

**Justice, Truth and the Future of the Past:
Inheritance and Responsibility in Argentina's 1983 Political Transition**

By

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Abstract

Between 1976 and 1983 Argentina was ruled by successive military juntas in a period of power referred to as the 'Dirty War.' Clandestine operations to suppress 'subversion' in the population included the enforced disappearances of 30,000 Argentines. Objects including forensic reconstructions, statistics, and a commission's report, were used to establish the truth of the 'Dirty War' in Argentina's transition to democracy. Here, boundaries between objects and experience are problematized as the intangibility of experience is transformed into tangibility that purports to achieve truth and justice. Given the techniques of science and law used to make these objects 'speak,' important questions arise regarding how these representations interact with the question of human agency and inter-subjectivity. Drawing on Levinasian phenomenology and Derridean post-structuralist theory, primary human rights documents, and secondary literature on the political violence, this paper examines these interactions and what justice and truth means in the face of violence.

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Introduction

Rendering Absence Present: Epistemology & Truth in Argentina's Transition

To look for lessons about haunting when there are thousands of ghosts; when entire societies become haunted by terrible deeds that are systematically occurring and are simultaneously denied by every public organ of governance and communication; when the whole purpose of the verbal denial is to ensure that everyone knows just enough to scare normalization into a state of nervous exhaustion when the whole situation cries out for clearly distinguishing between truth and lies, between what is known and what is unknown ... when people you know or love are there one minute and gone the next; when familiar words and things transmute into the most sinister of weapons and meanings To broach, much less settle on, a firm understanding of this social reality can make you feel like you are carrying the weight of the world on your shoulders.¹

In its 1983 transition to democratic rule, Argentina was faced with the challenge of affecting a break with a violent past that would allow social and political relations to begin anew. This break simultaneously required a reckoning with the events that had gone before, and a promise of justice and stability for the future to come. The violence to be acknowledged by this process was the result of the imposition of a very different type of order to address an economically and politically unstable past. Seven years prior, in March of 1976, a military junta had seized power by way of coup and had instituted their own vision for Argentina's political and social system. Framed in a rhetoric that promised economic and political stability, the military's reign instead yielded unprecedented state-sponsored violence. As the basis of their power they relentlessly persecuted individuals using an amorphous conception of 'subversion.' Abduction, torture, and rhetoric were the mainstays of their rule. The term 'Dirty War' was used by the military to denote that they were battling guerilla warfare with its attendant tactics such as kidnappings and

¹ Avery Gordon, *Ghostly Matters: Haunting and the Sociological Imagination* (Minnesota: University of Minnesota Press, 2008) at 64.

murders.² Its use has been maintained by scholars, Argentines and journalists as it is useful stressing that it was a war waged against the population, and further that it was one without declaration, and therefore resisted temporal, spatial and material location.³

During the seven year period, the population, its collective memory, and the means it used to understand itself was indelibly marked by the state sponsored violence. While the junta was initially welcomed as a means of instituting stability in the face of serious political and social unrest, their increasing violence eventually forced people into hiding in their helplessness while the spectacle of the military's power played itself out in full visibility before them. The use of enforced disappearances throughout the junta's reign of power peaked during the years of 1976 to 1978.⁴ The victims, thought to total thirty thousand,⁵ were 'disappeared' by the military to *Centros Clandestinos de Detención* (Clandestine Detention Centers), interrogated and tortured, and their corpses were disposed of in mass graves or thrown from airplanes into the ocean.

The military junta began to lose its hold over the country beginning in the early 1980s due to a combination of increasing international pressure and human rights protest, as well as a growing economic instability. The regime had failed in its war against 'subversion' by any standard and regardless of whether the 'subversion' it aimed to

² Argentina's National Commission on Disappeared People (CONADEP), *Nunca Mas (Never Again): A Report by Argentina's National Commission on Disappeared People* (London: Faber and Faber Limited, 1986) at xiii.

³ Marguerite Feitlowitz, *A Lexicon of Terror: Argentina and the Legacies of Torture* (New York: Oxford University Press, 1998) at 32.

⁴ *Equipo Argentino de Antropología Forense (EAAF)*, "EAAF 2000 Annual Report" (2000), online: <<http://eaaf.typepad.com/pdf/2000/04Argentina2000.pdf>> at 10.

⁵ The disputed number of disappeared in Argentina is a politically contentious issue. For a discussion of some of the implications of, and limitations associated with quantitative measures in human rights cases see: Thomas B. Jabine & Richard P. Claude, eds., *Human Rights and Statistics: Getting the Record Straight* (Philadelphia: University of Pennsylvania Press, 1992) and Alyson Brysk, "The Politics of Measurement: The Contested Count of the Disappeared in Argentina" (1994) 16:4 Hum. Rts. Q. 676. While many human rights groups maintain that the total number of Disappeared is 30,000, CONADEP places this number at 8,960 [See: Argentina's National Commission on Disappeared People (CONADEP), *supra* note 2 at 10]; a figure similar to the EAAF who cite 9,000 Disappeared - <http://www.eaaf.org/>.

eradicate was construed in Religious, cultural, or political terms. It failed in the transmission of its worldview construed in the discourse of Western Christian values. 1982 proved to be the year of the military government's downfall when it unsuccessfully attempted to regain control over the Malvinas/Falkland Islands in a bid to regain popular support from the people.⁶ Agitation for multiparty politics followed the Falklands defeat, resulting in the democratic elections in the fall of 1983 in which the *Unión Cívica Radical* (Radical Civic Union) party under Raul Alfonsín won power. In the midst of the move towards transition, the junta issued statements and legislation in an attempt to mitigate the repercussions of its actions. The 'Final Document of the Military Junta on the War against Subversion and Terrorism' for instance, underscored that the junta's actions were carried out under orders that took their legitimacy from decrees passed by the pre-'Dirty War' government.⁷ A self-amnesty law instituted a blanket amnesty for subversive and anti-subversive acts that took place between May 1973 and June 1982.⁸ These legislative maneuvers added complications to the legal response that necessarily followed in the transition. Once elected, Alfonsín pursued both a forward and backward looking program to provide redress for violations and to entrench democratic rule. Broadly, these programs entailed a series of legal repeals and reforms that would enable trials and prosecutions, and strengthen adherence to human rights. Importantly, Alfonsín

⁶ For a discussion of the events preceding the end of the 'Dirty War' juntas see: Deborah Mitchell, *Grasping Change: The Argentine Rupture Experience of 1983* (PhD Thesis, New School for Social Research, 2005) [unpublished], especially Chapter 3 'The Argentine Rupture Experience,' section 2 'The Immediate Conditions of Possibility of the Argentine Rupture Experience.'

⁷ Carlos Santiago Nino, *Radical Evil on Trial* (New York: Oxford University Press, 1991) at 61.

⁸ *Ibid.* at 65.

had to balance these goals with the need for a continued faith in the armed forces as a cornerstone of democratic rule.⁹

The 1983 transition thus entailed a process of legal reform that depended on questions of instituting human rights frameworks designed to ensure future stability and the realization of a democratic system. The entrenchment of rights was fundamentally dependent on securing information about the abuses that had occurred, specifically in regards to the ‘disappeared.’¹⁰ Thus, the first stage of democratization was to erode the impunity of the junta and reveal the ‘truth’ regarding the violence that had been obfuscated by their exercise of power. The predominant use of ‘disappearances’ and the imposition of a state-enforced culture of fear centered on silence in Argentina’s ‘Dirty War’ presented important challenges for understanding the nature of the violence itself, as well as for reconstructing the past. Yet securing a clear understanding of the past was imperative, as establishing future relations and fulfilling the demands for justice depends on the notion of responsibility. “No justice,” Derrida states, “seems possible or thinkable without the principle of some *responsibility*, beyond all living present ... before the ghosts of those who are not yet born or who are already dead, be they victims of wars, political or other kinds of violence ... victims of the oppressions of ... any of the forms of totalitarianism.”¹¹ What does this responsibility mean in the transition from violence? At its heart, it is a reckoning with the past in a process of learning and inheritance by which future relations are forged. Truth reports and processes, Phelps writes, contribute to this

⁹ For a detailed discussion of Alfonsín’s human rights reforms as well as the transitional government more generally, see: Nino, *supra* note 6.

¹⁰ Brysk, *supra* note 4 at 678.

¹¹ Jacques Derrida, *Specters of Marx: The State of Debt, the Work of Mourning, and the New International*, trans. by Peggy Kamuf (New York: Routledge, 1994) at xviii.

reckoning by serving as a means of reconstructing and of inventing a new sense of political community.¹²

In Argentina, the imperative driving the truth process is captured in the title of the truth commission's report *Nunca Mas*, which in its constituent parts 'never' and 'again' implies a responsibility to provide for a stable future based on learning from the past. Yet questions of responsibility and inheritance are contained in a 'becoming' rooted in the present. Justice is after all for the living, as "[t]o whom, finally, would the obligation of justice ever entail a commitment ... even if it be beyond law and beyond the norm, to whom and to what if not to the life of a living being?"¹³ Because it is dependent on the past, the present and the future, the responsibility at the core of justice and transition problematizes linearity and is engaged with memory.¹⁴ How are these complex processes of memory and inheritance possible in the context of state violence which had gone to great lengths to create a culture of fear and misinformation? What narratives were available to represent and learn from the absence of the thousands of 'disappeared,' Argentina's "emblematic figure of state terrorism"¹⁵? How is inheritance shaped by particular epistemological approaches and processes of interpretation; processes which inevitably privilege certain agencies, certain narratives, certain ways of looking, and

¹² Teresa Godwin Phelps, *Shattered Voices: Language, Violence and the Work of Truth Commissions* (Philadelphia: University of Pennsylvania Press, 2004) at 81.

¹³ Derrida, *supra* note 7 at xx.

¹⁴ As Jelin outlines, the memory involved in the 'transmissions, legacies, and lessons' of transitional political reparations has many conduits and orientations - among them cognitive, psychoanalytic, and cultural. In terms of cognition, she writes, what is learned in the past generates rational alternatives for proceeding; culturally, the work of memory is entwined with uncovering meanings associated with the past using interpretive frameworks that permit the conveyance or representation of what has gone before; in a psychoanalytic form the past both dwells in and informs the present. To this we must also add the political struggles for memory which are equally rooted in both the past and the present, and are conveyed through a plurality of actors and modalities. See: Elizabeth Jelin, *State Repression and the Labors of Memory*, trans. by Judy Rein & Marcial Godoy-Anativia (Minneapolis: University of Minnesota Press, 2003) at 92 & 26 & generally Chapter 3.

¹⁵ Jelin, *ibid.* at 53.

certain ‘truths’ over others? Responsibility and inheritance are necessarily heterogeneous. There are many ways of reading the past to learn from it, there are many pasts to be read, and there are many ways this can be used to forge a future. Derrida states in this regard:

[The] presumed unity [of inheritance], if there is one, can consist only in the injunction to reaffirm by choosing. “One must” means *one must* filter, sift, criticize, one must sort out several different possibilities that inhabit the same injunction. And inhabit it in a contradictory fashion around a secret. If the readability of a legacy were given, natural, transparent, univocal, if it did not call for and at the same time defy interpretation, we would never have anything to inherit from it ... One always inherits from a secret - which says “read me, will you ever be able to do so?” [Emphasis in original].¹⁶

Derrida’s concern with inheritance, responsibility and learning as elements of justice provide an important basis for the analysis of its relationship with ‘truth’ in transition. At the crux of these questions lies the matter of ‘reading the past’ to which he refers. In essence, this is a balance between the individual experiences of violence to be learned from with the collective political reparations that ensure renewed and stable social, political and cultural relations. It is in this complexity of tensions between the individual and the collective, the past, the present and the future, and the cultural, political, and individual memories that the inter-related matters of epistemology and human agency come to the forefront in the construction of ‘truth.’

In order to ascertain the necessary ‘truth’ in Argentina, the transitional government reconstructed the past using tangible objects and traces representative of the absences it demarcated. Specifically, the violence and oppression that had occurred was marked and recorded using legal constructs, as well as political, social, and natural sciences. Since 1984 the Argentine Forensic Anthropology Team (EAAF) has worked to reconstruct the identities of the ‘disappeared’ from their physical and administrative remains at the behest of the National Commission on the Disappeared (CONADEP). The

¹⁶ Derrida, *supra* note 7 at 18.

work of the EAAF is undeniably important in that it translates elements of the ‘invisible’ experience of violence into the ‘visible’ languages of law and science that can be used to prosecute and admonish, consistent with the belief that the body’s traces are able to provide visible evidence of past (and so invisible) processes and events.¹⁷ Following the physical traces, including bones, DNA, fingerprints, and records created by an efficient bureaucratic machinery has enabled these anthropologists to provide a measure of certainty, rendering the invisible visible. CONADEP’s truth commission report, a quasi-judicial document containing a methodical collection of testimony from thousands of individuals, is also heralded as an instrument in “charting the hidden past.”¹⁸ These processes raise important questions regarding how these representations of absence interacted with both political and individual memory, and with human agency. What does the evidence provided by the traces say? While it can provide more than generic truth facilitated by law and science, it offers less than experience. What are the implications of this tension or gap?

The review of the current scholarship offered in the following section briefly outlines the theoretical starting points of this thesis and those accounts that best help to inform its specific problematizations of truth and justice in transition. Following this overview, the more specific approach to the paper’s problematization of the relationship between truth and justice will be articulated, including the theoretical approach that will be used to structure its inquiry.

¹⁷ Zoë Crossland, “Of Clues and Signs: The Dead Body and its Evidential Traces” (2009) 111:1 *American Anthropologist* 69 at 71.

¹⁸ Priscilla B. Hayner, *Unspeakable Truths: Confronting State Terror and Atrocity* (New York: Routledge, 2001) at 25.

Situating the Study: Justice as Responsibility, Inheritance as 'Truth'

Invisibility does not denote the absence of a relation; it implies relations with what is not given, of which there is no idea. Vision is an adequation of the idea with the thing, a comprehension that encompasses. Non-adequation does not denote a simple negation or an obscurity of the idea, but - beyond the light and the night, beyond the knowledge measuring beings ... the absolutely other.¹⁹

Argentina's 'Dirty War' and the transitional processes enacted by the government have been addressed by literature emerging from a number of disciplinary approaches. Broadly, these may be thought of as those studies which have adopted historical focuses, those concerned primarily with human rights questions, and those which are informed by the multidisciplinary cultural studies field and which have employed more theoretical oriented analysis.

Human Rights & Historical Approaches to the 'Dirty War'

Historical studies of the 'Dirty War' period have analyzed antecedents to the violence by focusing on key political developments and economic questions which increasingly destabilized Argentina's internal affairs. The history of the nation in the 20th century is marked by a wresting for political control backed by a continual threat of military intervention and coupled with a crisis of legitimacy of democratic rule. Several historical analyses have thus focused on various actors as protagonists in the progressive unfolding of Argentina's violence. In this vein, the politicized trade unions, guerilla movements, the military, and several Argentine leaders, particularly Juan Domingo Perón and Juan Carlos Onganía, have been primary subjects of studies by authors such as Donald C. Hodges, Richard Gillespie, Patricia Marchak and James Brennan.²⁰ Other

¹⁹ Emmanuel Levinas, *Totality and Infinity: An Essay on Exteriority*, trans. by Alphonso Lingis (Pittsburgh: Duquesne University Press, 1969) at 34.

²⁰ See: Donald C. Hodges, *Argentina, 1943-1987: The National Revolution and Resistance*, revised ed. (Albuquerque: University of Mexico Press, 1988); Richard Gillespie, *Soldiers of Perón: Argentina's Montoneros* (New York: Oxford University Press, 1982); Patricia Marchak & William Marchak, *God's*

political historians, including David Rock, Guillermo O'Donnell and Alberto Spektorowski²¹ have produced accounts concerned with the role of ideological currents and political systems, especially bureaucratic authoritarianism and nationalism. By these accounts, ideological frameworks that provided the supporting foundations of the 'Dirty War' represent a culmination of a long-standing economic and political power struggle between Liberal, Radical, Populist, Fascist and Conservative forces. At the core of these studies lies historical explanations for the political violence which crystallized in the notion of 'subversion' so integral to the military rule and to the persecution of a wide variety of social actors including psychoanalysts, those who had strayed too far from bourgeois values, labour leaders, journalists, social workers, and student organizations.

The current study draws on historical accounts to provide important contextual details regarding the events that transpired during the 'Dirty War' period. While it does not explicitly include them as part of its critique, it recognizes the limitations of the discipline of history and its narratives in regards to the tendency to exclude "subjective perceptions and experiences of social actors."²² Given the aim to move beyond structural-level analysis towards a focus on the "active and productive role of individual and collective subjects (the question of agency),"²³ the paper's primary argumentation depends instead on more theoretically oriented works.

Assassins: State Terrorism in Argentina in the 1970s (Montreal: McGill-Queen's University Press, 1999); James Brennan, ed., *Peronism and Argentina* (Wilmington, DE: Scholarly Resources Inc., 1998).

²¹ See: David Rock, *Authoritarian Argentina: The Nationalist Movement, Its History and Its Impact* (Berkeley: University of California Press, 1993); Guillermo A. O'Donnell, *Bureaucratic Authoritarianism: Argentina, 1966-1973, in Comparative Perspective*, trans. by James McGuire & Rae Flory (Berkeley: University of California Press, 1988); Alberto Spektorowski, *The Origins of Argentina's Revolution of the Right* (Notre Dame: University of Notre Dame Press, 2003).

²² Jelin, *supra* note 14 at 46.

²³ Jelin, *ibid.* at 48.

Rather than providing explanations for the violence as historical accounts do, analyses emerging from the human rights field have tended towards outlining systems of oppression, listing offences, and identifying culpability. In reconstructing Argentina's violence from testimony and a range of physical remains, human rights organizations and groups, including CONADEP²⁴ and the EAAF, have offered ample evidence attesting to its systematic nature. As Amnesty International articulates in one of its reports, the evidence submitted fully proves the criminal plan of the junta and that its operational strategy of clandestine action had been systematically carried out.²⁵ Likewise, in the presentation of its report on the 20th of September, 1984, CONADEP unequivocally attributed the degree of violence attained to its institutionalization in the military. This, the report states, permitted it to be systematically administered by officials ranging from high ranking military officers through to smaller task forces and police precincts.²⁶ Underpinning the approach of these primary sources is the need to establish numbers of victims and the systematic nature of the violence in order to inform and support policy and political choices as the society engages in human rights reform.²⁷ While ascertaining these elements is a vitally important part of the transition process, this methodology has limitations in reflecting more experiential dimensions of the violence. This is an especially pressing consideration when contextualized in the larger claims to 'truth' that

²⁴ Although CONADEP is not a human rights organization or group, its membership and approach were heavily influenced by a human rights perspectives and demands. For a discussion of the convergence and high levels of cooperation with human rights organizations see generally: Emilio Crenzel, "Argentina's National Commission on the Disappeared: Contributions to Transitional Justice" (2008) 2:2 *International Journal of Transitional Justice* 173.

²⁵ Neil J. Kritz, ed., *Transitional Justice: How Emerging Democracies Reckon With Former Regimes*, Vol. 2 *Country Studies* (Washington: USIP Press, 2005) at 345.

²⁶ Kritz, *ibid.* at 338.

²⁷ See generally: Brysk, *supra* note 4.

these processes make, as well as in regards to the question of truth as the basis for justice. Broadly, these considerations present the central problematic addressed by the paper.

Perspectives Emerging from the Cultural Studies Field

Despite the importance of acknowledging the historical and political origins of the violence and its institutionalized nature, understanding its full impact demands moving beyond such structural understandings. Based on their incorporation of ethnographic elements and their facilitation of critical questions regarding epistemological approaches to understanding human experience, perspectives emerging from the cultural studies move beyond the legal, historical and political. Given the importance of the clandestine in the junta's oppression, the 'Dirty War' has been understood by several cultural studies theorists as contingent on questions of the visible, and the non-visible or invisible. Many of these multidisciplinary studies focus on questions of signs and symbols by which the Argentinean 'Dirty War' was experienced and reconstructed. This approach also provides an important connection with scopic and linguistic semiotics, as well as cultural codes as a means of interpretation. In turn, these concepts have been used to engage with questions of epistemology by emphasizing that different ways of knowing depend on different forms of representation and ways of looking or perceptual codes. These varying ways of looking interact with human agency in a number of ways. Broadly, questions of representation and epistemology have been addressed two ways by those writing about the 'disappeared' and the 'Dirty War.'

The first way that these matters have been discussed is in regards to the semiotic disorientation in the 'Dirty War' itself. The analytic considerations that this modality enables emphasize the junta's repeated manipulation of the visible in order to confuse

and disorient. The mass abductions of the ‘disappeared’ and the acts of torture were conceived by the junta as a means of rendering ‘subversion’ visible. In turn, at the end of the dictatorship the invisible stolen body was not proclaimed dead and had neither a funeral nor a death record until the bones were reconstituted in such a way that the tangibility of identity was established.²⁸ In response to the distortions these accounts note, human rights protest played an important role by presencing. The Mothers of the Plaza de Mayo for instance, marked the absence of their children by their visible protest in public spaces.²⁹ The *Escraches* or performance art protests conducted by the H.I.J.O.S. group, ‘Children for Identity and Justice, against Forgetting and Silence,’ provide another example of a visible demarcation of the voids created by the political violence. Theatrical and highly organized in nature Diana Taylor explains, the *Escraches* not only involve bodies in protest, but the use of photographs, paint, costumes, and music to mark the ‘hidden’ realities of the violence that permeated the past and its effects in the present.³⁰

By focusing on cultural codes, these accounts have pointed to the creation and contortions of meaning during the conflict. The tension of visibility and invisibility has for instance been employed to understand the rhetoric, language and symbols used by the junta to efface stability in meaning. According to Marguerite Feitlowitz, the junta co-opted elements of a long history of Argentine cultural, political and ideological symbols to divide society into the clandestine and the public. By such actions, she argues, the junta could: obscure its actions, inspire trust amongst its population, manipulate people’s

²⁸ Feitlowitz, *supra* note 2 at 49.

²⁹ Zoë Crossland, “Violent Spaces: Conflict Over the Reappearance of Argentina’s Disappeared” in John Schofield, Colleen M. Beck & William Gray Johnson, eds., *Materiel Culture: The Archaeology of 20th Century Conflict* (London: One World Archaeology, Routledge, 2002) 115 at 122.

³⁰ Diana Taylor, “You are Here: The DNA of Performance” (2002) 46:1 *TDR* 149 at 169.

emotions, and confuse.³¹ Similarly, Taylor's analysis has used invisibility and visibility to understand the powerful effects of the 'Dirty War' by its reordering of cultural meanings. "Just as human beings disappeared," she notes in the introductory pages of her study, "so did civil society. Discursive absences led to empty streets and missing people, just as missing people and empty streets led to more discursive absences."³² Proceeding from this premise, she sets out to document how terror was transmitted through a myriad of cultural conduits, rendering the population into docile bodies which could then be politically inscribed.

These studies have merit in pointing to a fragmentation of experiences, and of highlighting the various semiotic confusions - scopic, linguistic, and cultural - that the violence effected. By stressing the matter of the creation of meaning they prompt questions regarding the possibilities of knowledge regarding the lived experience of the 'Dirty War.' The shortcoming of such accounts however is that in their focus on *systems* of political and cultural meanings, they fall short of fully acknowledging the matter of human agency. Osiel summarizes this limitation by noting their portrayal of "a sinister image of central orchestration and perfect coordination, one in which all the curious details and tangential diversions of social life are now harnessed to a single scheme, conceived and implemented from above."³³ Thus, while providing inroads to an analysis which goes beyond structural considerations, they must be built upon to consider the question of agency more carefully.

³¹ Feitlowitz, *supra* note 2 at 20.

³² Diana Taylor, *Disappearing Acts: Spectacles of Gender and Nationalism in Argentina's Dirty War* (Durham: Duke University Press, 1997) at x.

³³ Mark J. Osiel, "Constructing Subversion in Argentina's Dirty War" (2001) 75 *Representations* 119 at 124.

The second way that questions of the visual have been used to understand questions of epistemology and agency in the ‘Dirty War’ treats these matters more directly by contextualizing them in the transitional process itself. While arguments such as Taylor’s and Feitlowitz’s have highlighted these concerns within the actual period of violence, these other studies have pursued complimentary theoretical directions in regards to the truth construction process. Avery Gordon’s work regarding the notion of haunting in Argentina’s transition for instance, has explicitly problematized the possibilities for accessing knowledge regarding the experience of the State’s violence. Here she focuses on symbols in order to acknowledge the multiplicity of understandings and tangents of power marking the experience of the ‘Dirty War,’

... the screams and cries, the silences, the density of the nation’s history, the ideological justifications, the geopolitical forces, the long-standing creative capacity for domestic terror, the cultural pathways of the tango and the pampas, the debts, the international economies of money and national pride, the courageous political resistance ... [which] can be isolated and laid bare ... put to the task of political exposure ... but it seems as if in the very act the ghost returns, demanding a different kind of knowledge ...³⁴

Like Gordon, Zoë Crossland’s works deal explicitly with epistemologies and human agency in reconstructing the past. Specifically, Crossland contextualizes these concerns within the forensic anthropology and its attendant discourses regarding the bodies of the Disappeared. By examining the tensions between the body as evidence and the political or articulated body, Crossland focuses on the creation of meanings through the convergence of scientific and empirical claims with political, cultural and personal ones. In their treatment of agency, Crossland and Gordon’s works question the very value or possibilities of semiosis in reconstruction and inheritance by advocating a

³⁴ Gordon, *supra* note 1 at 64.

distinct epistemology that undermines causality, linearity and rationality.³⁵ In doing so, these analyses push the theoretical limitations of Taylor and Feitlowitz's focus on *systems* of meaning, iterating instead a knowledge of the past based on haunting and the excesses of knowledge that can't be captured in languages of systematicity and science - critiques that offers more room for experience in the creation of meaning than the structural orientation of the social or political sciences.

While the accounts outlined by no means provide an exhaustive review of the literature on Argentina's 'Dirty War,' they have been outlined in order to situate some of the broad theoretical concerns addressed by this paper. Derrida's conceptualization of justice permits the transition and truth processes to be understood in the light of responsibility and learning. In turn, this raises questions about the complexities of the past to be reconstructed and the means by which it may be inherited. Several analyses emerging from the cultural studies field have discussed the construction of meaning in the 'Dirty War,' permitting an understanding of how it re-ordered multiple spheres of Argentine society. Further, they underscore that the truth process depended on a rendering visible of an invisible past, and in doing so provide a foundation for problematizing a single 'reading' or inheritance of truth from the circumstances.

The current study builds on how the visible representation of absence plays out in the context of the truth and justice. Specifically, it examines the way in which Argentina's particular process of inheritance and truth depended on languages and concepts of science and law. In turn, it considers the way that this inheritance has interacted with the agencies of the disappeared, the survivors, the military, the forensic anthropologists and the truth committee, and what this means for justice. In order to do

³⁵ *Ibid.* at 66.

so, it considers these processes and questions using the notion of knowledge and acknowledgement, a notion, which is pivotal to the transition.

Invisibility to Visibility, Knowledge to Acknowledgement, Truth to Justice

The value of the forensic and testimonial traces presented by CONADEP and the EAAF in their reconstructions is contained in their capacity for representing past violent events and in rendering their truth. Here, law and science coalesce to enable and privilege the ‘certain’ forms of knowledge derived from evidentiary traces and through which personal healing and closure is thought to be achieved.³⁶ As seen in Derrida’s discussion of justice, this healing process facilitates a shared sense of past by which the future may be forged for the transitional society. However, as McEvoy and Conway point out, this is not a neutral process. Legal regulation of the memorialization of violence in post-conflict societies, they argue, is reflective of political processes that play a key role in both affirming knowledge and prompting acknowledgement of past events. Understanding the difference between knowledge and acknowledgement provides an important means of unpacking some of the processes integral to thinking about how the traces in question are used to pursue and achieve justice. Indeed, acknowledgement, summarized by Nagel as “... what happens and can only happen to knowledge when it becomes officially sanctioned, when it is made part of the public cognitive scene,”³⁷ is a key mechanism in the process of dealing with former torturers. Whereas knowledge is tied to the passage of events and the objects representative of this passage themselves then, acknowledgement may be thought to result from their compiling in such a way as to

³⁶ Kieran McEvoy & Heather Conway, “The Dead, the Law, and the Politics of the Past” (2004) 31:4 J.L. & Soc’y 539 at 554.

³⁷ Lawrence Weschler, *A Miracle, A Universe: Settling Accounts with Torturers* (New York: Pantheon Books, 1990) at 4.

yield truth and in turn, public recognition of this knowledge and justice.³⁸ These compiled traces include the reconstruction of physical remains, as well as truth commission reports and other systematic embodiments and documentation of public memories. In order to understand how the acts of construction or reconstruction of this forensic truth are mediated, politically and otherwise, it is important to analyze the mechanism or catalyst necessary to make the transition from knowledge to acknowledgement. These mechanisms are the acts of compilation and ‘translation’ of experience that are exercised upon both the physical and testimonial traces to render them symbolic and to infuse them with certainty.

This thesis will focus on the move from knowledge to acknowledgement of the past in Argentina’s transitional process. In order to do so, it will consider the effects of the use of relationships of evidentiary representation on the type of justice that is achieved. It proceeds from the contention that the means of rendering the invisible visible are a direct product of certain epistemological values and frames privileged by the human rights mechanisms employed, and that this in turn has a significant impact on the type of justice achieved. In pursuing these considerations, this analysis problematizes the seamless relationship between truth and justice that is so prevalently held and upheld by the human rights apparatuses, demonstrating that in this context the construction of truths in a relationship of representation overwhelmingly yields a retributive justice embodied in the representative figure of the prosecuted.³⁹ Like Derrida, Levinas conceptualizes

³⁸ McEvoy & Conway, *supra* note 35 at 542.

³⁹ As Julie Taylor writes in her article ‘Body Memories: Aide-Memoires and Collective Amnesia in the Wake of the Argentine Terror regarding *Nunca Mas*, “This record, part of ongoing disputes over a final version of the past and thus preceding any project of writing a history of its era, was to establish *juridical truth*. In Argentina, on the basis of the information in this record, the perpetrators of crimes not yet denounced when the volume was compiled were to be tried and sentenced,” [emphasis added]. See: Julie Taylor, “Body Memories: Aide Memoires and Collective Amnesia in the Wake of Argentine Terror” in

justice as based on responsibility. Further, his theoretical works emphasize notions of the ‘other’ and questions of representation. His discussion of the ‘immemorial’ holds that the other’s experience of violence calls forth the responsibility of justice that can never be represented and can never be given presence.⁴⁰ Following this, the organizing hypothesis is that although the reconstruction of the evidentiary remnants as an establishment of patterns of violence may satisfy the demands of a narrow and legalistic concept of justice and truth, that it fails to provide for a more fundamental and ethical justice. In the face of virtually indescribable violence, the search for truth can and should not be conceptualized as simply a matter of weighing and demonstrating collected evidence against an independent reality of the past.

As Richard Wilson notes, many types of truths exist to be told, all referring to the same set of violent events. These truths are both yielded from, and operate on, different planes and each move towards specific ends, but all may be thought to be cross-cut by one important distinction: that between accessing knowledge and established fact on the one hand, and accessing the experiential on the other. Forensic truth, he argues, stands alone as that which produces knowledge that has epistemological value in recounting the past in human rights cases.⁴¹ As such, forensic evidence becomes the knowledge on which law’s acknowledgement is made. Framed by the concerns of forensic

Michael Ryan & Avery Gordon, eds., *Body Politics: Disease, Desire, and the Family* (Boulder: Westview Press, 1994) 192 at 194.

⁴⁰ See: Emmanuel Levinas, “Transcendence and Evil,” in *Collected Philosophical Papers*, Phaenomenologica Vol. 100, trans. By Alphonso Lingis (Boston: Mariner Nijhoff Publishers, 1987) 175 where he writes “Suffering qua suffering is but a concrete and quasi-sensible manifestation of the non-integratable, the non-justifiable. The ‘quality’ of evil is this very non-integratability ... this concrete quality is defined by this abstract notion.” (180) As such, evil is unquantifiable and can’t be remedied with justice which is calculated and integratable, and which “... proceeds from a morality of recompense and punishment, a certain already technological order of the world.” (181); See also: James Hatley, “Nameless Memory: Levinas, Witness, and Politics,” in Gabriel Ricci, ed., *Justice and the Politics of Memory: Religion and Public Life*, vol. 33, (Piscataway, NJ: Transaction Publishers, 2003) 33 at 35.

⁴¹ Richard Wilson, *The Politics of Truth and Reconciliation in South Africa: Legitimizing the Post-Apartheid State* (New York: Cambridge University Press) at 37.

epistemologies, the search for patterns is privileged as the means of most effectively conveying truth, reflected in the language found throughout the Argentinean truth commission report where emphasis is repeatedly placed on demonstrating the systematic nature of the oppression and violence. The effect of this emphasis on patterns is important in that it recasts the truth as a relation of representation, one which often demands the translation into a physical measurable form such as statistics and proof of bodily harm. In turn, these measurements allow for the development of narratives infused with the certainty provided by science, and that may be used to satisfy law's acknowledgement that these events transpired.

The subjective experience of those who made up those remains, their individual stories, their political allegiances and space, and their otherness, are displaced by the universal language of law and the justice that law is thought to be able to achieve. The prosecution of the transgressors depends in part on this sublimation of the multitude and excess of voices of the other into the universality and calculability of law. Hatley underscores this sentiment, noting that no matter how much the search for justice attempts to restore equity to political life, the differential experience of the suffering of violence and its effects can never be undone.⁴² In this instance then, not only are the voices of the living leveled through their appropriation by the rhetoric of an impossible equality, but the possibility of ethical justice is further jeopardized in the process of law and science's appropriations of the voice of the dead to mark the atrocities' space in history.

⁴² Hatley, *supra* note 39 at 36.

Memory, Phantasma & Otherness as a Framework for Locating Ethical Justice

A man's life, as unique as his death, will always be more than a paradigm and something other than a symbol.⁴³

One way to address these concerns and to problematize the positivist assumptions of truth underpinning documentation in human rights processes is to focus on the question of memory. As Levinas notes, memory contains the capacity to master the past, but in the context of remembering other's suffering it runs the risk of being appropriated by the one who remembers, co-opting it into current projects rather than the experience of the sufferer.⁴⁴ In this regard, memory not only proves to be a vitally important mediator and a privileged site of corroboration in that in its politically and judicially arbitrated form it gives voice to the inertness of the physical traces and the ostensible fixedness of past events, but it offers a space to explore what remains absent from the physical representations. In the act of remembering, the image or symbol always contains a reference to, and is the inscription of something 'other.' Aristotle speaks to this using the example of a drawing, where the inscription consists of two things: the inscription itself, and the representation of whatever it is a copy of. Here, the inscription is termed *phantasma*, and the object of which it is a copy, *eikon*.⁴⁵

There are three primary ways in which *phantasma* as representation can and should be thought to operate in this context. Each carries its own capacities and limitations for highlighting the configurations of presence and absence in the process of representing the 'truths', and in establishing meaning in the 'Dirty War.' While the first

⁴³ Derrida, *supra* note 7 at x.

⁴⁴ Levinas, *supra* note 19 at 56; See also: Hatley *supra* note 39 at 39.

⁴⁵ Paul Ricoeur, *Memory, History, Forgetting* (Chicago: University of Chicago Press, 2006) at 17.

is concerned with the experience of the violence itself, the next two refer to the judicial and scientific reconstructions.

- I. The forensic remnants, or the knowledge on which acknowledgement must be made, taken as a whole – remembering as testimony, bones, clandestine detention centers, bureaucratic records, and other remains created by the junta are *phantasma*. These *phantasma* are the creation of the junta and express the intentionality of the exercise of their power and their attempted suppression of ‘subversion’. Their violent power is symbolized, documented, and remembered through the presence of these remnants.⁴⁶
- II. That which the forensic anthropologists and CONADEP have created in their reconstructions are also *phantasma*. These *phantasma* ostensibly refer to the truth and reality of the ‘Dirty War.’ They are important because they serve as the basis of claims to justice and truth, which in turn are perceived to have the capacity to provide healing.
- III. Whereas the *phantasma* of the remains speak to the intentionality and salience of power exercised by the junta, and the *phantasma* of the truth report and forensic reconstructions speak to justice as defined by the legal system’s use of voices of the survivors to demonstrate systematicity and to prosecute, the *phantasma* of the victim is only possible through the mediating influence of an anterior agency. In other words, the remains are mute in terms of the victim’s subjectivity, and are only ‘made to speak’ on their behalf through testimony that is not their own (and its attendant matters of intention, credibility, and decontextualization), and scientific techniques.

These ways of thinking about *Phantasma* provide a means of discussing the representative power of the evidentiary traces, underscoring how they embody questions concerning intentionality and agency.⁴⁷ In turn, this relates to Derrida’s notion of

⁴⁶ While this framework acknowledges the importance of the remains as symbolic of the exercise of power of the junta, it in no way argues or wishes to imply that the war waged against ‘subversion’ in the population was successful by the regime’s or any other standards.

⁴⁷ *Phantasma* also differs from but provides a connection with the idea of phantom through its etymological relation to the term. See: Jacques Derrida, *Monolingualism of the Other; or, the Prosthesis of Origin*, trans. by Patrick Mensah (Stanford: Stanford University Press, 1998) at 25. The concept of the phantom may be thought to play an important role in analyzing how the Argentine people came to understand the suffering of the ‘Dirty War.’ As Crossland explains, the state of ambiguity imposed upon the Argentine people was often conceptualized by reference to the notion of ghost and specter. The disappeared were related to as phantoms as in their state of absence they lacked identity and place, but could not, in the absence of physical proof, be declared dead. See: Crossland, *supra* note 28 at 123.

hauntology, a concept which concerns itself with the interplay of presence and absence in the processes of communication and representation, underscoring the paradox of the necessity of non-presence in establishing meaning of what is present.⁴⁸ Hauntology is offered by Derrida as a means of overcoming the logic of certainty found in ontological philosophy and the influence this ontology has on the political and the administration of human affairs. In its privileging of ‘being’, ‘presence’ and the attempt to understand ‘what is,’ Levinas argues, the logic and language of ontology reduce otherness or alterity to relations of the same. This primacy of the same precludes the ethical which he conceptualizes as alterity and otherness; alterity being that which inevitably escapes the knowing powers of the subject. In this case, the logic of ontology may be thought to exist in law and science’s ‘ways of knowing’ that are used to access and represent past violence, eroding the individual and oft-times inexpressible experience of the victims by providing tangible objects which may be understood and accessed by all. Indeed, Critchley points out that Levinas conceptualizes epistemology as a form of ontology noting:

... epistemology in either its idealist or realist versions is an ontology insofar as the object of cognition becomes an object *for* consciousness, an object that can be internalized by consciousness or grasped through adequate representation. The ontological event ... for Levinas, consists in suppressing or reducing all forms of otherness by transmuting their alterity into the same ... where the other is assimilated like so much food or drink ...⁴⁹

These ideas articulated by Derrida and Levinas provide a valuable means of demonstrating what is missing in the type of justice that depends heavily on physical and symbolic traces made known through scientific truth. Derrida in fact advocates dialoguing with specters in the interest of justice. In the case at hand this implies the

⁴⁸ Pierre Macherey, “Marx Dematerialized, or the Spirit of Derrida” in Michael Sprinker ed., *Ghostly Demarcations: A Symposium on Jacques Derrida’s Specters of Marx* (London: Verso, 1999) 17 at 20.

⁴⁹ Simon Critchley, *The Ethics of Deconstruction: Derrida and Levinas* (Edinburgh: Edinburgh University Press, 1999) at 6.

need for a careful scrutiny of those things incapable of being directly stated by the remains. In this regard, his text ‘Specters of Marx’ draws two important characterizations of specter that distinguish it from *phantasma*. The first of these characterizations is that specter possesses a paradoxical phenomenality in which the visibility of invisibility is manifested. This visible invisibility is that of someone *other as other*, and as such through its otherness and singularity exceeds a relationship of mere symbolism. The second distinction that Derrida makes is that the specter looks at us. In its French version ‘il nous regarde,’ an idiom which means that the specter is our concern,⁵⁰ calling forth a responsibility incapable of being demanded by mere objects. These ideas are mirrored in Levinas’ notion of the ‘immemorial’ previously visited, wherein the other calls forth from out of the other’s time.⁵¹ Derrida’s concept of specter along with both Levinas and Derrida’s ideas regarding ethics will be used to conceptualize the starting point by which an ethical sense of justice may be located.

Methodology & Chapter Overview

In order to provide the context for Argentina’s political transition, this thesis begins with a historical overview of Argentina’s social political situation in the decades leading up to the ‘Dirty War.’ The information provided in this chapter draws on political historical accounts and, to a lesser extent, historical synopses iterated in the human rights literature regarding Argentina. Rather than positing a cause and effect analysis, this overview focuses predominantly on the increasing role of the military and the ideological complexity of Argentine politics during period spanning 1930 to 1976, an approach consistent with the paper’s intent to avoid causal or structural understandings.

⁵⁰ Derrida, *supra* note 7 at 6.

⁵¹ Hatley, *supra* note 39 at 36.

The middle chapters of the paper, chapter three and chapter four, are structured according to the arguments outlined in the theoretical framework presented above. Broadly, this may be understood as an exploration of the processes of ‘knowledge’ and ‘acknowledgement’ in the transitional process. Chapter three uses studies emerging from the cultural studies field in order to convey an understanding of the violence as a singular experience belonging to the ‘other.’ Simultaneously, the arguments in the chapter address how the semiotic and physical traces demonstrate the power of the junta who prompted them. In a reflexive attempt to avoid categorizing the understandings that can be gained from these acts of representation, it considers semiotic and physical traces using Levinasian theory that holds that the trace is a relationship of signification that facilitates an ethical relation by *indicating* an absence rather than by *defining* it.

Chapter four addresses the reconstructions of truth undertaken by both the truth commission and the forensic anthropologists. In order to examine how the truth was constructed by the commission, it provides an analysis of the narrative structure of the report in light of the human rights literature regarding how it was used to fulfill legalistic ends. To provide further complexity to this analysis and to highlight what the report excludes, it considers this truth construction in light of the law’s reliance on fact positivism as well as the need for human rights reporting to reflect the systematicity of violence. The second part of the chapter focuses on the truth as reconstructed by the forensic anthropological work undertaken in the years of transition. Here, the studies and publications of the Argentinean Forensic Anthropology Team provide the basis for the analysis, while theoretical works concerned with positivism, semiosis, and the question of

human agency are drawn on to explore the question of what is missing from these processes of identity restitution.

In order to synthesize the thesis' arguments, the concluding chapter turns again to Levinasian and Derridean critiques of structural understandings of truth, law and justice. Here, I draw on Derrida's arguments regarding archive (understood as Argentina's official state memory) in order to problematize the reductionism of the past in the interest of relations for the future. Together with Levinas' observations that historiography inevitably translates human experience into evidence, these theoretical arguments are used to point out what is missing from positivist forms of truth and to iterate a notion of ethical justice and truth. In turn, this concept provides means of asking questions to inform further possible research about truth and justice in transition.

Finally, the arguments in this thesis attempt to avoid the sort of knowledge production it critiques by *problematizing* elements of the transitional process rather than by providing concrete solutions or a total representation. In this way, the paper does not claim to represent a 'closed' truth or final word. Instead, it points to a multiplicity of truths by asking how the the experiential, the ethical and the inter-subjective rather than the positivist concerns of 'proof' or 'disproof' may come to the the fore in questions of truth and justice.

Chapter 2

'The Military Period': Intransigence, Radicalization & Organic Society

The 1930 dictatorship replaced the last Radical government; restricted democracy replaced the 1930 dictatorship; the 1943 military regime replaced the restricted democracy; a Peronist tyranny of the majority replaced the 1943 military regime; in 1955 a liberal backlash replaced the tyranny of the majority; the 1966 dictatorship replaced the liberal backlash; in 1973 a renewed tyranny of the majority replaced the dictatorship; the 1976 replaced the new tyranny of the majority; and then came the radical government of 1983. Like France in 1848, which had to repeat the work of 1789, Argentina was back where it started in 1916.¹

The coup that installed the first of the 'Dirty War' juntas in 1976 was in fact welcomed by a populace whose tumultuous political and economic history was closing in on itself. Videla's junta touted the promise of stability in a nation that had witnessed years of economic instability, political in-fighting within the powerful Peronist movement, as well as conflict between the powerful politicized labour forces and the military, all of which had culminated in guerrilla warfare and sectarianism. During the numerous seizures of power and states of siege that it implemented, the military, itself ideologically fractured, had exercised power with impunity. On the whole, twentieth century Argentina represents a densely woven political history in which the turn of the century land-based aristocracy and oligarchs, the Catholic Church, trade unions and labourers, the military, and later students and guerrillas struggled for their interests by co-opting political power in an unstable and readily usurped public sphere.

The 'military period,' as it is often referred to, began with the armed force's seizure of the government in 1930 and did not end until the transitional democratic government came into power in 1983. This period has been characterized as one locked in a cycle of anarchy, dictatorship, and restrained democracy.² Two main tendencies

¹ Donald C. Hodges, *Argentina's 'Dirty War': An Intellectual Biography* (Austin: University of Texas Press, 1991) at 25.

² Carlos Santiago Nino, *Radical Evil on Trial* (New York: Oxford University Press, 1991) at 43.

attempting to account for this cycle have arisen in the scholarship. The first is to pathologize Argentinean history by outlining a number of prominent problematic dynamics that marked it. The analysis provided by Carlos Nino for instance, provides an analytical framework based on four characteristics: ideological dualism, corporatism, anomie, and concentration of power.³ This understanding of the past can in many ways be politically instrumental, providing a history based on diagnosis of social and political ills creates a space for recommending how to ‘treat’ them. In Nino’s case, the recurrent dynamics he outlined were used to make a case for the institution of rule of law and human rights frameworks. The second tendency in the scholarship, related to the first, is to present the country’s political history as a struggle framed in an understanding rooted in polarized political forces. This latter type of analysis can also be problematic in that its totalizing approach may also lend itself to political agendas and perpetuate unnuanced understandings that deny the actors of their agency, stripping away important contextualizing details of the violence. One way that this type of argument has been used, for instance, is to support the theory that outlines the military and the guerillas as the ‘two demons’ responsible for the violent repression that occurred during the ‘Dirty War’ years. This ‘theory’ accounts for the violence as a confrontation between “two

³ Nino, *ibid* at 44. Other accounts, particularly those including historical overviews from a human rights perspective, also adopt this method of focusing on structural characteristics such as the ideological, economic, and political. Wolfgang Heinz’s account, for instance, opens with a series of outlines including ‘History and the Political System,’ ‘Economic Factors,’ ‘Ideological Factors,’ and ‘Foreign Influences.’ This overview however, does conclude with a statement that Gross Human Rights Violations cannot be explained by any single one of the factors identified. See: Wolfgang S. Heinz, “Determinants of Gross Human Rights Violations by State and State-Sponsored Actors in Argentina, 1976-1983,” in Wolfgang S. Heinz & Hugo Frühling, *Determinants of Gross Human Rights Violations in State and State-sponsored Actors n Brazil, Uruguay, Chile, and Argentina 1960-1990*, International Studies in Human Rights Vol. 59 (Boston: Marinus Nijhoff Publishers, 1999) 594.

symmetrical military totalitarianisms,”⁴ leaving out important historical and political nuances.

It is undoubtedly the case that Argentina’s history contains ideological foment exacerbated by political apparatuses and structures rooted in corporatist systems and destabilizing power relationships. By focusing on particular details regarding Argentina’s twentieth century political violence pertinent to the state violence that the remainder of the thesis addresses this chapter attempts to avoid presenting a totalizing narrative. As such, the chronology highlights the resort to violence to achieve political ends, and the prominent role of the military in Argentine politics and political repression rather than providing a comprehensive explanation of the Argentina’s political past.

Immediately following the 1930 military coup, the first of five undertaken by 1973,⁵ the Supreme Court recognized the legitimacy of the military government in a precedent setting move which extended judicial recognition to *coups d’état*.⁶ The justification provided by the court was that the military alone was the force capable of protecting life, liberty and property in the face of strife and break-down in order.⁷ Over subsequent years the power of the armed forces was both drawn on to replace undesirable governments by direct military rule, and to support the institution and power of civilian governments.⁸ As Marchak cites in this regard, during the fifty-three years of pronounced

⁴ David Rock, *Authoritarian Argentina: the Nationalist Movement, its History, and its Impact* (Berkeley: University of California Press, 1993) at 219.

⁵ Patricia Marchak & William Marchak, *God’s Assassins: State Terrorism in Argentina in the 1970s* (Montreal: Queen’s University Press, 1999) at 50 & 67.

⁶ *Ibid.* at 51. Consequently, various political parties forged ties with the military in an attempt to garner their powerful support. The broad presidential powers in regards to the implementation of states of siege, the ability to detain and displace people during the same, and the powers to remove elected authorities during times of strife also served to concentrate power in the presidency and increase the power of the military. See: Carlos Santiago Nino, *supra* note 2 at 49.

⁷ Marchak, *supra* note 5 at 51.

⁸ Liberalism, for example, while traditionally associated with support for popular democratic systems was in fact more firmly entrenched within the authoritarian political tradition in Argentina. This

military presence, the army successfully ousted from power: “the middle classes and their representatives (1930), the export agriculture oligarchy (1943), the labour unions and populist parties (1955), the industrial sector (1962), the traditional political parties (1963), and again the unions and populism in 1976.”⁹ Not insignificantly, the army was also instrumental in quelling the Red Scares following the Russian Revolution, a role which depended on the violent suppression of communist subversion.¹⁰ Thus, together with the Church, the military came to be seen as protector of national values which were overwhelmingly seen as best embodied by the institution and preservation of an organic social system.¹¹ While this does not denote a unified political position of the military, it does indicate the belief that the military perceived themselves as the gatekeepers of an ordered society and Argentina’s national essence.¹² This ideation had especially important consequences in the face of nuclear proliferation and international Cold War relations as warfare became increasingly oriented to questions of security and insurgency rather than to the protection of territorial boundaries. What were some of the social and political conditions in which this military dominance and its increasing scope of power played out? How did the military assert and exercise its role as the protector of the nation during the fifty plus year period that it maintained prominence? And finally, how did this

authoritarianism relied on the military to buttress its power and to oppose both left-wing and populist currents through the exercise of repressive power. See for instance: Alberto Spektorowski, *The Origins of Argentina’s Revolution of the Right* (Notre Dame: University of Notre Dame Press, 2003) at 38.

⁹ Rouquié in Marchak, *supra* note 5 at 65.

¹⁰ Hodges, *supra* note 1 at 24.

¹¹ Nino, *supra* note 2 at 46.

¹² Osiel’s analysis of the military’s ideology in the ‘Dirty War’ period provides a fascinating account of this phenomenon, positing that a cross-over of a particularly radicalized Catholicism known as Ultramonte with virulent nationalist sentiments yielded a cornerstone of the conception of subversion that it acted to eradicate during the ‘Dirty War.’ See: Mark J. Osiel, “Constructing Subversion in Argentina’s Dirty War” (2001) 75 *Representations* 119.

self-perceived role impact the population through growing repression and concepts of ‘subversion’?

Political Rule & Resistance, 1946-1976

Combined with external influences of 20th century politics such as the Russian Revolution and the Second World War, the intricacies of Argentina’s internal ideological currents and state apparatuses provided the backdrop for Juan Domingo Perón’s period of rule. Whether Perón’s doctrine is understood as the crystallization of protracted ideological struggle in the early 20th century,¹³ as a response to external events such as the rise of Fascism and National Socialism in Europe,¹⁴ or as a result of both, there is little doubt that his politics were decisively important in Argentine history. Arriving home from a spell in Second World War Italy with an acute awareness of the powers for mobilizing the masses inherent in the competing ideologies of fascism and communism, Perón first became secretary of labour in 1943, then minister of war, and finally President in 1946.¹⁵ His espoused ‘third way’ between communism and capitalism embodied Argentina’s fractured politics realities and interests in that his doctrine resisted alignment with any one pole; rather, he drew strategically from various ideations to inform decision making as was required to placate competing and powerful interests. Perón’s attention to circumventing the communist radicalization of the working class by fostering strong trade unionism and workers rights won him their respect and loyalty while the Argentine upper

¹³ For an account focused exclusively on the role of Argentina’s complex historical ideological currents and its interaction with 20th century political events see: Spektorowski, *supra* note 8.

¹⁴ See for instance: Donald C. Hodges, *Argentina, 1943-1987: The National Revolution and Resistance* (Albuquerque: University of Mexico Press, 1988) which accords fair weight to the influence of international political events on the unfolding of Argentina’s own political situation, particularly on Peronism.

¹⁵ D.J. Butler, “Charisma, Migration and Elite Coalescence: An Interpretation of Peronism” (1969) 1:1 *Comparative Politics* 423 at 431.

and middle classes initially remained tolerant exactly because he quelled revolutionary aspirations.

As they were made the voice of the working class through the General Confederation of Labour (CGT), trade unions represented a cornerstone of Perón's rule. Within this system, the CGT served as the body that negotiated with the government on behalf of the entire organized working class.¹⁶ This effective incorporation of the working class as one of the key corporate bodies meant that Perón's represented an inclusionary corporatism,¹⁷ a point that carried important political and social ramifications. Socially, the working class was granted the enjoyment of unprecedented privilege and benefited from higher wages, social security, and health assistance.¹⁸ Politically, this move meant that the authority of the unions increasingly fell under the Peronist regime, and that Perón himself was granted broad powers to control the structure and organization of labour. Not insignificantly, some of these government checks to the CGT's powers included the military's right to intervene, such as in the case of high levels of strike activity, or less formally to displace or alienate unions unfavorable or irritating to those in power. According to Marchak, these powers were strategically employed by governments throughout the 60s, threatening economic stability and contributing to political repression. Yet, this weakening of the autonomy of labour was the trade-off for the first ever political voice for the working class who had hitherto been deemed undeserving of political sway.¹⁹

¹⁶ Marchak, *supra* note 5 at 76.

¹⁷ Nino, *supra* note 2 at 45.

¹⁸ *Ibid.* at 46.

¹⁹ Linda Chen, "Corporatism Under Attack? Authoritarianism, Democracy, and Labor in Contemporary Argentina" in Howard J. Wiarda, ed., *Authoritarianism and Corporatism in Latin America - Revisited* (Gainesville: University of Florida Press, 2004) 197 at 202.

In addition to strengthening workers rights, Perón pursued a nationalist political course wherein he increased state ownership and subsidies of capital. The strengthening of trade unions served to simultaneously bolster his support, to control what he perceived as the inevitably revolutionary bent of the working class, and to move the economic system to an autarky dependent on domestic goods rather than on importation and trade favoured by the liberal agro-export model of the oligarchy. Infrastructure and industrialization boomed in this post-war period. Within the course of a decade however, his political leadership began to threaten the interests of other important power groups in the civil and political forum: the land-owning oligarchy resented him for the institution of worker rights and the increasing nationalist orientation of the economy; the military were threatened by his alliance with the workers. During the course of his first presidency which was forcibly and violently terminated by the military in the mid-fifties, Perón's rule effected or aggravated a number of growing rifts in political and social relations, the repercussions of which continued to be felt for decades to follow.

Further, Perón had instigated major conflict with the politically important Catholic Church. While he had forged close ties during his ascendancy to power, these relations shifted considerably over the duration of his rule. Initially, he had secured Church favour through decreeing religious instruction in state schools and espousing Catholic moral and family values. Reciprocally, the Church advocated for Perón during the 1946 vote. During the campaign they argued against the Democratic Union opposition, going so far as to deem them an enemy of the Church based on their desired separation of Church and state as reflected through policies such as the legalization of divorce. Yet, as Perón's political dominance grew he became increasingly threatened by the power of the Church,

which he responded to with policies such as shutting down Catholic newspapers, removing religious observances from the public calendar, purging clerical teachers, and repealing mandatory religious instruction in schools. Further, he legalized both divorce and prostitution, a major affront to the values expounded by the Catholic Church.²⁰

During the latter half of his rule, his relations with the Church had degenerated into a protracted power struggle part of which played out in competing Peronist and Catholic crowd demonstrations. Ultimately Perón underestimated the importance and power of religion for the Argentine population, and although several factors precipitated his forcible removal, his strained relations with the Church was likely the leading cause.²¹

Preceding Perón's ousting from power in 1955, he maintained significant influence over the labourers whom he strategically manipulated in his attempts to return to political power from exile. Factions rose in the unions between militant Peronists and those more willing to collaborate with subsequent governments.²² Further, other segments of society, especially students, aligned with the politicized labour movement over time. These alliances introduced left-wing and revolutionary ideologies such as Guevarism and liberation theology into the political melee. Together, the radicalized students and the politicized workers clashed with the military. While the former radicalized as they were dispossessed of their voice through the 'intervention' of universities, especially under the subsequent bureaucratic authoritarian leader Juan Carlos

²⁰ For a discussion of the relationship between Church and State in Argentina, including that which existed during Perón's first reign of power see: J. Lloyd Mecham, *Church and State in Latin America: A History of Politico-Ecclesiastical Relations* (Chapel Hill: The University of North Carolina Press, 1966).

²¹ For discussion of the growing rift between Perón and the Catholic Church with specific comment on the role of crowd mobilization and demonstrations see: Antonius C.G.M. Robben, *Political Violence and Trauma in Argentina* (Philadelphia: University of Pennsylvania Press, 2005) at 15-19.

²² Robben, *ibid* at 31-37.

Onganía,²³ the unions were also quashed by subsequent repressive governments. The 1969 Cordobazo for instance, united unionists, militants, guerrillas, students, and workers. The two days of protest and riot demonstrated the type of grass roots agitation that could bridge social and political interests through resistance, prompting heightened vigilance in the military. Within the first hours of protest tens of thousands took to the streets, fully occupying one hundred and fifty city blocks. The insurrection, predominantly active only in rural Argentina to that point, made itself known by the presence of rooftop snipers,²⁴ prompting the regime to later publicly denounce the whole uprising as a product of the revolutionary left.²⁵ However, the reality on the ground was in fact a united front of diverse socioeconomic and political groups rallying to erode the legitimacy and intervention of repressive rule. As James remarks, “The proscription of all political life had moved politics to the clandestine party committee, hardly a substitute for an open participation in politics.”²⁶ The reality of this observation but intensified in the years to come.

Perón’s influence on Argentina’s politics from his exile enabled him to self-servingly back parties and ideologies as were supportive of his political influence, and ultimately to his return to power.²⁷ Beyond these pacts, Perón also actively encouraged violent resistance as he saw conducive to his interests. Outlined in a 1956 communiqué, he advocated opposition in the forms of: acts of individual resistance and civil disobedience such as painting slogans, sending hate mail, and small scale industrial

²³ Richard Gillespie, *Soldiers of Perón: Argentina’s Montoneros* (New York: Oxford University Press, 1982) at 63.

²⁴ James P. Brennan & Mónica B. Gordillo, “Working Class Protest, Popular Revolt, and Urban Insurrection in Argentina: The 1969 Cordobazo” (1994) 27:3 *Journal of Social History* 477 at 489.

²⁵ *Ibid*; also see: Rock, *supra* note 4 at 214.

²⁶ Brennan & Gordillo, *ibid*.

²⁷ See for instance: Rock, *supra* note 4 at 217.

sabotage; through acts of collective and civil resistance such as strikes and public protest; and finally, through economic resistance such as the derailing of trains and the arson of buildings. Greater Buenos Aires saw rashes of arson, pipe bombs, and street violence during the late 1950s and early 1960s as Perón's directive was heeded.²⁸ Perón viewed the promotion of such acts as integral to a long struggle resulting in insurrection. Following the destabilization of government that this persistent disobedience helped to effect, and combined with the rise of revolutionary politics to come in the mid-to-late 1960s, this violence eventually gave way to an entrenched violence carefully organized through guerrilla insurgency and its support.²⁹

The primary response to Perón's aftermath amongst the successive ineffectual governments was the attempt to suppress the allegiance felt for him in significant sectors of the population. This yielded increasingly oppressive control of public space and simultaneously stoked the fires of political insurrection. Coupled with Aramburu's banning of the Peronist party in March 1956³⁰ was the repression of any visible traces of allegiance to Perón a policy actioned through tactics such as censorship, the banning of days of Peronist commemoration, and even the deportation of his wife Evita's embalmed body from Argentinean soil.³¹ Political and economic unrest mutually compounded one another as the unions, although oriented to capitalism, increasingly agitated for demands that clashed with those of the bourgeoisie. Opportunistically, moments of repression and their subsequent backlash were seized to demonstrate the unsuitability of democracy for Argentina. Propaganda and rhetorical techniques designed to reinforce its inadequacies

²⁸ Robben, *supra* note 21 at 93-4.

²⁹ Robben, *ibid.* at 94.

³⁰ Robben, *ibid.* at 26

³¹ Evita's body was removed from Argentina by Aramburu in 1956. See: Gillespie, *supra* note 23 at 91.

rose in prominence, and once again the might of the military solution in Argentine society was impressed.³²

It was in this context of anti-Peronism, economic instability, and growing military prominence combined with the heightening fear of communism marking the post-war decades, that the notion of the clandestine internal enemy first took root. Specifically, after Perón's removal the military had committed itself to the 'Doctrine of National Security.' This three-pronged agenda depended on the beliefs that national security and economic stability were linked; that the military was able to assess the efficiency of civilian governments and overthrow them in the case that they did not satisfy their criteria; and finally, that 'subversion' was on the rise in the form of the internal hidden enemy linked to the conspiracy of the Communists against the West.³³ The first and third of these mutually reinforcing doctrinal theses carried especially important implications, while the second provided the mechanism by which the military was able to further penetrate societal relations. The belief that the economy and national security were linked significantly expanded the purview of the military's social and political activities, creating a series of new functions to be undertaken by the armed forces. The problem, Rock points out, was that these functions were not subject to strict limitations, and as a consequence "encouraged military leaders to see themselves as responsible for the entire national agenda. Here lay the seeds of a new philosophy of military intervention that ... destroyed the commitment [of the military] to civilian governments and to a purely 'professional' military."³⁴ Combined with the third thesis which held that the internal

³² Martin Edwin Andersen, *Dossier Secreto: Argentina's Desaparecidos and the Myth of the 'Dirty War'* (Boulder, Colorado: Westview Press, 1993) at 51.

³³ Rock, *supra* note 4 at 195.

³⁴ Rock, *ibid.* at 198.

enemy was on the rise, the notion of ‘subversion’ thus became inflated to include not only Communists, but all those believed to be responsible for social unrest however that was interpreted under the widening mandate of the military’s activities and their perception of the national agenda.

The adoption of the doctrine culminated in serious repercussions for the population, including the institution of the ‘Plan CONINTES’ (*Plan de Comoción Interior del Estado*, or the Plan for Civil Insurrection Against the State). CONINTES was oriented to controlling the ‘enemy’ within, granting extensive powers to the military to target terrorists and sympathizers. In order to do so, it divided the country into military districts, a move which effectively placed the police under command of the armed forces.³⁵ The increasing suppression of political dissent and concurrent promotion of economic stability cannot be understood solely in regards to anti-Peronism or to internal considerations. Rather, the widening scope of the military mandate, the development of national security policies, and the increasing focus on subversion must be placed in the wider context of global affairs. Particularly pertinent here are Latin American Cold War and inter-American relations. Consistent with Menjívar and Rodríguez’s analysis of the causes of systemic state violence in Latin America,³⁶ and echoed by McSherry’s works on U.S. involvement in the region,³⁷ the perception of these nations as part of a larger inter-state operation became an important key to understanding military rule as it developed during the post-World War Two period. In an effort to protect its economic and political interests, the U.S. affected significant interventions in Latin American political and

³⁵ Robben, *supra* note 21 at 30.

³⁶ J. Patrice McSherry, “Operation Condor as a Hemispheric ‘Counterterror’ Organization,” in Cecilia Menjívar and Nestór Rodríguez, eds., *When States Kill: Latin America, the U.S., and Technologies of Terror* (Austin: University of Texas Press, 2005) 28 at 29.

³⁷ Mc Sherry, *ibid.*

economic affairs during these years. This included the promotion of National Security approaches such as that adopted by Argentina when it enacted CONINTES. These approaches were made possible through the institution of intelligence policies and organizations that ultimately culminated in plan Condor.³⁸ Condor, developed in the 1970s, was a multi-national intelligence service amongst South American military governments. The parastatal system operated across the anti-communist regimes of six nations including: Argentina, Chile, Paraguay, Uruguay, Bolivia and Brazil³⁹ and permitted states to act with impunity, to torture and execute political opponents, and to share information and resources without the obstacles presented by territorial considerations. McSherry argues that at minimum the U.S. collaborated on certain Condor operations, but that available evidence points to a potentially more substantial connection.⁴⁰

While in Argentina some of the most significant effects of this foreign intervention coincided with the institution of Operation Condor and the reign of the ‘Dirty War’ juntas in the 1970s and early 1980s,⁴¹ U.S. involvement in Argentine ‘security’ concerns predated that by at least a decade under its Alliance for Progress (AIP) initiative. In the early 1960s John F. Kennedy had initiated this policy to secure an ideological stance favourable to U.S. interests, as well as to address the interrelated goal of improving economic conditions in Latin American countries.⁴² Following a period of French

³⁸ Mc Sherry, *ibid.* at 35.

³⁹ Mc Sherry, *ibid.* at 28.

⁴⁰ McSherry *ibid.*

⁴¹ See generally: Ariel C. Armony, “Producing and Exporting State Terror: The Case of Argentina” in Cecilia Menjivar & Nestór Rodríguez, eds., *When States Kill: Latin America, the U.S., and Technologies of Terror* (Austin: University of Texas Press, 2005) 305.

⁴² Cecilia Menjivar & Nestór Rodríguez, “State Terror in the U.S.-Latin American Interstate Regime” in Cecilia Menjivar & Nestór Rodríguez, eds., *When States Kill: Latin America, the U.S., and Technologies of Terror* (Austin: University of Texas Press, 2005) 3 at 14.

military training in combating guerrilla warfare, Argentina in the years 1963 to 1966 saw high levels of military aid as well as the beginning of military training in U.S. counter-insurgency tactics.⁴³ These interventions were made possible by AIP's parallel Military Assistance Program (MAP), and the provision of significant funds to bolster police forces and their intelligence and communications activities.

It was in the midst of the strengthening approaches to national security and the perception of growing subversion that Onganía's fiercely oppressive regime seized power in 1966 thanks to a carefully crafted coup. Thus, like the 1976 coup that also installed a bureaucratic authoritarian system, Onganía's was welcomed as one that could curb the growing social, economic and political volatility. Upon taking power, Onganía announced the 'Argentine Revolution,' which analogous to the 1976 junta's *'El Proceso,'* was designed to address the preceding political instability and to forge a new economic, political and social course for Argentine society. In line with the widening understanding of subversion, the unstable recent past to be remedied by Onganía's new order included addressing "inflation, sluggish economic growth, acute social conflict, corruption, 'sectoral egoism,' 'subversion,' 'lack of faith,' ... the absence of 'spiritual cohesion' among Argentines, and the 'inorganic,' 'unrepresentative' character of civilian organizations."⁴⁴ As a cornerstone to the 'revolution' he invoked, politics were seen as an opportunistic and divisive force, and thus were displaced in favour of a spiritual cohesion and social integration. Onganía's government focused on instituting a system of organic social relations, contending that democracy promoted a "jungle of isolated individuals," that only an authoritarian force could remedy through the "recover[y] of their 'natural'

⁴³ Rock, *supra* note 4 at 198.

⁴⁴ Guillermo A. O'Donnell, *Bureaucratic Authoritarianism: Argentina, 1966-1973, in Comparative Perspective*, trans. by James McGuire & Rae Flory (Berkeley: University of California Press, 1988) at 59.

social identity.”⁴⁵ As such, his course of modernization and societal restructuring totally repealed the protections of democratic and labour rights: Congress was shut down; political parties were proscribed and opposition gagged; and trade unions were starved of power. Universities, said to be a source of ideological unrest and a “forward trench of the Cold War, an internal front that serve[d] to hide the enemy,”⁴⁶ were placed under government control and classes suspended for one year; student political organizations were banned, and faculty were purged. Nor was Onganía’s regime reluctant to intervene in other facets of the public sphere to suppress what were perceived as germs of ‘subversive’ threat which, in line with the desire to provide social and spiritual cohesion, went well beyond the political. In accordance with the notion of the ‘hidden enemy,’ the ‘subversives’ targeted were those involved in institutions such as the mass media, universities, and psychoanalysis.⁴⁷ Crack-downs and tightening control on the press, cinema, theatre, public demonstrations, and even sexual mores, ratcheted political tensions up as this ideologically-driven oppression began to depend on an increasing intrusion of the state into the personal spheres of the citizenry. While Onganía’s operation under state of siege forced relative outward stability throughout the sixties,⁴⁸ his heavy-handedness began to take its toll on the oppressed population near the close of the decade. In 1969, the Córdoba served as a symbolic rallying point for the revolutionary movement, helping to self-define the participant’s power to resist the proscription of political and cultural outlets under Onganía’s rule.

⁴⁵ Rock, *supra* note 4 at 201.

⁴⁶ *Ibid.* at 203.

⁴⁷ Psychoanalytic thought was objected to on the basis of arguments that connected it with Marxism in its ‘mechanistic’ conception of human relations and its focus on ‘materialism’ lacking in ‘spiritual or metaphysical content.’ See: Rock, *ibid.*

⁴⁸ Stability in terms of low levels of strike activity. See: Robben, *supra* note 21 at 31.

The so-called ‘Argentine Revolution’ undertaken by Onganía’s bureaucratic authoritarian government followed shortly on the heels of the Algerian Resistance, the Cuban Revolution and the beginning of the Vietnam War, all of which prompted an increased focus on violent resistance and revolutionary emancipation. The effects of these events reinforced U.S. involvement with the Argentine military and prompted the emergence of a growing guerrilla-based resistance drawn primarily from the ranks of activists in the student population during the mid to late 1960s.⁴⁹ While this movement of “idealistic, middle-class students”⁵⁰ was initially split between left and right leanings, convergence grew due to a combination of pragmatic and ideological considerations. Particularly prominent amongst the guerrilla groups were the Marxist ERP (the People’s Revolutionary Army), and the Peronist *Montoneros*, both of whom were established in 1968.⁵¹ While the Peronist resistance was led by John William Cooke who advanced a nationalist and socialist agenda,⁵² the Marxist resistance was influenced by Che Guevara who adhered to Marxist-Leninist writings emphasizing *foco* theory which posited that armed resistance would create the grounds for revolution.⁵³ The Peronist *Montoneros*, arguably the most important of the guerrilla organizations, were in fact a predominantly Catholic organization whose origins were largely rooted in the *Tacuara*. The *Tacuara*, or the Armed Bands, had been an upper middle class youth group associated with a long nationalist, anti-Semitic and violent lineage in the Falangist tradition. Splitting into left

⁴⁹ In regards to the increasing convergence of Marxist and Peronist guerrilla groups with student sympathies, see for instance: Brennan & Gordillo, *supra* note 24 at 484. They list the following movements as having high levels of student involvement: the *Uturuncos*, the *Fuerzas Armadas Peronistas (FAP)*; the *Fuerzas Armadas de Liberacion (FAL)*; The Maoist *Partido Comunista Revolucionario (PCR)* and *Vanguardia Comunista (VC)*; The Neo-Trotskyist-Leninist *Partido Revolucionario de los Trabajadores (PRT)*; and, the Peronist left *Juventud Universitaria Peronista (JUP)*.

⁵⁰ Marchak, *supra* note 5 at 93.

⁵¹ Gillespie, *supra* note 23 at 60.

⁵² *Ibid.* at 37.

⁵³ *Ibid.* at 48.

and right wing factions in the early 1960s due to disparate views over the Cuban and Algerian Revolutions, the left-wing *Tacuaras* came to align themselves with Peronism as a means of accessing the revolutionary masses.

Despite different theoretical origins and underpinnings, both the Marxist and Peronist guerrilla organizations sought to destabilize the governments to pave the way for social and political revolution that would institute a nationalist socialist system. The fusion of divergent views into what Rock refers to as the ‘New Left,’ was influenced primarily by the Nationalists and the clerical right,⁵⁴ and was consolidated as a result of both the heavy-handed government policies and the eventual hybrid turn of Onganía’s government.⁵⁵ The radicalized Catholicism of liberation theology also emerged in these years, instilling an increased social consciousness oriented to redressing political and economic inequity amongst the poor and marginalized. In May 1968, the Argentine Movement of Priests for the Third World was officially founded, whose manifesto distinguished between the “‘unjust violence’ of hunger and exploitation, and the ‘just violence’ of the oppressed seeking liberation.”⁵⁶ This presented yet another vitally important point of fusion between left and right amongst revolutionary students.⁵⁷ Thus, the increasing political discontent and repression, as well as the ideologically driven nationalist slide to the left bound formerly right-wing groups with radicalized Peronism rooted in revolutionary demands for social justice and change.

⁵⁴ Rock, *supra* note 4 at 216.

⁵⁵ The latter arose as a result of Onganía’s appointment of Adalberto Krieger Vasena, who led the country on liberal economic course dependent on foreign investment and dealings. In response, the nationalists who had to that point unequivocally supported Onganía’s anti-communist repression, began to denounce his rule and sought a military solution. Part of this discrediting involved a distinct slide to the left on the part of the nationalists. In this regard they: cited Onganía’s anti-communism as an attempt to align with the United States; and, increasingly focused on matters of the poor to point out the faults in Onganía’s liberal economic approach. See: Rock, *supra* note 4 at 210-11.

⁵⁶ Robben, *supra* note 21 at 111.

⁵⁷ Gillespie, *supra* note 23 at 53.

O'Donnell refers to this phenomenon as the "Peronization" of the middle sectors (which included university students, Catholic organizations and professionals), whereby those initially opposed to Perón's politics determined him to be a revolutionary capable of leading the guerrilla movement and the people towards the institution of the national socialist system which they sought.⁵⁸ Like Rock's analysis, O'Donnell points to this increasing radicalization as one largely couched in nationalist concerns. Peronism's 'third way', O'Donnell notes, provided a means to advance radicalized demands that rejected both a military government and the "'farce' of elections."⁵⁹ Once again, the fractured nature of Argentine political demands seemingly converged in the figure of Perón, although the visions that those who rallied behind him held were as different as their ideological origins,⁶⁰ a point which only complicated the political violence that followed the emergence of revolutionary and guerrilla movements in the early 1970s.⁶¹

Tracing the patterns of violence through the late 1960s and early 1970s shows a considerable rise in strike activity, politically oriented demonstrations such as street protest, and acts of political violence. While these had all been relatively high in the period between 1955 and Onganía's regime and had lull in the late 1960s under his repressive rule, the early 1970s saw unprecedented levels of unrest. Indicative of a

⁵⁸ O'Donnell, *supra* note 44 at 233.

⁵⁹ O'Donnell, *ibid.*

⁶⁰ O'Donnell captures this well when he writes "By 1972, major actors within Peronism included guerilla organizations, union leaders of a wide variety of outlooks, leaders of the CGE, and quite traditional and conservative politicians- as well as Perón himself, who had his own games to play ... While all of the currents within Peronism claimed loyalty to Perón, it would be erroneous to consider Peronism a unified actor interacting with others: these currents were so diverse, and their goals and potential alliances so heterogeneous, that Peronism introjected a significant part of the conflicts and violence of the period." See: O'Donnell, *ibid.* at 301.

⁶¹ While revolutionary Peronists, particularly the *Montoneros*, wished to see the institution of a nationalist socialist government and the guerillas as its army, the labour union hierarchy wished instead to reinstate the corporatist focus of the 1945-1955 government. This schism between Peronists instigated violence between the two factions, including several assassinations of union leaders by leftist Peronist groups. Perón himself played sides as he saw strategic for his return to power. For a detailed account see: Robben's chapter 'The Long Arm of Popular Justice' in Robben, *supra* note 21.

growing discord, acts considered ‘politically violent’ shifted towards an unprecedented logistical complexity⁶² as guerrilla organizations began to consolidate their power and engaged in elaborate acts of armed propaganda. These acts were responded to first by the police alone, by 1971 with the accompaniment of the armed forces,⁶³ and by 1975 by the military engaged in counter-insurgency tactics.⁶⁴ The acts of the *Montoneros* were not insignificant in impressing their challenge to the stability of political order despite their exceedingly low membership numbers.⁶⁵ While their first heist in 1970 included the elaborate and successfully executed abduction and murder of former anti-Peronist president Aramburu, the second included the seizure and occupation of the town of La Calera, which entailed seizing \$26,000 from its bank and occupying its town hall amongst various other public institutions.⁶⁶ Meanwhile, the ERP also engaged in multiple operations, including many which directly benefited the masses through redistribution of resources such as foodstuffs to the poor.⁶⁷ These elaborate and creative spectacles of violence were designed to achieve retribution for past wrongs, and to expose the illegitimacy of the government by eroding its appearance of control.⁶⁸ Simultaneously,

⁶² For information on the shift in the type of violence see the chapter ‘Economic Crisis and Political Violence’ in O’Donnell, *supra* note 44. O’Donnell defines political violence as “Bombings, assassination attempts for allegedly political reasons, kidnappings, robberies declared by their executors to have been for the purpose of financing guerilla operations, and various acts of armed propaganda,” (296).

⁶³ Robben, *supra* note 21 at 118.

⁶⁴ Robben, *supra* note 21 at 129.

⁶⁵ Robben, *ibid.* notes that “In mid-1970, they consisted of no more than two dozen overconfident members divided between Buenos Aires and Córdoba,” (112).

⁶⁶ For an account of the *Montoneros*’ early operations see the chapter titled ‘For the Return of Perón (1970-1973)’ in: Gillespie, *supra* note 23.

⁶⁷ Robben, *supra* note 21 at 117.

⁶⁸ For discussion of the differing and aims of Marxist and Peronist guerilla movements during the period of the early 1970s see chapter 4, ‘Revolutionary War’ in Donald C. Hodges, *supra* note 1. Taken as a whole however, undermining the credibility of the authority of the government, both pre-Perón and after 1973 when he had rejected their tactics were shared aims of these movements. See: Robben, *supra* note 21 at 126.

and through the accessibility of their spectacle, they further strengthened the political consciousness of the masses, “relying on the propaganda of the[ir] deed[s].”⁶⁹

As the intensity, organization, and exceedingly high levels of grass roots support for the guerrilla violence stepped up,⁷⁰ the military began to wage a response designed not only to eradicate the threat posed by the violence, but to impress its institutional power against the deterioration of the nation. In time the guerrilla actions, particularly those of the ERP, became excessively violent and as a result public and worker support began to wane.⁷¹ As popular support for the guerrillas declined but the violence did not abate, Argentinean society became increasingly characterized by an intense culture of fear compounded with some of the “semantic delirium”⁷² and silence associated with both a deep entrenchment of violence, and a state apparatus that affords little protection against crimes such as abduction and ransom taking. The military governments drew on broad powers instituted by Onganía’s regime, while several more were put in place by the Lanusse presidency, including the authorization of the armed forces to assist in the response and resistance to terrorism.⁷³ In responding to the guerrillas, the army once again began to construe its battle as one aimed at the eradication of subversion. Accordingly, it administered psychological and clandestine tactics which contrasted markedly with the often spectacular and always violent heists and feats the guerrillas employed.

⁶⁹ Hodges, *supra* note 14 at 66.

⁷⁰ Particularly strong support was found amongst the movement of the Third World Priests, youth groups, and broader sectors of Peronism. See: Gillespie, *supra* note 23 at 98. However, the armed struggle also received a significant approval rate of 49.5% from upper and middle classes in 1971. See: Robben, *supra* note 21 at 117-118.

⁷¹ Robben, *ibid.* at 133.

⁷² Argentina’s National Commission on Disappeared People (CONADEP), *Nunca Mas (Never Again): A Report by Argentina’s National Commission on Disappeared People* (London: Faber and Faber Limited, 1986) at 4.

⁷³ Robben, *supra* note 21 at 118.

Monopolizing on the fervency of the guerrillas and increasing violence, and through tacit political manipulation, Perón made a triumphant return to power from exile when he was elected president in 1973.⁷⁴ Rather than extinguishing the cycle of violence however, he intensified the factionalism in his supporters by proclaiming rejection of the leftist elements and strategically supporting ultra-right wing and anti-communist movements.⁷⁵ This betrayed Perón's opportunism vis-à-vis the radicalized left where he depended on them for strategic purposes, but ultimately rejected their interests.⁷⁶

Upon Perón's death in 1974, power passed to his wife Isabel whose government went considerably further in condemning the left when the Triple A, or Argentine Anticommunist Alliance, came into full force under the control of Isabel's powerful government advisor, López Rega. Comprised of military and police officers, both active and retired, as well as employees of the Ministry of Social Welfare and others, the Triple A acted as a death squad. Their presence marks the first institutional entrenchment of 'Dirty War' tactics, including: executions, torture, and enforced disappearances and abductions. The Triple A's mission to rid the public arena of political and ideological opposition included targeting not guerrillas, but symbolic victims such as journalists, lawyers, artists and academics.⁷⁷ The rise and prominence of the Triple A in the years of 1973 and 1974 coincides with the organization of plan Condor, which at its core

⁷⁴ Hodges, *supra* note 14 at 116. Although this was a triumphant return it was also short-lived. Perón passed away in 1974 and power fell to his wife Isabel whose rule further exacerbated factions with the Peronist movement. Ultimately, she was unable to curb the escalating violence and was faced with a deteriorating national economy. See generally: Hodges, *supra* note 14, chapter 10 'The Return of the Military.'

⁷⁵ At this point, there were four groups responsible for Argentina's political violence: The *Montoneros* and the PRT-ERP on the left, and the Triple A and a group of orthodox Peronist unions on the right. See: Robben, *supra* note 21 at 136.

⁷⁶ For discussion of Perón's opportunism regarding the left, see: Hodges, *supra* note 14 at 71-73; for a contextualization of this opportunism in his ideological thinking and 'third position' see: Hodges, *supra* note 14, chapter 7 'The Peronist Enigma' at 135-150.

⁷⁷ Robben, *supra* note 21 at 138.

depended on disappearances and abduction. The parastatal character of plan Condor paramilitaries lends credence to the connection of the covertly state-sponsored Triple A squad and Condor. As McSherry writes, the Triple A were later absorbed by 'task forces' integrated into the military command structure employed during the 'Dirty War' after the March 1976 coup. Prior to this seizure of power, the parallel state structure of this Condor-affiliated death squad enabled it to carry out political abductions, torture, and assassinations effectively, with the cooperation of other countries, and without being restrained by the law. Once in power, the junta could authorize violent actions against 'subversion' distancing themselves from responsibility.⁷⁸

As Isabel's government weakened and was incrementally infiltrated by the military, a series of decrees were enacted that targeted subversion. In addition to declaring a state of siege in order to grant the federal police free reign against the Guerrillas, her government also decreed the banning of the *Montoneros*.⁷⁹ Once deposed, a pro-military interim government between Perón and the junta's seizing of power pressed through a proposal for the National Council of Internal Security.⁸⁰ This decree granted the armed forces full powers in regards to the security and response to subversive actions. Upon the junta's assumption of power in March of 1976 the decree was no longer subject to legal restraints,⁸¹ and the 'Process of National Reorganization' was put into effect as the backbone of the 'Dirty War.' The net effect of Argentina's political history, the intensity of counter-insurgent warfare, and the concept of the 'subversive,'

⁷⁸ For discussion see: Patrice McSherry, *Predatory States: Operation Condor and Covert War in Latin America* (Toronto: Rowman & Littlefield Publishers, Inc. 2005) at 73-77.

⁷⁹ Hodges, *supra* note 14 at 188. The ERP had been declared illegal during the elections of September 1973. See: Robben, *supra* note 20 at 132.

⁸⁰ Hodges, *ibid.* at 189.

⁸¹ Robben, *supra* note 21 at 192.

was an expansion of the notion of enemy to the point where the distinction between civilians and combatants was effaced, and violence went increasingly unchecked by any restraint. In essence, the ‘Dirty War’ had begun.

Analytic Considerations

In the transitional period, the National Commission on the Disappeared (CONADEP) explained the ‘Dirty War’ as an all encompassing one which was waged both culturally and politically between guerrilla forces and a repressive military.⁸² Certainly, as outlined in the chronology, the military and later the dissidents played a prominent role in Argentinean politics. Of the handful of military who are willing to speak about the events, there appears to be an adherence to an account that posits a divide between good and evil. In this way, they explain their actions as a protector of Argentina’s sovereignty and national society from a full-scale war. For its part, Raúl Alfonsín’s government advanced a theory referred to as ‘the two demons’ which claims that Argentina was at the mercy of two belligerent and equally matched forces - the guerrillas and the military - who were driven towards complete annihilation.⁸³ This latter theory has been subject to criticism for ignoring the social and historical circumstances in which the violence was borne, as well as the more pragmatic realities such as the unequal resources between the guerrilla movement and the military.⁸⁴ While it is inevitable that the transitional investigations would decontextualize the violence by a greater or lesser degree by focusing on a limited time period and operating within a specific mandate, the complexity of the instance calls for much-needed nuance. More significantly than the

⁸² Argentina’s National Commission on Disappeared People (CONADEP), *supra* note 72 at xii-xiii.

⁸³ Robben, *supra* note 21 at 322.

⁸⁴ Marchak, *supra* note 5 at 267.

crimes of Isabel Perón's government, the 'two demons' theory does not speak to Argentina's long and complicated history of political and social violence and unrest or how the military came to understand its role in it.

A Splintering of Power & Factionalism in a Corporatist System

The first broad question that this chapter set out to consider was the social, economic and political context in which the military exercised its power. Political stalemate and intransigence were prominent features of politics during this period and were played out in the clashing world views represented by powerful institutions such as the agro-export oligarchs, the Catholic Church, the military, unions, and dissidents.⁸⁵ Unyielding political interests coupled with the prominence of the military often resulted in the curtailment of democratic frameworks, destabilization, and a willingness to resort to violence and repression.⁸⁶ This intransigence was inflamed by an overwhelming repression of party politics and official frameworks. As the chronology has indicated, political power in Argentina during the period in question was splintered both by its location in several institutions, and by its shifting nature as it evolved over time, driven by evolving class and nationalist interests. The multiple locations of power may be partly understood as a result of reliance on a corporatist system, as well as by its embodiment in fractured and occasionally mutually reinforcing political movements such as nationalism and Peronism.

⁸⁵ Marchak, *ibid.* at 7.

⁸⁶ Hodges, *supra* note 1 at 12.

Argentina's corporatist system granted a share of power to the Catholic Church,⁸⁷ the military, and especially under Perón, trade unions. Chen, in her study on corporatism and authoritarianism in Argentina, cites a simple definition of corporatism as "a system of interest representation in which the constituent units are organized into a ... number of singular ... non-competitive, hierarchically ordered and functionally differentiated categories, recognized ... by the state and granted a deliberate representational monopoly within their respective categories in exchange for observing certain controls on their selection of leaders and articulation of demands and supports."⁸⁸ This definition echoes Nino's broader definition which notes that corporatism is both a form of state control in which varying social sectors are controlled and protected, and within which interest groups are able to influence state decision making through the expression of opinion from within the state apparatus.⁸⁹ Ideologically, corporatism is rooted in an organic conception of state as opposed to an individualistic focus insofar as the groups are perceived to work together to maintain unity. That said, all of the corporate bodies active in Argentina were marked by some degree of factionalism in their political and social beliefs, and thus cannot be thought to have advanced a monolithic perspective beyond a conservative orientation.

Underpinning these corporatist interests, as well as those of the political dissidents who later rose as a powerful institution were a constellation of political, economic, class,

⁸⁷ The Catholic Church, so politically important in Argentina, played an ambiguous role in the later oppression that followed. Accounts range from allegations of mute complicity through to outright involvement in the repression. Marchak, *supra* note 5 in her chapter 'A Deeply Divided Church' (235) provides commentary and an ethnographic account in which some viewpoints regarding the hierarchy's involvement are articulated in interviews with members of the Catholic Church themselves. Most historical and political accounts of the 'Dirty War,' including Marchak's, devote some attention to the connection and shared values between Church and the military.

⁸⁸ Chen, *supra* note 19 at 198.

⁸⁹ Nino, *supra* note 2 at 45.

social, and religious considerations. Adding to this complexity was the interaction of these considerations within two major political currents which often either covertly or subtly dominated Argentina's core institutions: nationalism and Peronism. Because neither movement was captured or contained within a system of formal party politics, each depended on a decisive institutional pragmatism or opportunism. Further, both were heterogeneous currents comprised of a variety of social and political constituents defying easy categorization by short-hand terms implying a dogmatic adherence to left and right, or liberal and conservative. Spektorowski, in his study on what he terms the 'revolution of the right,' for instance, problematizes a sharp demarcation between left and right by arguing that under a nationalist vision, left-wing populism and right-wing corporatism were in fact united in a struggle against the liberal advocates of political modernization.⁹⁰

The complexity of Peronism on the other hand is well captured by Gillespie where he notes:

Peronism [was] a multi-sectoral, national-popular movement whose social integrants have varied in accordance with how different classes, social sectors, and institutions have perceived their interests in relation to a national-popular line in different, evolving, political and economic circumstances ... Of course that 'national-popular line,' embodying policies of independent national development and social reform, has always embraced sub-currents ... marked by dissidence. [Emphasis added]⁹¹

In responding to the 'national-popular line' the dissidents were also marked by splinters, defying a simple polarization in their "'phantasmagorical range of alliances' ... [where] 'anti-Peronists wound up becoming Peronists,' [and] 'representatives of the extreme Nationalist Right later moved over to the far Left.'"⁹² Together, these political and ideological views permeated Argentina's powerful entities, contributing to the fractured nature of these social and political institutions and their inter-relations.

⁹⁰ Spektorowski, *supra* note 8 at 6.

⁹¹ Gillespie, *supra* note 23 at 25.

⁹² Rock, *supra* note 4 at 207.

Military as Bureaucratic Authoritarianism

In this context, the military came to assert a powerful role in standing between these ideological and corporatist currents, particularly after Perón's removal in 1955. The military's split in the late 1950s or early 1960s into factions referred to as the Colorados and the Azules, or professionalists versus politicized officers, is instructive in understanding their shifting self-perceived function. While both factions were fervently anti-Peronist, each side envisaged a different role for the military in regards to government. The Colorados, Reds, or the politicized faction who were in power in the early 1960s supported the idea of a military dictatorship that should remain in place until the 'enemy' was destroyed. Indeed, it was under the reds that the CONINTES plan was established, and that close collaboration with the French army yielded strategy that depended on the belief in combating subversion.⁹³ The Azules, Blues or Professionalists on the other hand, saw the role of the armed forces as above politics. Their job was to intervene in circumstances perceived as threatening to national security, and then to return the administration of government to civilian rule. However, as the doctrine of national security became increasingly concerned with economic stability during the 1960s, a widening scope of military responsibility increasingly effaced the boundaries outlined by the Azules. Specifically, under Onganía certain 'basic premises' were outlined which stipulated the conditions in which the armed forces could undertake its responsibilities. While the first of these was organizational strength, the second was socio-economic development.⁹⁴ As outlined in the chronology, this yielded three important consequences: a break-down in the purely 'professional' vision of military

⁹³ Rock, *ibid.* at 195.

⁹⁴ Guillermo O'Donnell, *Modernization and Bureaucratic-Authoritarianism: Studies in South American Politics* (Berkeley: University of California Press, 1979) at 157.

supporting civilian government; a self-fulfilling prophecy of sorts, whereby government interventionism and low rates of socio-economic development fomented the very 'subversion' that the military sought to eradicate; and, the construction and elimination of the concept of 'subversion' on multiple social planes - not just political.

This increasing penetration of the military into civil society by Onganía led to the installation of the first bureaucratic authoritarian regime in Argentina. O'Donnell's various studies in bureaucratic authoritarianism (BA) point out certain of its defining characteristics, among them: that BA government positions are occupied by those emerging from careers in highly bureaucratized organizations such as the armed forces;⁹⁵ that this system operates through politically excluding a previously activated popular sectors by shutting down political channels and restoring 'order' - a process "achieved by coercion, as well as by the destruction or strict governmental control of the resources ... that sustained this activation"⁹⁶; that it 'normalizes' the economy by curtailing economic participation, exasperating preexisting inequalities; and, that it seeks to depoliticize social issues.⁹⁷ The effect of this repressive military-led rule on culture and political voice, its proscription of Peronism, and the growing nationalist sentiments in the population had the effect of entrenching a growing guerilla resistance. The military coup of 1976 instituted a second bureaucratic authoritarian system which pursued order in social, economic and political relations using infinitely harsher measures and unspeakable violence.⁹⁸

⁹⁵ Guillermo O'Donnell, "Reflections on the Patterns of Change in the Bureaucratic-Authoritarian State" (1978) 13:1 Latin American Research Review 3 at 6.

⁹⁶ O'Donnell, *supra* note 34 at 32.

⁹⁷ *Ibid.*

⁹⁸ *Ibid.* at 304.

Plan Condor & Foreign Intervention

Support to depoliticizing governments was granted throughout Latin American countries during the 1960s, 70s and 80s, decades that witnessed the institution of U.S. backed military dictatorships oriented to the national security state. While Argentina as well as adjoining Latin American nations possessed specific and diverse anti-communist sentiments and motives, the foreign interventions had significant and specific impacts on the scope and systematized nature of the violence.⁹⁹ First, they ensured the strength of the infrastructure by which to persecute ‘subversives,’ including technology required to effectively persecute on a widespread basis.¹⁰⁰ Further, the French and then U.S. counter-insurgency training imparted unconventional warfare models of military organization and ‘dirty war’ tactics, particularly in the aftermath of the Cuban Revolution in 1959.¹⁰¹ As McSherry states, “[this] ... politicized doctrine of internal war and counterrevolution [...] targeted the enemy within [and] gave the militaries a messianic mission: to remake their states and societies and eliminate ‘subversion.’ ... Moreover, harsh, extralegal methods were considered legitimate in a total war against subversion.”¹⁰² Central to both the shift towards a National Security focus and the eventual creation of Condor in Latin America were the institution and entrenchment of these anti-insurgency doctrines that aimed to eradicate ideological threat, displacing territorial concerns and focusing instead on the notion of internal enemies and subversion. The military were the pivotal actors in these

⁹⁹ See: Menjívar and Rodríguez, *supra* note 40 at 4 where they write: “The perspective that sees Latin American state terror as a derivative of a U.S.-dominated regional system is not meant to reduce all explanations of Latin American political violence to a one-dimensional causality of U.S. involvement, nor is it meant to claim that systemic causes underlie all cases of political violence in Latin America.” Nor does this perspective mean to imply that repression did not exist prior to the move towards national security states. Rather, it does posit that the U.S. influence did further entrench these.

¹⁰⁰ Menjívar and Rodríguez, *ibid.* at 14.

¹⁰¹ McSherry, *supra* note 78 at 17.

¹⁰² McSherry, *ibid.* at 3.

policies.¹⁰³ The combination of the persecution of the internal ideological enemy with post-war politics in Latin America prevalently marked by revolutionary movements for social justice and growing nationalist and anti-imperialist sentiment¹⁰⁴ created an environment of unprecedented oppression, volatility and systematized state violence.

Conclusions

While it would be a mistake to advance a cause and effect theory of Argentina's history, it is nonetheless important to understand a number of the destabilizing characteristics and events which precipitated the 'Dirty War.' Specifically, Argentina was an ideologically fractured society in which multiple competing interests sought to impose their visions of modernization and order. Aggravating this situation was a corporatist order that vested influence and power in highly politicized actors such as the military and unions. Missing from this debate were the legal checks and balances that would contain its extremes. The internal strife enabled by these fractures was compounded by world events such as the rise of communist and fascist political systems which further strengthened various positions and strategies. U.S. and French involvement in military training prompted an increased focus on counter-insurgency and guerilla warfare, shifting focus from territorial considerations to war against the internal enemy fought using 'dirty' tactics. Finally, the strong degrees of repression experienced in the military period from 1930 to 1976 forced politics into a clandestine form where radicalization and violence became vehicles for expression and the attempted destabilization of illegitimate domination.

¹⁰³ McSherry *ibid.* at 2.

¹⁰⁴ Cecilia Menjivar & Nestor Rodríguez, *supra* note 40 at 12.

Chapter 3

The Trace: The Ethical Relation in Reminder and Representation

I feel that they are always watching me, but I don't know how to look back at them.¹

Disappearance is an exemplary instance in which the boundaries of rational and irrational, fact and fiction, subjectivity and objectivity, person and system, force and effect, conscious and unconscious, knowing and not knowing are constitutively unstable.²

During the 'Dirty War,' one of the most visible indications of the military's violent oppression was the disappearance of thirty thousand members of the Argentine population. Understanding this paradox's aporetic nature requires an acknowledgement of the equal importance of the visible, the invisible, and the un-visible because the act of disappearance and its later representation is highly dependent on all three. The junta exercised its power through making presence invisible or absent, and consequently the disappeared became an un-visible and intensely political presence. Individuals were rendered invisible in acts known or visible to the public, and information was fruitlessly sought through *habeas corpus* writs and falsified media accounts, rabbis and priests, lawyers, personal connections and investigations. The human rights and scientific representations attempted to reverse this in order to make absence present. The invisibility of these individual disappeared were rendered apparitional or visible through a narrative constructed from the bones, the fingerprints, the bureaucratic records and the DNA left behind.

The voids left by the disappearances are silent and invisible spaces that demand visibility and tangibility in order to be marked in time and space, to be addressed. The absence of the body of the disappeared and the details regarding the time and place of

¹ Renée Epelbaum in Marjorie Agosin, *The Mothers of Plaza de Mayo (Linea Fundadora): The Story of Renee Epelbaum 1976-1985*, trans. by Janice Molloy (Stratford: Williams-Wallace Publishers, 1989) at 45.

² Avery Gordon, *Ghostly Matters: Haunting and the Sociological Imagination* (Minnesota: University of Minnesota Press, 2008) at 97.

their death left no physical, temporal or material markers for mourning.³ The representations used to fill these gaps are legal, cultural, scientific, academic, and embodied, and they are borne out of anguish, a desire to uncover and convey truth, to achieve justice, and to banish the ambiguities and silences enforced upon the population by the state. In light of the techniques used to reconstruct the voids and make them speak, how do these representations interact with historical, political and individual memory, and with human agency? Each representation is both a product of and reflects different agencies and epistemologies, and in this mediation the agencies driving them meet, clash, overlap or coalesce. As Gordon writes in her account of historiography and haunting in the ‘Dirty War,’ signifying objects are inevitably co-opted and exist in conflicting spaces. While the power of the trace is its ability to conjure the ghost of that which is missing, an inexorable element of that haunting is what the image or sign means to “our conscious visible attention,”⁴ and it must be considered in regards to the “balance of forces between what [one] add[s] and what is nonetheless already there.”⁵ In this sense, these remnants may at once convey the power of the junta, the hand of scientific and legal authority, the voice of the survivor, the pain of memory, the presence of those lost, and the ethical demand to those who ‘read’ them. In other words, many truths are possible based on them as they are subject to the mediating influence of the agency and the epistemological techniques applied by the one who reads them. In the case of science and law and any of the other disciplines belonging to the ‘public cognitive scene,’ this

³ For a discussion of the great importance of these markers in the context of Argentina’s cultural and spiritual life, as well as how this importance became taken up by the human rights movement see: Antonius C.G.M. Robben, “State Terror in the Netherworld: Disappearance and Reburial in Argentina” in Antonius C.G.M. Robben, ed., *Death, Mourning and Burial: A Cross-Cultural Reader* (Oxford: Blackwell Publishers, 2004) 134.

⁴ Gordon, *supra* note 2 at 102.

⁵ Gordon, *ibid.* at 108.

amounts to a displacement of the agency of those whose experience is represented by them and a replacement with the language of sameness in order that they be amenable to categorization and comparison. Once ‘read,’ these remains symbolize the violence of the junta, and reflect the truth as constructed by the forensic anthropologists and truth commission, yet they are overwhelmingly mute in regards to the subjective experience of those who are represented by them. Thus, while the unmediated trace possesses a greater claim to experience this is problematized in their reconstruction.⁶

Many different traces were created by the ‘Dirty War.’ Some of these traces are material, and others are embedded in the memory and experiences of citizens and survivors. These signifying traces are gathered together as the basis of knowledge which later acknowledgements transform through official sanctioning and entry into the public cognitive scene, a transformation said to yield ‘truth’ and ‘justice.’⁷ This knowledge is invariably rooted in the actions of the junta who produced or prompted, amongst other traces: bones, detention centers, the semiotic disorientation of the public sphere, shifts in language and meaning, propaganda, the use of the body as protest, mass graves, and the marks of their particular concept of subversion and its process of eradication. This chapter considers these traces as the basis for examining the knowledges and

⁶ Here it is important to distinguish the unmediated trace which in essence facilitates the possibility of an ethical relation, and the trace as reconstructed or evidentiary. I find Robert Eaglestone’s treatment of Levinas’s notions of trace and truth as correspondence in *The Holocaust and the Postmodern* particularly useful. He writes in regards to the unmediated trace that “it is the trace that allows representation to have an ethics. The trace is how the other appears in representation ...” See: Robert Eaglestone, *The Holocaust and the Postmodern* (London: Oxford University Press, 2004) at 285. Yet when brought to bear as truth as correspondence or evidence, the ethical relation becomes displaced. Turning to Eaglestone’s discussion of Levinas and historiography (as a discipline which operates in an evidentiary paradigm) makes this clear where he states that “History which aims at truth as correspondence destroys others lives and reincarnates them as things, as historical events ... the visible and connected ideas of evidence ... will always tend towards a totality which will destroy otherness through the construction of a ‘neutral and middle term,” (157). In the context of this thesis, the important point to take from this discussion of historiography is that it lays claim to a particular truth as evidence.

⁷ Lawrence Weschler, *A Miracle A Universe: Settling Accounts with Torturers* (New York: Pantheon Books, 1990) at 4.

acknowledgements that are forged from them. It does so in an attempt to emphasize the complexities of the experience and realities of the ‘Dirty War’ while recognizing the impossibility and undesirability of attempting a complete or total representation. What are the traces, and what is their relationship with the processes of truth and truth construction? What can be seen in the trace, and what is missing? How do different means or ways of looking affect this? How do the traces help us to explore the boundary between the intangibility of experience, the clandestine and the hidden on the one hand, and the intensely visible on the other? Experimentally, if all the elements of the antiradical campaign weave together a “... seamless web of meaning, a coherent semiotic system, [how are we to make sense] of its persistent anomalies?”⁸ The trace must be thought of as powerful in its visibility and as a reminder, but also as a means of asking questions about what cannot be immediately seen in it. The value of the remains and traces, this chapter argues, is as a starting point of drawing out the intersections of the larger structural forces of power, politics, and history with the experience of the individuals and agents who both perpetuated the violence and suffered its effects.

Theoretical Framework: Levinas & Trace

To enrich and inform the exploration of the signifying value of the trace, Levinas’ discussion of this concept will provide a framework. Here, the trace serves as an object of reminder which highlights a lost presence, but emphasizes that this lost presence is indefinable and infinite, irreducible to the trace itself.⁹ In this sense, trace undermines an

⁸ Mark J. Osiel, “Constructing Subversion in Argentina’s Dirty War” (2001) 75 *Representations* 119 at 124.

⁹ In Levinas’ writing, the trace is intimately bound with the notion of the ‘other,’ and is concerned with the dichotomies of ontology/totally and expression/infinity. This concern is expressed as a tension between totalizing languages and thinking (such as those of social sciences, history, political science, etc.) which

important assumption about signification; namely, that the signifying trace has an unequivocal capacity to represent, and more specifically that this capacity is rooted in a relationship comprised of a signifier and fixed signified that can be fully determined. The value of the concept of trace is in its problematization of this positivistic contention of a seamless relationship of representation.¹⁰ Levinas' challenge is important for understanding the 'Dirty War' in its acknowledgement that its 'truths' may not be wholly accessible through these scientific means of categorizing or knowing – be it the hard sciences used to make the forensic remains speak, or the social sciences used to reconstruct state domination and its experience. The values of the traces of the 'Dirty War' are as *indications* of the [indefinable] 'other' – where the 'other' is understood as people, as feelings, and as experiences. The trace throws open this possibility by providing a marker of their lost presence, and in doing so recalling the absent 'other,' without falling into the determinacy of a fixed reference constituted by signifier and wholly knowable signified. Levinas writes:

reduce all expression and understandings to relationships of 'same,' make others 'accessible' to self, and thereby damages the 'other.' See: Emmanuel Levinas, *Totality and Infinity: An Essay on Exteriority* trans. by Alphonso Lingis (Pittsburgh: Duquesne University Press, 1969), in which he writes: "[t]he other is not 'other' like the bread I eat, the land in which I dwell, the landscape I contemplate ... I can 'feed' on these realities and to a very great extent satisfy myself, as though I had simply been lacking them. Their *alterity* is thereby reabsorbed into my own identity as a thinker or as a possessor," (33). This action of reabsorbing alterity is totalizing. Levinas sets out to instead uncover the possibility of alterity, "... a relationship with the other that does not result in a ... human totality, that is not a totalization of history but the idea of infinity." (52) Within the idea of infinity "[h]istory would not be the privileged plane where Being disengaged from the particularism of points of view ... is manifested. [As] ... it claims to integrate myself and the other within an impersonal spirit this alleged integration is cruelty and injustice, that is, ignores the Other." (52). Thus, Levinas focuses on *speaking with* rather than *amalgamating* the other. Here, the trace cannot reduce/amalgamate the other, but can serve as a symbol or a means of 'speaking' with them.

¹⁰ Levinas, *ibid.* at 92.

In a trace the relationship between the signified and the signification is not a correlation but *unrectitude* itself. The allegedly immediate and indirect relationship between a sign and the signified belongs to the order of *correlation*, and is thus still a rectitude, and a disclosure which neutralizes trans-scendence. The signifyingness of a trace places us in a ... relationship ... unconvertible into rectitude (something inconceivable in the order of disclosure and being), answering to an irreversible past.¹¹

As such, its *act of* signifying as ethical responsibility to the other is its value rather than *what* it signifies.¹² Levinas' understanding of trace is central to the chapter's argument which holds that taken together the remains and traces created by the junta are capable of calling to us the absolute otherness and the infiniteness of their exercise of power and violence, its utter unknowability in regards to perpetrator and victim.

In order to use the traces to open as many spaces of analytical intricacy as possible, three different types of trace will be considered. While what these traces offer is by no means an exhaustive representation of the 'Dirty War,' using them attempts to acknowledge the fact that a number of different experiences and agencies must be considered. The first type of trace, the ruptured relationship between signifiers and signified as an underlying facet of the 'Dirty War', may be examined by turning to the manifestations of and narratives regarding how the junta's construction and objectification of subversion was experienced. Overwhelmingly a product of the military's ardent denial of wrongdoing, disorientation and a sense of the surreal is often mentioned by survivors in regards to the experience. While one woman recounts burning Jewish cookbooks in fear of their possession being construed as an indication of her subversion, another gentleman tells of his inextricable association of bus stops and the process of being arrested because of signs marked *zona de detencion* which the junta

¹¹ Emmanuel Levinas, "Meaning and Sense" in *Collected Philosophical Papers*, Phaenomenologica Vol. 100, trans. by Alphonso Lingis (Boston: Martinus Nijhoff Publishers, 1987) 75 at 103.

¹² Eaglestone, *supra* note 6 at 285.

erected to enforce orderly line ups.¹³ Indicators such as these may be thought of as ‘contemporaneous’ traces. They highlight that the junta effected a significant semiotic reordering of public space, of bodies, of language, of objects, and of cultural meanings. This reordering is part of the scopic, linguistic and cultural field shared by Argentina’s citizens. Underpinned by the sharp juxtaposition of the junta’s denial, they form an integral part of understanding the semiotic confusion that the contemporaneous traces signify.

The second type of trace to be considered is those of the tangible remains. The most direct and salient markers created by the junta’s violence are bones, clandestine detention centers, genetic materials, and bureaucratic records. While the production of these traces occurred within the temporal parameters of the junta’s power, their material existence had important ramifications for the transitional period and later truth construction. The junta created reams of bureaucratic records regarding the identities of those they held prisoner. A dossier was assembled for each of the abductees and distributed to the Military’s intelligence branches to trace the identity of the prisoner by a system of numbers.¹⁴ Further, the junta often photographed the prisoners as well as the corpses of the assassinated. In the occasional case of public reappearance of the body after torture, the bureaucratic machinery processed the cadaver as it would any other anonymous corpse.¹⁵ A map on the CONADEP website outlines ninety-nine of the three

¹³ Marguerite Feitlowitz, *A Lexicon of Terror: Argentina and the Legacies of Torture* (New York: Oxford University Press, 1998) at 35.

¹⁴ Argentina’s National Commission on Disappeared People (CONADEP), *Nunca Mas (Never Again): A Report by Argentina’s National Commission on Disappeared People* (London: Faber and Faber Limited, 1986) at 266.

¹⁵ *Equipo Argentino de Antropologica Forense (EAAF)*, “EAAF Bi-Annual Report 1996-1997” (1997), online: <http://eaaf.typepad.com/pdf/1996_1997/02Argentina96_97.pdf> at 14.

hundred and forty clandestine detention centers where the disappeared were held.¹⁶ All of these material traces both reveal the penetrating scope of the state's gaze on the disappeared, and are those most subject to political and legal recasting – consequently, they are also the most prominent site of conflicts centered on questions of political and cultural forgetting. What should be done with these buildings which were often integral parts of Argentinean infrastructure or public space? Was it better to forget that they were ever used for torture in order to promote healing, or did they demand commemoration? If, as it has been noted, “a bag of bones aims only to eradicate ‘any meaning that death might have in society’ ... ‘historical memory’ and public memorials in a context where death is a supreme instance of national sovereignty...,”¹⁷ what were the implications of the skeletal reconstructions for public healing?

Finally, in its contemporaneity, the international human rights advocacy and the bodily resistance enacted by the Mothers del Plaza de Mayo that was suppressed in Argentina during the ‘Dirty War’ presents complex questions regarding trace, knowledge and acknowledgement. In their denouncement, their discourse and their protest, these organizations and associations produced an alternate form of knowledge than that made possible by the State who went to great lengths to create disinformation. This may be thought of as the dissenting trace, a trace prompted by the juntas although certainly not controlled by them. The Mothers were a group of Argentine women who began weekly protests in April 1977 by circling in the Plaza de Mayo, the core of Buenos Aires’ public space and urban identity. Theirs was the only recorded public protest that occurred in the years of the ‘Dirty War’, and it had the effect of affirming otherwise denied human rights

¹⁶ Yendor, “Secret Detention Centers Argentina (1976-1983)” online: <<http://www.yendor.com/vanished/detention/map.html>>.

¹⁷ Jean Franco, quoted in Gordon, *supra* note 2 at 115.

atrocities to the rest of the world. Both during the 'Dirty War' and in the transitional period, human rights organizations collected information regarding the disappearances and published them in reports which were banned or unavailable in Argentina. Amnesty International, for instance, produced a series of reports on the 'Dirty War' beginning in 1976 and spanning well into the post-transitional period. These publications cover a number of facets of the oppression, including disappearances, torture, clandestine detention centers and the repression of intellectuals and professions such as law and medicine.¹⁸ The indications offered by human rights organizations stands in sharp juxtaposition with the information provided by the state on the basis of its penetrating gaze over the disappeared and the reordering of public space. In some respects, these alternate indications may be thought of as knowledge, but of a qualitatively different kind than that of 'evidence.' Rather, they were generated by the experience of protest and victimhood. As such, these traces not only facilitate a consideration of the power of the junta, but like the contemporaneous traces, permit questions to be asked regarding the experience of this power on the part of those submitted to it.

¹⁸ See for instance: Amnesty International, ed. *Repression Against Intellectuals in Argentina* (London: Amnesty International, 1977); Amnesty International, ed. *Trade Unions in the Argentinean Crisis* (London: Amnesty International, 1978); Amnesty International, ed. *Argentina: Repression Against Members of the Legal Profession, 1975-1977* (London: Amnesty International, 1978); Amnesty International, ed. *Violations of Human Rights in Argentina: Missing Prisoners - Who is Going to Speak for Them?* (London: Amnesty International, 1979); Amnesty International, ed. *Testimony on Secret Camps in Argentina* (London: Amnesty International, 1980); Amnesty International, ed. *Argentina: Testimony of Graciela Geuna on La Perla Camp (Cordoba)* (London: Amnesty International, 1980); Amnesty International, ed. *Argentina: Pregnant Women Who Have Disappeared While in Detention* (Ottawa: Amnesty International, 1980).

The Contemporaneous Trace

With diabolical skill, the regime used language to: (1) shroud in mystery its true actions and intentions, (2) say the opposite of what it meant, (3) inspire trust, both at home and abroad, (4) instill guilt, especially in mothers to seal their complicity, and (5) sow paralyzing terror and confusion.¹⁹

The Public and the Clandestine

The succession of 'Dirty War' juntas realized this terror through the forced disappearance of as many as thirty thousand members of the Argentine population. From the point of being 'disappeared' forward, those closest to the victim often lost all but some of the material traces that the victim left behind,²⁰ while in marked contrast the state held the victims in its gaze. This gaze was penetrating, including in its scope the victim's bodies which were held in constricting cells, and their identities which were objectified by numbers and through sensory deprivation enforced by hoods and blindfolds. In delineating their experiences, many former prisoners employ new means of speaking prompted by this changed frame of reference, the experience of the detention centers having effected a reordering of their language and the meaning of everyday objects. Particularly chilling are terms like *submarino*, *parilla* and *La Cacha* because their once positive connotations in Argentine culture took on heinously violent meanings in the walls of the camps. *Submarino*, an Argentine children's treat of a chocolate bar melting in hot milk came to mean the torture of having one's head immersed in water polluted

¹⁹ Feitlowitz, *supra* note 13 at 20.

²⁰ In the opening passages of her text on memory and terror in Argentina Susana Kaiser outlines the power of the objects left behind by the disappeared. Recounting the stories of a ring she had loaned a friend who later disappeared, and a friend whose daughter clings to her disappeared father's leather jacket, she notes that memory attaches itself to objects. See: Susana Kaiser, *Postmemories of Terror* (New York: Palgrave MacMillan, 2005) at 2. However, in some cases not even this connection was possible as the junta often removed personal items from the homes of the abductees and stockpiled these objects in the detention centers. These items were used both to torture the disappeared with symbols of the comfort of their free lives, and in some cases for financial gain. In this regard, see: Feitlowitz, *supra* note 13 at 168-9; and, Argentina's National Commission on Disappeared People (CONADEP), *supra* note 14 at 271.

with human waste; *parilla*, an Argentine grill for cooking meat came to refer to the metal table on which prisoners were tortured; and, *La Cacha*, a witch on an Argentinean television show who made people disappear, became the name of one of the centers in Buenos Aires. The well documented torture undertaken against the prisoners held in the centers is recounted in vivid detail in a number of testimonials. Often incorporating sexual dimensions and the administration of electric shocks, the torturers also tormented the victims psychologically through berating, using emotional tactics such as waging threats against loved ones, and by instituting complete sensory confusion.²¹

From the point of abduction forward the victims were ‘walled up,’ or physically prevented from seeing. While the sensory deprivation enforced upon the disappeared through the use of blindfolds entrenched a sense of helplessness, it also reinforced a line between two forms of knowledge and perception – one public, official, visible, and sensical, and the other clandestine, invisible, dehumanizing, and objectifying. Here, the “victims no longer existed as citizens,”²² as “the characteristics of the centers, and the daily life led there revealed they had been specifically conceived for the subjection of victims to a meticulous and deliberate stripping of all human attributes ... to be admitted to one of these centers meant to cease to exist.”²³ This objectification of the disappeared subjected them to the gaze of the state which re-inscribed their identity into a clandestine bureaucratic system, and attempted to root out subversion through attacks on their bodies. Denied the ability to return the gaze, the disappeared were forced to develop new systems

²¹ See: Feitlowitz, *supra* note 13 at 51-60. Feitlowitz’s account, based primarily on an ethnomethodological approach, provides a particularly compelling account of the reordering of language effected by the junta.

²² Argentina’s National Commission on Disappeared People (CONADEP), *supra* note 14 at 3.

²³ Argentina’s National Commission on Disappeared People (CONADEP), *ibid.* at 52.

of interpretation by which to orient themselves.²⁴ Various elements of the transitional human rights processes addressed these blind spots in order to promote healing, indicated for instance by the meticulous details provided on a number of the detention centers in the truth commission report. Indeed, drawing together knowledge regarding the experience of disappearance and minimizing its ambiguities and clandestine nature is one of the most important political activities of the human rights organizations.²⁵

Nor were the effects of the state's gaze and its control over the visible and invisible limited to those held and tortured in detention centers. Rather, public space was also manipulated. As Feitlowitz notes, "All of society's institutions – political, military, and legal, religious, social, domestic – were mobilized or appropriated for the purposes of clandestine torture and public complicity."²⁶ The military's presence was subtly interjected into advertisements for consumer goods which bore slogans such as "An absurd fight: To us it seems a strange one. 'Not Elegant' let's say," in the case of a Peugeot ad, and the simple yet intensely ominous "We're coming to get you today," in an Aero México campaign.²⁷ The home and domestic spaces were also important and powerful images usurped by the dictatorship. The home, doubling as the nation in the junta's rhetoric, eroded the distinction between public and private, and the military's intrusions effectively and saliently penetrated its triple meaning – the nation, the family

²⁴ For instance, the truth commission report explains that the blindfolds caused the prisoners to lose all spatial awareness which necessitated the use of their other senses to detect danger and interpret their surroundings. An indication of the degree of reliance on this compensatory use of the other senses is evidenced through the extensive amount of information regarding the detention centers gathered through this 'corporeal' memory. Prisoners used the sounds and smells around them in an attempt to locate themselves, as well as cues such as the number of steps and turns taken when guided or driven around by guards; ultimately, this information helped to recreate the layout of the numerous buildings and to identify these centers. See discussion in: *Nunca Mas (Never Again): A Report by Argentina's National Commission on Disappeared People*, *ibid.* at 57.

²⁵ Gordon, *supra* note 2 at 79.

²⁶ Feitlowitz, *supra* note 13 at 152.

²⁷ Diana Taylor, *Disappearing Acts: Spectacles of Gender and Nationalism in Argentina's Dirty War* (Durham: Duke University Press, 1997) at 111.

home, and human bodies.²⁸ The domiciliation of the nation, at the time when nation itself was equated with terror, left few, if any, safe spaces in which to exist. The question of the assault on the sanctity of the family home recurred several times in the truth report, noting that it was the usual place of abduction, that it was sometimes occupied for days at a time, and that it was often looted.²⁹ The home is also discussed in Iain Guest's account. Here he emphasizes that the first sentences of Emilio Mignone's testimony regarding the disappearance of his daughter from his apartment express confusion of being awoken in the middle of the night to the doorbell, bewildered at how anyone had managed to surpass the security system that normally protected his apartment complex. The sense of shattered safety was palpable in Mignone's testimony, made clear through the iteration of details regarding his family and their sense of pride in their daughter Monica's work. The close-knit nature of the family on the one hand is contrasted with the intrusion of the army figures, their weaponry and cold harshness on the other. "Once the door of their apartment was closed," the contextualizing narrative imparts, "it held the family together more tightly. Like so many Argentines, they sought consolation against an unfriendly world in the privacy of the family. Any intrusion was thus doubly intolerable."³⁰

What happens to knowledge and meaning in the context of state terror, particularly one in which the eradication of the private and the actions of disappearance are the tactics selected to demonstrate that force? How are processes of signification changed when terror becomes so deeply enmeshed in social and cultural institutions, and what are the indications of this shifted frame of perception and understanding? In view of

²⁸ Taylor, *ibid.* at 126.

²⁹ In this regard see: Argentina's National Commission on Disappeared People (CONADEP), *supra* note 14 at 11-18.

³⁰ Iain Guest, *Behind the Disappearances: Argentina's Dirty War Against Human Rights and the United Nations* (Philadelphia: University of Pennsylvania Press, 1990) at 10.

the capillary penetration of the state's power into the civil and domestic spheres, it is not surprising that the relationship between symbols and meaning became destabilized, and that new ways of adapting to the dual reality emerged that hinged on intense looking, blinding, and self-blinding. The referent and the referee, and the signifier and the signified lost much of their stability and meaning as the boundary was continually effaced and re-drawn between the two pervasive realities – one clandestine, and the other visible.³¹ Consistent with the increasing use of counter-insurgency tactics on the part of the military forces in the mid-1970s, for instance, the disappearances of Argentinean citizens were predominantly undertaken by men dressed in civilian clothing and driving unmarked Ford Falcons. The Ford Falcon, always without license plate, was in fact so prevalently employed for the purpose of abduction that it, like so many other otherwise inert objects, became a salient symbol of the period of terror.³² This is well articulated by

³¹ The contemporaneous trace may be thought of most fruitfully as indicating a sort of *indexical* and *symbolic* reordering. For a brief discussion of index and symbolic signs, see: Charles Sanders Peirce, *Collected Papers of Charles Sanders Peirce, Volume V: Pragmatism and Pragmaticism*, ed. by Charles Hartshorne & Paul Weiss (Cambridge: Harvard University Press, 1934) at 73. According to Peirce, the representamen is comprised of the *symbol*, the *index*, and the *icon*. The *indexical sign* has a real connection with its object - a relationship thus described as one based on reaction rather than being arbitrary, such as the case with the pure *symbol*. The indexical sign thus points directly to its object such as in the body's symptoms of illness, or a photograph. As Crossland states, it does not have to "describe the thing that it represents ... but does have to be in some sort of existing relationship with it." See: Zoë Crossland, "Of Clues and Signs: The Dead Body and its Evidential Traces" (2009) 111:1 *American Anthropologist* 69 at 73. The *symbol* on the other hand, has two elements: the first, to indicate the object, and the second to "represent the representation by exciting an icon of its quality," (Peirce: 76). As such, the symbol depends on a relationship of interpretation rather than the direct connection associated with the index. Thus, as seen above in the cases of the gentleman who came to associate bus stops with the prospect of detention, the Ford Falcon as a symbol of terror, and otherwise innocuous words that took on new and sinister meanings, the junta managed to reorder both indexical and symbolic signs. This reordering of objects, language, and cultural symbols was a product of practices of torture and detention centers which created its own lexicon. However, it also operated throughout public space more generally, overwhelmingly as a product of the junta's construction and objectification of subversion combined with its denial of wrongdoing. Indeed, the semiotic reordering spurred by the junta often took its power from this simultaneous veneer of normalcy and the horrific violence and oppression beneath.

³² Horrifyingly, one hundred and forty six of these vehicles were auctioned off by Menem's government in the spring of 1990 in an attempt to make federal money during a time of intense economic crisis. Feitlowitz considers the significance of selling symbols and instruments of torture to a population in crisis, and remarks on the psychological effects of the spectacle of publicly displaying these vehicles before their sale. See: Feitlowitz, *supra* note 13 at 171-2. Taylor, in her discussion of the media's recreation of 'Dirty War'

Renée Epelbaum, one of the Mothers del Plaza de Mayo, when she notes that hidden under the surface of what appeared to be logical arguments and oration was the junta's intentional distortion of reality which "... made you *psychotic*. We could barely 'read', let alone 'translate' the world around us."³³

El Proceso & 'Subversion'

While mutilated bodies washed up on the seaside and cemetery workers were charged with burying hundreds of corpses in unmarked graves, Argentina's daily business and cultural affairs continued on. On the surface, Argentina was a cosmopolitan and increasingly affluent society during the 'Dirty War' period. With infusions of 'sweet money' flowing freely from the IMF and other foreign institutions, the standard of living was high, evidenced through the ready availability of high fashion, expensive automobiles, and upper-end imported consumer goods. Within days of the coup a headline summarizing the junta's reality marked the front page: 'Activity all Over the Country is Normal.' The stability and affluence which pervaded Argentina's surface appearances during the 'Dirty War' was undoubtedly attributable, at least in part, to the 'National Reorganization Process.' *El Proceso* was undertaken by the junta immediately after the coup in order to realize their vision of the new Argentina which included a focus on moral values, national security, and sought "an international place for Argentina in the Western and Christian World."³⁴ In order to fulfill this vision, sweeping legal powers were accorded to the junta through the dissolution of the National Congress and other

power relationships also points out that the Ford Falcon was heavily advertised during this time with the tag line: "A history of feats without precedence ... And you, with your Ford Falcon will win out on the streets and highways." Also, see: Taylor, *supra* note 27 at 110.

³³ Feitlowitz, *ibid.* at 20.

³⁴ Inter-American Commission on Human Rights, Organization of American States. "Report on the Situation of Human Rights in Argentina" (1980), online: <<http://www.cidh.oas.org/countryrep/Argentina80eng/toc.htm>>.

accountable bodies, effectively placing the military in full and unchecked power. The aim of *El Proceso* was to cleanse the Argentinean nation through the eradication of violence, unruliness, subversion and unrest, and to restore its economic and social prosperity which had been displaced through the years of insurgency, sectarianism and market decline. The insidious and salient effect was its division of reality into the clandestine and the hidden on one hand, and the visibility of the junta's power on the other. This was a reordering which both undid conventional knowledge and meaning while creating its own by centering on the persecution of what it construed as subversion and simultaneously denying the reality of its violence enforcement.

According to a 1980 report written by the Inter-American Commission on Human Rights which recorded testimony from and regarding multiple victims in 1979, the disappearances were intimately connected with *El Proceso*'s provisions to combat subversion.³⁵ In order to understand the disorienting effect of this pivotal notion used by the junta to justify their violence, one need only turn to a 1977 press conference where generals Viola and Jauregui issued the following statement:

Subversion is any concealed or open, insidious or violent action that attempts to change or destroy a people's moral criteria and way of life, for the purposes of seizing power or imposing from a position of power a new way of life based on a different ordering of human values.³⁶

Thus while the history of Argentina during the period leading up to the terror demonstrates its vulnerability and some of the seeds of the profound political mistrust and unrest that undoubtedly informed the repression to follow, this broad definition and the wide range of those disappeared during this period of Argentine history demands

³⁵ Inter-American Commission on Human Rights, Organization of American States, *ibid.*

³⁶ Donald C. Hodges, *Argentina's 'Dirty War': An Intellectual Biography* (Austin: University of Texas Press, 1991) at 181.

moving beyond a sole focus of the political, or geopolitical, in making sense of its impetus.

In an effort to emphasize the broad impacts of ‘subversion,’ Marguerite Feitlowitz characterizes the driving force behind the brutality of the ‘Dirty War’ and *El Proceso* as a series of ultraconservative movements and tendencies, drawing on a large and non delimited reservoir of beliefs, phobias, and obsessions.³⁷ This sentiment is echoed by Diana Taylor who contends that a convergence of political, economic, historical, social and ideological tensions forged the basis of the instability that yielded and sustained the ‘Dirty War,’ but that some of its most important elements were cultural.³⁸ By these interpretations, ‘subversion’ in the Argentine context is best understood to be a cultural construction rooted in a conception of nationalism, history, and human nature that held diverse meanings across the repressive machinery. These contentions are summarized by Mark Osiel who cautions against the pinpointing of any coherent and tidy understanding of the regime’s motivations, thereby challenging understandings of the ‘Dirty War’ that imply any sort of functionalism, the hallmark of which is analysis that operates from a theoretical starting point where it is assumed that the ends unproblematically match the means of the repression.³⁹ In other words, there was no single and empirically verifiable driving force behind the widespread and routinized violence witnessed during this period; rather, multiple ends – fragmented and complex, and informed by a number of different spheres – were responsible.

Analyses such as those outlined above problematize any belief that the military, in its psychological tactics of theatricality of power and violence can be thought to have

³⁷ Feitlowitz, *supra* note 13 at 21.

³⁸ Taylor, *supra* note 27 at 93.

³⁹ See generally: Osiel, *supra* note 8.

acted in perfect coordination and orchestration to repeatedly reiterate the same desired end. Abandoning this belief advances an argument in favour of a phenomenological understanding based on the experience of the Argentineans who lived what has in many places been described as a surreal existence under the terror of arbitrariness of the next act of violence.⁴⁰ In light of this understanding, and as the heading “The Semantic Twist: Terrorism, Subversion, Dissent, Innocence,”⁴¹ on the ‘Vanished Gallery’ memorial website affirms, the concept of subversion employed by the junta is thus a crux of understanding the sort of semantic reordering that the contemporaneous traces indicate. The notion of subversion was a sort of residual and wide-reaching category wherein citizens with any sort of awareness or political consciousness could be netted.

Disappearances

Undoubtedly, the most penetrating of the junta’s manipulations of reality was the tactic of disappearance, as the action placed the missing in absolute limbo, suspending them in a state of neither living nor dead. Disappearance as a tactic of state violence carried a very tangible benefit for the state in that its ambiguity allowed the evasion of evidence of wrong-doing and offences against human rights. While in 1976 the Ministry of the Interior created an official register of missing persons to handle the high volume of petitions, *habeas corpus* writs were often refused on the basis that there was no record of the missing person. Amnesty International’s report entitled *Testimony in Illegal Detention Camps in Argentina* includes several examples of the bureaucratic responses to these writs penned by the Ministry of the Interior. The formulaic response began “I have the pleasure of addressing you in relation to your note of [date] addressed to this Ministry

⁴⁰ Osiel, *ibid.*

⁴¹ Yendor, “The Semantic Twist: Terrorism, Subversion, Dissent, Innocence” online: <<http://www.yendor.com/vanished/dissent.html>>.

in which you ask for information about [name of the Disappeared],” and continued “On this matter I draw your attention that the competent jurisdictional authorities state that there is no evidence as to [his/her] whereabouts, and also that [he/she] is not in detention. However, the searches aimed at establishing her whereabouts continue, and you will be told of the result of them in due course.”⁴² The letters always closed with ‘yours very faithfully,’ and the requested information was never forthcoming. As Simpson and Bennett note, this ploy was foolproof even in the face of some two hundred writs filed in one week during May of 1976.⁴³

Questions posed to the military government by the Organization of the American States on the basis of collected testimony were denied where possible. Where it was not, the disappeared were declared terrorists. In this vein, the military could ‘justify’ the abduction or arrest of the victim for political wrongdoing, and could cite security concerns as a reason for not following proper channels and divulging information to family. Similarly, in some cases the death of the victim was attributed to guerilla clashes or other political violence. Officials even went so far as to transport and dump cadavers of the disappeared at the alleged sites of guerilla violence; often, these incidents had never actually transpired, rather the bodies were “used as *relleno* (stuffing) - a term the military used for already-dead detainees who were taken to a site in order to fake an armed confrontation with ‘subversive delinquents.’”⁴⁴

⁴² Amnesty International, ed., *Testimony on Secret Camps in Argentina* (London: Amnesty International, 1980) at Appendix.

⁴³ John Simpson & Jana Bennett, *The Disappeared and the Mothers of the Plaza: the Story of the 11,000 Argentineans Who Vanished* (New York: St. Martin’s Press, 1985) at 72.

⁴⁴ Martin E. Andersen, *Dossier Secreto: Argentina’s Desaparecidos and the Myth of the ‘Dirty War’* (Boulder: Westview Press, 1993) at 199. Andersen provides a number of details regarding tactics of misinformation employed in the ‘Dirty War.’ In particular he focuses on the prevalence of violence staged for the media designed to make leftist guerillas appear culpable, as well as the role of propaganda more generally.

These explanations were offered not only to Human Rights organizations, but fabricated and staged news stories also filled the newspapers on a daily basis. As of April 1976, the content of the newspapers was strictly controlled by the junta who declared that comment on subjects related to subversion, appearances of bodies, death of those involved in clashes and missing persons were prohibited unless reported by a responsible official source.⁴⁵ One particular magazine conglomerate, *Editorial Atlántida*, ran information, including photographs that were regularly fed to them by the Department of Psychological Action of the 601 Army Intelligence Battalion.⁴⁶ Only one Argentinean newspaper, the foreign owned English-language *Buenos Aires Herald* dared to defy the prohibitions throughout the entire ‘Dirty War’ period, sporadically publishing detailed stories regarding disappearances.⁴⁷ Other dailies such as *La Prensa* printed lists of the disappeared once or twice, and even then the space was sold for huge sums of money to those publishing the names.⁴⁸ Meanwhile, headlines announcing [more often than not concocted] subversive shoot-outs, the triumph of the military power over the guerillas, and the eradication of extremists filled the papers, sometimes multiple times per page and multiple pages at a time.⁴⁹

Thus, the selection of disappearance as a means of dominance had the distinct advantage of denial and obfuscation, effecting the indexical and symbolic reordering of that together with the ambiguity of subversion permeated all social relationships, exponentially reproducing the confusion and disorientation. These signifying

⁴⁵ Andersen, *ibid.* at 216.

⁴⁶ Andersen, *ibid.* at 217.

⁴⁷ Simpson & Bennett, *supra* note 44 at 236.

⁴⁸ Feitlowitz, *supra* note 13 at 161.

⁴⁹ Taylor, *supra* note 27 at 110. For a focused discussion of media and newspapers in the ‘Dirty War’ see: Jerry W. Knudson, “Veil of Silence: The Argentine Press and the Dirty War, 1976-1983” (1997) 24:6 *Latin American Perspectives* 93.

relationships dependent on the index and the symbol were broken by the terror of intense violence and denial of the same which

... made a mockery of sense-making, not because terror is senseless but, on the contrary, because it is itself so involved with knowledge-making. Spiraling between unbelievable facts and potent fictions, fantastic realities and violent fantasies, the *knowledge* of disappearance cannot but be bound up with the bewitching and brutal breaks and armature of disappearance itself [emphasis in original].⁵⁰

As Taylor affirms, the effects of the terror of disappearance created a looking-glass world in which social and cultural reference points were effaced, inversed, or dismantled altogether.⁵¹ In the face of personal fears and manipulation of cultural symbols, passivity became a prominent coping mechanism as many dared not venture into the realm of knowledge and of violence that the juntas had assured – instead finding reassurance in their own denial. Thus, many Argentineans turned away in an effort to secure self-preservation, compounding complicity and threatening the cohesion of social and community bonds. Blinding and maiming through the senses, a phenomenon Taylor terms ‘percepticide,’⁵² is borne out in ethnographic investigations of the ‘Dirty War’ where it is noted that many simultaneously witnessed and did not see, understood but did not know.⁵³

Further in this vein of self-blinding, bizarre campaigns designed to deny allegations of human rights atrocities to the rest of the world co-opted citizens to bear slogans and engage in other tangible acts and displays as indications of Argentina’s innocence. Foreign journalists seized the World Cup in 1978 as an opportunity to ask questions of the regime regarding human rights; the response was an intensely visible campaign playing on the words ‘human’ and ‘right.’ Stickers, banners, emblems and

⁵⁰ Gordon, *supra* note 2 at 79.

⁵¹ Taylor, *supra* note 27 at 130.

⁵² Taylor, *ibid.* at 123.

⁵³ Feitlowitz, *supra* note 8 at 151.

decals bearing the slogan ‘We Argentines are human, we Argentines are right,’ were prominently displayed by citizens and businesses throughout Buenos Aires. Employees of the Ministry of the Interior even marched the Plaza de Mayo to further impress the message.⁵⁴ In an equally flamboyant show, a 1978 edition of the women’s magazine *Para Ti* printed a series of tear-out post cards bearing the slogan ‘Argentina: The Whole Truth,’ and prompted readers to send them to foreign governments as well as to human rights organizations, including Amnesty International who had questioned the human rights situation in Argentina.⁵⁵ The few newspapers and magazines allowed to continue in circulation extolled the new Christian and Western morality and values the junta wished to instill, and buried truth under the positive slant of what they talked up as the new, cleaner and less violent society. The reordering of meaning in Argentina’s ‘Dirty War’ was thorough, permeating multiple facets of everyday existence and its power was highly dependent on the manipulation of the visible and invisible. While this trace is best conveyed through narrative and cultural artifact, the tangible trace takes its power from its materiality.

The Tangible Trace

The second type of signifying trace by which to understand the ‘Dirty War’, the physical remains created by the junta, is perhaps in its tangibility the most direct reminder. As outlined in the introduction to the chapter, this type of trace includes bureaucratic records, DNA, clandestine detention centers, and bones interred in mass graves. These remains are the most salient markers of the violence, and are overwhelmingly believed to possess an unequivocal capacity of representing truth

⁵⁴ Taylor, *supra* note 27 at 78.

⁵⁵ Feitlowitz, *supra* note 8 at 40.

because of their ability to be subjected to the rigors of scientific testing. This sentiment is well captured in a media quote regarding EAAF's work to create databanks of information from archival records and other sources when it notes that "This database is unique. Not only does it aid the team's detective work, it also presents information in a cold scientific light, quite devoid of ambiguity."⁵⁶ Given an overwhelming faith in the tangible traces to provide an unbiased account, it is particularly interesting and notable that these traces are in many respects those that have become most subject to heated political contestation.

An important consequence of the penetrating gaze of the repressive state was the records and archives created by the bureaucratic system, a role that the EAAF has carefully juxtaposed with the state as clandestine repressor.⁵⁷ As the Truth Commission states in its report, the overwhelming majority of textual documentation regarding the abductions and torture were destroyed by the military junta in the early 1980s under a confidential decree. Textual records, an integral part of the bureaucracy required to uphold such an elaborate and widespread system of repression, included information regarding: the acquisition and retrofitting of detention centers; written orders to those in the chain of command; and perhaps most importantly for reconstructive purposes, details on the detention, imprisonment and identity of prisoners.⁵⁸ As is the case with the detention centers, knowledge that many of these forms existed is based on the memory of those held captive who imparted such details in their testimony to human rights

⁵⁶ Zoë Crossland, "Buried Lives: Forensic Archaeology and the Disappeared in Argentina" (2000) 7:2 *Archaeological Dialogues* 146 at 151.

⁵⁷ *Equipo Argentino de Antropología Forense (EAAF)*, "EAAF 1999 Annual Report" (1999), online: <<http://eaaf.typepad.com/pdf/1999/03/Argentina1999.pdf>> at 11.

⁵⁸ Argentina's National Commission on Disappeared People (CONADEP), *supra* note 14 at 263-272.

organizations.⁵⁹ In addition to the junta's retention of prisoner's identity information such as fingerprints and national identification numbers held in records already created on each citizen by Argentina's bureaucracy, a more detailed dossier was opened upon each prisoner's admittance to a detention center. These cards recorded the identification number assigned to the prisoner, as well as a series of other pieces of information including: the captive's political affiliation and which guerilla organizations they had belonged to, a list of their family members, the location of their abduction, and a life history written by the captive themselves.⁶⁰ Further, in cases where the bodies of the disappeared were dumped in public spaces, the regular bureaucratic machinery came into play, carefully tracing the death from the 'discovery' of the cadaver. The records associated with these administrative processes included: the account of 'finding' the body, photographs and fingerprints of the corpse, the outcome of an external examination of the body/and or autopsy, the production of a death certificate, and the entry of the death into a civil registry.⁴⁸ Cemetery records of municipal graveyards documenting staggering numbers of anonymous deaths fitting unusual biological profiles, as well as prevalent use of cremation during the time period also serve as textual traces.

⁵⁹ Amnesty International has published some of these reconstructed forms in their reports. See for instance: Amnesty International, eds., *Testimony on Secret Detention Camps in Argentina* (London: Amnesty International, 1980) which recreated the roster posted on the door of the torture rooms or 'operating theaters,' the target application form, the daily record form, and the transfer form. The first listed: the interrogator's name and task force, the number of the prisoner, the time of the prisoner's admittance and departure from the room, and their state upon leaving (alive or dead); the second listed: the name, physical description and target number of the individual to be abducted or assassinated, whether the procedure would be open or under cover, whether coordination between forces such as the police and army would be necessary, and the political record of the target; the third indicated: the name, date of detention, organization, age, marital status and children of the prisoner, as well as the center held at and the task force responsible for the abduction; the fourth included details such as: the identity of the captive, their political activities, their degree of danger (as decided by the interrogator, the chief of the sub-zone, and the army corps and as ascertained through facts such as their knowledge of explosives, participation in armed propaganda, and conversion of supporters), and the final decision as to their fate (as decided by the same officials).

⁶⁰ Antonius C.G.M. Robben, *Political Violence and Trauma in Argentina* (Philadelphia: University of Pennsylvania Press, 2005) at 245.

The work of the EAAF has brought to the fore three further important sets of documentary traces accessed through a series of court orders which attest to the violence of the junta and serve as a salient marker of the disappearances. These include: the Buenos Aires Provincial Police Archives, the Federal Police Archives, and the Registry of Deaths.⁶¹ Because the police played such an integral role in the repression, their files contain important indications of the disappeared. The cadavers file of the Buenos Aires Provincial Police, for instance, contains the microfilmed fingerprints of all unidentified bodies. In their routine work, the police use the documentation of those possessing a prior record in an effort to match the prints on microfilm to an identity. While the EAAF has established that these records demonstrate that a number of identities of disappeared people had been determined by the police at the time that their body had been found, the families of those identified were never alerted. Similarly, the records of the Police photography division which contain a photograph of the cadaver and details of the death including the name of the victim and the date that they died, show a number of disappeared victims whose death had never been reported to family. Finally, the Registry of Deaths amounts to a documentary bureaucratic trace of the disappeared. Because registration of deaths is mandatory in Argentina, this registry is thought to list the overwhelming majority of the abducted with the exception of those who were thrown from airplanes or cremated.⁶² These sets of records too became subject to political contestation in November of 1999 when then minister of security Carlos Soria announced to the press that these archives has been uncovered and had been successfully used to identify 124 disappeared people, individuals he stated, who would “now have a first and

⁶¹ *Equipo Argentino de Antropologica Forense (EAAF)*, “EAAF 1998 Annual Report” (1998), online: <<http://eaaf.typepad.com/pdf/1998/01Argentina1998.pdf>> at 2.

⁶² *Equipo Argentino de Antropologica Forense (EAAF)*, *ibid.*

last name.”⁶³ When the EAAF was flooded with inquiries from desperate family members hoping that the individual that they were seeking could be among those identified, the organization held a press release to criticize Soria’s announcement, denouncing it as politically motivated rather than demonstrative of any humanitarian concern.⁶⁴ At that point in time, any forensic indication of a disappeared incapable of decisively pinpointing a particular person would have been met with hundreds of claims that it was their child.⁶⁵

In combination with cemetery records, the documents examined by the EAAF were first used to locate a number of mass graves which contained bodies whose cause of death was listed in cemetery registers “destruction of the brain produced by a firearm projectile.”⁶⁶ In late 1982 the first mass graves were uncovered, at which point eighty-eight graves bearing the remains of over four hundred unidentified bodies were opened.⁶⁷ Within the first decade of transition, bones buried together in municipal grave yards such as Avellaneda where nineteen mass graves and eleven individual graves yielded 324 sets of remains⁶⁸ were increasingly disinterred. Initially the graves were carelessly excavated using heavy machinery which damaged the contents to beyond the point of their ability to be reconstructed. In cases where the skeletons remained intact they were often kept, mismatched and jumbled, in plastic bags stored in medical legal institutes throughout the country.

⁶³ BBC, “Argentina Identifies 124 ‘Disappeared’” *BBC World News: Americas* (25 November 1999), Online: BBC News <<http://news.bbc.co.uk/2/hi/americas/536697.stm>>.

⁶⁴ *Equipo Argentino de Antropologica Forense (EAAF)*, supra note 58 at 10.

⁶⁵ Eric Stover & Christopher Joyce, *Witnesses From the Grave: The Stories Bones Tell* (Boston: Little, Brown and Co., 1991) at 242.

⁶⁶ Inter-American Commission on Human Rights, Organization of American States, supra note 30.

⁶⁷ Robben, supra note 3 at 142.

⁶⁸ *Equipo Argentino de Antropologica Forense (EAAF)*, “EAAF Traveling Photo Exhibition” (1999), online: <http://eaaf.typepad.com/eaaf_traveling_photo/>.

In 1984, CONADEP called upon the assistance of the Association for the Advancement of Science, at which point the responsibility for the excavation of the graves was turned over to the newly founded Argentine Forensic Anthropology Team (EAAF).⁶⁹ The unearthing of mass graves and the reconstruction of identities from these remains however, became a subject of contention for the human rights movement, and particularly the Mothers of the Plaza de Mayo. Initially hopeful that the exhumations would provide much needed identity to the disappeared, over the course of time the Mothers lost faith as the initial improperly conducted disinterment was followed by an increasing impunity for the juntas. Thus while the EAAF sought to identify the skeletal remains in order to provide closure to the families of the disappeared, the ambiguity and un-visibility of the state of disappearance came to have important political consequences useful in deferring the end of the fight for legally defined justice. As long as the questions remained open, the Mothers held, so did the memory and the will to determine culpability and punish, a belief summarized by Graciela de Jeger when she stated “With the exhumations they want to eradicate the problem of the disappeared, because then there are no more disappeared, only dead people.”⁷⁰ The question of exhumations actually caused the Mothers to split into two separate organizations in 1986. The group led by Hebe de Bonafini opposed them, protesting for ‘Reappearance with life’⁷¹ in order that a complete account be given for each of the disappeared. According to the de Bonafini group, the government was using the exhumations as a means to institute organized forgetting through the presumption of death of all disappeared. These

⁶⁹ *Equipo Argentino de Antropologica Forense (EAAF)*, “Argentine Forensic Anthropology Team / *Equipo Argentino de Antropologica Forense (EAAF)*” online: <<http://www.eaaf.org/>>.

⁷⁰ Crossland, *supra* note 57 at 153.

⁷¹ The Mothers of the Plaza de Mayo, “Reappearance with Life: First a Cry, Then a Banner” quoted in Agosin, *supra* note 1 at 67.

contentions seemed to be borne out by an attempt to use the exhumations as a ‘bargaining chip’ on the part of the perpetrators whereby the resting places of the disappeared would be revealed in exchange for a cessation of prosecutions.⁷²

A final tangible trace is constituted by the hundreds of secret detention centers referred to as ‘*pozos*’ (pits), and ‘*chupaderos*’ (drains)⁷³ which were located throughout the country according to the defense subzones and areas that the junta had drawn.⁷⁴ Again, this salient trace is indicative of the parallel universe created by the junta wherein the state held a firm gaze over the disappeared, and the public’s knowledge was thwarted by official denial and percepticide’s deadening of the senses. The truth commission’s section on the detention centers iterates this well when it notes that:

These centers were only secret as far as the public and the relatives and people close to the victims were concerned, in as much as the authorities systematically refused to give any information on the fate of the abducted persons ... the reality was continually denied, the military government also making use of the total control it exercised over the media, to confused and misinform the public.⁷⁵

Many of the centers weren’t far from the public, the reality of their existence buffered by the veil of silence the military had imposed, a fact which compounded the despair and sense of the surreality of the captives as they could sometimes hear the bustle of normal everyday life just beyond the walls.⁷⁶ A good number of these centers were located using the memory the prisoners has gained from their senses other than sight. In fact, many former abductees returning with the truth commission occasionally requested to be blindfolded in order to better remember their experience.⁷⁷ Extensive information has

⁷² For further discussion regarding the question of the exhumations and the Mothers de Plaza de Mayo see: Robben, *supra* note 3 at 142-144.

⁷³ Amnesty International, *supra* note 57 at 3.

⁷⁴ Robben, *supra* note 58 at 244.

⁷⁵ Argentina’s National Commission on Disappeared People (CONADEP), *supra* note 14 at 52.

⁷⁶ Feitlowitz, *supra* note 13 at 166.

⁷⁷ Argentina’s National Commission on Disappeared People (CONADEP), *supra* note 14 at 58.

been collected from former prisoners regarding the camps which differed markedly in governance structures, degree of repression, and prevalence of violence. An Amnesty International report published in 1980 and CONADEP's Truth Commission report for example, provide numerous diagrams of the camp layouts as well as details regarding the repressive bureaucratic structures which administered them. *Nunca Mas's* pages summarize the power of the detention centers in providing a physical and tangible missing link in the clandestine reality created by the junta, when it notes that "their existence revolves around the greatest question about the forced disappearance ... : this is where they had been. Here we have physical proof of the disappearances, and consequently the possibility of finding an answer to the fate of those who one day found themselves engulfed in a horror which still casts its shadow over us today."⁷⁸

The tangible traces will be again taken up in the following chapter which focuses on their reconstruction. The contents of the bureaucratic records, for instance, forged a vitally important link in establishing truth in the transitional period. The EAAF in particular drew heavily on identification files maintained by the police and the National Registration Office on each citizen in order to reconstruct identities of the N.N., the *Nigún Nombre*, or the unidentified dead who were disappeared. Similarly, evidence regarding the location and operations of the clandestine detention centers was used to recreate the bureaucratic procedures for processing those who were abducted to them, and gave important indications regarding the identities of those held within them. While these reconstructions were undertaken during the truth process, human rights organizations were also active during the 'Dirty War' period itself, presenting yet another type of trace, discussed below.

⁷⁸ Argentina's National Commission on Disappeared People (CONADEP), *ibid* at 75.

The Dissenting Trace

Human Rights Organizations active at the time of the ‘Dirty War’, including Amnesty International (AI) and the Mothers of the Plaza de Mayo, are a final type of trace which in their rendering visible of the violence and provision of an alternate archive may be thought of as dissenting trace.⁷⁹ In the case of Amnesty International, the dissenting trace as alternate archive inevitably relied on the tangible traces that the junta had produced. For instance, these organizations recorded details of the prison camps and the bureaucratic forms used by the junta to administer the camps based on testimony of freed prisoners. The Center for Social and Legal Studies, or CELS also holds an enormous collection of 240,000 files on the oppression including traces such as photographs of the disappeared, testimonials, and *habeas corpus* briefs. The *Familiares de Desaparecidos y Detenidos por Razones Políticas - Relatives of the Disappeared of Political Detainees* - holds, amongst other documentation, letters the organization wrote to international bodies during the oppression, as well as hundreds of letters penned by political prisoners.⁸⁰

The role for human rights organizations in documenting an alternate reality during the ‘Dirty War’ period itself is perhaps best captured by the title of one of the AI reports, ‘Violations of Human Rights in Argentina: Missing Prisoners - Who is Going to Speak

⁷⁹ For the importance of the human rights protest as a source of alternate knowledge see: Deborah Mitchell, *Grasping Change: The Argentine Rupture Experience of 1983* (PhD Thesis, New School for Social Research, 2005) [unpublished] at 99-101. Here she cites the activities of the human rights movements along with the Malvinas/Falklands war as the two primary reasons for the fall of the oppressive government. Further, she notes that the human rights organization created a fundamentally ‘non-traditional [political] subject’ and a political rupture which through “the public visibilization of the magnitude of the violence that had accompanied the violation of [...] rights, [prompted] a process of social aggregation that dichotomized ... the Argentine social space through the formulation of a promise: the promise of *nunca mas* (‘never again.’)(95). See also: Louis Bickford, “The Archival Imperative: Human Rights & Historical Memory in Latin America’s Southern Cone” (1999) 21:4 Hum. Rts. Q. 1097 which discusses the role of Human Rights Non-Governmental Organizations as an integral element to challenging the legitimacy of the authoritative regimes.

⁸⁰ Bickford, *ibid* at 1111.

for Them?’⁸¹ A clause at the end of another of their reports marked ‘important - please note,’ iterates that while they are unable able to confirm claims made on the basis of the testimony that they have collected, that they provide it in a campaign for information and to prompt accountability regarding the location of thousands of victims.⁸² In this sense, the human rights organizations and the Mothers of the Plaza de Mayo actively sought to provide a counter-indication to the junta’s denial, a signification of the unavailable or lost ‘other.’

Amnesty International reports for the period document elements of the repression through the provision of details regarding the secret detention centers, disappearances, and repressive tactics that the junta employed, such as the suppression of media. In some instances, particular groups of victims have been the subject of the reporting such as in the case of intellectuals, lawyers, pregnant women, and trade unionists.⁸³ Broadly, they ascertain and present detailed accounts of the repression in a way that highlights its systematicity and confirms the outright responsibility of the security forces as well as the complicity of other state officials. Contextualized in victim’s individual experiences, the accounts are used to illustrate various elements of the violence. For instance, the report containing Graciela Geuna’s testimony opens with her recounting her particular experience of abduction. Following that, the components that make up her story are generalized to detail the operational structure of the intelligence unit that persecuted her, the camp in which she was held, the methods of torture used there, the methods of

⁸¹ Amnesty International, ed., *Violations of Human Rights in Argentina: Missing Prisoners - Who is Going to Speak for Them?* (London: Amnesty International, 1979).

⁸² Amnesty International, ed., *Argentina: Testimony of Graciela Geuna on La Perla Camp (Cordoba)* (London: Amnesty International, 1980) at 33.

⁸³ For some of the Amnesty International Reports published during the time period see footnote 18.

interrogation employed, and other broader details on the repression.⁸⁴ Several of the documents conclude with listings of the names of disappeared individuals, the camps in which they were detained, and the date of their abduction.⁸⁵ In many ways, the knowledge offered by these reports mirrors the structure and positivist and legalistic format later adopted by CONADEP's truth report, which is discussed at length in the following chapter. The primary way in which these differed from the latter was in the contemporaneity of their production with the events as they unfolded.⁸⁶ Furthermore, unlike the later truth report, this alternate archive of events was totally suppressed by the Argentine government and unavailable to its citizens at the time.

Unlike the human rights reports, the Mothers of the Plaza de Mayo were able to offer Argentines a highly visible marker of the disappeared during the 'Dirty War' period. Initially the Mothers formed in an effort to collect as much information on the military's actions as possible in order to locate their children, and used their own bodily presence to indicate the loss of their children. Their petitions to the government included lists of the names of disappeared individuals and demanded investigation into their whereabouts; their intentions are well summarized in a full newspaper ad they took out stating simply 'All we want is the truth.'⁸⁷ In the first year of their gatherings at the Plaza de Mayo, the Mothers made use of tangible indications of their presence in order to recognize one another and spread word of their existence. Leafs pinned to lapels, small

⁸⁴ See generally: Amnesty International, *supra* note 81.

⁸⁵ See for instance: Amnesty International, ed., *Testimony on Secret Camps in Argentina* (London: Amnesty International, 1980); Amnesty International, *ibid*.

⁸⁶ See: Bickford, *supra* note 80. Indeed, reports such as these produced by Human Rights NGOs are considered primary documents which offer a valuable contribution to an archive of the events as they transpired. Although consulted in the truth process however, these documents have not for the most part been properly preserved. Instead, a great number of them are stored uncatalogued and unorganized in cardboard boxes with important implications for future generations of research.

⁸⁷ Nora Amalia Femenía & Carlos Ariel Gil, "Argentina's Mothers of Plaza de Mayo: The Mourning Process from Junta to Democracy" (1987) 13:1 *Feminist Studies* 9 at 12.

purses rather than handbags, and other objects became indications of their presence to one another while stickers placed on public transportation and notes on pesos spread word of their existence and meeting places.⁸⁸ In time, the demand and presence of the Mothers markedly changed form and became more overtly political, incorporating tangible symbols of resistance such as the white headscarf and photographs of their lost children. The white headscarf, which initially served a visible marker of the Mothers' presence, became an important symbol of their collective will. Initially embroidered with their child's name, the words 'Reappearance with life,' were later added; as Aida de Suarez notes, this indicated that "they were no longer searching for just one child, but for all the disappeared."⁸⁹

The dissent to the State offered by these human rights organizations poses an ambiguity between trace and knowledge or truth. By Levinasian thinking, the work of the trace is fundamentally ethical in nature as it marks the other and the infinite, it serves as the "opening of justice."⁹⁰ This is counterposed with knowledge or truth as correspondence or rectitude which indicates evidence and the finite arrived at through (re)construction. In their marking of the junta's power and the intersection of the forces of politics and power with the irreducibility of experience, the contemporaneous human rights reporting and the Mothers' embodied resistance serve as traces. In the case of the Mothers, this experience was that of the particularities of their lost child, while the reports depended on first-hand individual experiences conveyed through testimony. However, in their concerted attempt to demonstrate what was missing in a politicized

⁸⁸ Jo Fisher, *Mothers of the Disappeared* (London: Zed, 1989) at 53.

⁸⁹ Aida de Suarez in *ibid.* at 54.

⁹⁰ Eaglestone, *supra* note 6 at 287.

way, these experiences were reconstructed or drawn on to serve as an alternative to the knowledge provided by the state and in doing so provided evidence and totalized.

These contemporaneous social movements that addressed human rights⁹¹ Bickford notes, are a vitally important in making sense of “the complex relationship between past, present and future.”⁹² This temporal factor is another important consideration in helping to make sense of the nature of these movements as trace or as knowledge. As Eaglestone writes, the trace is as proxy to the face-to-face relation, “[t]he trace,” he writes, “...inaugurates the same ethical relation to the other in the past as the face does to the actually present other ... the trace is to the absent other of the past what the face is to an other person actually here present.”⁹³ In this sense, the actions of the Mothers in particular problematizes differentiation between knowledge and acknowledgement, a fact perhaps no better demonstrated than in their resistance to closure and the infinite in favour of supporting the ambiguity of the disappeared as reminder. What are the implications of this presence and absence in the Argentine context where an enforced invisibility denied the face-to-face relation with those who were disappeared? Thus while knowledge serves to claim truth as correspondence and finitude, the indications offered by the contemporaneous human rights organizations resonate more closely with the sort of truth associated with memory rather than that of the public cognitive scene. This is “truth as revelation ... which is neither only personal nor only

⁹¹ Traces which he lists as “...reliable, well-organized and relevant documentation of the period ... including ... a wide assortment of legal documents; testimonies, interviews, and eyewitness accounts; papers, press releases, memoranda, and regular updates provided by human rights organizations; bulletins and correspondence passed among clandestine organizations and underground actors; governmental records and interoffice communications; newspapers, magazines, and other mass media accounts of events that occurred; oral histories; and materials which document the institutional histories of governmental and quasi-governmental bodies, nongovernmental organizations, and social movements.” See: Bickford, *supra* note 80 at 1110.

⁹² *Ibid.*

⁹³ Eaglestone, *supra* note 6 at 285.

communal but first both ... [which] is not reducible to an understanding ... as correspondence ... since it manifests the 'ethical relationship',"⁹⁴ in their *indication or marking* of invisibility and infinity.

Conclusions

This chapter has outlined the trace as the knowledge which was produced by the 'Dirty War', and upon which later acknowledgements were developed in the truth construction and healing process. It is through these traces - semiotic, cultural, linguistic, and scopic - that the past is read. The contemporaneous trace represents the reality of discombobulation that the 'Dirty War' effected - culturally, linguistically and otherwise. At the crux of this sense of surreality and disorientation stood a broad concept of subversion and the military acts of disappearance combined with a fervent denial of this tactic, a powerful combination which depended on the manipulation of visibility and invisibility. This obfuscation fully permeated Argentina's society, including the media, popular culture, private homes, and family, amongst others. The tangible traces, or physical remains, provide yet another means of interpreting the past. These remnants are those most used by the forensic anthropologists in reconstructing the past. Through them, as the next chapter will demonstrate, the bureaucratic processes and systematic nature of the past violence can be compiled. Finally, the human rights activities contemporaneous with the 'Dirty War' may be read as a type of dissenting trace in that The Mothers of the Plaza de Mayo, and other organizations such as Amnesty International, provided an alternate archive of knowledge than that of the junta.

⁹⁴ Eaglestone, *ibid.* at 158.

These traces are ultimately prompted or produced by the exercise of oppressive power, and in this sense may be thought of as a representation or reminder of the junta's exercise of multiple conceptions of subversion and its persecution. Taylor captures this notion well in her discussion of the victim's testimony regarding torture when she notes that they are rife with omission. These omissions are of "thoughts, feelings, and personal ties that make life meaningful. If, in torture, the tormentor looks beyond the excruciating pain of the victim's body and sees 'national security,' in [the descriptions of violence] the reader looks beyond the victim's pain and sees the monstrosity of which some people are capable."⁹⁵ Taylor continues on to observe that the sense of depersonalization and focus on the junta's power is only accentuated through the bureaucratic human rights processes that the traces are then subjected to.

What is the value of the trace beyond a reflection of the junta's power? Turning back to Levinas' notion of trace helps to understand this question. As reviewed in the introduction, Levinas' trace possesses the dual value of being a reminder, and of serving as an ethical calling. It underscores that the reminder offered by the trace is dependent on a visibility which is irreducible to that which it reminds of (the 'other'). The traces represent a multitude of experiences that can never be known. These unknowable experiences are those which are "never named as such ... How could [they] be? [They are] precisely that which is pressing from the other side of the fullness of the image only ever evok[ing them] and the necessity of finding [them]."⁹⁶ Thus, while the traces can serve as a reminder of the oppression and provide the knowledge on which to reconstruct it, they also represent many individual experiences of the violence but cannot

⁹⁵ Taylor, *supra* note 27 at 161.

⁹⁶ Gordon, *supra* note 2 at 107.

be reduced to them. Rather, like Derrida's specter as uncategorizable experience, they call forth to us an ethical responsibility.

Chapter Four

Reconstructing the Past: Positivism, and the Semiosis of Evidence

The truth of the invisible is ontologically produced by the subjectivity which states it.¹

There have been a number of representations or reconstructions of the Dirty War undertaken in its aftermath. While some of these are dependent on the languages and means of knowing facilitated by science and law, others are more firmly rooted in a translation of experience or knowledge imparted in the terms of memorialization, of scholarship, of culture, and of personal healing. One type of these reconstructions, the oral testimonies regarding the experience, belongs to the survivors, but is mediated by the legal context in which it is given. It is the testimony that the law depends on to achieve justice, and that the truth finding framework depends on to satisfy its requirements of truth. Yet another type of representation concerns an iconic substitute of those missing, including those provided by material remains classed as scientific fact and forensic evidence such as bones and records, x-rays and DNA.² What do these two representations have in common? They are used to uncover some form of cathartic truth from the foundation of knowledge that is provided by the testimony and material artifacts including bones, records, and clandestine detention centers. These traces are either used together or separately to make sense of the past. However, this process of acknowledgement or representation cannot be thought of as a demonstration directly facilitated by the remains. Rather, consistent with the understanding of trace as serving as an indication or possibility of 'the other' as opposed to as a fixed reference, they are

¹ Emmanuel Levinas, *Totality and Infinity: An Essay on Exteriority*, trans. by Alphonso Lingis (Pittsburgh: Duquesne University Press, 1969) at 243.

² For a discussion of the various representations of the disappeared see: Diana Taylor, *Disappearing Acts: Spectacles of Gender and Nationalism in Argentina's Dirty War* (Durham: Duke University Press, 1997) at 139-145.

assembled through narratives which infuse them with the sense of truth and certainty being sought. This chapter will focus on those reconstructions, both testimonial and material, sanctioned by law and science, and the effects of using these epistemologies to determine the truth about the political violence that transpired.

In order to provide an understanding of the way that official truth was constructed in the aftermath of the 'Dirty War,' this chapter sets out to do two things. First, it will provide an overview of the activities of the truth finding bodies, including CONADEP and the EAAF. Secondly, it will consider the implications of using the epistemologies of science and law in order to determine or demonstrate truth. How do these epistemologies make the traces 'speak,' and what are the implications for the human agency on which the truths are based? Whereas it has been argued in the literature that "human rights reports and truth commissions must be studied as historical documents and as resistance texts in order to restore the authors to a status of agency,"³ authors and theorists concerned with evidentiary traces, semiosis, voice and justice provide a means of critically analyzing the space of the victim as agent in the acknowledgements facilitated by evidentiary traces. These analyses bring into sharp relief the tension between local experience and global truths, and in doing so provide a means of reinserting a role for the agent and the experiential.

The National Commission on the Disappeared (CONADEP) was the official entity assigned the momentous task of reconstructing the traces into a coherent account of the Dirty War's events that could satisfy demands for truth and the public's calls for justice. CONADEP, created by an executive decree in December 1983, was charged with

³ Karen Slawner, "Interpreting Survivor Testimony: Survivor Discourse and the Narration of History." online: <<http://www.yendor.com/vanished/karenhead.html>>.

“clarify[ing] events relating to the disappearance of persons in Argentina and investigat[ing] their fate or whereabouts.”⁴ In a very real sense, CONADEP was asked to make visible what had become invisible to the public over the seven year period of political violence. This rendering visible was an especially pressing concern in Argentina, where a cornerstone of the repressive machinery of state was a concerted effort to obfuscate its violent activities and to use clandestineness as a means of evading accountability. In fact, during the early phase of the transition when CONADEP was formed, in many cases survivors, relatives of the disappeared and human rights organizations held the belief that the disappeared could still be found alive.⁵

In 1984, CONADEP and the human rights organization the Grandmothers of the Plaza de Mayo requisitioned the work of the American Advancement of Science who subsequently formed the Argentinean Forensic Anthropology Team (EAAF). The EAAF, a non-governmental, not-for-profit scientific organization, also had an enormous role in charting the extent of Argentina’s violence. Using forensic techniques, the EAAF both exhumed human remains and assisted CONADEP in recreating the processes and functions of the repressive bureaucratic machinery through remaining documents. Applying the techniques of science and statistics, the work of these organizations drew together knowledge of the Dirty War into what amounts to a narrative sanctioned by the ‘public cognitive scene.’ These organizations also drew on previous human rights work done by entities such as the Inter-American Commission for Human Rights of the Organization of American States, disappearances reported to the *Asamblea Permanente*

⁴ Argentina’s National Commission on Disappeared People (CONDAEP), *Nunca Mas (Never Again): A Report by Argentina’s National Commission on Disappeared People* (London: Faber and Faber Limited, 1986) at 428.

⁵ Emilio Crenzel, “Argentina’s National Commission on the Disappeared: Contributions to Transitional Justice” (2008) 2:2 *International Journal of Transitional Justice* 173 at 181.

por los Derechos Humanos (APDH), and a number of reports produced by Amnesty International written during the oppressive period itself.⁶ Compiling the traces using the techniques facilitated by science and law, CONADEP and the EAAF put forward ample evidence which could attest to the methodical nature of the violence undertaken by the repressive state.

Proving the systematic and thus political dimension of the violence is an integral part of human rights prosecutions.⁷ Like other human rights frameworks and machineries, Argentina's truth commission report, forensic reconstructions, and their attendant epistemologies, can thus be thought of as instrumental in advancing the legal case of the prosecution. The arguments in this chapter acknowledge the importance of demonstrating patterns of violations and affirming the identities of the disappeared through scientific and anthropological methods. However, they problematize this conception of truth as a basis for exploring an ethical sense of justice. The shortcomings of this approach to truth, it argues, are particularly limiting in the context of attempting to redress egregious state violence. In responding to these perceived limitations, this chapter submits that a starting point to uncovering a more robust sense of truth may be

⁶ Despite the initial reluctance of some human rights organizations to cooperate with CONADEP because of their objection to its limited judicial power, CONADEP's activities and report were situated squarely within the human rights framework. During the period of its mandate, and in addition to the three human rights organizations mentioned above, the commission noted that it collaborated with: the UN Working Group on the Enforced or Involuntary Disappearance of Persons; the UN High Commission for Refugees; The International Commission of Jurists; the International Federation of Human Rights; the International Movement of Catholic Jurists; Pax Christi International; the International Association Against Torture; the Association of Democratic Jurists; the International League for the Defence of Rights and the Liberation of Peoples; the Criminal Law Association, and the Minority Rights Group. In addition to collaboration with these groups, the Commission itself was comprised of a high proportion of human rights advocates. For more information regarding CONADEP's situation within the human rights movements see: Neil J. Kritz, ed., *Transitional Justice: How Emerging Democracies Reckon With Former Regimes*, Vol. 2 Country Studies (Washington: USIP Press, 2005); and Crenzel, *ibid.* at 173.

⁷ Thomas B. Jabine & Richard P. Claude, "Exploring Human Rights Issues With Statistics" in Thomas B. Jabine & Richard P. Claude, eds., *Human Rights and Statistics: Getting the Record Straight* (Philadelphia: University of Pennsylvania Press, 1992) 5 at 6 .

undertaken by conceptualizing truth as complex and performed. The foundation of this conceptualization is located in a consideration of the consequences of framing the truth using these methods, emphasizing that the truth offered by the commission is constructed through the use of select languages and concepts.

Piyel Haldar's metaphorical use of the photograph in the context of truth and evidence provides one means of underscoring this scientific and legal mediation of the traces in order to extrapolate the patterns of truth that are demanded by them. This makes explicit that the transition from trace as knowledge to the public sanctioning of acknowledgement demands an addition. In this sense, Haldar, like Levinas, contends that the referent is not based on a pre-determined relationship of symbolism, but that representation depends on an unfixity of the reference which demands reconstruction.⁸ Thus, for example, the bones of the disappeared do not immediately symbolize the violent oppression of the Dirty War. However, taken together and reconstructed through the languages and concepts of scientific proof along with the bureaucratic records, the clandestine detention centers, and the testimony, the bones are transformed into evidence of mass and systematic violence. "If evidence is concerned with the voice of the speaker," he notes, "with intentionality, with presence, with truth, then evidence ... needs to invoke a referent, in order to achieve a stable identity until the addition of supplementary ... knowledge ... it exists as a message 'without a code.'"⁹ What exactly are these codes that are used to make the draw together the traces, and how does this 'translation' pose a tension with the often repeated notion that the truth provided by the forensic artifacts is self-evident, and that the bones and records provide their own

⁸ See generally: Piyel Haldar, "The Evidencer's Eye: Representations of Truth in the Laws of Evidence" (1991) 2:2 *Law & Critique* 171.

⁹ Haldar, *ibid.* at 183.

best witness?¹⁰ Ontological thinking, including sciences, uses rationality to classify and categorize ‘the other,’ in order to understand. “The ontological event,” Levinas writes, “... is the reduction of the other to the same by the interposition of a middle and neutral term that ensures the comprehension of being.”¹¹ What do the totalizing languages and techniques of law, state power, and of science as middle and neutral terms allow us to visibly see, and perhaps more importantly, what remains invisible? What forms of agency are reflected in the public archive of records and material remains produced by the powerful, and what are the implications of this for truth and justice?

Searching for Truth: The Commission & its Report

What is it that establishing and documenting the truth is thought to achieve in the transitional context, and what are the wider implications of framing it using positivist, empiricist, and legal terms? Are the means of uncovering truth and the vision for its ends congruent? On a broad level the commission’s establishment of truth both through its report and the forensic archaeological activities that it engaged, documented the past in order to move forward from the violence. In view of the fact that CONADEP’s records provide the largest existing archive of Argentina’s period of oppression,¹² and that it is claimed to have played an integral role in the process of reconstructing Argentina’s collective memory,¹³ a careful consideration of the way in which the report and the truth contained within it has been framed is particularly pressing. The importance of this critical analysis is only heightened by the belief captured in the report’s title and echoed

¹⁰ See for example: Eric Stover & Christopher Joyce, *Witnesses From the Grave: The Stories Bones Tell* (Boston: Little, Brown and Co., 1991) at 268.

¹¹ Levinas, *supra* note 1 at 43.

¹² *Equipo Argentino de Antropología Forense* (EAAF), “EAAF 1993 Annual Report” (1993), online: <http://eaaf.typepad.com/ar_1993/AnnualReport1993.pdf> at 18.

¹³ The National Commission on the Disappeared (CONADEP), *supra* note 4 at 429.

in some of the scholarship that setting out the truth in such a manner could prevent such violence from ever occurring again,¹⁴ and further, that it amounted to justice. As has been noted in this latter regard, the impetus of acknowledgement that drives these forms of truth-telling and recording often “intimately relate[s] justice to truth as established through the documenting of public memory.”¹⁵

Through the finding of truth, commissions are believed to achieve a historical acknowledgement and a form of memorial for the victims.¹⁶ They are also in many cases thought to serve as a means of delivering a pressing moral condemnation in the face of the past violence. In turn, the reconciliation achieved through this collective condemnation of the violence and simultaneous affirmation of the need to move forward by means of a democratic and human-rights respecting system is believed to be an imperative part of nation-building and renewal.¹⁷ This belief is articulated in the Argentinean context where CONADEP states in its report that, “One of the most important tasks facing resurgent democracy in Argentina was tackling the problem of the disappeared ... The first indispensable reparation demanded by society after fundamental institutions had been restored was to ascertain the truth ...”¹⁸

¹⁴ Slawner, *supra* note 3 at 8.

¹⁵ Julie Taylor, “Body Memories: Aide Memoires and Collective Amnesia in the Wake of Argentine Terror” in Michael Ryan & Avery Gordon, eds., *Body Politics: Disease, Desire, and the Family* (Boulder, Colorado: Westview Press, 1994) 192 at 195.

¹⁶ Posel, Deborah & Graeme Simpson. “The Power of Truth: South Africa’s Truth and Reconciliation Commission in Context” in Deborah Posel & Graeme Simpson, eds., *Commissioning the Past: Understanding South Africa’s Truth and Reconciliation Commission* (Witwatersrand University Press: Johannesburg, 2002) 1 at 1.

¹⁷ For a discussion of the perceived role of truth in transitional contexts see for instance: Posel & Simpson, *ibid.* at 66; David A. Crocker, “Truth Commissions, Transitional Justice, and Civil Society,” in Robert I. Roberg & Dennis Thompson, eds., *Truth v. Justice: The Morality of Truth Commissions* (Princeton, NJ: Princeton University Press, 2000) 99.

¹⁸ The National Commission on the Disappeared (CONADEP), *supra* note 4 at 428.

Consequently CONADEP, or the National Commission on Disappeared, was established by Alfonsín's transitional government in 1983 as one of the means by which to promote the inception of democracy and rule of law in Argentina.¹⁹ The mandate of the commission was to collect evidence and testimony from the population in order to determine what had happened to thousands of individuals whose fate was unknown.²⁰ Stipulated by its founding decree number 187/83, the commission was required to provide a summary report at the end of its term, and all of the evidence that it amassed was to be presented to the courts.²¹ As opposed to assigning any determination of responsibility for the violence that had been carried out during the Dirty War, its purpose was to establish an 'unbiased' account of the events. Regardless of this official mandate which limited it to revealing the 'facts' regarding the oppression, the transition's political environment and the Commission's high representation of human rights organizations whose primary demand was "trial and punishment for the perpetrators,"²² significantly influenced the shape that this truth and its collection took. Most importantly in this regard was the adoption of an investigative approach that held that the most effective of way of uncovering the truth was the identification of those responsible for the disappearances so that they could explain the events in court.²³ As a consequence, "the

¹⁹ In addition to the establishment of the Truth Commission, Alfonsín also: increased penalties for torture; signed international human rights treaties; ordered the prosecution of former junta members; and, proposed reforms to the military code of justice. For information on these reforms, see: Kritz, *supra* note 6 at 326.

²⁰ Through its web presence, CONADEP has also been instrumental in the provision of information to the public beyond the end date of its mandate (particularly on the Spanish site). See:

<<http://web.archive.org/web/20050207212102/nuncamas.org/index.htm>>.

²¹ One of CONADEP's five sections was the Legal Affairs department. Its task was to prepare the depositions as legal indictments for presentation to the courts. As the truth commission states, part of this work was to use the commission's mandate to organize and select those depositions and that evidence which would "point the investigation in a fruitful direction." See: Argentina's National Commission on Disappeared People (CONDAEP), *supra* note 4 at 435.

²² Crenzel, *supra* note 5 at 176.

²³ As stated in the report, "We believe that the possibility of determining satisfactorily the fate of thousands of disappeared people necessarily involves identifying the components of the task forces, those responsible

construction of truth took on a fully legal purpose,”²⁴ and the testimony it collected from the population took on a heightened sense of importance as evidence.

As a number of authors offering critical analyses of conceptions of truth in transitional contexts note, legal truth is a specific sort of truth underpinned by a number of presuppositions, and directed towards instrumental ends.²⁵ Arriving at this type of truth is not a neutral affair in that it requires the translation of past events into human rights data necessary to substantiate claims of criminal accountability. Nor did this then serve as a mere presentation of a story or account to the nation. As Crenzel explains in regards to the commission’s ‘translation’ of information, “By steering the inquiry toward the identification of the perpetrators, [they] stopped being an intermediary that merely received the accusation and ‘immediately’ referred them to the courts, as was established in the decree that created it. To accomplish this goal,” Crenzel continues, “it needed to be backed by an abundant body of evidence, which led to the challenge of putting together and organizing testimonies.”²⁶

Epistemologically, legalistic approaches to truth adhere to tenets of scientific and legal positivism, as well as to theories of correspondence which presuppose that truth is

for them, and their organic dependence on the Armed Forces. There is sufficient evidence to corroborate the existence of such groups and their ‘legitimate’ position in the formal structure of the Armed Forces,” see: Argentina’s National Commission on Disappeared People (CONDAEP), *supra* note 4 at 245. As has also been noted, there was a political impetus here as well, which was to “discredit[sic] the government’s attempt to focus responsibility on a handful of commanding officers and notorious individuals,” see: Kritiz, *supra* note 6 at 338.

²⁴ Crenzel, *supra* note 5 at 181.

²⁵ See generally for instance: Richard A. Wilson, *The Politics of Truth and Reconciliation in South Africa: Legitimizing the Post-Apartheid State* (New York: Cambridge University Press, 2001); Lars Buur, “Monumental Historical Memory: Managing Truth in the Everyday Work of the South African Truth & Reconciliation Commission” in Deborah Posel & Graeme Simpson, eds., *Commissioning the Past: Understanding South Africa’s Truth and Reconciliation Commission* (Johannesburg: University of Witwatersrand Press, 2002) 66 at 66; Posel & Simpson *supra* note 16 .

²⁶ Crenzel, *supra* note 5 at 181.

something that can be brought to light, uncovered, revealed and categorized.²⁷ While scientific or sociological positivism holds that knowledge is rooted in systematic empirical observation, legal positivism holds that law dictates a series of rules that must be put in play based on the fit of the observable circumstances that it treats.²⁸ In regards to the ‘translation’ of the data, “[t]he underlying assumption is that the categories and descriptions applied by truth commissions are in accordance with the ‘real’ world of human rights abuses. Commissions ‘find’ their facts *as though there were a body of common knowledge that just had to be ‘acknowledged.’*”[Emphasis added]²⁹ Thus, as the need to show patterns in human rights violations is related to establishing the institutionalization of the violence in the state so that the political impetus behind the violations can be acknowledged, this approach to truth renders the knowledge amenable to the demands of a substantiation of the systematicity of violence through categorization and description in order to prosecute.³⁰ Consequently, despite the Commission’s lack of binding authority in the Argentinean context, the effects of seeking a legalistic truth regarding political violence reconstructed the past by determining and demonstrating largely nominal and ordinal-level data. Some examples of these reconstructions include: the presentation of patterns of violence; the statistical representation of victims; the documentation and charting the oppressive bureaucratic functions; and, the determination of cause of death of victims.

Indeed, the testimony and details on the repression gathered in the truth seeking process was a vital component of the case against the junta, CONADEP’s evidence

²⁷ Buur, *supra* note 25 at 66.

²⁸ Wilson, *supra* note 25 at 49.

²⁹ Buur, *supra* note 25 at 66.

³⁰ Jabine & Claude, *supra* note 7 at 7.

having provided a key resource in the convictions.³¹ In this regard, the truth-finding activities of the Commission summarized in its report were a vital part of the identification of perpetrators, as well as of the collection of testimony and the documentation of the secret detention centers as evidence.³² The oral proceedings of the trial which took place between April and December of 1985 saw eight hundred witnesses, the majority of which were called by the prosecution. A brief overview of the prosecution's argumentation gives a good indication of the ways in which the evidence that CONADEP had collected was used. The prosecution set out to prove:

- a) A criminal plan.... during the military rule of the juntas to secure elimination by unlawful means of subversive organizations...
- b) [That the] criminal plan had been designed and the order to carry it out had been given by the military juntas ... [and] had been implemented through the normal hierarchy and organizational structures of the military and police forces ... [and that] the operation had covered the whole country and had been carried out by all the security services.
- c) [That] evidence of the existence of this plan arose from the proven facts: the disappearance of persons, the appearance of corpses, denunciation from both within Argentina and from abroad...
- d) [That] the members of the juntas could not claim ignorance. All of them were aware of what was happening. Not only did they order that the plan should be carried out, but they took steps to ensure the impunity of those who performed the task: impeding the crime-prevention forces in the performance of their duty, restricting the provision of information to the press, using dissimulation and deceit in their dealings with international organizations and the Argentine judicial system.³³

A review of the content and the style of presentation of the 450 page commission report titled '*Nunca Mas,*' or 'Never Again,' demonstrates a marked resonance with these arguments presented by the prosecution in the trial that was carried out a year later. The report summarized over 50,000 pages of testimony and information collected from the public. Divided into six sections, including: 'The Repression'; 'The Victims'; 'The Judiciary During the Repression'; 'The Creation and Organization of the National

³¹ Crenzel, *supra* note 5 at 173.

³² *Ibid.* at 184-185.

³³ Amnesty International, ed., "Argentina: The Military Juntas and Human Rights Report of the Trial of the Former Junta Members," (Amnesty International Publications, 1987) Kritz, *supra* note 6 at 343.

Commission on Disappeared People’; ‘The Doctrine Behind the Repression,’ and finally, ‘The Recommendations and Conclusions,’ it proved to be the most complete source of information regarding the violence carried out by the military government and its security forces.

The most substantial section of the report is the first. Running nearly half the document’s length, ‘The Repression’ contains testimonies recounting the torture and the conditions under which it occurred, as well as detailed information regarding the physical layout and operations of all of the secret detention centers that the Commission was able to confirm existed (which totaled approximately 360). These secret detention centers were an important part of both organizing the testimony and information presented by the report, and making the organized nature of the violence apparent.³⁴ By using them as a centralizing means of narrating the truth, the Commission was able to: recreate the acts by linking testimonies; incorporate details of the hierarchies of the security forces; implicate various levels of police and the military in the bureaucratic structure that supported the oppression; and, demonstrate that the system had been concertedly set up to carry out both psychological and physical torture.

Within the first pages of this section, the Commission’s approach to presenting cases and testimonies is framed by its concern with demonstrating this systematic and widespread execution of violence on the part of the security forces. The violence, it held, was characterized by similar patterns, “with identical kidnappings and tortures ... throughout the country.”³⁵ In order to support this approach, it typifies the violence as a repeated sequence of “abduction-disappearance-torture,” and notes that the testimonies

³⁴ Crenzel, *supra* note 5 at 183.

³⁵ The National Commission on the Disappeared (CONADEP), *supra* note 4 at 2.

included in the report were representative of thousands of similar stories matching this sequence.³⁶ The effects of the instrumental use of this testimony are palpable throughout the pages that follow, where the victim's experiences are repeatedly presented in a way that emphasize the pattern of oppression while less attention is given to the individual experience of the violence. In this sense, many cases did not fit the exact sequence laid out by CONADEP, while in other cases this sequence left out many further details. Some people were detained, released, and once again detained; others were mistakenly detained or taken in lieu of those whom the forces had come looking for initially; some bodies reappeared on the streets of Buenos Aires; others were shot at the point of abduction. Nonetheless, this instrumental use of the testimony is evident in several places where sentences such as "The usual procedure followed - car without markings ... blindfolded ... ending up in an unknown place ... tied to a bed ... ['...' in original text]," are used to introduce the testimonies.³⁷ Similarly, the text often notes that it is only including the "essential paragraphs,"³⁸ "the most important parts,"³⁹ or "the essential parts,"⁴⁰ of testimony, or that a specific testimony is included because it is "particularly eloquent"⁴¹

³⁶ See: *The National Commission on the Disappeared (CONADEP)*, *ibid.* at 9-10.; Similarly, the truth report is discussed by Kritz as detailing the 'methodology' of disappearances, and the "us[e] of a profusion of examples to illustrate the way the kidnappings took place, the torture to which the ... use of clandestine detention centers under the jurisdiction of all three armed forces and of various police and security forces ... the methods of extermination ... and the 'commitment' to impunity' that was an essential part of the method," see: Kritz, *supra* note 6 at 331.

³⁷ Other similar sentences used to introduce testimony can be found throughout the report such as "*Following the usual procedure*, with blows and a journey on the floor of car under his captors' feet, they arrived at the secret detention centre [emphasis mine]," see: *The National Commission on the Disappeared (CONADEP)*, *supra* note 4 at 38; and "Antonio Horacio Miño Retamozo (file No. 3721), was abducted from his workplace in Buenos Aires on 23 August 1976. *It was the usual sequence of events*. First they took him to Police Station No. 33. Then he tells us ... [emphasis mine]." (CONADEP: 29).

³⁸ *The National Commission on the Disappeared (CONADEP)*, *supra* note 4 at 36.

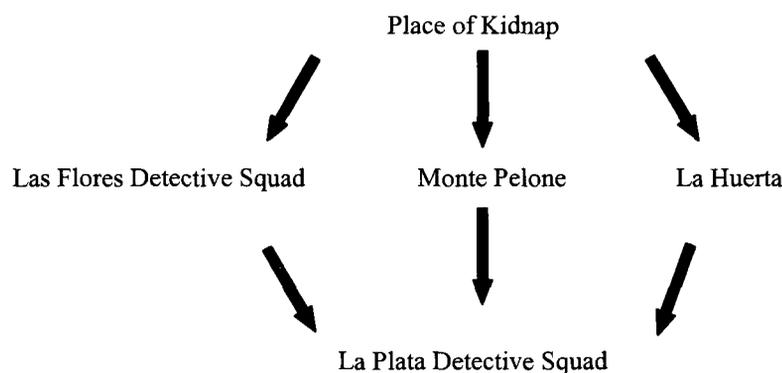
³⁹ *Ibid.*

⁴⁰ *Ibid.* at 39.

⁴¹ *Ibid.* at 322.

or “helpful”⁴² in regards to the point that it illustrates. Thus, testimony became most important in the statistical trend, or alternately in representing outlier cases, including amongst others: the abduction of children, the disappearance of entire families, and the instances of those who gave birth in captivity.

The Commission’s concern with positivist evidentiary truth is also apparent in its provision of lists, statistics, and schematics, an important part of iterating legalistic forms of truth. For instance, a list of six possible methods used by the military when children were involved in the abductions appears,⁴³ as does a chart outlining the locations of the abductions, summarized in percentage form.⁴⁴ The use of schematics and statistics is again included to support the notion of the standardized nature of the oppression such as in the case of the following flow chart used to demonstrate the processing of prisoners through the repressive machinery in the regions of Tandil, Azul, Las Flores, Monte Pelone and Olavarría, the ‘Commonest Itinerary Imposed On the Prisoners’⁴⁵:



The emphasis on systematized violence continues throughout the second section of the report, ‘The Victims,’ which is organized around demonstrating the indiscriminate

⁴² *Ibid.* at 171.

⁴³ *Ibid.* at 14.

⁴⁴ According to these statistics: 62% were detained in their own homes; 24.6% were detained in the street; 7% were detained at work; 6% were detained in their place of study; and, 0.4% disappeared while in legally detained in military, penal or police establishments, *ibid.* at 11.

⁴⁵ *Ibid.* at 168.

use of violence on the part of the security forces, such that no doubt can be left in the reader's mind to its concerted nature, nor to its wide-ranging impacts on the population. Thus, rather than emphasis being leant to the victim's political affiliations, social situation, or other sorts of contextualizing details regarding the victims, testimony is again largely focused on the experience of abduction and torture. It is included based on the representativeness of that victim to a particular group, such as: the disabled; the aged; trade unionists; journalists; or agrarian labourers. And, at an even broader level, statistics are presented iterating the level of victimization of groups as categories classed as: 'blue-collar workers'; 'students'; 'white-collar workers'; 'professionals'; 'teachers'; 'self-employed and others'; 'housewives'; 'military conscripts and members of the security forces'; 'journalists'; 'actors, performers, etc.'; and, 'nuns, priests, etc.'⁴⁶ Thus, while certain kinds of identities limited to demographic subjectivity have been selected as relevant, others have been dismissed. This hollowing out of the subjectivity of victims is endemic to human rights reporting, which, as seen above, must depend on categorization and a strict fact-based approach. In this vein, CONADEP had purposefully chosen to present the disappeared as victims whose human rights had been grossly violated,⁴⁷ and consequently "subjectivity ha[d] no epistemological status,"⁴⁸ in presenting this truth. As Brysk explains, this in line with the "ethical basis of human rights [that] insists that the status and behaviour of victims is irrelevant" whereas a political analysis must ask not just how many have been victimized, but *who* (and implicitly, why).⁴⁹ Indeed,

⁴⁶ Kritz refers to this second chapter as describing the 'targets' and 'categories' of victims. See: Kritz, *supra* note 6 at 331.

⁴⁷ Crenzel, *supra* note 5 at 189.

⁴⁸ Wilson, *supra* note 25 at 52.

⁴⁹ Alison Brysk, "The Politics of Measurement: The Contested Count of the Disappeared in Argentina" (1994) 16:4 Hum. Rts. Q. 676 at 690.

understanding *who* has important consequences for an ethical sense of justice which, in an attempt to underscore questions of agency, juxtaposes the transformation of the experiential into numbers.

In a similar way to the abstraction of victims, the structure of the overall narrative and the selection of the details that were included also decontextualized the facts presented as truth in significant ways. It has been observed that *Nunca Mas* provided no historical context to the violence which spanned the seven year period in question, a point which may be taken as an indication of a lack of internal unified narrative form displaced by its legalistic concerns.⁵⁰ Instead, the narrative was organized around the facts which were subsequently mirrored by the prosecution's case. Thus, the truth in the report affirmed the widespread implementation of a criminal plan carried out by multiple levels of the hierarchy and hidden through the concerted destruction of evidence. In this sense, the facts were believed to be able to speak for themselves in achieving the condemnation, and thus context, adjectives, and interpretation that were thought of as unnecessary parts of the presentation. Part of this reliance on a purely factual and technical language in the style of presentation further related to ensuring the irrefutability of the past events on the part of the military who had gone to great lengths to secure impunity. It was also this belief, very much rooted in a positivistic approach to truth, which strongly influenced the decision to organize the report in the categorizing sequence of 'abduction-torture-disappearance.'⁵¹ Consequently, the narrative and transitional 'lessons' were included only in the prologue while the remainder of the report was believed to speak for itself.

⁵⁰ Wilson, *supra* note 25 at 52.

⁵¹ For discussion on the selection of the narrative style of the report see: Crenzel, *supra* note 5 at 187-190; also see: Teresa Godwin Phelps, *Shattered Voices: Language, Violence and the Work of Truth Commissions* (Philadelphia: University of Pennsylvania Press, 2004) at 84-90.

The report is self-conscious in its presentation of the violence, its authors noting that “in drawing up the report, we wondered about the best way to deal with the theme so that [it] did not turn merely into an encyclopedia of horror.”⁵² Despite the attention to sensitivity in presenting these acts however, no notice was afforded to the effects of processing the narratives of the violent experiences in legalistic terms. While the first victim account within the torture section is left intact, it is only because it is said to “be typical of all of them,” and that it is quoted in full in order to “show the extent to which it affected the personality of the person whom the torturers were trying to destroy.”⁵³ Yet, an analysis of the account demonstrates little of the sufferer’s personality unless it is to be equated with a sequence of thoughts and responses arising as a distinct response to the violent acts inflicted upon them. The remaining narratives have been reduced to details of methods of torture, an unpacking of the constituents of the experiences of torture typical of human rights reporting.⁵⁴ The effect of this approach in the case of *Nunca Mas* is the presentation of close to three hundred and fifty pages of details regarding violence extracted from victim’s testimonies, accompanied with little to no details of the experiential dimensions of the acts. These methods decontextualize the acts from the experience of violence by fitting them into categories which the law ‘understands’ or ‘recognizes.’ The legal concepts and languages acted upon the testimonial traces of people’s individual experiences and testimonies in a similar decontextualizing way as the statistical reduction of human experience. How could moral condemnation be achieved

⁵² Argentina’s National Commission on Disappeared People (CONDAEP), *supra* note 4 at 20.

⁵³ Argentina’s National Commission on Disappeared People (CONDAEP), *ibid.*

⁵⁴ This is perhaps seen in its most egregious form in the use of information management systems used to record details of violence from testimony. South Africa’s truth commission, for instance, made use of Infocomm. The consequence was to break the experience of violence into forty-eight different violent acts and three categories of person – victim, perpetrators, and witnesses. See: Wilson, *supra* note 25 at 38-40.

through the meticulous and systematic recording or political analysis of the details regarding the violence? The result is a justice that operates narrowly within the parameters of retribution,⁵⁵ and prosecution focusing solely on those abuses outlined in the legal framework being applied, a point to be taken up further in the concluding chapter.

Reconstructing the Past Through Artifacts: Forensic Anthropology & Science

Until evidence is articulated, it is empty. In the 'eyes' of the law evidence does not mean anything ... in this respect evidence ... is a 'shifter', a sign filled with signification, precisely because it is a mere frame, an empty vessel within which only the ghosts, the traces of meaning spiral. Evidence needs this articulated discourse in order to endow it with a meaning it would not otherwise have. In other words, 'meaning' in evidence is reductive ... succumbing to the exorcising of these ghosts, succumbing to the erasing of these traces.⁵⁶

Beyond the necessary rendering visible that was undertaken in the truth report using the positivist epistemologies favoured by law, another sort of 'making visible' or acknowledgement was an important part of the transitional process in Argentina. Specifically, the truth process addressed the matter of disappearance itself in terms of locating the remains of the disappeared, and identifying the victims where possible. This concern was especially important in two ways: it contributed to supporting the commission's allegations of mass violence and complicity on the part of the security forces; and, it assisted in providing closure to the families of those who had lost a member whose body had been identified. Thus, like the truth produced by the commission's report it was directed towards a dual end - to reconstruct the past in order to provide information necessary for healing processes, and to provide that which would be an evidentiary basis for prosecution. In the former regard, the EAAF saw one of their

⁵⁵ Wilson, *ibid.* at 35.

⁵⁶ Haldar, *supra* note 8 at 184.

roles as offering services to the families of victims by making its information available. Interestingly, the information requested by these families was not limited to identifications, but also in regards to *who* the person was. “While parents and spouses are often concerned to find the bodies,” an EAAF report states, “children are frequently more interested in knowing ‘who their parents were’ - that is, knowing what their parents thought and what their political activities were, or meeting someone who knew them or was in prison with them.”⁵⁷ In regards to the impetus to provide evidence, uncovering the bodies of the disappeared both revealed the systematic nature of the bureaucratic system that had lead to their deaths, and also betrayed the sheer extent of the homicide which was evidenced through the series of mass graves and number of bodies. Indeed, the excavation of the bodies, particularly in the late 1980s, was used primarily as an evidentiary source for convictions. When placed in the wider political context, the issue of this dual purpose became a contentious one. Alfonsín’s government instituted the full-stop law to prevent the initiation of new prosecutions in 1986 and the due obedience law in 1987. At this point, the legal response to the military’s crimes came to an end, and a series of pardons were granted to those serving prison terms. The result for the processes of forensic excavation and identification was a shift from a focus on prosecution and the pursuit of ‘justice,’ to the provision of public memory of the disappeared and the criminality of the military regime. Some stringently protested this, going so far as to argue that in this newly depoliticized and de-legalized frame, exhumations became a tactic to institute widespread forgetting.⁵⁸

⁵⁷ *Equipo Argentino de Antropología Forense* (EAAF), “EAAF 1998 Annual Report” (1998), online: <<http://eaaf.typepad.com/pdf/1998/01Argentina1998.pdf>> at 12.

⁵⁸ Zoë Crossland, “Buried Lives: Forensic Archaeology and the Disappeared in Argentina” (2000) 7:2 *Archaeological Dialogues* 146 at 149.

It was in 1983 that judges began ordering exhumations in cemeteries known to or strongly suspected of containing bodies of the disappeared buried together in N.N. [no name] mass graves as part of the judicial processing of the past. Despite the support for these orders as a means of clarifying truth, the doctors charged with overseeing the exhumations were often complicit with the state violence, and had little to no experience with the forensic analysis of skeletal remains. The use of bulldozers to open the graves caused further problems, mixing up and breaking many of the bones, with the result that much of the evidence for cases in progress was irreparably destroyed.⁵⁹ In response, the *Abuelas* - the Grandmothers of the Plaza de Mayo - via CONADEP were instrumental in adopting the use of scientific techniques to investigate the fate of the disappeared. The Grandmothers had emerged from the Mothers of the Plaza de Mayo. These dozen or so women had lost not only their children but also their grandchildren who had been born to these children while held in detention. In October of 1977 these women formed the Grandmothers of the Plaza de Mayo organization with the demand that those children missing as a result of the political repression of the Dirty War be returned to their rightful families.⁶⁰ In 1984, at the behest of the *Abuelas*, CONADEP called upon the American Association for the Advancement of Science (AAAS)'s science and human rights program to assist in the exhumations of the graves suspected of containing bodies of the disappeared.⁶¹ The AAAS responded to the request by sending a leading forensic anthropologist, Dr. Clyde Snow, to Buenos Aires. Dr. Snow's work with the Argentinean

⁵⁹ *Equipo Argentino de Antropología Forense* (EAAF). "EAAF 1992 Annual Report" (1992), online: <http://eaaf.typepad.com/ar_1992/AnnualReport1992.pdf>.

⁶⁰ Rita Arditti, *Searching for Life: The Grandmothers of the Plaza de Mayo and the Disappeared Children of Argentina* (Berkeley: University of California Press, 1999) at 37.

⁶¹ *Equipo Argentino de Antropología Forense* (EAAF), "Argentine Forensic Anthropology Team / *Equipo Argentino de Antropología Forense* (EAAF)" online: <<http://www.eaaf.org/>>.

exhumations would prove to be the first application of forensic anthropological techniques to a case of massive human rights abuse effected through political violence.⁶²

On June 16th 1984, Snow held a press conference in Buenos Aires in which he requested that the government cease exhumations of the graves using the rudimentary techniques that had been employed for judge ordered disinterment to that date. He further recommended the establishment of a center in which the identification of the disappeared could be undertaken using scientific techniques associated with forensic archaeology and anthropology.⁶³ The EAAF, or Argentine Forensic Anthropology Team, was thus formed over the following year as Snow returned to Argentina on periodic assignments to train students of anthropology, archaeology, and medicine in the forensic techniques required to properly exhume the graves and make identifications of the bodies. The EAAF served as court-requisitioned expertise throughout the transitional period, and was charged with investigating both individual cases, as well as ongoing work demanded by the mass graves in Buenos Aires' Avellaneda Cemetery. The investigatory techniques employed in both individual cases and the exhumation of mass graves consisted of a phased approach of three stages, and which drew on the available knowledge and traces, including: bureaucratic records, testimony, the secret detention centers, and others. In the EAAF annual reports, this process is set out as: the preliminary investigation which is split into historical and pre-mortem investigation; the anthropological excavation; and, the laboratory investigation.⁶⁴ Remarkably on the tension

⁶² Patricia Bernardi & Luis Fondebrider, "Forensic Archaeology and the Scientific Documentation of Human Rights Violations: An Argentinean Example From the Early 1980s" in Roxana Ferllini, ed., *Forensic Archaeology and Human Rights Violations* (Springfield: Charles C. Thomas Publisher Ltd., 2007) 205 at 212.

⁶³ Stover & Joyce, *supra* note 10 at 241.

⁶⁴ *Equipo Argentino de Antropología Forense* (EAAF), *supra* note 12 at 15.

between the clandestine and visible reality that the junta created and the implications of this for truth, a cornerstone of the EAAF mandate became “to contribute to the historical reconstruction of the recent past, which is often distorted or hidden by the parties or government institutions which are themselves implicated in the crimes under investigation.”⁶⁵

The stated objective of the truth finding as a reconstruction of the past resonates in important ways with the approach undertaken by the truth commission. In a similar way that legal techniques were used to ‘extract’ truth from testimony, the evidentiary truth facilitated by the human remains assumed a positivist and empiricist approach; a method that raises important questions. How was the knowledge, embodied in the traces, compiled by the forensic anthropologists in a way that could serve as a reconstruction, or acknowledgement of the past? What is it that the physical traces and bodies of the disappeared were made to represent, and perhaps more importantly, how were they made to represent this? How do the epistemologies of law and science converge in their treatment of the body as evidence, and how does this pose a tension with the body as human?

Two important considerations regarding legal evidentiary epistemologies help to unpack these questions. The first is that theories of correspondence were the dominant paradigm of this scientifically mediated knowledge. In this respect, the laws of evidence operated from the belief that the events of the past could be made present again through the activity of representation. As Haldar iterates in this regard, to know the truth of an event from a legal epistemological standpoint is to represent what is outside the court to

⁶⁵ *Equipo Argentino de Antropologica Forense (EAAF)*, “EAAF Bi-Annual Report 1994-1995” (1995), online: <http://eaaf.typepad.com/ar_1994_1995/AnnualReport1994.pdf> at 4.

those inside the court.⁶⁶ Importantly however, like the truth commission's work, this evidentiary epistemological focus and activity of representation served not simply to *reveal* facts as a correspondence theory of truth would hold, but also to *construct* them.⁶⁷ More specifically, the consequence of this constructive action being rooted in positivism is that the activity of representation is limited to that knowledge which is pertinent to the law and which could be known through reason, or science. "Although present knowledge about past events is typically based upon incomplete evidence," Donaldson notes in his discussion of the positivist paradigm in evidence, "the best way of discovering truth is through reason ... The rational method of discovering truth is through drawing inferences inductively from the relevant evidence... (scientific rationality)."⁶⁸ Thus, when the identities and bodies of the disappeared were reconstructed, the information admitted, extracted and focused on was of a purely factual nature which could be known through reason and inductive inquiry. As will be evidenced in the review of the EAAF's reconstruction of the past below, the traces offered by records and testimony were used in an instrumental way to uncover the location of bodies, and to speak to the patterns of and bureaucratic support of the junta's violence. Nominal data such as the age, sex and physical characteristics of the victims were used to inductively ascertain identity. Given this approach, which voices and types of knowledge are missing?

While "identity restitution is a complex legal, psychological, scientific and social intervention,"⁶⁹ the primacy of scientific methods in reconstructing identities also carried

⁶⁶ Haldar, *supra* note 8 at 172-173 & 182.

⁶⁷ Haldar, *ibid.* at 172.

⁶⁸ Donald Nicolson, "Truth, Reason and Justice: Epistemology and Politics in Evidence Discourse" (1994) 57:5 Mod. L. Rev. 726 at 727.

⁶⁹ Elizabeth Jelin, "Victims, Relatives and Citizens in Argentina: Whose Voice is Legitimate Enough?" in Richard Ashby Wilson & Richard D. Brown, eds., *Humanitarianism and Suffering: The Mobilization of Empathy* (New York: Cambridge University Press, 2009) 177 at 190.

specific political ramifications for voice and identity in Argentina. These implications arise as a result of the spearheading of human rights claims by relatives of the disappeared, and particularly the Grandmothers in regards to their lost grandchildren. Jelin's study 'Victims, Relatives, and Citizens in Argentina' presents and considers these tensions in detail. The use of DNA testing by which to ascertain identity, she writes, amounted to the application of kinship models by which the disappeared were identified. This particular use of science thus excluded the possibility of representing those Argentines who had lived through the events of the 'Dirty War' but had not been directly impacted by abduction; and further, by those who may have been part of a family which did not adhere to the traditional nuclear model which depends on blood ties. Again, these questions point to the limitations of constructing and narrating truth solely through the application of scientific means and a focus on judicial concerns of bodily harm. Jelin's concluding remarks help to underscore the importance of asking critical questions regarding these scientific and legal reconstructions, particularly where these identities and voices are an important part of forging a 'new' state:

The danger lies in anchoring the legitimacy of expression of 'truth' in an essentialized conception of biology and the body ... Personal suffering (especially when it is experienced directly in 'your own body' or by blood-linked relatives) can become the basic determinant of legitimacy and truth. Paradoxically, if legitimacy for expressing memory of a painful past is socially assigned to those who suffered repression on their own bodies or those of their kin, this symbolic authority can easily (consciously or unconsciously) slip into a monopolistic claim on the meaning and content of memory and truth ... Taken to the extreme, this situation can lead to the obstruction of the mechanism for broadening societal involvement with memory, by not opening up the symbolic space for a reinterpretation and resignification of the meaning of the conveyed experiences.⁷⁰

The second important consideration regarding legal evidentiary epistemology, related to the first, is that evidence is often thought of as speaking for itself - a point that

⁷⁰ Jelin, *ibid.* at 200.

is only strengthened when it comes to the evidence presented by the bodies because “[t]he semiotic density ... makes human remains seem particularly powerful in their ability to make claims materially and apparently with little or no ‘representational’ or metaphorical context.”⁷¹ In its materiality and the privilege of its presencing, tangible evidence made possible through science and reason, is promoted as corresponding with the objective world, and in this way is thought to tell an irrefutable story about the past. However, as Jelin’s study helps to underscore, evidence must be considered in terms of interpretation and mediation. The evidentiary material object has many possible meanings which must be made to speak through codes in order to delimit its referents.⁷² Thus, the interpretant plays a pivotal role in mediating the meaning of the evidence, and as noted, the elision between object and human presented by the bones renders this semiotics even more complex. This problematization raises questions regarding agency and voice, and carries important political consequences, as well as impacting the shape that justice assumed in the case. The semiotics of the evidentiary traces provided by the body will be discussed in regards to some of the EAAF processes, as this highlights their status as evidentiary object in tension with that of sentient beings.

⁷¹ Zoë Crossland, “Of Clues and Signs: The Dead Body and its Evidential Traces.” (2009) 111: *American Anthropologist* 69 at 74.

⁷² Haldar, *supra* note 8 at 184.

The Semiosis of the Remains: Reconstructing the Traces, Acknowledging the Past

Cold and impersonal, the numbers bore witness for the thousands hidden in the nameless graves. Yet again, they told the same story - lest Argentina forget.⁷³

“Dead bodies have ... a great advantage as symbols,” Verdery writes, “they don’t talk much on their own (though they did once). Words can be put into their mouths - often quite ambiguous words - or their own actual words can be disambiguated by quoting them out of context. It is thus easier to rewrite history with dead people than with other kinds of symbols that are speechless.”⁷⁴ In focusing on the voice that the body is given, Verdery’s arguments are concerned with the political mediation of the human element of the object-human dichotomy presented by the cadaver. Examining the elision in these political terms is important. It is pertinent in the Argentinean case in the Mothers of the Plaza de Mayo’s protest, as well as through the Junta’s violence to the body that purportedly symbolizes the rooting out of subversion. However, consideration must also be given to the way that the truth-finding mechanisms and its epistemologies were used to objectify bodies and to equate them with truth.

A review of literature concerning the body and its evidentiary traces underscores that the heritage of truth in the forensic anthropological fields depends on semiotic codes. The dead body presents a sign relation which is ‘read,’ and this reading is valued because it is thought to make the otherwise hidden past present. Testimony, Jelin notes, follows the logic that the acts of violence and aggression “cannot be visibly shown [and so] has to be told, but under precise and controlled conditions, so that what [needs] to be denounced

⁷³ Stover & Joyce, *supra* note 10 at 273.

⁷⁴ Katherine Verdery, *The Political Lives of Dead Bodies: Reburial and Postsocialist Change* (New York: Columbia University Press, 1999) at 29.

can be verified.”⁷⁵ In a similar sense, the bodies were made to testify and in fact, were in some ways even more useful to the violence they were attesting to as what is usually acceptable to juridical proof is physical injury.⁷⁶ At the crux of this matter is the body’s problematization of the distinction between object and person. Because of this elision, the sign presented by the body is at once iconic, indexical, and symbolic,⁷⁷ a problematization that raises the matter of agency very directly. In many senses the bodies of the disappeared became an object-trace or material fact amongst the other tangible traces; in the interpretation of the evidence presented by the body, its “material facticity,” equates it with objective truth.⁷⁸

The matter of the slippage between identity and status as an N.N. (*Ningún Nombre*, or ‘John /Jane Doe’) cases illustrates the elision between object and human well. N.N. burials were crucially important elements in the EAAF’s reconstruction of the past as in conjunction with other traces, they brought to light a series of processes undertaken by the Junta. “The [exhumations of mass graves at the] Avellaneda Cemetery,” two members of the EAAF notes, “provided us with an opportunity to study the bureaucratic machinery of the repression through the layers of evidence it generated.”⁷⁹ Conversely, a series of documentary traces also enabled the identification of individuals, again presenting a slippage between the object status as cadaver and human personal identity. Journalistic accounts citing guerilla shoot-outs and insurgent violence for instance, provided one set of clues by which to chart the course of events that had unfolded, and

⁷⁵ Jelin, *supra* note 69 at 186.

⁷⁶ Jelin, *ibid.*

⁷⁷ In this regard, see generally: Crossland, *supra* note 71, in which she argues that the dead bodies are iconic because of their ability to “evoke a face and a person,” (Crossland: 73); symbolic, through their association by conventions and political contestation; and, indexical in their tangible connection with the person.

⁷⁸ Taylor, *supra* note 2 at 161.

⁷⁹ Bernardi & Fondebrider, *supra* note 62 at 214.

the potential location of specific skeletal remains.⁸⁰ EAAF's 1993 Annual Report lists that the cases of Hilda Ines Olivier and Eduardo Tomas Molinete were begun using a newspaper story outlining a shoot-out between insurgents and security forces in the city of Cordoba. The story noted that seven people, listed by name, had died in the incident. Yet, only five of the victims' bodies were returned to their families. Investigation by the EAAF uncovered that while the names associated with the two deaths unreported to family, Olivier and Molinete, were recorded in Córdoba's San Vincente cemetery logs, they were buried as N.N.s. It was subsequently discovered that Olivier's positively identified remains had been buried in the grave listed for Molinete, and it was suspected that Molinete's had been removed from the grave listed as Olivier's to an ossuary. As a consequence, his remains were never positively identified.⁸¹ In a similar way that the power of the Junta wiped the disappeared's identity out of existence, the ascription of object status to the body as evidence also displaced their personhood, identity and memory.⁸² This prompts the question: when an identity is ascertained through these forensic remnants does that person remain reduced to the evidence that made the reconstruction possible?

The EAAF's historical investigation phase was largely concerned with reconstructing the past by using the N.N. records produced by the cemeteries, and the few documents left intact by the junta. These documents provided the foundation or starting point for all of the investigatory work into the bureaucratic processes carried out and supported by the repressive government. Again, beyond the demonstration of systematicity necessitated by the prosecution, the bureaucratic processes were also

⁸⁰ *Ibid.* at 216.

⁸¹ *Equipo Argentino de Antropologica Forense (EAAF)*, *supra* note 12.

⁸² Crossland, *supra* note 58 at 153.

determined in an attempt to ascertain the potential location of specific disappeared individuals. For instance, the operations of Secret Detention Centers were reconstructed in order to establish patterns that could be useful in determining the connections between their activities and the nearby cemeteries. As an EAAF annual report notes, “In order to identify ... remains, EAAF has tried to establish patterns of *modus operandi* of the different security forces acting in the repression.”⁸³ In addition, the bureaucratic records and processes outlined above provided an essential part of the identification of likely mass burial spots.⁸⁴ Sector 134 of Avellaneda which the EAAF was tasked with excavating in 1986 upon request from the office of the prosecutor responsible for the military trials, provides one such example. Judicial attention was drawn to Avellaneda due to a high volume of accounts from those living around the cemetery who testified that military vehicles would arrive throughout day and night to dump bodies over the two year period spanning 1976 to 1978. Cross-checking the allegation with the cemetery registers, the EAAF confirmed that of the two hundred and twenty bodies matching unusual profiles recorded as buried there, one hundred and sixty were unidentified youth. Upon completion of the excavation, this number had increased to a total of three hundred and twenty four N.N. skeletons.⁸⁵ Concurrent with the anthropological excavation work at Avellaneda, Snow and Bihurriet undertook an intensive statistical project which entailed a review of masses of available documentation in addition to the cemetery register, including: the Buenos Aires cadavers files, the cemetery register, testimony collected by CONADEP, newspapers reports, as well as records demonstrating the bureaucratic functioning of several of the detention centers, amongst others. Essentially

⁸³ *Equipo Argentino de Antropologica Forense* (EAAF), *supra* note 59 at 4.

⁸⁴ Bernardi *supra* note 62 at 212-214.

⁸⁵ *Equipo Argentino de Antropologica Forense* (EAAF), *supra* note 59.

generating an epidemiological overview of the pattern of anonymous deaths in Argentina for the period between 1970 and 1984, they surmised an unusual profile of N.N. burials which closely matched the demographic of the disappeared. This study is fascinating in that its statistical figures strongly correspond to various phases of the repression, with numbers peaking and corresponding for both N.N. deaths and the institution of a number of the clandestine detention centers in the mid 1970s. The body as evidentiary object was integral to reconstructing and attesting to this violent past.

Personal data regarding the disappeared was used as an important element in the reconstruction of the traces, drawing on the human side of the object-human dichotomy. However, this data was focused on the nominal rather than the experiential type. In Peirce's theories of truth, nominal truth is that which is yielded by correspondence theories. Thus, personal details included in the investigation "about the victims when they were alive,"⁸⁶ were constituted by data that yielded truth on this indexical⁸⁷ level, indicated by an investigative focus on bodily signs such as age, stature or sex. The EAAF has distinguished three types of oral sources of information it drew on the most prevalently in amassing such details regarding the Disappeared. These included: relatives, former prisoners, and former political activists. Each source of testimony or information provided different types of information useful in corroborating and filling in the missing pieces of the investigations into specific victims of the violence. While

⁸⁶ *Equipo Argentino de Antropología Forense (EAAF), ibid.*

⁸⁷ The many tangible and empirically measurable characteristics of the body are indexical because, through their connection with the natural processes, they are perceived to make the otherwise invisible visible. This makes them an important part of the evidentiary paradigm. As Crossland writes, "[t]he symptom-sign [takes] its strength and its truth from its material reality, from its location in the empirically observable changes of the body, paradoxically allowing the perception of the hidden and invisible through the most tangible and corporeal of sources. The metonymic (or indexical) sign [is], therefore, fundamental to the evidentiary paradigm, because through physical relation it simultaneously told of its object and constituted it. The body not only provide[s] evidence but also, for those trained to read it, testifie[s] truthfully, as to observe the body [is] to observe a part of the thing studied." See: Crossland, *supra* note 71 at 71.

relatives were generally able to provide valuable information regarding medical histories, friends were often a good source regarding the political activities of the Disappeared. Information regarding political affiliation was useful in assisting investigators to determine which detention centers victims may have been held at. Former prisoners provided much of the testimony regarding the functioning of the detention centers, and in some cases who were held in them. While many do not remember or never knew the real names of other prisoners, they could identify them by nicknames or descriptions of physical features. Finally, interviews with former members of political organizations provided information regarding disappeared members, “clandestine relationships,” marking those groups, and the interaction between then the organizations and the detention centers. In this latter regard the EAAF has been able to link specific detention centers with the targeting of particular organizations.⁸⁸ Here, “The details of the person’s life recede before the violent manner of their death,” Crossland writes, “Even aspects of their own bodily history, their dental records, the mark left of the skeleton by pregnancy and childbirth, childhood broken bones, could be appropriated as courtroom evidence.”⁸⁹ Indeed, these personal details of the victims were relied on in the pre-mortem element of the historical investigation, where collection of information included details regarding the disappeared such as: sex, height, dental information, information regarding old injuries, and the date of the disappearance.⁹⁰ With improvements to the EAAF’s access to computer technology in the early nineties, much of this information was compiled into a database containing descriptors of those disappeared being sought. The information contained in the database was then compared with unidentified skeletal remains. The

⁸⁸ *Equipo Argentino de Antropología Forense (EAAF)*, *supra* note 58 at 2.

⁸⁹ Crossland, *supra* note 58 at 128.

⁹⁰ Bernardi, *supra* note 62 at 217.

databases held by EAAF became increasingly complex, storing information from all of its major sources including interviews, news articles, and cemetery records. Over time, the data became organized based on the ways that it was used. Thus, sub-data bases came to contain a vast array of information regarding individual disappeared, including a “descri[ption] by friends or family members ... [and] also a descri[ption of] the person’s relationships with other persons.”⁹¹ In turn this information was cross-checked and compared with other data in sub-databases, such as those containing cemetery information, archaeological information, and the records of N.N. burials.

In addition, Santiago Melibovsky, whose daughter disappeared during the repression, provided over 4,000 photographs of the disappeared which he had carefully compiled and catalogued.⁹² Combined with the details EAAF had deduced regarding the bureaucratic machinery, the information provided by bodies of the disappeared and facilitated by various technologies often proved to be invaluable points of evidence or direction within the excavation and reconstruction processes. For instance, Patricia Bernardi, member of the EAAF, recounts her immediate intuition regarding a skeleton based on the scores of details she had collected and transcribed into notebooks organized by detention center. “I was in charge of [the detention center] Pozo de Banfield. There were things I knew by memory ... for instance, that one of the women ... had undergone a heart operation one year before her kidnapping. This point remained recorded inside of me. Because of this when Alejandro confirmed [that they were] suture wires, I immediately remembered Julia Andrea Montesini.”⁹³ Given the medical history and other

⁹¹ *Equipo Argentino de Antropologica Forense (EAAF)*, *supra* note 59 at 5.

⁹² *Equipo Argentino de Antropologica Forense (EAAF)*, *supra* note 65 at 18.

⁹³ Patricia Bernardi quoted in Eric Steiner Carlson, *I Remember Julia: Voices of the Disappeared* (Philadelphia: Temple University Press, 1996) at 3.

bodily signs as primary means of making identifications and Crossland's observation that "[t]he forensic excavations and identifications ... document [] the reappearance of human remains rather than of living individuals,"⁹⁴ the question stands: how much of the disappeared will ever be reconstructed? Will they be forever reduced to the scientific remnants used to ascertain their identity? And further, what implications arise from the forging of a 'new state' on the basis of these reconstructed identities?

Conclusions

The processes of acknowledging the traces in a process of truth construction has been the focus of this chapter. This acknowledgement in the Argentine context consisted of the compilation of a truth report, predominantly based on victim testimony, and the forensic archeological reconstruction of the past. Given the importance ascribed to truth and its relationship with justice in the human rights scholarship and in transitioning societies, a critical analysis of how truth has been constructed in these processes is vitally important. In this regard, this chapter has argued truth in this context has often been narrowly conceived of in empiricist and instrumental terms. The result is overwhelmingly apolitical analyses and approaches to highly political processes concerned with identity, memory, and lived experience, all of which play important roles in sustaining future cultural and political relations in transitioning societies.

The truth presented by CONADEP's report, it has been demonstrated, was specifically formulated in line with human rights frameworks and concerns. Namely, the events and testimonies presented within it align with a specific conception of the problem

⁹⁴ Zoë Crossland, *Violent Spaces: Conflict Over the Reappearance of Argentina's Disappeared* in John Schofield, Colleen M. Beck & William Gray Johnson, eds., *Materiel Culture: The Archaeology of 20th Century Conflict* (London: One World Archaeology, Routledge, 2002) at 121.

as one caused and perpetuated by the lawlessness of a regime operating in a specific time frame and period of political rule.⁹⁵ As such, the report decontextualized the violence from the social and experiential realities of the victims, resulting instead in a documentation of memory which overwhelmingly focused on the repressive actions of the military bureaucratic system. Similarly, the scientific techniques used to reconstruct the past impacted the question of the agency of the victim by focusing on the specific types of information necessary to arrive at an empirically sound account of the violence. Here, the body was rendered as evidentiary object aligned with a truth that highlights the oppressive events of the past encapsulated in a juridical truth. In both of these truth processes, the political, the social, personal identity, and the feelings of the victims were transformed into languages that the law could understand in order to secure the rule of law and democracy. Thus, the testimony and information provided by the physical remains were inevitably detached or displaced from experience and personal identity to satisfy the juridical truth offered most readily by proof of bodily harm. The agency of the victim was impacted as “the pendulum [shifted] from a personal, concrete, historically situated narrative to the more impersonal, even universal, claim of human rights.”⁹⁶

In response to these positivist assumptions of truth which approach it as something to be ‘found’ or ‘uncovered,’ truth in these processes should be approached as performed, and constructed. Acknowledging its construction entails a recognition that the truth offered by the judicial and quasi-judicial narratives is dependent on particular epistemologies which influence the way that it is presented. Doing so yields a more robust conception of truth in at least two important ways. First, it facilitates an

⁹⁵ Taylor, *supra* note 15 at 193.

⁹⁶ Jelin, *supra* note 69 at 186.

acknowledgement of the individual experiences that provide the basis to the human rights claims, or to what is missing in a given construction of truth. Secondly, it offers valuable insight into the foundations of collective memory and identity that are contested and altered during periods of oppression and transition. These contentions provide the basis for the discussion taken up in the concluding chapter to follow.

Conclusion

Archive, Memory & Responsibility: Ethical Truth & the Specters of Justice

The sense of responsibility without limits, and so necessarily excessive, incalculable, before memory ... As to the legacy we have received under the name of justice ... the task of a[n] ... interpretative memory is at the heart of deconstruction, not only as a philologico-etymological task or the historian's task but as responsibility in the face of a heritage that is at the same time the heritage of an imperative or of a sheaf of injunctions ... This responsibility towards memory is a responsibility before the very concept of responsibility that regulates the justice ... of our behaviour, of our theoretical, practical, etho-political decisions ... ¹

In Argentina's transition, the impetus behind reconstructing memory and truth in the form of a public record is reflected in the title of the truth commission report, '*Never Again.*' In this way, acknowledging the truth regarding the past was construed as a protection against further widespread, systemic violence. Certainly, creating such types of official memory in transitional periods is undertaken for reasons which include providing moral condemnation directed towards establishing or restoring law and order.² This analysis has considered the reconstruction and documentation of the massive state violence that took place in Argentina between 1976 and 1983. Specifically, it has focused on the regime's use of enforced disappearances, and has critically examined the strategies of inscribing truth associated with the human rights frameworks employed to address these during the transitional period. The difference between knowledge and acknowledgement, articulated in the literature as the crux of the truth finding process, equates the latter with official sanctioning of the knowledge regarding past violence, and its entry onto the public cognitive scene.³ Importantly, the notion of acknowledgement

¹ Jacques Derrida, "Force of Law: The Mystical Foundation of Authority" in Drucilla Cornell, Michel Rosenfeld & David Gray Carlson, eds., trans. by Mary Quaintance, *Deconstruction and the Possibility of Justice* (New York: Routledge, 1992) 3 at 19.

² Louis Bickford, "The Archival Imperative: Human Rights & Historical Memory in Latin America's Southern Cone" (1999) 21:4 Hum. Rts. Q. 1097 at 1100.

³ Lawrence Weschler, *A Miracle A Universe: Settling Accounts with Torturers* (New York: Pantheon Books, 1990) at 4.

has been intertwined with the notion of justice.⁴ In order to engage a critical analysis that focused on how truth in this context was legally and scientifically constructed, the two major elements of the truth process - knowledge and acknowledgement - were considered at length and problematized. In turn, the question of the relationship of the truth's construction with justice, intimately related to the question of agency, underpinned the analysis. Specifically, this thesis has argued that if truth precedes the possibility of justice, and if the question of human agency has been reduced or overlooked by the application of a particular concept of truth (in this case, legalistic and scientific), that the form of justice achieved is influenced. Thus, while the techniques of law and science used to ascertain identities and compile the report were vitally important in that they provided the certainty of truth regarding an intentionally obscured period of violence and the basis for prosecution, they also carry certain important limitations. While outlining and problematizing the construction of truth has been the focus of the paper so far, this final chapter will synthesize the implications of this analysis in order to consider the question of justice more closely.

The search for truth and justice engages with memory and archive, both of which are imperative sources of the democracy building and renewal that healing societies seek to achieve in transitions.⁵ The truth process, understood as the formation of Argentina's state memory, represents a form of archiving. Thus, in order to synthesize the thesis' arguments regarding construction of truth, this concluding chapter will first consider the

⁴ Julie Taylor, "Body Memories: Aide Memoires and Collective Amnesia in the Wake of Argentine Terror" in Michael Ryan & Avery Gordon, eds., *Body Politics: Disease, Desire, and the Family* (Boulder: Westview Press, 1994) 192 at 195.

⁵ In regards to the role of archive in transition in Argentina see generally: Louis Bickford, "Human Rights Archives and Research on Historical Memory: Argentina, Chile and Uruguay" (2000) 35:2 *Latin American Research Review* 160; Bickford, *supra* note 2.

process of archive as a means of effecting justice. One of the most important elements that the concept of archive underscores is that the nature of official memory in transition is two-fold: it is oriented to the future by providing an account of the past. Thus, in order to fulfill its promise for the future, the process of archive must clearly demarcate the past that it wishes to break from. As Derrida's discussion of archive and Levinas' approach to historiography make clear, in doing so, the past is reduced and isolated - a reduction dependent on a form of truth that translates lived experience and subjectivity into evidence.⁶ These critiques of documentation and truth point to the possibilities of a more inter-subjective memory that facilitates what I term ethical truth and justice. A brief discussion of this ethical form of justice will constitute the second part of this conclusion, in turn pointing to questions for future research.

Archive as 'That' State and 'This' State ... The Future of the Past in Nunca Mas

As Derrida writes, "the question of archive is ... a question of the future, the question of the future itself, the question of a response, of a promise and of a responsibility for tomorrow."⁷ The process of archiving has been referred to in the transitional literature as the creation of 'State,'⁸ or 'historical'⁹ memory; and in the truth process it does something very specific - it refers to "that (former) state," while providing

⁶ As Eaglestone writes, "History which aims at truth as correspondence destroys others as lives and reincarnates them as things, as historical events." See: Robert Eaglestone, *The Holocaust and the Postmodern* (London: Oxford University Press, 2004) at 157.

⁷ Jacques Derrida, *Archive Fever: A Freudian Impression*, ed. by Eric Prenowitz (London: University of Chicago Press, 1996) at 36.

⁸ Taylor, *supra* note 4 at 198.

⁹ See: Elizabeth Jelin, *State Repression and the Labors of Memory*, trans by. Judy Rein & Marcial Godoy-Anativia (Minneapolis: University of Minnesota Press, 2003), particularly chapter four 'History and Social Memory.' Also see: Teresa Goodwin Phelps, *Shattered Voices: Language, Violence, and the Work of Truth Commissions* (Philadelphia: University of Pennsylvania Press, 2004), particularly the passage 'Writing History - Truth Commission Reports as Constitutive Documents' (79-82) in chapter five, 'Telling Stories in a Search for Justice.'

a “constitutive history of this (emerging) state.”¹⁰ In Argentina’s truth process this was reflected by its two primary functions. It was at once a creation of a public truth regarding the past in order to erode the shroud of evasion and invisibility created and perpetuated by the military government, and it also served as a means of collecting legal evidence required to prosecute those deemed most responsible.¹¹ This latter process would help to renounce impunity, and to distinguish between legitimate and illegitimate violence in order to forge a more stable future.¹² Raúl Alfonsín, the transitional president, articulated these ends as a repudiation of the violent and unstable past, and an establishment of the foundations for a democratic system. Rather than restoring previous relations, the truth process aimed to create new institutions and ways of living. “Our intention,” he states, “was not so much to punish as to prevent: to ensure that what happened could not happen in the future, to guarantee that never again would an Argentinean be taken from his home at night to be tortured or assassinated by agents of the state.”¹³

As democracy was perceived as the surest means of upholding human rights, the objectives of preventing future state violence and establishing a law-abiding system were seen as most directly achievable through ensuring the military’s adherence to the new system.¹⁴ It was only through truth, the prologue of *Nunca Mas* notes, that this promise for a new State could be fulfilled. Sabato writes:

¹⁰ Phelps, *ibid.* at 80.

¹¹ See generally: Emilio Crenzel, “Argentina’s Commission on the Disappearance of Persons: Contributions to Transitional Justice” (2008) 2:2 *The International Journal of Transitional Justice* 173.

¹² Raúl Alfonsín, “‘Never Again’ in Argentina” (1993) 4:1 *Journal of Democracy* 15 at 17.

¹³ *Ibid.* at 16.

¹⁴ *Ibid.*

All we are asking for is truth and justice ... in the understanding that there can be no true reconciliation ... until we have justice based on truth ... Great catastrophes are always instructive. The tragedy which began with the military dictatorship in March 1976, the most terrible our nation has ever suffered, will undoubtedly serve to help us understand that it is only democracy which can save a people from horror on this scale, only democracy which can keep and safeguard the sacred, essential rights of man. Only with democracy will we be certain that NEVER AGAIN will events such as these, which have made Argentina so sadly infamous throughout the world, be repeated in our nation [capitalization in original].¹⁵

Thus, the truth both made clear and repudiated the violence effected by the military state while outlining what was acceptable for the future. But in the questions of truth and justice, is this temporal break or rupture ever clear or even possible? Afterall, in the matter of confronting state violence linearity is problematized because “past injustices make their presence felt in a time that is not properly theirs.”¹⁶ Further, how can knowledge of the past be uncovered and documented in situations of extreme trauma, incidences marked by “a ‘semiotic incapacity’ when going through the event itself ... [represents an] incapacity [that] precludes the possibility of ‘experiencing’ and representing it in terms of the available symbolic order?”¹⁷ Here agencies overlap as the needs for the present and future embodied by the *phantasma* or evidence offered by the truth commission and anthropologists encounter the irreducible violence of the past. Yet, the truth of the past compiled in this way must pinpoint and isolate the history that it refutes, replicating and isolating it so that it can provide assurance that it is not repeated. This particular means of inheritance as a promise for prevention is thus necessarily reductive.

¹⁵ Argentina’s National Commission on Disappeared People (CONDAEP), *Nunca Mas (Never Again): A Report by Argentina’s National Commission on Disappeared People* (London: Faber and Faber Limited, 1986) at 5.

¹⁶ Christiane Wilke, “Enter Ghost: Haunted Courts and Haunting Judgments in Transitional Justice” (2010) 21:1 *Law and Critique* 73 at 88.

¹⁷ Jelin, *supra* note 9 at 67.

Levinas' critique of historiography as a narrow form of truth dependent on correspondence is useful in considering the reduction of the past as well as its implications for justice. He iterates the limitations of uncovering and documenting the past for the present and the future where he writes:

The judgment of history is set forth in the visible. Historical events are the visible par excellence. Their truth is produced in evidence. The visible forms, or tends to form, a totality. It excludes the apology, which undoes the totality in inserting into it, at each instant, the unsurpassable, unencompassable present of its very subjectivity. The judgment at which the subjectivity is to remain apologetically present has to be made against the evidence of history. The invisible must manifest itself if history is to lose its right to the last word, necessarily unjust for the subjectivity, inevitably cruel. But the manifestation of the invisible can not mean the passage of the invisible to the status of the visible; it does not lead back to evidence. It is produced in the goodness reserved to subjectivity, which thus is subject not simply to the truth of judgment, but to the source of its truth.¹⁸

In pointing out that truth and judgments regarding the past depend on the reductive action of translating of the invisible into the visibility of evidence, Levinas' argument facilitates two important considerations. The first is that the traces used to understand the past were subject to certain forms of knowledge making or epistemologies in order to turn them into evidence, and the second inter-related consideration is that this had a significant impact on the question of subjectivity.

In order to secure evidence, memory about the past was iterated using the concepts and attendant languages understood by the 'public cognitive scene.' The truth process delimited and understood the past as a form of knowledge, and acknowledged it in the interest of future relations. "Clearly defined moral boundaries, disclosure as truth, visible evidence of injury, accessible language, verifiable intent, impartiality, objectivity, authenticated witnesses, and so on are the means by which investigators make sense of and rationally communicate a patterned but irrational terror," Gordon writes of the human

¹⁸ Emmanuel Levinas, *Totality and Infinity: An Essay on Exteriority*, trans. by Alphonso Lingis (Pittsburgh: Duquesne University Press, 1969) at 243. See also: Robert Eaglestone, *supra* note 6.

rights process in Argentina.¹⁹ Thus, as with all processes of archiving, the knowledge and experience of the past indicated most saliently by the traces were subjected to a type of nomological ordering and categorizing. Here, the individual, the infinite, and the experiential, were subject to the categorization of law and science used to classify them in a way that documented them as truth and evidence that satisfied law and public acknowledgement. This, in essence, marks a tension between the individual experience that cannot possibly be reduced to the traces on the one hand, with the order that is instituted through their classification and materialization on the other. The insidious effects of the creation of statistical and material representation of the lived experience of victims [referred to by Buur as ‘flattening’²⁰] is the imposition of the language of sameness that Levinas so stringently objects to in his invocation of an ethical sense of justice. Indeed, the details of the narratives regarding individual experience receded in importance in the face of the “produc[tion] of an account of the past sufficient to portray the moral fact of gross human rights violations.”²¹ Further, this process of production of evidence “makes us forget that representations are but aspectual translations of the represented, and as such they necessitate selection, simplification and reduction.”²² What then, stands as visible, having been subjected to simplification and reduction, and what remains invisible?

¹⁹ Gordon, Avery Gordon, *Ghostly Matters: Haunting and the Sociological Imagination* (Minnesota: University of Minnesota Press, 2008) at 79.

²⁰ Lars Buur, “Monumental Historical Memory: Managing Truth in the Everyday Work of the South African Truth & Reconciliation Commission” in Deborah Posel & Graeme Simpson, eds., *Commissioning the Past: Understanding South Africa’s Truth and Reconciliation Commission* (Johannesburg: University of Witwatersrand Press, 2002) 66 at 67.

²¹ Deborah Posel & Graeme Simpson, “The Power of Truth: South Africa’s Truth and Reconciliation Commission in Context” in Deborah Posel & Graeme Simpson, eds., *Commissioning the Past: Understanding South Africa’s Truth and Reconciliation Commission* (Witwatersrand University Press: Johannesburg, 2002) 9 at 10.

²² Andreas Glaeser, “Monolithic Intentionality, Belonging, and the Production of State Paranoia: A View Through Stasi Onto the Late GDR” in Andrew Shyrock, ed., *Off Stage/On Display: Intimacy and Ethnography in the Age of Public Culture* (Stanford: Stanford University Press, 2004) 244 at 245.

By bracketing the social, political and historical context from which the violence arose, by focusing almost primarily on the matter of the Junta's accountability, and by restricting the mandate to 1976 to 1983, the truth was influenced in significant ways. The product of this inquiry was the creation of a new memory which recast the past as a legal and juridical history. The experts rather than the principal actors themselves were called in to make sense of the past, and this was done in a way framed the inquiry by methodologies and ways of knowing belonging to the 'public cognitive scene.' The universalism of these juridical concepts reduced actors to abstractions where the rules of evidence dismissed the experiential and the political in favour of individual sensory perception.²³ It was also considered dangerous to include details regarding the political affiliations of victims out of concern that this may provide the public with justification for the violence which had occurred.²⁴ Simultaneously, this legal and juridical iteration of the past was seen as beneficial to the other aim of the truth commission report. Namely, presenting the information in the report in a way that was devoid of political or historical detail would more effectively reach the Argentine reader who approached the matter of the disappearances with either ignorance, or incredulity. The "objective testimonies, would be irrefutable," Crenzel notes regarding the commission's approach to its narrative strategy, "the facts 'would in themselves move the reader, without any need to adjectivize or interpret.'"²⁵

The product of such displacements was a narrative which effectively pit two forces against one another - the 'demons' presented by the guerilla insurgent forces on

²³ Taylor, *supra* note 4 at 197.

²⁴ Crenzel, *supra* note 11 at 189.

²⁵ Crenzel, *ibid.* at 187.

the one hand, and the military on the other.²⁶ Within this ‘theory,’ accountability was strictly limited to these two groups and support was thus granted to the notion that state violence, albeit not in the extreme form that it adopted, was justified on account of guerilla violence.²⁷ This depoliticizing trope polarized the Argentine population into human rights violators on one hand, and victims - the remainder of the population - on the other. The effect of the ascription of victim status curtailed their agency, as the primary attribute of victimhood Jelin writes, is passivity. Rather than producing or conveying meaning, the victim is simply thought to be harmed by the actions of others, and at the mercy of the other’s creation of meaning, unable to respond.²⁸ As the objective of the truth process was directed towards criminalization, the notion of the agent-less victim became central to the narrative in recounting instances of torture and oppression; a process which had the unfortunate and undoubtedly unintended effect of enacting yet another type of victimization. Namely, the process displaced the agency of the disappeared in favour of a selective process of rendering visible what had passed - the violence of the military, and its reconstruction by techniques privileged by the epistemologies of science and law.

²⁶ This ‘theory’ was advanced in an attempt to appease public opinion while ensuring that the process would not be construed as anti-military. See: Deborah Mitchell, *Grasping Change: The Argentine Rupture Experience of 1983* (PhD Thesis, New School for Social Research, 2005) [unpublished] at 132.

²⁷ Crenzel, *supra* note 11 at 177.

²⁸ Jelin, *supra* note 9 at 54.

The Possibility that Justice is the Experience of the Impossible

The deconstruction of all presumption of a determinant certitude of a present justice itself operates on the basis of an infinite “idea of justice,” infinite because it is irreducible, irreducible because owed to the other, owed to the other, before any contract, because it has come, the other’s coming as the singularity that is always other ...²⁹

In pointing to the “unjust[ness] for the subjectivity”³⁰ and the question of agency effected by a reductive judgment of history based on visible evidence, Levinas provides a means of considering a different idea of memory and justice than the inheritance effected by archive. Separate from the means of understanding offered by law and science or evidence, this justice is one that is not legally instrumental or outcome oriented and it facilitates the possibilities of what I term ethical justice. Its possibilities are more particular and inter-subjective as opposed to categorized, and non-linear as opposed to systematized. It is the form of justice which is embodied in the notion of the spectral which carries the possibility of “[knowing] things about the present and its roots that we are unaware of,”³¹ and that can allow a consideration of “the ambiguities [and] the complexities of power and personhood.”³²

In order to explore this notion we must once again turn to Derrida and the question of justice as constituted by responsibility, and how this responsibility is addressed through processes of inheritance. These concepts help to underscore that in the process of transition, law is necessarily reactive; it responds (*responsibility*) to an event or a problem by inheriting. It mediates the knowledge of the past to fulfill an acknowledgement for the present and the future. In doing so, it enacts a “performative force, which is always an interpretative force ... a performative and therefore

²⁹ Derrida, *supra* note 1 at 25.

³⁰ Levinas, *supra* note 18.

³¹ Wilke, *supra* note 16 at 79.

³² Gordon, *supra* note 19 at 134.

interpretative violence that in itself is neither just nor unjust.”³³ Acceding this amounts to an acknowledgement that the action of inheritance is not determined, but interpretative. Indeed, responsibility and promise are not inherently prescriptive. As Wilke notes: “To inherit, Derrida proposes, is not simply to opt for taking over a given debt, burden, or property. Rather, an inheritance in the realm of ideas and traditions—and this is what we should expect to happen in courts during times of political change—calls for a ‘critical choice.’”³⁴ In Argentina, this performative and interpretative force, this means of inheritance, this critical choice, was that enacted by a legally oriented truth finding processes - as such, it amounted to one reading of the past, one reading of truth. Yet, as opposed to law which is calculable, universal, and can be accounted for, justice is by its very nature infinite, incalculable, singular, and aporetic.³⁵ This brings to the fore an important tension between the multiplicity of individual experiences of violence, and the collective reparations used to address them. Further, it offers the basis for important questions to be posed regarding the use of scientific methods and other totalizing narratives to collect and iterate the truth that stands at the basis of justice. Derrida writes:

An address is always singular, idiomatic, and justice, as law (*droit*), seems always to suppose the generality of a rule, a norm or a universal imperative. How are we to reconcile the act of justice that must always concern singularity, individuals, irreplaceable groups and lives, the other or myself *as* other, in a unique situation, with rule, norm, value or the imperative of a justice which necessarily have a general form...?³⁶

Thus by these readings, justice - as intimately tied to the singularity of alterity - appears to be the impossible and undeconstructable experience in the face of the deconstructability of law. Regardless, however, that alterity is unrepresentable and incalculable, that the imperative calling for justice is always excessive in the face of

³³ Derrida, *supra* note 1 at 13.

³⁴ Wilke, *supra* note 16 at 77.

³⁵ Derrida, *supra* note 1 at 16.

³⁶ Derrida, *ibid.* at 17.

structural possibilities, this “cannot and should not serve as an alibi for staying out of juridico-political battles.”³⁷ Thus while by these accounts there will never be an inheritance that is capable of transcending the tension of the singular and the universal, the undeconstructable and the deconstructable, this does not negate the question of *responsibility* -- the imperative that drives the process in the first place. And so, the question arises, how might we understand this responsibility and inherit differently? How might we engage a transitional justice that “allows for a diversity of relations to the past,”³⁸ and that goes beyond the “certainties about identities, power and boundaries [in order to] leave everyone changed?”³⁹ It is within the specter that the many possibilities of justice understood as infinite responsibility lie. Questions of specter throw open the question of an acknowledgement of the experiential in all its multiplicity - not by faithfully recreating and representing what is past and gone, but by indicating that something is missing, lost, or invisible. Further, it prompts us to think about and how we engage with it in the present. In doing so, the specter presents us with a way of gauging how we are inheriting.

Ethical Existential Truth, Agency & The Political as Directions for further research

While theoretical works of Levinas and Derrida have underscored the dangers of totalizing perspectives, the ethical justice pointed to in this paper must be carefully qualified. Specifically, it serves as a starting point or as a means of problematizing and asking questions. The use of this theoretical perspective calls for some comment - specifically, the emphasis of the ethical carries the need for an important stipulation,

³⁷ Derrida, *ibid.* at 28.

³⁸ Wilke, *supra* note 16 at 77.

³⁹ Wilke, *ibid.* at 78.

especially in regards to its relationship to the political. In its focus on the ‘other,’ ethics, and questions of subjectivity and individual memory and experience, this line of argumentation may be read as support for the liberal conception of the atomized or individualized human. In fact, the critique in this paper very much recognizes and agrees with arguments such as Julie Taylor’s which has pointed out that “the efficacy of the encounter of torturer and victim does not derive from a confrontation of identifiable individuals, nor from an exercise of specific agency ... it does not allow a simple assignation of guilt. [In Argentina’s truth process] the collective nature of the experience, of agency, and of guilt together have remained obscured and forgotten...”⁴⁰ Ignoring the question of the collective dimension of the political violence in such an instance would be an inexcusable mistake. Thus, this thesis advances an argument that attempts to locate a middle ground between the extremes of an individualist and apolitical approach on the one hand, and a purely statistical and flattened understanding on the other. It points to the necessity for a perspective that allows for the complexities of the human and their sense of agency, an approach that allows for relationships and affiliations, for personal experience and memory, and for the inter-subjective creation of meaning. How, it asks, might we uncover a truth that “relies first not on ‘scientific truth’ but upon the ‘invisible’ revelation of the truth of the ethical relation?”⁴¹

What role then does the notion of ethical justice play in this understanding or problematization? Broadly, the notion of the ethical offered in this paper does not intend to emphasize the individual experience of the violence as the location of justice, but rather points to it as *the imperative driving the truth process*, an imperative that is

⁴⁰ Taylor, *supra* note 4 at 202.

⁴¹ Eaglestone, *supra* note 6.

obscured by the use of certain epistemologies privileged by processes of juridical truth and justice as a reactive legalistic response. As Tahmasebi points out, “The state must realize the incompleteness of its own formal justice, which is less just than the ethics that instigates it. Levinas states: ‘Inspired by love for one’s fellow man, reasonable justice is bound by legal structures and cannot equal the goodness that solicits and inspires it.’”⁴² Thus, as iterated in the introduction, the ethical imperative that provides the basis for truth is the responsibility to the other, to their memories and to their experience. These are the specters which call forth for remedy and renewal. Yet as demonstrated both in the case of the truth report and the forensic reconstructions, the truth process was not simply directed towards a healing or renewal, but to a legally instrumental truth that in fact displaced the agency of the victim and the political context of the events. It aimed to conquer the past by ‘knowing’ it in order to lay it to rest for the future and in doing so reduced and simplified it. Despite an acknowledgement that ethics exceeds formal justice however, Tahmasebi, like Derrida, notes that abandoning or ignoring the possibilities of the state’s facilitation of justice as an ethical relation would be a mistake; to do so, would “lead[] politics to forget[] to invent new forms of human coexistence.”⁴³ The question then becomes: what is the space for the ethical in the political processes of transition? How may we inherit using a ‘performative and interpretative force’ located somewhere between an individualist and atomized approach on the one hand and a ‘flattened’ statistical perspective of human experience on the other?

The location of the paper is squarely in the law and justice debate. It has focused on problematizing the relationship between law and justice from a perspective which is

⁴² Victoria Tahmasebi, “Does Levinas Justify or Transcend Liberalism? Levinas on Human Liberation” (2010) 36:5 *Philosophy & Social Criticism* 523 at 535.

⁴³ Tahmasebi, *ibid.*

concerned with epistemological questions of truth dependent on the positivism inherent in the scientific and legalistic perspectives; and as such, it has depended on philosophical arguments to advance this point. This is only one of many ways that it is possible to underscore the vitally important question of agency in the question of truth finding, and serves more as a problematization and means of prompting questions than providing concrete solutions. Emphasizing the political rather than legal and scientific epistemologies in the question of truth would undoubtedly yield a differently nuanced perspective, and future research concerning the interaction of the ethical and the political would yield a more robust analysis than either would provide singly. After all, the events and issues that make up the past in transitional contexts come to represent not just what has happened, Huyssen argues, but how societies come to perceive their ethical self-understandings about the world.⁴⁴ Without the inclusion of the experiential and human agency as a basis for considering the future, this ethical would be empty. Given this, an acknowledgement which simply renders the past visible and prosecutes is not in itself enough to ensure that political violence will never occur again. Instead, in order to achieve justice the process must look beyond a solely legal response and administer multiple forms of inheritance and sorting. While acknowledging that each transitional context faces different challenges, this recognition leaves us with an important series of general questions. As the foundations of this transformative ethical call are there politically viable ways in the fragile transitional process to introduce the social, political and historical contexts of the violence into the truth finding process? How can the ethical imperative which respects the individual experiences and human agency as the basis of

⁴⁴ Andreas Huyssen, *Present Pasts: Urban Palimpsests and the Politics of Memory* (Stanford: Stanford University Press, 2003) at 94.

the process be acknowledged as a means of effecting political renewal and self-understanding? And finally, how can these legal, ethical, and political imperatives be balanced in questions of truth?

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