subversion and Terrorism and the Institutional Act are released by the Armed Forces.</p> <p data-bbox="308 533 667 629">Secret decree 2726/83 orders the destruction of all the documents on the repression.</p> <p data-bbox="308 667 683 734">(Sep) The National Pacification Law is adopted.</p> <p data-bbox="308 772 663 902">(Oct) Radical Party candidate Raúl Alfonsín is elected and becomes President on December 10.</p> <p data-bbox="308 943 687 1312">(Dec) Alfonsín decrees the trial of guerrilla leaders for homicide, illicit association, public instigation to commit crimes, apology of crime and other attacks against public order. Decree 158 initiates the prosecution of military commanders for homicide, unlawful deprivation of freedom and torture.</p> <p data-bbox="308 1352 683 1688">Presidential decree 187 establishes the CONADEP to clarify facts relating to disappearances between 1976 and 1983. Composed of highly reputable public figures, it works for nine months, collecting testimonies and inspecting former detention centres.</p>	<p data-bbox="716 322 1166 421">(Jul) Collapse of <i>Parque Hotel</i> talks between the military and politicians over issues of national security.</p>

<u>Year</u>	<u>Argentina</u>	<u>Uruguay</u>
1984	<p>(Feb) The Law of Reform to the Military Code (23,049) ends military jurisdiction for common crimes, including human rights abuses. Violations during the <i>Proceso</i> however remain under military jurisdiction.</p> <p>(Sep) The CONADEP presents its findings. Human rights were violated in a systematic and organic manner with similar features on a national scale. The Buenos Aires Federal Appeals Court (BsAs FAC) assumes jurisdiction in the Trial of the Military Commanders.</p>	<p>(Apr 16) Doctor Vladimir Roslik dies as a consequence of torture at the hands of military personnel at Battalion 9 in Fray Bentos.</p> <p>(Aug) The Navy Club Pact, a transitional pact between the Armed Forces and the Colorado, Union Cívica and Frente Amplio parties, establishes a timetable for the return of democracy.</p> <p>(Nov) Colorado Party candidates Julio-Maria Sanguinetti (president) and Enrique Tarigo (vice-president) win national elections.</p>
1985	<p>(Apr) The BsAs FAC begins proceedings.</p> <p>(Dec) The BsAs FAC convicts commanders as indirect perpetrators, having issued instructions calling for the use of extraordinary measures against subversion. Sentences: life imprisonment to General Videla and Admiral Massera, imprisonment of various lengths to Brigadier Agosti, General Viola and Admiral Lambruschini, 4 acquittals.</p>	<p>(Mar) <i>Amnesty Law N°15,737</i> grants a general amnesty to about 210 prisoners, a civilian court review and subsequent commutation of sentence to another 62. All 338 political prisoners are later released.</p> <p><i>Mothers and Relatives of Uruguayan Disappeared-Detainees</i> is created, uniting three victims' organisations.</p> <p>(Nov) The <i>Investigative Commission on the Situation of Disappeared Persons and the Facts that Motivated it</i> confirms 164 cases of disappeared Uruguayans: 32 in Uruguay, 127 in Argentina, 3 in Chile and 2 in Paraguay. It emphasises serious evidence pointed to the involvement of military and police.</p>

Year	Argentina	Uruguay
1986	<p>(Jan) The <i>Madres</i> split into two organisations. The two separate due to leadership issues and the question of economic reparations.</p> <p>(Dec) The <i>Full Stop Law</i> establishes a 60-day deadline for summoning alleged human rights offenders. Otherwise all cases would be extinguished after 22 February 1987.</p> <p>The Supreme Court confirms the verdict in the Trial of military commanders. Defendants are designed as necessary participants in the crimes.</p>	<p>(Dec) <i>Law N° 15,848 Derogating the Punitive Capacity of the State</i> (Expiry Law) protects military and police forces from legal prosecution for human rights violations committed before March 1985. Economic crimes, abuses before the period of the <i>de facto</i> government, and by members of the high command before and/or during the dictatorship are not covered.</p>
1987	<p>(Apr) Easter Week Uprising is triggered by Major Barredo's refusal to appear in court to respond to torture accusations. Rebellion deepens when the Campo de Mayo Infantry School in Buenos Aires is taken over by Lt. Col. Rico of the Special Forces Unit. Alfonsín successfully mediates the end of the rebellion.</p> <p>(June) The <i>Due Obedience Law</i> establishes the legality of following orders, exonerating chief officers, subordinate officers, sub-officers, and troops in armed, security, prison forces. Rape, economic crimes and disappearance or identity forgery of minors are not covered.</p>	<p>(Feb) The <i>National Pro-Referendum Commission</i> is established. Composed of influential Uruguayans and political parties' representatives, it launches a signature collection campaign to hold a public referendum on the Expiry Law.</p> <p>(May) Military prosecutor Colonel Sambucetti investigates 6 cases of disappearances. He concludes in none of them it could be proved that security services were involved.</p> <p>(Oct) The <i>Investigative Commission on the Kidnapping and Murder of former-legislators Zelmar Michelini and Héctor Gutiérrez-Ruiz</i> concludes that those deeds were perpetrated by criminals depending from the Argentine Military. It ascertains the existence of illicit repressive activities with joint Uruguayan-Argentine participation in a period close to the murders.</p>

<u>Year</u>	<u>Argentina</u>	<u>Uruguay</u>
1988	<p>(Jan) Monte Caseros Uprising led by Lt. Col. Rico.</p> <p>(Dec) Villa Martelli Uprising led by Col. Seineldín vindicates Army's role in the 'dirty war' and wishes to secure a pardon for the convicted Commanders.</p>	
1989	<p>(Jan) The previously unknown <i>Movimiento Todos por la Patria</i> (All for the Fatherland Movement) attacks La Tablada infantry base.</p> <p>(May) Peronist candidate Carlos Menem wins national elections.</p> <p>(Jul) Alfonsín resigns.</p> <p>(Oct) President Menem pardons hundreds of people, including those accused of human rights violations, those sentenced for misconduct in the Falklands, those that participated in military rebellions, and 64 former guerrilleros.</p>	<p>(Mar) <i>Uruguay: Nunca Más – Informe sobre la Violación a los Derechos Humanos</i> (Never again – report on human rights violations) is published by SERPAJ. Based on collected testimonies and a survey, it elucidates past repression countering the government's refusal and silence on this matter.</p> <p>(Apr 16) 85% of the population vote in the referendum. 42% cast the green ballot, while 53% the yellow to retain the Expiry Law.</p>
1990	<p>(Dec) Last military rebellion led by Seineldín is successfully crushed.</p> <p>Menem pardons those already convicted for human rights abuses, including the commanders, military chiefs sentenced for the Falklands war, guerrilla leaders and other civilians.</p>	<p>(Sep) The <i>Investigative Commission in relation to the Conduct of Dr. Juan-Carlos Blanco Heading the Ministry of External Relations in the case of Ms. Elena Quinteros</i> investigates whether Senator Blanco had any responsibility in the kidnapping and disappearance of Ms. Quinteros. The Senate approves the final report, stating there was no basis for a trial or to suspend the Senator from his functions.</p>

<u>Year</u>	<u>Argentina</u>	<u>Uruguay</u>
1991	<p>(Jan) Presidential decree 70 establishes compensation for all those that had been in custody of the national executive branch under the state of siege.</p> <p>(Nov) Law 24,043 grants benefits to all victims of illegitimate detention (those detained by national executive, by decision of war tribunals, in military facilities without being sentenced, sentenced conscripts, children born in captivity, and all those in detention centre).</p>	
1992	<p>(Oct) The Inter-American Commission on Human Rights (IACHR) declares the Full Stop and Due Obedience Laws incompatible with the American Declaration and Convention. It recommends Argentina adopts measures to clarify the facts and identify those responsible for past violations and pays just compensation.</p>	<p>(Oct) The IACHR deems the Expiry Law incompatible with the American Declaration and Convention. It recommends Uruguay pays just compensation to victims, clarifies the facts and identifies those responsible.</p>
1994	<p>(May) Law 24,321 of Absence by Forced Disappearance creates this unprecedented legal status for all persons who involuntarily disappeared before 12/1983.</p> <p>(Dec) Law 24,411 sets out US\$ 224,000 compensation to be received by parents, children or lawful heirs of those that disappeared or died as a consequence of repression.</p>	<p>(Jul) The prison of Punta Carretas in Montevideo is transformed into a shopping centre.</p>

<u>Year</u>	<u>Argentina</u>	<u>Uruguay</u>
1995	<p>H.I.J.O.S. is a HRO formed by the offsprings of disappeared, survivors, political prisoners and exiles.</p> <p>(Mar) Navy Captain (ret.) Scilingo breaks the pact of silence with his public confession on death flights.</p> <p>(Apr) Army Chief-of-Staff Balza delivers the first institutional self-criticism on repression.</p> <p>(May) Air Force commander Paulik and Admiral Pico similarly comment on the actions of their respective branches during repression.</p>	
1996		<p>(May 20) Rafael Michelini, son of murdered legislator Zelmar, and the Mothers and Relatives of Uruguayans Disappeared-Detainees NGO, convoke the first "March of Silence" to commemorate the murders of Michelini and Gutiérrez-Ruiz, kidnapped and later found murdered in Buenos Aires on 20 May 1976.</p> <p>Navy Captain (ret.) Troccoli openly recognises the employment of torture, murder and disappearance by the military during repression.</p> <p>(Jul) HIJOS is established.</p>
1997		<p><i>Memoria para Armar</i> (Piecing Memory Together) is established by former female prisoners to recount their experience of political imprisonment under military rule.</p>

<u>Year</u>	<u>Argentina</u>	<u>Uruguay</u>
1998	<p>Truth trials begin in several Federal Appeal Courts as Buenos Aires, La Plata, Cordoba, Mar del Plata, Neuquén, Jujuy and Bahía Blanca.</p> <p>The first <i>escrache</i> is carried out by H.I.J.O.S. <i>Escraches</i> aim to expose the identities of former repressors to society. They originate at a time when impunity was dominant.</p> <p>(Jul) The Buenos Aires legislature approves the construction of a Memory Park to remember the victims of state terrorism.</p> <p>(Oct) Generals Videla, Massera, Nicolaidis and Bignone, and five lower-ranking officers are charged and jailed for the illegal adoption of children.</p>	
1999	<p>(Sep) A BsAs FAC rules child kidnapping is a crime that cannot be proscribed.</p> <p>(Nov) A friendly settlement is brokered with the IACHR. Argentina agrees to accept and guarantee the right to truth, involving the exhaustion of all means to obtain information on the whereabouts of the disappeared.</p>	
2000		<p>(Mar) Jorge Batlle of the Colorado Party becomes President.</p> <p>(Aug) Presidential resolution 858 establishes the COPAZ to investigate past disappearances.</p>

Year	Argentina	Uruguay
2001	(Mar) Federal Judge Cavallo rules in first instance the Full Stop and Due Obedience Laws are unconstitutional, violating the Constitution and international law obligations.	(Dec) The Memorial to Disappeared-Detainees is inaugurated in the Parque Vaz Ferreira in the Cerro neighbourhood of Montevideo.
2002		(Oct) Former Foreign Affairs Minister Juan-Carlos Blanco is charged with the unlawful imprisonment of Ms. Quinteros, the first instance anyone is detained in Uruguay for human rights violations committed during military rule. In 2005, Blanco is also charged with involvement in the murders of legislators Michelini and Gutiérrez-Ruiz and activists Barredo and Whitelaw.
2003	<p>(May) Nestor Kirchner becomes President.</p> <p>(Jul) Kirchner repeals decree 1,581, barring compliance with extradition requests.</p> <p>(Aug) Congress adopts Law 25,779, declaring the Full Stop and Due Obedience laws null, as if they had never existed.</p>	<p>(Apr) The COPAZ releases its final report, confirming the disappearance of 26 Uruguayans in Uruguay, 182 in Argentina, 8 in Chile, 2 in Paraguay. It concludes that citizens disappeared in Uruguay were detained in official or unofficial actions and submitted to physical torture in clandestine detention centres, dying in the majority of the cases as a consequence of the torments received. Grave human rights abuses were the product of actions by state agents that, in their public function, operated at the margins of the law.</p> <p>(Oct) Former President Bordaberry (1971-76) faces justice for violating the Constitution and the murder of eight members of the Uruguayan Communist Party in 1972. He is also accused of participating in the abduction and killing of the two lawmakers and two activists. In 2006, Bordaberry is also indicted as co-author of the murder of 10 political opponents.</p>

<u>Year</u>	<u>Argentina</u>	<u>Uruguay</u>
2004	<p>(Mar) A La Plata Federal Court sentences a former-police commissioner and a doctor to imprisonment for concealing the identity of the baby daughter of a disappeared.</p> <p>President Nestor Kirchner's speech at the ESMA. Through an agreement between the National Government and the Buenos Aires City Government, ESMA is to become a Museum.</p> <p>Under the orders of President Kirchner, Army-Chief Bendini removes the portraits of ex-Generals Videla and Bignone from the walls of the Military College.</p> <p>(Aug) Law 25,914 provides an AR\$224,000 indemnification to minors that suffered identity substitution and AR\$71,288 to victims of other crimes covered by the law.</p>	
2005	<p>(May) The remains of Esther Ballestrino, María Eugenia Ponce, and Azucena Villaflor, co-founders of Mothers of Plaza de Mayo, and those of French nun Leonie Duquet are identified by the EAAF.</p> <p>(June) The Supreme Court confirms the unconstitutionality of the Laws, re-opening judicial proceedings against military officers interrupted for 20 years.</p>	<p>(Mar) Tabaré Vázquez of the Frente Amplio becomes President.</p> <p>(Aug) The three branches of the military carry out investigations into the fate of disappeared-detainees. The reports recognise and officially acknowledge for the first time the use of torture, the burial places of some disappeared-detainees, the illegal transfers of prisoners and the cremation of their remains.</p> <p>(Sep) Law 17.894 creates the legal category of 'absent due to enforced disappearance'.</p> <p>(Nov) The EAAF confirms human remains found at the Pando farm belong to Ubagesner Chavez-Sosa, disappeared in May 1978 –the first such discovery.</p>

<u>Year</u>	<u>Argentina</u>	<u>Uruguay</u>
2006	<p data-bbox="309 322 663 421">(Mar) The day of the military coup is declared a national holiday.</p> <p data-bbox="309 461 687 734">(Aug) BsAs Federal Court 5 condemns former-police official Simón to imprisonment for the illegal deprivation of liberty, aggravated by torture and the appropriation of a minor, committed against the Poblete-Hlaczik family.</p> <p data-bbox="309 775 683 940">(Sep) The unconstitutionality of General Riveros' pardon is upheld by the Cassation Court. This is later confirmed by the Supreme Court in July 2007.</p> <p data-bbox="309 981 671 1245">La Plata Federal Court 1 condemns former-police official, Etchecolatz to life imprisonment for the illegal arrests, torture and homicides of six disappeared and kidnapping and torture of two survivors.</p> <p data-bbox="309 1285 671 1415">Jorge-Julio López, key witness at the trial against Etchecolatz disappears the day before the verdict.</p> <p data-bbox="309 1424 679 1518">Three other witnesses 'temporarily' disappear, one in 2006, and two in 2008.</p>	<p data-bbox="718 322 1145 488">(Mar) DNA analysis confirms the complete skeleton found at the 13th Battalion is that of Fernando Miranda, kidnapped by military officers in November 1975.</p> <p data-bbox="718 528 1193 770">(Oct) Law 18.033 restores retirement rights to all those that had been persecuted for political, ideological or trade union reasons between 9 February 1973 and 28 February 1985. A special reparatory pension (worth around USD500 a month) is also granted to those deprived of liberty.</p> <p data-bbox="718 810 1197 909">(Dec) President Vázquez decrees the date of 19 June as the <i>Día del Nunca Más</i> (Day of Never Again).</p>

<u>Year</u>	<u>Argentina</u>	<u>Uruguay</u>
2007	<p>(Oct) La Plata Federal Court 1 convicts former-chaplain of the Buenos Aires provincial police Von-Wernich to life in prison, for involvement in murder, illegitimate deprivations of liberty and torture.</p> <p>(Nov 7) President Kirchner inaugurates the Memory Park in Buenos Aires.</p> <p>ESMA is open to public for visits.</p> <p>(Dec) A Federal Judge condemns seven high-ranking members of Intelligence Battalion 601, including former-Army Commander Nicolaides, and one police officer, to terms between 20 and 25 years for aggravated illegitimate deprivation of liberty.</p>	<p>(June) The Presidency releases the five-volume investigation titled "Historical Investigation on Disappeared Detainees".</p> <p>(Sep) The National Coordinating Committee to Nullify the Expiry Law launches its signature collection campaign.</p> <p>(Dec) Ex-President General Alvarez (1981-1985) is arrested and charged as co-author of the enforced disappearances of over 30 people.</p> <p>The Museum of Memory is inaugurated. The Library of Memory opens. It preserves more than 8,000 books and documents confiscated by security forces between 1967 and 1973.</p>
2008	<p>(Jul) Former-General Menéndez, six former military officials and one civilian, are convicted for kidnapping, torture and extrajudicial executions in 1977.</p> <p>(Aug) Menéndez and former-Governor Bussi are condemned to life imprisonment for illegitimate deprivation of liberty, torture and disappearance of ex-Senator Vargas-Aignasse in 1976.</p>	

<u>Year</u>	<u>Argentina</u>	<u>Uruguay</u>
2009	<p>(Sep) 1.358 people are implicated in crimes against humanity; 290 have been charged, fifty-eight condemned, 400 are under pre-trial detention, three acquitted and 213 deceased.</p> <p>(Nov 24) Opening of the trial relating to the former detention centres called El Club Atlético, Banco and El Olimpo.</p> <p>(Dec 11) Opening of the trial relating to the former detention centre called the ESMA.</p>	<p>(Apr 24) 340.043 collected signatures are submitted to Parliament.</p> <p>(June 15) The Electoral Court announced that the required number of 258.326 signatures was achieved. The Referendum on the Expiry Law is scheduled for October 25.</p> <p>(Oct 19) The Supreme Court considers the Expiry Law unconstitutional in relation to the case of Nibia Sabalsagaray.</p> <p>(Oct 23) Former President Gregorio Álvarez is sentenced to twenty five years prison term for his role as coauthor in the aggravated homicides of thirty-seven people.</p> <p>(Oct 25) On the day of national elections, 48% of the electorate votes in favour of the nullification of the Expiry Law. The required threshold for the annulment was 50% plus one. The Law is thus retained.</p>
2010	<p>(Feb) 1.422 people are implicated in crimes against humanity, 280 have been charged, sixty-eight condemned, 410 are under pre-trial detention, seven have been acquitted and 226 have passed away. Trials are well under way, in important cases relating, for example, to the ESMA and the Campo de Mayo detention centres.</p>	<p>(Feb) District attorney Mirtha Guianze is expected to request Montevideo's Penal Tribunal II to condemn former President Bordaberry and Foreign Affairs Blanco to thirty years prison terms for the aggravated homicides of national legislators Zelmar Michelini and Héctor Gutiérrez-Ruiz.</p>

Annex 2 – List of Interviews

Argentina

- **Carlos H. Acuña**, University of San Andrés, Buenos Aires, 18 September 2008;
- **Raúl Alfonsín**, President (1983-1989), Email Interview, 7 November 2008;
- **Asamblea Permanente por los Derechos Humanos (APDH)**, Buenos Aires, 24 August 2007;
- **Asociación Ex Detenidos Desaparecidos**, (Carlos Lordkipanidse), Buenos Aires, 22 September 2008;
- **Asociación Madres de Plaza de Mayo**, Buenos Aires, 30 August 2007;
- **Marcelo Brodsky**, Buena Memoria Asociación Civil, Buenos Aires, 30 August 2007;
- **Vera Carnovale**, Memoria Abierta, Human Rights Organisation, Buenos Aires, 12 September 2008;
- **Gaston Chillier**, Executive Director, CELS - Centro de Estudios Legales y Sociales, 30 August 2007;
- **Emilio Crenzel**, University of Buenos Aires, Buenos Aires, 18 August 2007;
- **Andrés D'Alessio**, Judge of the 1985 Trial of the Commanders, Buenos Aires, 17 September 2008;
- **Familiares de Detenidos-Desaparecidos**, Victims' organisation, Buenos Aires, 18 September 2008;
- **Graciela Fernandez-Meijide**, CONADEP, Buenos Aires, 17 August 2007 & 12 September 2008;
- **Luis Fondebrider**, EAAF - Equipo Argentino de Antropología Forense, Buenos Aires, 24 August 2007;
- **Ricardo Gil-Lavedra**, Judge of the 1985 Trial of the Commanders, Buenos Aires, 22 August 2007;
- **Martín Hernan-Fraga**, H.I.J.O.S – Escraches Commission, Buenos Aires, 16 September 2008;
- **Alba Lanzillotto**, Abuelas de Plaza de Mayo, Buenos Aires, 3 September 2007 & 11 September 2008

- **Federico Lorenz**, Historian, Cultural Centre 'H. Conti', ESMA, Buenos Aires, 8 September 2008;
- **Daniel Lvovich**, Historian, National University of General Sarmiento, Buenos Aires, 19 September 2008;
- **Madres de Plaza de Mayo – Linea Fundadora**, Victims' organisation, Buenos Aires, 22 September 2008;
- **Eduardo Makaroff**, Gotan Project, London, phone interview, 29 July 2009;
- **Jaime Malamud-Goti**, Senior Presidential Advisor (1983-1987), Buenos Aires, 3 September 2007;
- **Marcos Novaro**, Gino Germani Institute, University of Buenos Aires, Buenos Aires, 10 September 2008;
- **Vicente Palermo**, Gino Germani Institute, University of Buenos Aires, Buenos Aires, 5 September 2008;
- **Enrique Pastor**, H.I.J.O.S., Buenos Aires, 1 September 2007;
- **Catalina Smulovitz**, Director, Department of Political Science and International Studies, University of Torcuato di Tella, Buenos Aires, 23 September 2008;
- **Patricia Valdez**, Director of Memoria Abierta, Buenos Aires, 23 August 2007;
- **Hugo Vezzetti**, University of Buenos Aires, Buenos Aires, 17 September 2008;
- **Vera Vigevani-Jarach**, Fundación Memoria Histórica y Social Argentina and Madres de Plaza de Mayo – Linea Fundadora, Buenos Aires, 25 August 2007.

Uruguay

- **Laura Balsamo**, member of SERPAJ's Documentation Centre, Montevideo, 7 September 2007;
- **Gerardo Bleier**, Journalist and Advisor to the President, Montevideo, 29 August 2008;
- **Gerardo Caetano**, Institute of Political Science, University of the Republic, Montevideo, 4 September 2008;
- **Diego Cánepa**, MP for Nuevo Espacio-Frente Amplio of Montevideo, Montevideo, 13 September 2007;
- **Carlos Demasi**, Centre for Inter-Disciplinary Studies, University of the Republic, Montevideo, 28 August 2008;
- **Oscar Destouet**, History Professor and Researcher, Memory area of Ministry of Education and Culture, Uruguay, Montevideo, 17 September 2007;
- **Pilar Elhordoy-Arregui**, Human Rights Lawyer, Montevideo, 11 September 2007;
- **Elbio Ferrario**, Coordinator of Memory Museum, Montevideo, 3 September 2008;
- **Lilia Ferro**, Multidisciplinary Unit, University of the Republic, Montevideo, 3 September 2008;
- **Julián González-Guyer**, Institute of Political Science, University of the Republic, Montevideo, 29 August 2008;
- **Luis-Alberto Heber**, Senator, Blanco Party, Montevideo, 3 September 2008;
- **Alfonso Lessa**, political journalist and writer, Tele Doce, Montevideo, 17 September 2007;
- **Cristina Mansilla**, human rights office of the Ministry of Foreign Affairs, Montevideo, 27 August 2008;
- **Vania Markarian**, University of the Republic, Montevideo, 27 August 2008;
- **María-Elena Martínez**, Director of Human Rights, Ministry of Education and Culture, Montevideo, 21 September 2007;
- **Memoria Para Armar** (MPA - Isabel Trivelli) - victims' organisation, Montevideo, 29 August 2008;

- **Felipe Michelini**, Sub-secretary of the Education and Culture Ministry, Montevideo, 11 September 2007;
- **Rafael Michelini**, Senator, Frente Amplio, Montevideo, 3 September 2008;
- **Javier Miranda**, Lawyer, Montevideo City Hall and Member of MFDDU, Montevideo, 29 August 2008;
- **Mothers and Relatives of Uruguayan Disappeared Detainees (MFDDU)**, Victims' organisation, Montevideo, 1 September 2008;
- **Margarita Navarrete**, Executive Director, Observatory of Public Policies of Human Rights in the MERCOSUR, Montevideo, 19 September 2007;
- **Raúl Olivera**, Human Rights Secretariat, Partido por la Victoria del Pueblo, Montevideo, 30 August 2008;
- **Guillermo Reimann**, CRYSQL Ex-Presos Politicos, Montevideo, 11 September 2007;
- **José Rilla**, Director, Cuadernos de ClaeH & University of the Republic, Montevideo, 26 August 2008;
- **Graciela Romero**, lawyer and member of SERPAJ Civil and Political Rights Team, Montevideo, 7 September 2007;
- **Marisa Ruiz**, Amnesty International – UY International Justice Group, Montevideo, 2 September 2008;
- **Julio-Maria Sanguinetti**, President of Uruguay, 1985-1990 and 1995-2000, Montevideo, 21 September 2007;
- **Servicio de Rehabilitación Social (SERSOC - Miguel Scapusio & Adriana Vaselli)**, Montevideo, 19 September 2007;
- **Adrianna Beatriz Yelpo-Vega**, National Coordinator for the Nullity of the Expiry Law & Human Rights Commission of PIT-CNT, Montevideo, 9 September 2007.

*Windows Media Player Files containing the full interviews
are available from the author.*

Annex 3 – List of Visits

Argentina

- El Olimpo, former detention centre, Buenos Aires, 11 September 2008;
- 'JULIO LOPEZ? Dos años de impunidad y encubrimiento' March organised by Encuentro Memoria, Verdad y Justicia, Buenos Aires, 18 September 2008;
- Memory Park and the Monument to the Victims of State Terrorism, Buenos Aires, 10 September 2008;
- Navy Mechanics School (ESMA), Buenos Aires, 6 September 2008;
- Thursday marches of Asociación Madres de Plaza de Mayo and Madres de Plaza de Mayo – Línea Fundadora, Buenos Aires, 30 August 2007 & 18 September 2008.

Uruguay

- Cultural Centre and Museum of Memory, Montevideo, 3 September 2008;
- Memorial to Disappeared-Detainees, Montevideo, 30 August 2008;
- Punta Carretas Shopping Centre, Montevideo, 15 September 2007 & 24 August 2008;
- Remembrance on the International Day of the Disappeared, organised by MFDDU and Amnesty UY, Montevideo, 30 August 2008.

Photos reproduced in chapters five and six were taken during these visits.

Annex 4 – Abbreviations

AI	Amnesty International
ANC	African National Congress
CELS	Centro de Estudios Legales y Sociales (Centre for Legal and Social Studies, Buenos Aires)
CNNLC	Coordinadora Nacional por la Nulidad de la Ley de Caducidad (National Coordinator for the Nullity of the Expiry Law, Uruguay)
CNPR	Comisión Nacional Pro-Referéndum (National Pro-Referendum Commission, Uruguay)
CONADEP	Comisión Nacional sobre la Desaparición de Personas (National Commission on the Disappeared, Argentina)
CONADI	National Commission for the Right to Identity (Argentina)
COPAZ	Comisión Para la Paz (Peace Commission, Uruguay)
EAAF	Equipo Argentino de Antropología Forense (Argentine Forensic Anthropology Team)
ESMA	Escuela de Mecánica de la Armada (Navy Mechanics School, Buenos Aires)
FMLN	Farabundo Martí Front for National Liberation (guerrilla group, El Salvador)
FUSNA	Uruguayan Marine Corps Unit
GDR	German Democratic Republic (East Germany)
H.I.J.O.S.	Hijos por la Identidad y la Justicia contra el Olvido y el Silencio (Daughters and Sons for Identity and Justice against Forgetting and Silence, Argentina)
HROs	Human Rights Organisations
HRW	Human Rights Watch
IACHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights

ICC	International Criminal Court
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
MFDDU	Madres y Familiares de Detenidos Desaparecidos del Uruguay (Mothers and Relatives of Uruguayan Disappeared Detainees)
MPA	<i>Memoria para Armar</i> (Piecing Memory Together, Uruguay)
NSD	National Security Doctrine
SERPAJ	Servicio Paz y Justicia (Peace and Justice Service, Montevideo)
TRC	Truth and Reconciliation Commission (South Africa)
TJ	Transitional Justice
UNHRC	United Nations Human Rights Committee
UNSG	United Nations Secretary-General
URNG	National Guatemalan Revolutionary Unity (Guatemalan guerrilla group)

Annex 5 – Data Collection and Methodology

This thesis relies on various sources for its data. Theoretical chapters, 1 to 3, mainly employ secondary resources, particularly scholarly literature from history, politics and IR, but the recently established subject-areas of TJ and memory studies. Reference to primary materials is also occasionally made.

Empirical chapters, 4 to 6, use both primary and secondary sources. Primary documents used include jurisprudence from international human rights bodies including the UNHRC, the IACHR and the IACtHR, and reports by international organisations, national and international NGOs, such as Amnesty International and Human Rights Watch.

Particular attention was paid to integrating material that was collected from the two research field trips to the region. Interviews were carried out in both Argentina and Uruguay. A first round took place between 15 August and 22 September 2007, the second between 21 August and 25 September 2008. Interviewees include members of victims' organisations and NGOs, academics, lawyers, journalists, politicians and judges (see appendix 2 for complete list of 57 interviews). Additionally, I visited several museums and other sites of memory, as well as having witnessed human rights demonstrations and activities (appendix 3).

This project is largely qualitative and its purpose was investigating the various opinions and different representations that exist in Argentina and Uruguay on the issues of truth, justice and memory on the recent past of political violence.

Qualitative methods, particularly individual semi-structured interviews, were selected for several reasons. The semi-structured format was considered most

helpful in approaching sensitive issues such as those relating to human rights violence.

A list of topics (available with the author), focusing on truth, justice and memory, to be discussed during the interviews was prepared beforehand, and these themes were explored further during each meeting. Questions on the guiding framework were flexible and phrased differently depending on each interviewee and the evolution of the discussion. This elastic format allowed for new (and often unexpected) questions to emerge spontaneously and be considered accordingly.

Open-ended and informal questioning functioned as invitations allowing respondents to talk at length on a topic, elaborating their thoughts in their own terms with time to reflect, offer their interpretations of events and tell their own story in a familiar language. (Devine, 2002; Gaskell, 2000)

The data that was collected through the interviews was not treated as hard evidence to be measured and observed. Rather, it was used to comprehend the experiences and practices of key informants that had often directly lived through the events being discussed or studied them deeply.

The purpose of the interviews was for the author to gain a deeper appreciation and understanding of political, institutional, social and cultural dynamics on the ground in Argentina and Uruguay. Additionally, it was important to interact with significant social and political actors in TJ or scholars thereof.

Open-ended interviews were deemed suitable in seeking to understand people's motives and interpretations, as well as to gather insights into their world-views and experiences. (Devine, 2002) This holistic approach let the author gain invaluable information, together with a fuller knowledge than one that could be provided by only employing secondary sources.

Furthermore, visiting museums and other locations of memory (some of which opened to the public only as recently as late 2007) permitted the collection of primary materials as photos.

The fieldwork experience generally, and specific events like participating at the commemorations on 30 August 2008 (International Day of Disappeared-Detainees) organised in Montevideo, the Thursday marches of the Madres or a human rights march on 18 September 2008 for disappeared-witness Jorge-Julio López in Buenos Aires, could also be seen as a very limited exercise in participant observation.

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