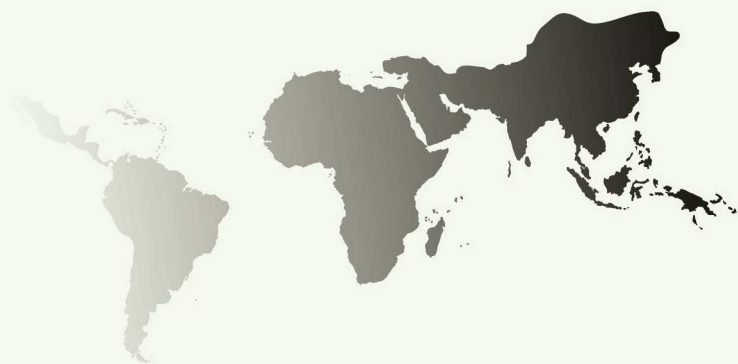


Justice through Transitions

Conflict, Peacemaking,
and Human Rights
in the Global South



César Rodríguez-Garavito
Meghan L. Morris
(Directors)


Human Rights Action Research
from the Global South (*Volume III*)

Dejusticia
Series

JUSTICE THROUGH TRANSITIONS

CONFLICT, PEACEMAKING, AND HUMAN RIGHTS IN THE GLOBAL SOUTH

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and Human Rights
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Introduction: Writing Justice through Transitions

*Meghan L. Morris
and César Rodríguez-Garavito*

In August 2015, a group of global South human rights activists and researchers gathered in Colombia for a workshop organized around the theme of transitional justice. The middle of 2015 was a crucial moment for thinking about transitional justice in and from Colombia. The government was in the midst of peace talks with the Revolutionary Armed Forces of Colombia (FARC) in Havana, Cuba, which had been ongoing for nearly three years. A delicate ceasefire had recently broken down, leaving the government and the FARC newly embattled, even as they attempted to come together in dialogues to deescalate once again. Although it had not yet been made public, the two parties were soon to announce an agreement on the question of “transitional justice.”

This agreement focused in broad strokes on a number of key elements: the conditions for laying down arms; the sanctions and sentences that might be applied to demobilized guerrillas; the judicial organs that would determine sentencing; the actors that would be judged; and the reparations that might be available to victims. These elements covered the formal legal conditions of a transition from war to peace.

But transitions from war to peace are often not so simple, nor are they so clean. They are processes that are usually messy and long, riddled with conflicts and plagued by both history and conflicting visions of the future. This messiness is the subject of work on past and present transitional justice processes in societies that have attempted to reach a postconflict peace (see, e.g., McAllister and Nelson 2013; Nelson 2009; Rojas Pérez 2008; Theidon 2014). It is manifest not just in the fact that, as in Colombia, peace processes have setbacks and agreements are hard-won (see, e.g., Uprimny et al. 2014; Uprimny and Sánchez 2017) but also in the very

notion of peace itself—the idea that what an agreement might usher in is something opposite to the violence of war. To many citizens of societies undergoing processes of transitional justice, this idea is fundamentally contradicted by everyday realities of actors in conflict, ongoing violence, and historical, continuing dispossession. As Nelson Camilo Sánchez movingly notes in this volume, debates persist in the field of transitional justice over whether processes must (or must not) take into account issues such as social and economic rights (Haldemann and Kouassi 2014) and how the differential fracturing of societies shapes peace processes and their outcomes (Duthie and Seils 2017). These debates are grounded in the many experiences of the silences and absences of transitional justice processes, as well as their indefinite temporalities.

The chapters in this volume illustrate these and many more complexities of such processes from the perspective of young human rights advocates involved in these struggles, many with their own complicated personal connections to the search for justice. These advocates hail from countries that have divergent relationships with the notion of transitional justice, from places deeply embedded in its norms and processes, such as Argentina and Colombia, to countries undergoing various kinds of transitions on very different terms, such as Turkey and Mexico. All of the chapters, however, write the messiness of seeking justice through transitions, spanning from the personal and intimate to the national and global.

Learning to write justice through narrative was part of the collective project on which this group embarked in 2015. In his eloquent account in this volume of the group and its work together, Nelson Fredy Padilla—a longtime teacher, mentor, and crucial collaborator on this project—begins with Kafka’s statement that literature is an “expedition in search of truth.” “But is there a greater mystery than the truth?,” Kafka is reported to have inquired (Janouch 2012). Amidst the opacities and mysteries of the truth in the contexts in which these advocates live and work, we asked them to write from the richness of the people, struggles, and communities they know intimately, to write narratives grounded in the truths of their experience rather than attempt to find a truth about justice that might be universal.

Ana Daneri and Horacio Coutaz offer us two compelling accounts of Argentina more than forty years after the end of the country's military dictatorship. They each approach questions of justice and memory, asking what these might mean for victims, human rights advocates, and themselves as they revisit the violence of the dictatorship and the ongoing struggles for justice and against impunity. Both justice and memory emerge as ambivalent and fragile, as well as critically important for the personal and professional struggles they recount.

Meyatzin Velasco narrates a story of the disappeared students of Ayotzinapa, Mexico, not just as a contemporary problem but as an entry point into layered histories of violence, which demonstrate continuities across time and space as history repeats itself within a single family. The chapters by Enis Köstepen and Adebayo Okeowo, alongside Velasco's, illustrate how impunity sits with places—from the family to the international sphere—and haunts them over decades. These historical forms of impunity, along with the efforts to combat it, generate a sense of simultaneous hope and disappointment, as well as deep uncertainty about the future. Contradictions between hope and disappointment also manifest themselves clearly in Hussein Baoumi's account of Egypt after the Arab Spring. He narrates the struggles over power of the moment, and how they are rooted in historical conflicts, political polarizations, and cultural notions of justice, retribution, and revolution.

Richard O'Diana and Nina Chaparro write of the many inequalities undergirding conflict through narratives of an urban indigenous community in Peru (O'Diana) and feminists in Colombia (Chaparro). Their narratives suggest that the possibilities for justice depend not just on achieving something called peace but also on working against underlying inequalities and finding unity within difference. The chapter by Isadora Vasconcelos of Brazil, alongside O'Diana's, illustrates how longstanding inequalities manifest themselves in land conflicts and historical displacements, such that people in countries purportedly at peace find themselves in cycles of violence and dispossession that are difficult to name.

Finally, Vani Sathisan narrates a story of personal transitions and how those transitions can build one's sense of justice. As

becomes clear in her chapter, justice emerges not in the abstract but through personal encounters and by keeping open one's eyes, ears, and heart.

Together, these chapters beautifully illustrate both the pain and the political possibilities that come from the inability to leave history in the past, as well as the creativity of individual and collective efforts to seek justice through transitions. They also demonstrate the beauty of speaking, working, and writing justice from the heart.

The Origin of the Book

This volume is part of a long-term project undertaken by Dejusticia as part of its international work. The project revolves around the Global Action-Research Workshop for Young Human Rights Advocates that Dejusticia organizes annually to foster connections among and train a new generation of action researchers from the global South.

For eight days, Dejusticia brings approximately twenty participants and expert instructors to Colombia for a series of interactive sessions on research, narrative writing, multimedia communication, and strategic reflection on the future of human rights. The aim is to strengthen participants' capacity to produce texts in a narrative style that are grounded in their research, such that their writing is at once rigorous and appealing to wide audiences. Participants are selected on the basis of an article proposal, which is then discussed during the workshop and subsequently developed with the mentorship of a workshop instructor over ten months, until a publishable version is achieved. The pieces developed by participants in the 2015 Global Workshop are the chapters that make up this volume—the third in the series of Global Workshop books published annually.

The workshop also offers participants the opportunity to take advantage of new technologies and translate the results of their research and activism into diverse formats, from blogs, videos, and multimedia to social network communications and academic articles. In addition to the annual volume comprising participants' texts and instructors' reflections, the workshop produces a blog in Spanish and English that features weekly entries by workshop alumni, written in the style described above. The title of the

blog—*Amphibious Accounts: Human Rights Stories from the Global South*—owes itself to the fact that action research is “amphibious” in that its practitioners move between different environments and worlds, from academic and political circles to local communities, media outlets, and state entities (Rodríguez-Garavito 2015a, 2015b). For those who are dedicated to the promotion of human rights, this often implies navigating these worlds in the global North and South alike.

Each year, the workshop is centered on a particular current issue; in 2015, the topic was transitional justice. In addition to providing coherence to the book and the group of participants, the selected topic determines the workshop site in Colombia, for the sessions are held not in a classroom or convention center but in the middle of the field, in the very communities and places that are witnessing the issue firsthand. The 2015 workshop traveled to the Caribbean region of Colombia, the site of some of the worst episodes of the Colombian armed conflict, as well as of the ongoing efforts of communities of victims to return to their lands and obtain justice, truth, and reparations from perpetrators through the transitional justice mechanisms created by the landmark 2016 peace accord between the government and the FARC.

Acknowledgments

A new and long-term initiative such as this one is more than a collective effort—it requires the support of an entire organization. This text and the ongoing commitment that it represents is an institutional effort of Dejusticia that involves, in one way or another, all of the organization’s members. For the unconditional support that Dejusticia’s staff have dedicated to this project, and for embodying the hybrid of research and action in their daily work, we extend enormous thanks to all of them.

We are particularly indebted to the colleagues and friends who were co-architects of the 2015 workshop and subsequent publication process. Camila Soto supported the development of innumerable aspects of the workshop with patience and insight, from the early days of planning through the final rounds of editing. Eliana Kaimowitz was the workshop’s indefatigable facilitator. Nelson Fredy Padilla, Eliana Kaimowitz, Krizna Gomez, and Claret Vargas served as mentors for participants’ writing processes with

grace and a keen editorial sense, and Camila Soto and Sebastián Villamizar provided invaluable feedback in the final stage of editing the chapters.

At the workshop, significant contributions were made by the instructors, some of whom also served as mentors to participants during the subsequent writing process. We therefore extend our deepest thanks to Barney Afako, Kamarulzaman Askandar, Carlos Andrés Baquero, Aura Bolívar, Doug Johnson, Daniel Marín, Nelson Fredy Padilla, Diana Rodríguez, Nelson Camilo Sánchez, Kathryn Sikkink, Andrew Songa, and Rodrigo Uprimny.

Finally, any initiative of this nature requires considerable logistical and organizational support. William Morales assumed this with an admirable mixture of efficiency, solidarity, and optimism, with the critical support of Ana María Ramírez, Sean Luna McAdams, and Carlos Andrés Baquero. Our local partners in Montes de María welcomed the group with warmth and solidarity, for which we owe special thanks to the members of the Organization of Displaced, Ethnic, and Peasant Populations, as well as 2014 Global Workshop alumna and local activist Leonarda de la Ossa.

During the publication phase, three colleagues were fundamental. Morgan Stoffregen and Sebastián Villamizar went above and beyond their duties as editors and translators, becoming unwavering allies who made continual improvements, proposed alternatives and ideas, and ensured that a polyphonic manuscript was converted into a coherent and legible whole. Elvia Sáenz, in coordinating Dejusticia's publication process, never ceased to demonstrate precision and creativity.

Both Dejusticia's international program and the workshop and book were made possible thanks to the generous and enduring support of the Ford Foundation. Martín Abregú and Louis Bickford were essential counterparts in our efforts: beyond coordinating the foundation's financial support, they served as partners who were at once sympathetic to and independent from our ideas and initiatives, for which we are enormously grateful.

We would like to conclude by recognizing perhaps the most essential players of all: the activist-researchers who authored the chapters in this volume. Both during and after the workshop, they enthusiastically supported our collective commitment to action research and took time from their busy lives to reflect, write, revise,

and write again. If the space that we created for them is helpful in their work to contribute to a more effective, horizontal, and creative human rights movement, this effort will have been worth it.

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PART ONE: STUDIES

CHAPTER 1
Memory Everywhere: Argentina's
Transitional Justice Process in
Tucumán

Ana Daneri
(Argentina)

For modern Argentines, there are certain words that take on a special meaning. Words such as the “process,” the “coup,” the “disappeared,” a “mega trial,” “Mothers,” and “Grandmothers” are emotionally charged and burdened with history. Few Argentines are unaware of the meaning of these words, and debate on their resonance continues to this day. The family members of victims of guerrilla violence want to talk about their relatives who were disappeared, and meanwhile the label “guerrilla fighters” still makes many survivors of state terrorism feel uncomfortable. In Argentina, reference to the “process” does not refer to the passage of time but is instead a euphemism for the dictatorship. A “mega trial” is not used for just any legal proceedings but specifically for a trial for crimes against humanity in the context of Argentina’s transitional justice process. The “Mothers” and “Grandmothers” are not any mother or grandmother; they are the “crazy women wearing white headscarves” who filled the country’s city squares in search of their children and grandchildren, and who changed history.

In 2013, the mega trial known as *Jefatura II-Arsenales II*—a trial for which human rights organizations had been advocating since democracy took hold in the 1980s—was held in the province of Tucumán, in northern Argentina. A judgment was delivered on December 13, 2013, resulting in thirty-seven convictions out of a total of forty-one accused. Four defendants were acquitted. However, of these thirty-seven convictions, only four were sentenced to life in prison, despite the fact that the prosecution had requested life imprisonment for thirty-three defendants. Over the course of the trial, more than 300 witnesses testified, identifying ten locations where clandestine detention centers and killing sites

had operated, as well as clandestine burial sites. Expert testimony revealed the existence of mass graves in the Vargas well, the Miguel de Azcuénaga weapons arsenal, and the cemetery of the town of Tacanas. The bodies of seven of the two hundred fifteen victims whose cases were being tried were also identified. This was the first trial in the province in which the perpetrators were convicted as perpetrators of sexual crimes against women who were held captive in the Jefatura and Arsenales clandestine detention centers.

Some of the hearings were conducted outside of the courtroom in order to identify the sites where crimes had been committed. For these outdoor hearings, we traveled to various rural towns in Tucumán Province, such as Santa Lucía, Monteros, Famaillá, and Caspichango. I was a volunteer for the communications team of the nongovernmental organization ANDHES (Human Rights and Social Studies Lawyers from Northwestern Argentina)—which was representing five victims in that mega trial—and brought my video camera with me to each on-site visit.

We arrived in Santa Lucía around 10 a.m. The judges were already at the main traffic circle, and members of human rights organizations were beginning to hang flags with the faces of the disappeared. One woman with a sign displaying the face of her loved one shouted into the crowd, “Let justice be done for all.”

This was to be the fourth on-site visit of the trial. Here, in this public space, the judges, private prosecutors, and defense counsel, with the assistance of the National Gendarmerie, gathered together so that victims and witnesses could acknowledge the scene where the crimes had been committed.

It was my first time in that town in southern Tucumán, a town whose life had previously revolved around the sugar mill. Tucumán is a province in northern Argentina, surrounded by mountains and dedicated largely to the cultivation of citrus fruits and sugarcane. The province has always played a leading role in Argentinean politics, from the time of the country’s declaration of independence to the military dictatorship. As a northerner, I grew up hearing stories about the mill, such as the legend of the Family Dog. A monstrous, demonic animal that devours workers, its presence is announced by the clanking of its broken chains. It is a dog that is merciless to rebellious workers and that makes them

vanish without a trace—a dog accused of having made many of the town's sugar mill workers disappear during the military dictatorship.

This small town has about 300 houses, one school, a police station, and, of course, a church. Mountains loom on the horizon with their intensely green tropical forest. Santa Lucía seems frozen in time, with its old houses, dirt streets, and open countryside. And in the background, like a silent watcher, stands the smokestack of the mill, a full fifty years after its closing.

Santa Lucía seems to be just another rural town on the map, a peaceful haven from the hustle and bustle of the city. For residents of Tucumán Province, however, Santa Lucía has a wholly different meaning. In 1974, the Ramón Rosa Jiménez Mountain Company of the People's Revolutionary Army established its La Dulce and El Niño Perdido camps in the mountains bordering the town. On February 9, 1975, the Argentinean military launched Operation Independence, which involved the arrival of 3,000 soldiers who soon turned the entire town into a military base and imposed a curfew. The bases were subordinate to the 19th Regiment at Tucumán and the 28th Regiment at Tartagal of the Army's III Corps. The mill, previously a symbol of work and prosperity, became a symbol of terror.

Back to the present. The traffic circle was churning with members of the court and human rights organizations. The town where “nothing ever happens” was filled with people. Many onlookers joined us—and before we realized what had happened, we became a crowd.

The presiding judge, Carlos Jiménez Montilla, began the hearing. Without a microphone, he had no choice but to raise his voice. Everyone present was standing up, making it difficult to see what was happening. A witness was called on to testify. Julio Antonio Ahumada made his way past the crowd in order to stand in the center. He said that we must go to the mill, a mere two blocks away, so we set off.

We were far from the comfort of air-conditioned courtrooms, and the early heat of September contrasted with the formal, heavy suits and shoes of the judges and attorneys. Willing to step out of its comfort zone in order to restore public confidence in the courts, the judiciary seemed to be taking its role seriously.

We arrived at the mill's entrance. A street opened up on one side; a thick wall surrounded the factory. I filmed the hearing with my video camera, climbing a wall to secure a better vantage point. As a human rights activist working for a nongovernmental organization—but also as a relative of a disappeared person—recording this historic moment seemed vital to me.

Another witness, Domingo Antonio Jeréz, a lanky and dark-complected campesino, pointed to the perimeter of the former military base that had occupied the mill's territory. Jeréz wore brown coveralls, as if he had just come from a construction site. From the top of the wall, I could see the whole circle, but there was precious little space in the center where the witness was speaking.

He pointed to a shed, noting that it had been the torture room. One of the private prosecutors asked if there was a way to get from the mill to the shed. Of course, explained the witness. The torture room, he said, was below ground level and was connected to the mill through tunnels. He said they called it "the basement" and that they used to hear screams coming from there. We visited the shed, but we could not find any entrance to an underground level. However, one of the witnesses told the judges to jump on the floor in one corner, which revealed it to be hollow inside. Further access was blocked by a concrete floor, but one girl admitted that she knew of another passage but did not want to show it at that moment, in front of everyone, out of fear. On the walls of the shed were inscriptions about truth, justice, and memory.

Someone else raised their hand. "They had me too," he said. "My brother too," said another. The judge ordered their depositions to be taken and recited the oath. Everyone wanted to make a comment, though. In a hearing on the streets, it is more difficult to differentiate the prosecution from the defense; hierarchies between judges, witnesses, and relatives become blurred. The courtroom imposes much clearer parameters for trials: people are seated, a wooden perimeter separates the witness from the audience, the two sides sit on opposite sides of the courtroom, and the judges sit at the front at a higher level than everyone else. No one would ever dare interrupt a witness or say anything while the attorneys ask questions. But hearings in the streets are different. No one knows who is who in the crowd.

One of the private prosecutors called on a historian, Lucía Mercado, to testify about the context. There were too many people, and all were standing, doing their best to see and hear. The historian decided to stay where she was, a bit removed from the center. She held a newspaper in her hand to shield her face from the sun. She began her narrative, only to be interrupted. “You called my father a ‘guerrilla fighter’ in your book, but he wasn’t a ‘guerrilla fighter!’” a man yelled. Shouting began and two attorneys exchanged insults, while the judge tried to establish order. Clearing the courtroom was not a possibility, but he did threaten to adjourn the hearing.

What did the son of the “guerrilla fighter” hope to vindicate? Behind the term “guerrilla fighter” lies a complex tangle of issues. For that son, defending his father from this much-maligned label represented the opportunity to rewrite history and exonerate the memory of his loved one, casting off a narrative that had long been used to justify state terrorism. For decades, the military narrative in Argentina known as the “theory of the two demons” tried to equate the crimes of the state with those of guerrilla groups, arguing that a “dirty war” had taken place in which no one’s hands were clean. The solution proposed in *Never Again*, the famous report of the National Commission on the Disappearance of Persons—whose president was writer Ernesto Sábato—spoke of “innocent” victims at a time when it was more important to prove that clandestine detention centers existed and that the state disappeared, tortured, and killed Argentines than it was to analyze the reasons that the state may have had to “eliminate” certain sectors of society.

Everyone interrupts the son, though, each convinced of their right to demand that the courts investigate. Sharing what had happened to them allowed them to claim active roles in history. The state was no longer the all-powerful imparter of justice but rather a servant that received claims and was obliged to address them. Justice with a capital J no longer meant merely sending a repressor to prison; it now seemed to be bound up with the concept of Truth. It meant rewriting history, including the forgotten histories, and endowing the narration of the past with new meaning by exalting one’s own voice and not the voice of the state.

As I talked to my colleagues after the hearing in Santa Lucía, they told me how difficult it was in general to find witnesses willing to testify in the courtroom. People were suspicious, distrustful,

and afraid to speak out. But when justice came to them by literally walking down their streets, that seemed to change. This made me think about the effect of Tucumán's transitional justice trials. With nearly 147 verdicts reached in the country so far and 622 people found guilty, what has been the true impact of these trials in towns like Santa Lucía?

The balance of the repression in Tucumán was 200 political prisoners, 225 assassinated, and at least 660 disappeared. Between 70% and 80% of the recorded disappearances occurred after July 1976, when the guerrillas had essentially ceased to exist. Given the high proportion of the rural population affected by the repression, together with the level of cruelty and the length of time of the repression in the province, it is estimated that the total number of kidnapped persons who passed through various clandestine detention centers is much higher, between 2,000 and 3,000 people. Some of them were released and are survivors. The lack of clear data on victims of state terrorism is due to the destruction and concealment of information by those responsible (Novaro and Palermo 2003).

The report of Tucumán Province's bicameral commission on human rights violations, formed in 1984, identified thirty-six such detention centers that had operated in the province: seventeen in police stations (for example, at the police headquarters, located in the capital city), two in penitentiaries (Villa Urquiza jail and Concepción prison), six in state educational institutions (such as the Diego de Rojas School, located in the town of Famaillá, and the School of Physical Education in the capital), eight in military stations (for example, the Miguel de Azcuénaga weapons arsenal), and at least three in private offices (El Motel) and the facilities of the province's sugar mills (among them the so-called Fronterita tenement, which operated in the private facilities of the mill bearing the same name, and the former Nueva Bavaria mill). According to the same report, 68% of the 507 recorded kidnappings in the province during the dictatorship occurred in 1976 and 1977. During those two years, Antonio Domingo Bussi was commander of the Fifth Infantry Brigade and the de facto military governor of Tucumán, enjoying a unique concentration of power in the country (Comisión Bicameral Investigadora de las Violaciones de Derechos Humanos en la Provincia de Tucumán 1991).

Most records of the disappearances indicate that these disappearances started after the military coup in 1976. However, as mentioned earlier, in February 1975, military forces entered rural areas to fight guerrilla groups in Operation Independence and to establish strict control over the population. They obtained information through kidnappings and torture and treated the entire population as their target, considering local residents as accomplices of the guerrillas. If we take the number of victims cited in the Attorney General's Office request for the trial of Operation Independence (scheduled to begin in May 2016), the operation's victims represent 30% of the total number of victims from the province. This contrasts sharply with the situation of Buenos Aires, where victims from 1975 represent only 8% of the total number of victims from the capital city. This contrast stems from the fact that Tucumán underwent a different process from the rest of the country. The armed forces took the city of Famaillá as the center of their operations area until 1976, when they relocated to the city following the military coup.

For months, I visited these towns and listened to many of the victims who had lived through the repression of the 1970s. The project that took me to those towns was the collection of testimonies for the creation of an oral archive that would provide an account of the military dictatorship, as well as of the struggles of trade unions, workers, and militant groups, which were very strong in those years. This oral archive is supplemented by a document search system for the archive that will hopefully be of use to future researchers interested in the subject.

I returned to Santa Lucía convinced of the importance of the trials and their contribution to memory and historical reparation. My memory of the mega trial remained vivid: of judges walking the streets and of people daring to interrupt them to tell their personal story. It led me to imagine that the lives of Santa Lucía residents had changed drastically with the arrival of justice in 2013. However, as I walked through the town's streets and interviewed residents, those beliefs crumbled. Santa Lucía had no memory of the judges who had come to its streets only two years before, but it did have a deep memory of the repression. While the dictatorship occurred forty years ago and the mill closed fifty years ago, for Santa Lucía it was as if they had happened yesterday.

Roberto Balcarce, María Segura, and Papi Coronel vividly remember the military's arrival in Santa Lucía in 1975. The hours drifted away as we talked about that time, the worst of their lives. Graciela Cortés, one of the women I interviewed in Famaillá, took me to María's house. There, I was welcomed with *café con leche* and homemade bread.

Before each recording, I would meet with my interview subjects to get to know them and better prepare the questions according to their life stories. These chats were typically one-on-one in order to foster a climate of trust and intimacy, as well as to help relax them before the camera started rolling. But at this particular meeting, there were several people present: María, her husband, Graciela, Papi, and Roberto. I told them about the project and what the interview would be like—and, as always happens, they asked if I was working for the government. The tremendous expectations about reparations and compensation for those who suffered kidnapping, torture, and illegal detention were always at the center of attention. Most of the people I interviewed were of limited means, with little or no formal education. The majority held low-paying informal jobs.

The conversation moved along naturally. I listened quietly and requested their permission to take notes. Papi was the most talkative of the group and the first to tell me his story. All had been kidnapped and had survived state terrorism. María frequently became teary eyed. She then showed me a picture in which a beautiful girl with black hair danced with a young man. "That was my brother," she said. Showing me another picture, she said, "Here we are in the GRAFA."¹ In this photo was an enormous table covered with sandwiches and plastic cups, surrounded by people who were smiling, eating, having fun.

GRAFANOR was a familiar name to me: a textile company that many say was an accomplice of the dictatorship, denouncing union workers and even lending vehicles to transport the kidnapped. María worked there as a seamstress during the years of the dictatorship until 1982, when she was kidnapped. She was eight months pregnant at the time. It was around 5 a.m. and she was walking to a bus stop with a coworker when a military

1 Interview with María Segura, October 2015, Santa Lucía.

assault vehicle stopped them and asked for their IDs. In a moment of confusion, María handed them her bus card. “You think you’re so clever?” yelled the soldier. As she desperately tried to explain that it had been a mistake, she was struck in the stomach with a rifle butt, which took her breath away. She fell to her knees as they continued to beat her. “Do you know what it’s like to have them kill your child?” she said between sobs. It was impossible to answer her question because it has no answer. I could not know how it feels to have my child killed, nor should anyone have to know that.

I returned to my house with the sensation of having glimpsed but a small hint of the horror. These people’s past would be enormously difficult to counterbalance with judicial actions. There can be no adequate amends for someone whose child was ripped from her womb; justice will always be found wanting. María is one of hundreds of pregnant women who were kidnapped. The dictatorship’s repression included one of the most perverse actions imaginable: the theft and kidnapping of babies. Thanks to the tireless work of the Grandmothers of the Plaza de Mayo, today 119 men and women have regained their true identity.

As I went down the highway connecting the southern towns with the capital city of Tucumán, the kilometers stretched out into years. It crossed my mind that Santa Lucía was a ghost town inhabited by dead people who walked around without knowing that we were now in our thirty-third year of democracy. First the closing of the mill and then the nightmare that was the dictatorship bore down on them, taking almost everything they had. In my mind, I heard Papi Coronel. He had been only twelve years old when they closed the Santa Lucía mill, but he remembered it well. His father was a factory worker, and as a boy Papi would visit him and play among the bags of sugar. The musky smell, the heat given off by the boilers, the bell calling employees to work. Fifty years had passed since the bells last rang in the town, but Papi recalled that time as the best years of Santa Lucía.

In 1966—the first year of a previous military dictatorship, that of Juan Carlos Onganía—eleven sugar mills in Tucumán Province were closed. This had an irreparable impact on the regional economy and an inestimably high cost for the livelihood of towns such as Santa Lucía, which depended exclusively on the mill.

“The grass in the town grew higher and higher, garbage piled up, and houses were abandoned. It looked like a ghost town,” Papi explained.² Approximately 200,000 people are estimated to have been forced to leave the province in search of work. Papi recalled that his father kept the money from his severance package and decided to stay. When their food started running low, they were forced to accept meals at the small soup kitchens that had been set up in the town. The closing of the mills was tinder for the fragile political climate, and the country’s unemployment, hunger, and social struggles set the conditions for the 1976 dictatorship.

Memories from the Provinces: Between Struggle and Pain

After listening to hundreds of hours of testimony from victims of the dictatorship, I had to wonder if the mechanisms of delayed justice and the processes of memory restoration have achieved their goal of delivering justice and reparation. My initial impression of Santa Lucía contrasted with the heartfelt accounts of victims.

When I interviewed survivors and militants of the dictatorship in 2015, I perceived a vast difference in testimonies. On one side were those of people from the capital city of Tucumán Province and who had been engaged in active militancy either before, during, or after the dictatorship; on the other side were the testimonies of people from other towns in the province. I believe that this difference is due to two factors. First, most residents of the capital city belonged or still belong to a community organization, which gives a transcendent meaning to suffering. This meaning is greater than the individual, allowing for emotional and moral forbearance of hardships. Second, the reparation processes have been more extensive in capital cities. In many cases, the victims themselves have initiated these processes, in which the first step involved meeting with others who shared their pain. Accordingly—sometimes in parallel and largely in response to calls from human rights organizations—the state has responded more quickly to those living in these cities (first in Buenos Aires and then in the capital cities of the provinces). Due to the clustering of the state’s presence in these

2 Interview with Papi Coronel, November 2015, Santa Lucía.

cities, victims living in more remote areas have been rendered invisible and marginalized from the collective memory processes.

The dictatorship, however, was not so discriminating. The fundamental goal of the state's terrorism was to destroy the social fabric, sow fear and distrust among neighbors, and cut off any possibility of constructive social bonds. Unlike the processes of justice and reparation, this plan was implemented in rural areas and cities alike. Operation Independence is a clear example of this. In 1975, in the middle of a democratic government, military troops occupied the outlying towns of Tucumán Province and spread out among the civilians. These soldiers formed a parallel army in collusion with the police force to kidnap and torture in search of information. The curfew and extreme control effectively isolated local residents. There were daily surprise raids on people's houses and inspections of even the amount of food they had, owing to the military's suspicion that anyone could be an accomplice to the guerrillas. Merely selling a slice of bread to a "subversive" was to be seen as a "collaborator."

The psychological warfare that the military itself admitted to consisted of censorship of the press and clandestine actions of persecution, torture, and assassinations. Such actions simultaneously created the illusion of order and generated terror. Many of these discourses have persisted in the collective imagination to this day. The vindication of the dictatorship's crimes through the phrase "They must have done something" — the infamous words uttered by the president of the military junta, Jorge Rafael Videla, to justify the arrests of apparently innocent people — is still upheld by broad sectors of society. In the face of this panorama, the question is, what is needed to make a memory process truly effective?

When we think of justice in the abstract, we may forget that the overturning of the amnesty laws that had been impeding the prosecution of crimes was, while part of state policy, largely the result of the efforts of human rights organizations. Thus, for a large majority, these trials represent a hard-fought victory. Nevertheless, this is not the reality in the outlying areas of Tucumán. There, justice has yet to come for many, and economic oppression (due largely to the legacy of the dictatorship's economic policies and the labor discrimination suffered after kidnappings) has recently motivated survivors to organize under the reparations laws.

When reflecting on the memory restoration process in Tucumán, I thought once again of the long hours of testimony I had listened to. I especially remembered three women: Luisa, Graciela, and Nancy. All three had experienced the dictatorship firsthand, but their ways of recounting that time could not be more different. Each woman seemed to represent a distinct collective process. The process of remembering is not always productive. When justice is remote, when no attempt at restitution is offered by the state, when victims' voices fade in the absence of a listener, remembering becomes traumatic—a revictimization.

Nancy Alarcón

I arrived at the house on time. At the entrance, I noticed two bronze lions and the house's pale green color. The door was opened by a man who looked about twenty years old, whom I assume to be the eldest son. Nancy was dressed very elegantly, and her dyed blonde hair was carefully arranged. Only then did I realize how important this moment was for her. Nancy had spent the past thirty-eight years of her life waiting to feel ready to tell her story.

While the cameraman set up the equipment, Nancy and I filled out a form. She seemed tense and wore a nervous smile. We began the interview well, with audiovisual testimony that would help rebuild our national memory. She was a woman of few words, but I could see the effort she made to find the right ones. "My name is Nancy Alarcón, and I am the daughter, sister, granddaughter, and niece of the disappeared."³ Just hearing these words produced a lump in my throat: all of her identity, all that she is, is crossed with pain.

In 1977, she was five years old and lived in a house at the foot of the San Javier Mountain in Tucumán. Her grandmother had been the center of family life: a strong, fierce woman who cooked for everyone and led political meetings. "We had a big dog; I don't remember his name . . . He always barked a lot whenever anyone arrived. He was the first one they killed . . . We realized they had come because we no longer heard his barking." Nancy became

3 Interview with Nancy Alarcón, May 2015, Villa Carmela, Tucumán. All quotations from Nancy in this chapter derive from this interview.

overcome with emotion. Her eyes were far away, the empty gaze of a five-year-old suspended in the horror. I stopped the interview, feeling it unethical to continue opening these old wounds of grief. However, she drank a glass of water and told me she wished to continue.

They kept her family imprisoned in the house for about a week. She could remember the uniforms, the military boots, the shouts. The five children were locked in a bedroom. The adults were split up, women on one side and men on the other. The day of the raid had been a Sunday, and her cousins and aunt and uncle had come over for a barbecue.

The dictatorship took almost all of Nancy's family. Her grandparents, Argentina and Avelino; her parents, Rosa and Hugo; her aunt and uncle, Argelia and Miguel; and her little sister Mónica, who was a year old at the time. It was difficult to truly fathom what that meant: "They took *everything*," she told me. And that "everything" was so large that there were no words to describe it only silence.

This was my first interview of relatives and victims for the joint project that I was coordinating between ANDHES and the Open Memory collective. It is difficult to explain how important and difficult this experience was for me—to feel the weight of an unspeakable but fundamental history, and to grasp the enormous responsibility that I had in my hands with my work. Before meeting Nancy, I was convinced that transmitting the experiences of victims was crucial for future generations. What I did not imagine was how necessary it is for our present. This need became apparent when I witnessed Nancy, after almost forty years, cease to be a victim and become empowered. The exploration of her memory, however, was painful. If great care is not taken, there is a risk of revictimization. Nancy never participated in political militancy, and her path to justice has been fraught with fear and distrust. Thanks to national policies and the efforts of a group of forensic anthropologists from Tucumán, she was able to find her father and grandfather in the mass graves at Arsenales.

Graciela Cortés

Graciela answered my call warily. "Who gave you my number?" she said. When I mentioned Silvia's name, her tone changed

completely. She knew Silvia, trusted her. When I arrived at her house for the interview, she had homemade bread and cups of *mate* waiting for me. I began by tracing her childhood. Graciela lived in “the countryside” in a remote rural area about eighteen kilometers from Famaillá, on the Sorteix estate near Manchalá. Her father was the estate’s caretaker, and their house was located next to the owners’ house. The estate was a large plot of land dotted with the houses of the workers who cut and stripped the sugarcane. “It was a very peaceful place. We never paid any attention to politics; we lived in peace before everything started.”⁴

At the beginning of the 1970s, the guerrillas settled in the mountains near Famaillá. In 1975, the People’s Revolutionary Army decided to make the estate its strategic base in order to take the tactical command post at Famaillá. The guerrillas started living in the house of Graciela’s family. They treated her family well, she said, although they were not allowed to leave. Her family was even invited to take part in the armed struggle and was free to say no without any consequences. Graciela recalled that the guerrillas had clearly studied the place and knew her family’s routines and everyone’s names because they had been hiding among the sugarcane plantations for a long time. However, something went wrong. Someone escaped and alerted others of their presence, and the guerrillas hurried to leave the house. When they left, they took the truck belonging to “the Gringo,” Graciela’s boyfriend at the time. That night, the group in the truck bumped into soldiers who were making repairs to the school in Manchalá. Graciela remembers the explosion of noise that sounded like fireworks. The Gringo got caught in the crossfire when returning to his house; and her family, trapped inside their home, threw themselves to the floor to avoid the bullets. “Ever since then, every time I hear a helicopter I panic.”

The next morning, the Gringo decided to head out with Graciela’s brother to look for the truck that the People’s Revolutionary Army had taken. Soldiers were waiting for them. Before they could react, the soldiers pointed their rifles at them. They were

4 Interview with Graciela Cortés, October 2015, Famaillá, Tucumán. All quotations from Graciela in this chapter derive from this interview.

taken to the Laval School, tortured, and imprisoned for one month. Soon the military arrived at the Sorteix estate, forcing their way in. That peaceful place, where once only the sound of crickets could be heard, was lost forever. "We couldn't do anything. If we went to the bathroom, we had to leave the door open. We showered with our clothes on." Silent tears fell down Graciela's cheek. She was about sixty-eight years old, but her white and wrinkled skin seemed to add a few more years. Or perhaps it was her suffering. She held her voice steady. She did not tremble as she told me how the military beat her father, how she lied to him and said that he was going to be fine so that he would not worry. But it hurt. Her father, she told me, died shortly afterward from complications resulting from the torture. "And the courts demand more evidence," she said indignantly. "What more evidence do they need?"

The soldiers remained on the estate for two months, subjecting residents to endless torments. These torments did not end when the military left—the people had been marked forever. Graciela explained that afterward, they felt like they had a target on their backs. They were asked for their IDs wherever they went, and they always had the feeling that they were being watched.

Graciela's story is similar to Nancy's in that neither of them were politically active at the time that they were imprisoned in their own homes. However, Graciela's interview was different. Her voice was firm and self-assured, and her indignation was transformed into a demand that cried out for memory and justice. What made them so different? What Nancy could not put into words, Graciela—a simple country woman, raised without any political affiliation—could raise her voice to condemn without hesitation.

One possible explanation is the subsequent experience that each one lived. Nancy never had any contact with human rights movements, and her life went down a path of helplessness. Graciela, on the other hand, had a transformative experience in 2005. The group GIGET (Tucumán Genocide Research Group) and a group of psychologists (who would later found the Accompaniment Team for Victims of State Terrorism) came to Famaillá to investigate and to provide support to victims. In addition, in 2006, they began to work at the Diego de Rojas School with the intention of founding the province's first "space for memory." Graciela

decided to join this process and supported the initiative from the outset. The courts also arrived at a certain point, and she testified during the Operation Independence trial, which is currently in its oral argument stage. The presence of both the state and human rights organizations helped Graciela make sense of her suffering: “I go because I feel good; I like to participate, to help . . . I think we have to talk about what happened to make sure this never happens again. And to make sure the perpetrators of genocide face trial so that they pay for their crimes,” she said.

Luisa Vivanco

At the door I heard a Cocker Spaniel bark. Luisa was one of those women who seemed ageless; few would guess that she was over seventy. Even her creased skin and the gray hairs springing from her curly hair did not give away her true age. Her house was beautiful—a simple, rustic house with a large bay window and a garden. She greeted me with *mate* and a cake she had made with passion fruit picked from her own trees. The hours passed unhurriedly, and before I realized it, Luisa was retracing her dearest memories: her years of student militancy, political effervescence, and widespread sense of commitment. It occurred to me that I had arrived forty years late to the world, that I would have liked to be part of her generation, the generation that believed it could transform the world. Luisa had been an activist in various student organizations while studying psychology at the School of Philosophy and Letters of Tucumán. “I’m from the generation that felt that it could do everything: I wanted to be active in the militancy and have lots of children.”⁵

The first time I saw Luisa was during the Jefatura II-Arsenales II mega trial. She was one of the first witnesses to testify, later dedicating herself to providing psychological support to other victims. Her story is no less unbelievable than the stories of the other women.

In 1976, Luisa and her family had gone into partial hiding. Fear was constant, and there were checkpoints everywhere: just traveling from home to work could be dangerous. They took many

5 Interview with Luisa Vivanco, July 2015, Yerba Buena, Tucumán. All quotations from Luisa in this chapter derive from this interview.

precautions and always caught wind of rumors. “‘They got this one, they got that one.’ Every day they would capture another comrade, and I knew that if they captured someone we knew, we had to leave,” she explained.

That day finally arrived, and Luisa decided to go into exile in Venezuela with her husband and five children. Their own country's hostility had made them feel like unwelcome guests in their homeland. They were not going alone; they would travel with the Forti family, a family that lived nearby and was friends of theirs. To throw any observers off their trail, they first traveled to Córdoba, where they hid with relatives and friends. Luisa's and Nelisa Sosa de Forti's husbands had gone ahead of them to begin the paperwork and find housing and work. It had been necessary to obtain passports, sell their belongings, rent their houses, and get enough money together, all without drawing attention to themselves. Something went wrong in Córdoba, though. Luisa's baby contracted meningitis, and she had no choice but to postpone the trip, despite already having purchased the tickets. Neli decided to stick to the original plan and travel with her children. That would be their goodbye.

Neli had managed to board the plane at the Ezeiza airport when, in front of the other passengers, military agents suspended the flight and kidnapped her and her five children. Alfredo, the eldest son, who was around fifteen years old at the time, later described how he was left with his siblings on the side of the road in Buenos Aires, blindfolded and bound. They were forced to walk several kilometers to get help. The last time they would ever see their mother was on the airplane. Neli was taken to Tucumán, and witnesses claim to have seen her at the clandestine detention center at police headquarters. She remains missing to this day.

In the midst of the shock she felt over the loss of her friends, her dreams, and her country, Luisa was eventually able to leave the country with her children. In Venezuela, they spoke out against the situation in Argentina and were active in exiles' associations, seeking to give meaning to their experience of alienation. Escaping would prove to be the easy part, though; the hardest would be returning. Argentina had changed. That generation of dedicated young people, of solidarity, of political vibrancy had been obliterated. People looked at them as if they had a contagious disease.

The few friends who had survived lived in fear, and the organizations that had thrived before had been quashed. Finding work was difficult; efforts to feel at home in the country again were painful. However, Luisa never stopped trying. She developed an open lecture on art and human rights and joined the human rights movement that was speaking out in Tucumán.

Luisa's story is painful, even though she was never kidnapped and none of her relatives disappeared. She bears the scars of the repression. But she is strong; she can distance herself from what happened and reflect on her past actions, what she did right and what she regrets. I could see glimmers of nostalgia in her eyes when she talked about her political militancy; she exemplified tenacity and strength. Unlike many other survivors, Luisa was able to personally take part in the redress of grievances. This was possible not just due to her academic background and political engagement but also because, over the years, she was able to look the state in the eye and raise the flags of memory, truth, and justice in a struggle that was never in solitude.

Being detained in one of the state's more than 300 detention centers, experiencing grief from the loss of a loved one, and being exiled from one's homeland may not be able to be expressed in words, much less atoned for. However, the state has an obligation to take responsibility. The claiming of rights is never individual, and neither was the struggle for memory. When we think of Nancy, Papi Coronel, María Segura, and Roberto Balcarce, each of whom had to confront the immense power of state terrorism alone, the task becomes impossible. The damage persists regardless of the passage of time. Luisa, however, has managed to give meaning to her suffering and assume an active role in the state's reparatory efforts. There are many women like Luisa, such as the Mothers and Grandmothers who learned to transform the immense pain of losing a child into a concerted fight on behalf of hundreds of missing children.

The Look of Silence

I have felt the need to record and preserve the past since childhood. When I was seven, I decided that I was going to keep a Froot Loops cereal box forever. Today, twenty-three years later, I still have it. Not because it represents anything special from my

childhood but rather because it is like a time machine, a witness to the history of my life and society of that moment. I am sure I was not fully aware of this potential at age seven, but the idea of losing my memories already terrified me at that tender age. It is no coincidence that over the years I have gravitated toward work in the field of interviews, video histories, and documentation. This work is not solely the product of personal interests, however. I was born in a generation that did not live through the dictatorship but that nonetheless inherited the repercussions of the state's terrorism. My generation, the generation of grandchildren of the disappeared, had to learn about what happened bit by bit.

The first time I heard about the military was around the time I decided to keep the cereal box. A neighbor and I had watched *Night of the Pencils*, an Argentinean film based on the true story of ten high school students who were kidnapped and disappeared in 1976 when they were fighting for free public transportation for students. I went home feeling very traumatized and asked my mother if what I had seen was real. She then told me for the first time about my grandmother, Ana (whom I was named after), who was kidnapped and disappeared during the dictatorship. I was able to learn very little about her. Since my mother had been only eight years old at the time, she remembered only a few details: that her mother liked to spoil her, that she used to make a peach dessert, that she liked the smell of *cachaça* when passing near a sugar mill.

The rest of my family kept silent. My mother did not even know what her mother's profession had been or where she had worked. With the exception of my uncle Diego, my mother's younger brother, no one did anything to demand justice for my grandmother. It was too painful for my mother. Recently, though, we agreed on the need to talk openly. In July 2016, the remains of my grandmother, Ana María Sosa de Reynaga, were identified in the Vargas well, a water well about three meters in diameter and roughly forty meters deep that was used as a clandestine burial site during the dictatorship. To date, some eighty-nine bodies have been identified there, although it is estimated that there are another hundred.

We last visited the well as a family. There, my mother, father, sister, aunts and uncles, and I planted a lapacho tree in my

grandmother's honor. It is hard to think of that well. It is irrefutable proof of the horror. Her bones lie there, mixed and scattered, with no funeral, no farewells. Families forever paralyzed by uncertainty, by a ceaseless pain that is denied the possibility of mourning. My grandmother's left tibia was the only trace of her that was found. How is it possible to feel a connection with that piece of bone and link it to an existence? One cannot help but dwell on everything that never was. The mother they stole from you, the grandmother you never had. It is only when silence breaks down before the evidence that memory becomes indispensable.

My grandmother lives on in the memories of those who knew her. The discovery of her body was, for us, the discovery of her story, her life. We held a tribute and decided to make a documentary featuring interviews with her friends and family. I, of course, was in charge of the filming and editing; my mother and my uncle Diego, the questions. The experience was grueling while also healing. Everyone, without exception, remembers her the same way: smiling. "My dad always knew when Ana had come over because she would laugh and the whole house would shake," recalled María Marta García Veci, one of her best friends and classmates.⁶ My aunt Corita, my grandmother's older sister, had never talked about her before then. She told us about the mischief her sister would get into when they were girls and shared several funny stories. She also chose to talk about her own suffering—how she would hear noises in the house in the middle of the night and feared they would drag her down the hallway. All these years she waited for a miracle, hoping for her sister's return, and today she admits that she waited in vain.

The video, the tributes, the letters—they are all acts of memory. They connect us, allowing us to organize those pieces that have been broken and scattered by violence and to reconstruct our identity as children, as parents, as grandchildren. Justice, arriving in Argentina thirty years late (but it did arrive), gives legitimacy to our suffering. And evidence like that found at the well—the bodies that resurfaced thanks to the tireless work of professionals and activists—grants us some measure of truth and

6 Interview with María Marta García Veci, August 2015, San Miguel de Tucumán, Tucumán.

peace. The memory in Argentina that was once so unbearable that it could not even be named, today is better withstood. The central tenets of the human rights organizations here have been memory, truth, and justice for the past forty years, memory being impossible without the other two.

This process has not always been possible in other parts of the world. To call past actions by their rightful name is difficult, even dangerous. The discourse justifying state terrorism, known in Argentina as the theory of the two demons, can be devastating. How does one go about vindicating the memory of a loved one if the state has accused them of serious crimes? My mind returns to the Santa Lucía resident defending the image of his father, accused of being a guerrilla fighter. Over the last decade, Argentina's justice system has discredited this discourse of justification, albeit slowly. After all, when a violent crime is committed, when a person is kidnapped, tortured, and disappeared, that person's activities are irrelevant. On the left or on the right, guerrilla fighter or not, none of it matters. Nor does it matter (or at least it should not matter) if the perpetrator was a politician, judge, senior military officer, or clergy member. The only item of importance is proving the criminal acts.

The arrival at this justice was a long journey for Argentines. A journey that should be defended and upheld. A journey always undertaken collectively, always with others. In Argentina, we were able to confront the silence and reproach it with our memory, grounded in justice and truth. This process has served as a model worldwide. We have been able to prosecute a large part of the state system (at least those responsible who held positions of authority) in local courts and courts of general jurisdiction, and now we are after the civilian abettors, without whom these crimes would not have been possible. Remarkably few places in the world have achieved such progress. However, a more nuanced look at the country shows that when we look past Buenos Aires, there are shortcomings everywhere else. The progress of the rest of the country lags behind its capital, with similar scenarios observed in other parts of the world.

I first learned of the case of Indonesia in 2016. As had happened in my childhood, the story first came to me through cinema, this time through a documentary. The case of Indonesia, a

country located on the other side of the world, allows us to reflect on the transitional justice process in Argentina. It reveals similarities and differences with the testimonies of survivors of the military dictatorship in the Southern Cone.

The Act of Killing and *The Look of Silence*, filmed almost simultaneously by director Joshua Oppenheimer, give us a clear picture of the killings that occurred in Indonesia during the 1960s, when more than one million people were killed. *The Look of Silence* focuses on genocide victims who listen to the perpetrators describe their crimes. The story centers on Adi, a forty-four-year-old man whose brother, Ramli, was tortured and murdered. Adi endeavors to identify and confront the killers in a context where the perpetrators hold fortune and power.

The implications of Indonesia's lack of a collective memory process are brutal. The executioners feel free to boast about the techniques they used to kill and to re-enact their killings for the camera. This leaves the victims naked, completely helpless in the face of impunity. Their only choice is to forget. "The past is past," agree the victims and perpetrators. To remember is to go crazy, to open a wound and risk one's safety. This threat is explicit, made clear as we watch a soldier-turned-politician threaten Adi and the audiovisual director.

The path followed by Indonesia over the last fifty years has been one of total denial of the truth, one of the construction of a propagandistic lie based on a myth of military heroes and communist demons. In *The Look of Silence*, the interview subjects constantly justify their actions, arguing that "communists are bad" and that "they do not believe in God." Adi's son is even fed this discourse by his teachers, and Adi takes care to refute it at home. It is a discourse biased by hatred and the fabrication of heroics on the part of the victors.

Here we can see clear parallels with the Argentina of the 1980s, where the theory of the two demons justified the state's crimes. The military was the "savior of the fatherland" and was "forced" to take up arms against "subversive terrorists." Raúl Alfonsín, the first democratically elected president after the 1976 coup, himself stated that there had been "excesses" in the framework of an armed struggle. The 1984 trial of the military juntas—a trial that carried great social resonance—shied away from the political

identities of the victims, identities that the defense alluded to in order to justify and downplay the actions of the accused.

This idea is based on a defensive view of military action that overlooks two aspects: on the one hand, the premeditation of the terror, planned well in advance of 1976, and, on the other, the fact that the goal was the destruction and transformation of social relations, the dismantling of trade unions, neighborhood associations, and political organizations. In other words, the perpetrators sought to attack the Argentinean people as a whole and not just the armed organizations. The perpetrators' own words confirm this. For example, Videla, the *de facto* president of the military junta, explained that a subversive was not just a person who wielded a weapon but rather anyone who defied moral principles and customs. The disturbing words of Ibérico Saint-Jean, military governor of the province of Buenos Aires from 1976 to 1981, corroborate this terrifying ambiguity of the category of enemy: "First we will kill all the subversives; then we will kill their collaborators. Then their sympathizers, then those who remain indifferent, and finally we will kill the timid."⁷ This ambiguity was a deliberate part of the strategy to make no one feel safe. In that context, everyone felt the need to affirm their support of the regime by denouncing "subversives" in order to avoid becoming victims themselves. Such a construction of a society of informers destroys the trust and identity of the social group (Feierstein 2014).⁸

This framing of "war" was thus crafted as part of the psychological warfare carried out to reassure the population, creating the illusion of a clear enemy that threatened the population. Comparisons with the case of the Snake River massacre in Indonesia reveal alarming similarities. In the film, the Indonesian killers confess that they had created the image of a people's war in which society spontaneously took up arms to support the military. The military had to generate the illusion of being the promoter of order and had to use others to do its dirty work. Such an idea of there being two sides—"the good guys" who stand for order and the common good, and "the bad guys" who threaten to undermine

7 Saint-Jean said this in May 1977, during a dinner with other officials.

8 Daniel Feierstein analyzes the construction of the identity of "subversive" as meaning an enemy of the dictatorship.

tradition and morals—allows for the justification and minimization of crimes as “excesses” that many accept as inevitable in the context of war.

This discourse has managed to find resonance in Argentina, even today. However, human rights movements and social organizations in general have collectively organized a voice that repudiates this version of the facts and that has gained legitimacy in the courts since 2003. There is no longer talk of “innocent” victims but instead a vindication of the social struggles led by the grassroots movements of the 1970s, which no longer represents a justification of the repression. This collective process differs greatly from what has happened in Indonesia.

In the film, we see Adi single-handedly try to go up against the predominant logic of impunity, sustained by a consensus born out of fear and pain. “The past is past,” everyone says. Bringing up the past is painful, like poking a wound, and risks bringing about a new massacre (confirmed through threats). Adi must repeatedly explain that he is not seeking the truth out of vindictiveness or a desire for revenge. It is evident that in the context he lives in, the cost of remembering is very high, endangering his life and his attempts to live in community. When neighbors are likely murderers, and when everyone knows there are hundreds of bodies in the Snake River but both the state and society refuse to investigate these crimes, the only possible way to live in the community is by forgetting and lying.

The son of one of Ramli’s killers makes reference to this collective effort of oblivion: “Because Joshua made this film and my father wrote this book,⁹ the wound remains open; otherwise, we would know nothing.” Denial and forgetting, as well as the lack of a sense of responsibility for what happened, are the responses adopted by a community like that of Indonesia, where no type of collective healing was possible. Some even turned to extreme responses offered by myths, such as drinking the blood of their victims to avoid going crazy. Knowledge of such an act is intolerable even for the families of the killers, but the supernatural belief serves to heal the perpetrators, giving meaning to their inhuman acts.

9 The son is referring to a coffee-table book published by his father that detailed the killings he had committed. See Atkinson (2015).

Never Again

In school, we are taught the history of Europe and the history of Argentina, which until recently did not go beyond the first Perón era in the 1940s. However, while much remains to be done, Argentina can serve as an example of the recovery of memory. Human rights organizations' rallying cry of "never again" expresses the social repudiation of the state's terrorist crimes. But why do Argentines say "never again"? There was certainly repression before the 1976 military coup, and there were other killings and dictatorships. "Never again" is not said to war or murder, which still exist and which will continue to exist. Argentines say "never again" to this specific form of repressive state action, to the systematic torture and disappearance of people.

This maxim has defined the moral threshold since the 1980s. Consensus is such that not even the most conservative voices on the right would dare stand in opposition, knowing that to do so is political suicide. The pillars of memory, truth, and justice were taken by human rights organizations and symbolically installed in sites that were used as clandestine detention and extermination centers during the dictatorship. During the Kirchner administration, memory policies were reinforced through national K-12 programs, teaching materials, animated series, and fiction and documentaries for adults. Furthermore, hundreds of "spaces for memory and human rights" were opened throughout the country in places once used as torture centers. The collective process of memory preservation, together with the trials conducted throughout the country, helped strengthen democracy and guarantee that the crimes would not be repeated.

In this regard, it is hardly a stretch to think of Argentina as representing the opposite of Indonesia. However, a more nuanced analysis that looks at the country's most rural areas—towns like Santa Lucía, Famaillá, Monteros, and Caspichango—reveals a situation that is frighteningly similar to the wake of the Indonesian genocide.

The situation in Tucumán is unique: it was the setting of Operation Independence in 1975 during the democratic period leading up to the dictatorship, and its *de facto* military governor at the time, Antonio Domingo Bussi, was later elected in the democratic

period (1995–1998). This has complicated the region’s transitional justice process. Many of the sectors that supported the dictatorship—for example, the Catholic Church, business owners, and judges—still hold positions of power. It is no coincidence that Busi is so popular in Tucumán, given that Operation Independence served as a propaganda tool that took root in society and that has yet to figure prominently in national memory reconstruction efforts. There is still much to be done to find the civilians who collaborated with the state, bring them to trial, and prove their guilt.

The southern part of the province has not had a collective process of its own to allow residents to come to terms with the repression they suffered. Many survivors do not understand the reason for the state’s actions against them, not considering themselves to be “subversive,” as they never defended revolutionary ideas or supported the armed struggle. However, the dictatorship targeted more than the armed groups; it targeted all who opposed the military government and who organized around a legitimate claim. In addition to its social component, the effort was a reconfiguration of the country’s economic structure and power relations, a true “National Reorganization Process,” as they called it. The closing of the sugar mills in 1966, for instance—a major blow to towns like Santa Lucía—was part of a strategy to disarm the labor movement. This movement had significant political power through the Tucumán Federation of Sugar Industry Workers and had highly respected leaders who became national deputies, such as Leandro Fote and Atilio Santillán.

When Walls Can Talk: The School of Famaillá

One of the interviews I conducted in 2015 introduced me to Manuel Fernando Rocha. He was a survivor of the School of Famaillá, and his interview was one of the hardest I have had to do. “This is how it happened,” he began.¹⁰ A faraway look came into his eyes, lost in a memory that was not fully in the past. He interlaced his fingers and rested his hands on the table. A tremendous desire to hug him came over me. I wished I could erase that pain from his memory, wished I could do more than listen helplessly.

10 Interview with Manuel Fernando Rocha, November 2015, Famaillá, Tucumán.

Manuel Fernando was a survivor of the first clandestine detention and torture center in Argentina. More than 1,500 people are believed to have passed through the center, many of them disappeared. The school's classrooms were used as torture rooms. In 1976, police forces answering to military authorities abducted Manuel Fernando from his home, blindfolded him, and took him to the Diego de Rojas School in the town of Famaillá in Tucumán Province. There, he was tied up and held in solitary confinement in subhuman conditions for two months. He had little food and no privacy, not even to bathe.

"There were forty steps," he told me. The steps echoed in my head. One, two, three. The screams at night, the cries of the victims, the verbal abuse. Four, five, six. A metal bed, his hands and feet bound, and the electric shock coming. Manuel Fernando covered his face, unable to continue. I stopped the interview and took his hand. "It's okay. Drink some water. We can talk about something else," I said. Forty was the number of steps that separated him from the torture room. It struck me as a title for a gruesome short story. This was no story, however. Manuel Fernando was one of countless people who suffered under the dictatorship and one of the few who lived to tell of it.

"My daughters went to that school, although fortunately they have graduated," he said once he could speak again. He, who knew better than anyone the secrets held by those walls, had had to send his daughters to study there. "At night you could hear moans, cries, shouts. There was a woman who would scream that she was pregnant and would beg them not to hit her . . ." Wracked with anguish, he was barely able to finish telling his story. He was never able to tell his daughters what he had lived through.

Cases like his shine a light on the fact that there are spaces where the country's memory reconstruction processes have not been sufficient, their international precedent notwithstanding. The School of Famaillá was recently recovered and declared a "space for memory and human rights." This recovery came late, though, and Manuel Fernando was forced to relive his pain in the physical space where he was tortured, the same place where his daughters received their education. The perverse contrast is not coincidental and is chillingly similar to what occurred after the Snake River massacre in Indonesia. It is a silent mockery of the

suffering of those who are forced to remember in solitude, taunted by a building they know to be cursed, that they know to be a scene of horror. Silence is an effective method of isolating people in a community. Rendered helpless before the horror, the lack of a collective acknowledgment of the suffering leaves them vulnerable, overcome with disbelief and fear.

State terrorism has a disciplining goal. It features a monolithic discourse that prohibits dissenting voices and seeks to both conceal and exhibit in order to spread terror. This is why buildings belonging to the state—institutions that should guarantee safety and education—were used as clandestine centers. Schools, police stations, universities, and the like were located in city centers where the screams from torture could easily be heard. Recovering the memory of these sites is part of a collective effort to not let what happened go unpunished. In this regard, sociologist Alejandro Kaufman points out:

The possibility of formulating a new narrative, of reconstructing history, of linking it to reality and transferring it to another outside of oneself, allows us to externalize the experience and re-assimilate it in a less demonizing way. Reconstruction, which cannot repair the irreparable, will nevertheless bring together past and present, bridging the gaps of meaning left by the traumatic experience and its marks. Remembering, and creating spaces for the word, will aid in attempts to alleviate suffering, to try to reconstruct what has been lived through as part of the life experience. (Kaufman 2006, 61)

In December 2015, the School of Famaillá was inaugurated as a space for memory and human rights. This represents a victory for survivors and human rights organizations, namely the Commission for Memory of Southern Tucumán and the organizations that formed part of the Consensus Roundtable that was created two years before. The roundtable, made up of different organizations (HIJOS, the Commission for Memory of Southern Tucumán, survivors of this clandestine center, the Workers' Confederation of Argentina, national and provincial ministries of human rights, national and provincial ministries of education, GIGET, the C mpora Ministry of Human Rights, ANDHES, and others), was formed as a space for dialogue on what to do with the school and what the first steps should be.

The fight, however, had begun much earlier. In 2006, a process was begun to move the school to a new building. Thanks to

the public policies of the governments of Néstor Kirchner (2003–2007) and Cristina Fernández de Kirchner (2007–2015), “spaces for memory” were opened throughout the country, giving new meaning to sites that had served as clandestine detention centers during the dictatorship. These sites were repurposed to advance the search for truth and justice, promote collective memory of the recent past, and foster spaces for participation and dialogue around human rights. As a result of these policies and the efforts of human rights organizations, the building of the Diego de Rojas School was confirmed for transfer. First the K–12 grades were moved to the new building, and then the post-secondary school moved at the end of the 2015 school year.

For decades, memory had been silenced and erased through the shamelessness of impunity. The Argentinean dictatorship used these spaces as a backdrop for horror, and the neoliberalism of the 1990s depoliticized politics to the macabre extreme of allowing classes to be held in those same sites. Amnesty laws brought the legal framework necessary for forgetting to its completion. The Due Obedience Law of 1987 stipulated that crimes committed by military personnel below the rank of colonel were not punishable, as the personnel had acted out of “due obedience” (a military concept according to which subordinates are merely obeying the orders issued by their superiors and therefore do not bear any responsibility for their crimes). Later, the Full Stop Law established the expiration of the criminal statute of limitations, preventing further prosecutions of those accused of war crimes. Finally, in the 1990s, pardons were granted to the military juntas, and more than 1,200 civilians and military personnel were let off the hook. These legal measures ensured that murderers went free for decades—until 2003, when they were annulled, opening the door for prosecutions to be reinitiated. This action also encouraged the rethinking of strategies for making public what had happened, to guarantee that “never again” truly means never again.

Adi, like Manuel Fernando, needs a society that listens to victims and acknowledges the atrocious crimes that were committed. It is a necessity that transcends borders. Today, forty years after Argentina’s civil-military coup, more than seventy years after the Holocaust, and fifty years after the Indonesian genocide, injustice upholds a legacy of uncertainty and hurt. The history of Indonesia

allows us to reflect on the effect of silence on a society. What is lost when there is no collective effort to preserve memory and help victims process their pain? Adi's mother, who is over one hundred years old, cannot get over the murder of her son. Today, the same soldiers who took her son from his house hold high positions in the government. The elderly woman grieves in solitude, preferring to avoid the painful past, although she remembers it clearly. For her, there can be no consolation. "The past is past," and the past is not allowed to intrude on the present.

"Never Forgive, Never Forget"

My uncle Esteban was five years old when my grandmother disappeared. No one explained anything to him. His insistent questions were followed by silence. Esteban says that he had a friend whose last name was Gutiérrez. Gutiérrez's mother had bronzed skin, curly hair, and was plump, similar to his mother. For a long time, every time this woman showed up looking for Gutiérrez, Esteban became excited. He thought his mother had come for him.

One week before her mother's disappearance, my mother, Lucía, remembers the burning of the books. The military had begun to patrol around the house, and her mother was terrified. She took Lucía to the back of the house and started a small fire. My mother does not remember the books' titles. When those same men in uniform came to the house, she opened the door for them. Her mother was not there, having left to celebrate Children's Day at an event with the workers of the Concepción mill. My mother remembers that the soldiers were shouting and carrying long guns, remembers their boots and the cry of her younger brothers.

She remembers, but no one explained anything to her. Her anger lasted for years. She believed that her mother had abandoned them, that she had chosen the political fight over her children.

Diego, the youngest, was three years old. He does not remember his mother's face. He does not remember anything. He had to construct everything through his militancy, with the help of others—other HIJOS¹¹—who shared his experience. He has only one

11 HIJOS, which stands for Sons and Daughters for Identity and Justice against Oblivion and Silence, is an organization founded in 1994 by the children and relatives of the disappeared, with chapters

memory of his mother: a pair of legs running in a sugarcane field. The sun, her smile, and the feeling of happiness are supplied by his imagination. He finds it curious that all they found of her was her left tibia: a small remnant of her physical existence coinciding with the only small remnant that he retains of her; the memory of a mother with whom he ran happily through the fields.

My mother, despite her anger, never renounced her mother. That is why she gave me her name, Ana María, in eternal memory of the mother who was taken from her. Today she says she is proud. Proud of her mother and proud of her daughter. Proud of the two Anas in her life.

As we have seen, remembering is not the same for everyone. If memory is not accompanied by justice and truth, it becomes cloudy, undesirable, painful. I have witnessed this firsthand. It was not until 2013 that my grandfather spoke about what had happened to my grandmother. Although he had never spoken about it with his children, he finally did so before the courts. We were not able to learn more about her story until 2016, when we found her remains in the Vargas well. The discovery of the truth—hidden for so many years in that well—and the framework of justice granted us this re-encounter with her memory.

The people I interviewed underwent a similar process. Manuel Fernando has been freed from the weight of so many years of impunity because today there stands a memorial in the place where he was tortured. María, Papi, Nancy, Roberto, and Graciela, who experienced the harshest cruelty of the state's terrorism—legitimized afterward by the silence and impunity of the first years of democracy—also dare to live without fear now. My own family, devastated by loss and mired in silence, today can speak freely.

Memory can be ambiguous and ambivalent. For those like Luisa, who fought for decades, it tastes of sweet victory. For those who suffer in silence, it is a never-ending agony, a wound that refuses to heal. This is the case in Indonesia, where crimes remain unpunished and where the cost of remembering can be life itself.

throughout the country. Its objectives are the fight against impunity, the accurate reconstruction of history, and the restoration of the identity of their siblings and relatives who were kidnapped and illegally adopted, as well as the vindication of the struggle of their parents and comrades.

Argentina and the world have changed since I decided to keep that cereal box out of fear of forgetting. Since *Night of the Pencils*, our country has worked through the aftereffects of the repression using culture, history, and justice. Another rallying cry of the human rights organizations has been “Never forgive, never forget.” This was echoed while a broad sector proposed to let go of the past and focus only on the present, supported by the policies of the 1990s that pardoned perpetrators. In this context, human rights groups demanded memory and the prosecution of the crimes. Many politically committed researchers have written about this process. Kaufman explains the importance of memory as a collective reparation process: “Providing the word, listening, and the law with regard to legal and public spaces of recognition and legitimization inserts outcomes of real and symbolic reparation in subjectivity” (Kaufman 2006, 62).

This memory becomes effective when it is kept alive, when it manages to continue to challenge society. Pilar Calveiro, a survivor of the former Higher School of Mechanics of the Navy and a doctor in political science, reflects on this:

Far from the idea of an archive, which fixes content once and for all, memory is responsible for endlessly making and remaking that which evokes . . . It consists, then, of a dual activity: recovering the historicity of that which is remembered, recognizing the meaning that it had at the time for its participants, and at the same time revisiting the past, which is burdened with meaning for the present . . . Individualizing and private memory loses the political meanings of the action . . . Memory, on the other hand, can delve into the complexities not of a single truth but of partial, successive truths that reconstruct the facts, that interpret them from different angles, and that allow us to put an end to various impunities. (Calveiro 2013, 11–18)

We have already seen the risk that forgetting poses to society. Forgiveness, though, can be equally fraught. In Argentina, the transitional justice process allowed prosecutions that had begun in the early years of democracy to grind to a halt because the perpetrators still held positions of authority. The Carapintadas (Painted Faces) was a group of extreme right-wing military personnel that staged a series of uprisings between 1987 and 1990 against the constitutional governments of Raúl Alfonsín and Carlos Menem. This revolt—which represented the risk of a new military coup—and institutional instability led to the enactment of a

series of laws (the Due Obedience Law and the Full Stop Law) that, together with the pardons granted by Menem, meant an irreparable period of impunity that lasted until 2003. Many, like Manuel Fernando, had to tolerate living in the same neighborhoods as their torturers, without any state protection.

This is a microcosm of the personal and social effects of silence that is imposed on an entire community. Such an impact can be found even in Argentina, considered an international model of memory restoration.

Freeing oneself from the experience of repression is not easy; it is a complex and painful process where we all run the risk of feeling marginalized. It is therefore critical that mechanisms of justice and truth attend to each victim and avoid becoming a stereotyped and meaningless symbolism. The tentacles of state terrorism reached all corners of life, which is why the memory process must also operate rhizomatically. Today, the state's presence, which has been more effective in central cities, must reach every town in Argentina if there is to be true reparation.

In this regard, "Never forgive, never forget" rings out as a warning of the importance of memory and, above all, justice:

The trials for crimes against humanity in Argentina play a fundamental role in the reconstruction of a past that sometimes presents itself as a puzzle to be solved. Their importance as a state and sociopolitical mechanism to reconfigure—to a greater or lesser extent—the lasting social effects of state terrorism and impunity is based on their investigative methods and access to new information about the past, as well as on the dissemination of facts that, although known by many, were disregarded by others. Thus, the trials have been providing a greater social reach to these narratives, which for a number of reasons were previously marginalized. (Figari Layús 2015, 26)

In Tucumán, although the Jefatura II-Arsenales II mega trial is the ninth trial for crimes against humanity in the province, the debate generated in the hearings does not transcend the courtroom. The print media (and, very rarely, television networks) provide information on the trial's day-to-day progress but fail to make the issue capture the public agenda and enter dinner-table discussions. The comment sections of news websites often reveal support for the dictatorship and weariness of the topic. Social indifference can also be seen in the empty courtrooms. At the same time,

only “violent crimes” can be criminally tried, leaving out a vast spectrum of the wealth of testimonies produced. Beyond the legal realm, these trials challenge society in general, forcing us to reflect on the trials’ relevance for the present day. The courtroom setting itself promotes reparation. By placing relevant actors in a different context, it repairs the institutional and democratic frameworks that were absent during the dictatorship. The once all-powerful perpetrator now arrives in handcuffs and is forced to listen to the victim. The victim, by contrast, speaks words that take on the status of truth. It is in this way that social standings are rewritten.

Challenges in the New Political Context

The results of Argentina’s 2015 presidential election presented a major setback for human rights defenders. No sooner was the winner announced than staunch neoliberal voices on the right emerged with editorials defending the dictatorship. Mauricio Macri, the country’s new president-elect, had been systematically opposed to advances in human rights over the course of his political career. It came as no surprise, then, that the *La Nación* editorial published the day after the election celebrated this new political landscape. The editorial also dismissed as mere “vengeance” the human rights trials conducted throughout the country since 2003 (“No más venganza” 2015).

The new political panorama promises years of struggle to sustain human rights achievements. Macri promised during his presidential campaign that he would end the *curro* of human rights. This Argentinean expression is used to refer to a side job or gig that allows a person to earn significant money without any effort—in other words, an easy way to rip another person off. In Macri’s view, then, the struggle of the Mothers and Grandmothers of the Plaza de Mayo is nothing more than a way to get money from the state. But rights have a cost, and not just a monetary one. They are hard-fought victories paid for with blood and fire. Nobody is just handing out rights. If today we can work an eight-hour workday five days a week, it is not because employers care about our rights. If today women can vote, study, and work, it is not because men have suddenly become fair-minded. If today we can express our minds in a newspaper without fear, it is not

because those in power want to hear what we think. It is all because of the struggle, because of the streets surging with masses of people demanding social justice, equality, and human rights.

One month after Macri took office, I saw that he meant to make good on his promises. The wave of mass layoffs of government employees is well underway at the National Archive of Remembrance, the courts, the Federal Authority for Audiovisual Communication Services, social programs, and spaces for memory. The silence of the mainstream media makes the situation seem less real. Until it affected María, I was not paying much attention to it all. Just before the end of the previous administration, “La Negra” Coronel, as we all call her, had been appointed director of Tucumán’s first space for memory and human rights, the School of Famallá. Her letter of dismissal came out of nowhere, without any mention of her duties or performance. What was clear was the authoritarianism of a new government that assumes that those of us who work in human rights see the field as a *curro*, a cash cow.

When I heard the news, I was filled with a mix of anger, impotence, and distress. María’s position had been the only space in that area that represented the state. It also provided institutional legitimacy to the memorial space, whose continuation was now jeopardized. To feel that everything had been in vain, that they had defeated us, crushed me.

The process of reparation and memory is so fragile that it runs enormous risks if it is not sustained by public policies. In this new political context, two people who had previously agreed to be interviewed changed their mind, fearful of the consequences of speaking out. And they have reason to be fearful, as the new government sends doubtful signals: the massive layoffs at the National Archive of Remembrance; the dismantling of the truth and justice programs staff; the request for the resignation of Attorney General Alejandra Gils Carbó; the firing of staff at spaces for memory; the meeting of Human Rights Secretary Claudio Avruj with organizations of family members of the repressors; the enactment of an undemocratic security protocol that condones the use of police force; and the imprisonment of social leader Milagro Sala for exercising her right to protest. These worrying actions—taken together with the statements of officials, such as that of Darío Lopérfido, former culture minister of Buenos Aires, denying that there were 30,000

disappeared—threaten the process of memory and reparation. For family members and survivors, these signals are very strong and transport us back to the fear and silence of past years.

It is imperative that the new government send symbolic signals of condemnation of state terrorism and that it ensure that its policies of memory reach every corner of the country.

Prosecutions are fundamental but insufficient. Justice must be accompanied by other forms of reparation. Nancy, Graciela, Manuel Fernando, Papi, María, and Roberto are proof of this. They are proof that the state is not everywhere. Despite the efforts of the Kirchner governments, they were not enough to attend to all the victims.

The memory we need is not a memory stored in an archive—it is living memory that challenges us as a society, allowing us to collectively make sense of the most atrocious crimes. To minimize what happened or to relegate it to the past as a historical fact unrelated to the present would be an enormous risk.

In this regard, the case of Jorge Julio López is a cautionary tale. A victim of the dictatorship's repression, he was imprisoned in a clandestine detention center. Following his statements that were part of the case that saw Miguel Etchecolatz sentenced to life imprisonment, he went missing on September 18, 2006. This occurred shortly after his testimony, and his whereabouts are unknown to this day. The case of Julio López, who disappeared in full democracy, came as a hard blow. But it also showed us the necessity of providing real constitutional guarantees to protect witnesses. As a result, the government moved to create a witness protection program and truth and justice programs. If the new administration does not take up its role as guarantor of truth, memory, and justice, new Julio Lópezes may disappear.

President Macri was recently asked about the controversy over the number of disappeared persons. He replied that it did not matter if there were 8,000 or 30,000 disappeared persons—the only thing that mattered was that the tragedy not be repeated. His words offended many victims' relatives who feel that this figure is not a trivial matter.

Someone once said that "a single death is a tragedy; a million deaths is a statistic." Although 30,000, 8,000, 10, 5, and 1 are just numbers, when they include your grandmother, father, mother,

child, or grandchild, they take on incredible importance. They become the symbol of a fight for justice: 6 million Jews in the Holocaust, 30,000 disappeared in Argentina. To lie about the number is offensive and hurtful because it sows doubt, facilitates distrust, and shows a lack of respect for pain. To say that numbers were made up to collect compensation is to spit in the face of a mother who, forty years later, is still hoping to find her son, of a grandmother whose grandson was taken from her, or of a daughter who still dreams of being able to say goodbye to her mother.

Until the last person affected has been reached, the last stolen grandchild found, the last perpetrator of genocide tried and convicted, and the last disappeared person located, the reparation and memory process cannot be considered finished. The responsibility belongs to us and to the state, the guarantor and enforcer of our rights.

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CHAPTER 2
A Story of Impunity:
The Temizöz Trial in Turkey

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(Turkey)

Focusing on the last court session of the lawsuit that charged a retired colonel, Cemal Temizöz, for the killing of twenty-one people in the 1990s, this chapter seeks to give an account of impunity in Turkey. This lawsuit held the potential to be a milestone in Turkey's human rights struggle, since Temizöz is the most senior member of the Turkish military ever to stand trial specifically for gross violations of human rights committed during the armed conflict between the Turkish state and the Kurdistan Workers' Party (PKK, for its Turkish initials). However, this account will be provided not through a legal lens—which I am not equipped to do—but by situating impunity as a site for observing the continuity between past and present forms of violence in Turkey.

In early 2015, after thirty years of bloodshed caused by the armed conflict between the Turkish state and the PKK, there was a brief moment of hope when peace seemed to be a possibility. Two years of peace talks between the PKK's imprisoned leader, Abdullah Öcalan, and state officials—talks that were mediated by members of Parliament (MPs) from the pro-Kurdish political party, People's Democratic Party¹—had led to a joint press conference in Istanbul by state officials and the mediating MPs, where they announced ten measures that would frame the next phase of the negotiations. In addition, Öcalan called on the PKK to hold a congress in the spring to discuss disarmament; this would be the next important step toward peace following the declaration of a ceasefire in 2013 and the armed PKK members' partial removal from Turkish territory.

1 These three MPs mediating between Abdullah Öcalan, the state, and the PKK are known as the İmralı Delegation. İmralı is the name of the island in the Marmara Sea where Öcalan is imprisoned for life.

Unfortunately, this promise of peace was not fulfilled. The success of the People's Democratic Party during the general elections, four months after the press conference, shattered the status quo in Turkish politics that had been in place since 2002. The governing party lost so many seats in Parliament that it was unable to form a government on its own. What followed this political crisis was not the formation of a coalition but the end of the ceasefire and the scheduling of a new election for November 2015. Today, the history of the collapse of the negotiations still remains to be written. At the moment, both the PKK and the state blame each other for ending the ceasefire and pursuing military goals. In the second half of 2015, a new wave of violence grasped Kurdish towns in eastern and southeastern Turkey. The armed conflict—which had previously been waged predominantly in the countryside—moved into town centers. Urban warfare emerged around ditches and barricades created by young supporters and militants of the PKK. The state's response was to declare round-the-clock curfews, place entire neighborhoods under siege, use heavy weaponry, and, in the end, even demolish entire neighborhoods, as shown by Human Rights Watch's photography (Human Rights Watch 2016). In November 2015, in the repeated general elections, the governing party regained its lost seats and once again formed a government; in the summer of 2016, after surviving a coup attempt, it expanded its war against terror to Syria. Thus, in recent years, Turkey has seen its hope for peace transformed into war on all fronts.

Taking a Step Back: The Story Behind Turkey's War

The PKK, which began as an armed Marxist-Leninist organization, was formed in 1978 by a group led by Abdullah Öcalan. The path leading to the PKK's formation dates back to the early 1970s, when Öcalan and other leaders were active in the student movement. After Turkey's 1980 coup, the PKK's leadership moved to Lebanon. Since then, first Syria and then Northern Iraq have become home to headquarters for the PKK's leadership and training camps for new cadres. In 1984, the PKK initiated its first guerrilla attack against the Turkish state, calling for an independent Kurdish state in the eastern and southeastern regions of the country.

The roots of the PKK's armed struggle can be traced to the foundation of modern Turkey. As a Muslim population, Kurds have not been granted minority status, unlike the surviving Christian populations of the Ottoman Empire, who received protection as a result of the 1923 Treaty of Lausanne. With this treaty, the conflict between the Ottoman Empire and the Allies of World War I was officially settled. Just a few months after this agreement, the Republic of Turkey was founded. As one of the founding ideologies of the new republic, Turkish nationalism embraced assimilation and suppressed the multiplicity of ethnicities remaining from the collapse of the empire. Thus, the repression of Kurdish language and identity has been a form of constitutive violence throughout the history of the republic. Since Turkey does not categorize its citizens according to their ethnic background, there are no official census numbers regarding the number of ethnic Kurds living in Turkey. However, according to an oft-cited study from 2011, the Kurdish population in Turkey is estimated to be around thirteen million, or 18% of the country's population (Araştırma 2011).

Following Öcalan's capture and imprisonment in 1999, the PKK began to reformulate its demands into the recognition of Kurdish identity and political autonomy, which would be guaranteed through a new constitution. Forming an independent nation-state was no longer a goal. Nonetheless, this shift in goals did not imply abandoning its armed struggle. For over three decades, Turkey's eastern and southeastern region has been a war zone. Besides the human loss caused by the armed conflict, millions of victims have been created through extrajudicial killings, forced disappearances, torture, and forced evacuations from rural settlements. Although daily casualties are published in news outlets, Turkey has not been diligent in recording its human losses. What is officially known is a total number of deaths presented by a parliamentary commission in 2013. According to the commission, the war has claimed 35,576 lives. Of these, 22,101 were PKK militants captured by state forces, 7,981 were soldiers and state officials, and 5,557 were civilians (Turkish Grand National Assembly, Committee on Human Rights Inquiry 2013). In addition, according to a parliamentary report from 1998, by that year more than 3,000 villages and rural settlements had been evacuated, and

more than three million people had been displaced from their villages (Turkish Grand National Assembly, Parliamentary Investigation Committee 1998). Many researchers and observers of the war view these estimates as conservative. Since the resumption of the conflict in 2015, these numbers increase day by day.

Hope for Peace at a Human Rights Organization

When I started working at Hafıza Merkezi (Truth, Justice, and Memory Center) in the summer of 2013, the peace talks between Öcalan and the state were just beginning. Until that point, despite my years studying sociology and anthropology, I had been working a full-time job in film production. Hafıza Merkezi entered my life when I decided to spend less time producing films and to practice my production and social research skills in a new field. I was also eager to work within an institutional structure of advocacy after having been involved in antiwar and urban activism. Throughout my years at the organization, my duties ranged from coordinating the organization's international networks to heading project development and fundraising. Hafıza Merkezi was the right place to be not only in terms of my biography but also in terms of Turkey's historical juncture in light of the peace process.

In our office, peace was not only our wish as citizens but also a necessary precondition in order for our work to have the greatest impact. The organization's work focuses on documenting and verifying enforced disappearances, incidents where an individual goes missing after having been seen to be abducted by security forces or others authorized by the state. We focus in particular on enforced disappearances that took place after 1980 and on the lack of accountability for these gross human rights violations.

Enforced disappearance was a systematic method of the Turkish state in the 1990s during its fight against the PKK. Coming to terms with these and other past crimes would inevitably be a component of the peace process, as recognized by Öcalan in his statements regarding the need for a truth and reconciliation commission. While our organization's work can be seen as part of the fight against societal forgetting and impunity around enforced disappearances, it can also be seen as preparation for the proceedings of this truth and reconciliation commission. We are preparing for the moment when peace will be coupled with transitional justice.

Back then, when we had high hopes for a transition from armed conflict to peace, we were also aware that there was no transitional justice structure in place. Such a structure is necessary to constitute a just peace that will be able to institute the right to truth, the right to reparations, the right to memorialization, and guarantees of nonrepetition. In April 2013, Parliament established the Committee on Resolution,² composed of ten parliamentarians who would examine other countries' experiences with pathways to peace, explore approaches and expectations within Turkish civil society, and evaluate the ongoing peace talks. This commission met with civil society representatives (including Hafıza Merkezi), victims' relatives, and experts, and later published a report that referenced other countries' truth and reconciliation commissions and expert opinions. However, to date, the commission's work has not gone beyond this.

We Won't Wait: Going after the Alleged Perpetrators

Turkey had no transitional justice system that could accompany its bid to build peace. However, there were crucial lawsuits in process. Cemal Temizöz was one of the three names—along with Musa Çitil and Mete Sayar—that I was hearing frequently in our office since joining Hafıza Merkezi. These were the names of high-level army officials being tried for gross human rights violations committed by security forces during the 1990s. Hafıza Merkezi had been following these trials closely, together with other human rights advocates in Turkey, due to their significance in the fight against impunity. The trial of Musa Çitil, accused of the extrajudicial killing and enforced disappearance of thirteen people between 1992 and 1994 while he was the gendarmerie commander in the Derik District of Mardin, started in 2012. The following year, a second trial began, this time for Mete Sayar, a high-ranking army official accused of the enforced disappearance of six people in the

2 This is the shorthand name used in the media. The committee's official name could be translated as the Grand National Assembly's Research Committee for Investigating Paths to Social Peace and Evaluation of the Resolution Process (Toplumsal Barış Yollarının Araştırılması ve Çözüm Sürecinin Değerlendirilmesi Amacıyla Kurulan Araştırma Komisyonu).

village of Görümlü in Şırnak in 1993. These locations were among Turkey's most violent during the 1990s.

When the Temizöz trial began in 2009 in the city of Diyarbakır, the cultural and political heart of Turkey's Kurds, it was a historic moment in Turkey's efforts to deal with the past. The prosecution charged the eight defendants—retired colonel Temizöz, three former-PKK-members-turned-informers, the ex-mayor of Cizre, and three members of the “village guard” (local paramilitary forces armed and directed by the army)—with forming a criminal gang and killing and disappearing twenty-one people in and around the Cizre District of Şırnak Province between 1993 and 1995. The bill of indictment for the case stated:

In the actions recorded above; similarities were detected in data such as the fact that all the victims were first detained, and detained by the same people, they were taken in by a white Renault car, they were all murdered either with a Kalashnikov rifle or a handgun, and in similar places, and following the murders all were buried in a careless manner under a layer of 8–10 cm. soil which was then covered by rocks, and no document of identification was found on any of the victims, . . . in the light of all these assessments, that the suspect Cemal Temizöz was a leader from 1993 . . . in the district of Cizre of a criminal organization, that the members of this organization, under the directives of Cemal Temizöz, carried out many crimes including voluntary manslaughter, and that this organization used all the means provided to them by the state for them to struggle against terrorism in committing these crimes, has been determined by present evidence. (Göral et al. 2013, 32)

The prosecutors requested several aggregate life sentences for the case's eight defendants (including Temizöz).

By 2015, however, the names of Mete Sayar, Musa Çitil, and Cemal Temizöz were being uttered with deep sighs of disappointment in our office. The trials of Çitil and Sayar had ended with acquittals. The only one not acquitted thus far was Temizöz. In the six years and forty-eight sessions since the beginning of his trial, many witness accounts had verified one another. However, during those six years, not only did Turkey's political climate change but also the prosecutor changed twice. During the trial's most recent session, in June 2015, the prosecutor requested an acquittal due to the lack of proof of guilt beyond a reasonable doubt. Temizöz's last trial session was scheduled for November 4, 2015.

Hafiza Merkezi, as part of the Coalition Against Impunity—a collective of nongovernmental organizations and bar associations in Turkey—started a campaign to increase public awareness for this upcoming trial session, which seemed destined to end with acquittals as well. Based on our organization’s documentation, there were thirty-five verified cases of enforced disappearances in Cizre between 1993 and 1995. Thirteen of these were included in the indictment prepared for Temizöz’s trial. The public campaign, which included an online petition, was important not only for the case itself but also for influencing the general attitude of the judiciary in cases dealing with gross human rights violations. The campaign was labeled with the hashtag #21insanikimöldürdü, which means #whokilled21people, implying that if Temizöz was innocent, then who was responsible for these killings?

The rise of the armed conflict between security forces and the PKK in the summer of 2015 redefined the context of the trial. On September 4, 2015, exactly two months before the next scheduled session, as the state fought against PKK militants and the Patriotic Revolutionary Youth Movement (the urban militant youth wing of the PKK that was organized in Kurdish towns), it declared a curfew and closed down the trenches in the neighborhoods of Cizre. These trenches, which blocked the entry of the state’s security vehicles, had been the symbol and means of political autonomy that the PKK had started to advocate for more fiercely following the collapse of the peace process. Cizre, the site of Temizöz’s alleged crimes, had been one of the most violent sites of the armed conflict during the 1990s.

Cizre and the Temizöz Trial: “War” and the Convergence of the Past and Present

The cities mentioned in this chapter—Diyarbakır, Mardin, Şırnak—are the biggest cities in southeastern Turkey and are home to predominantly Kurdish populations. Mardin and Şırnak, which border Syria and Iraq, respectively, have been integral to the larger Middle Eastern geography. And Diyarbakır continues to be the cultural and political capital of Turkey’s Kurdish movement. All three cities have become war zones following the curfews declared in 2015. According to a memorandum published by

the Council of Europe's Commissioner for Human Rights, which relied on information from the Turkish Ministry of the Interior, sixty-nine curfews were declared in thirty-two districts (Council of Europe, Commissioner for Human Rights 2016). Some of these curfews were extended to round-the-clock curfews lasting for months, as in the case of Cizre, Yüksekova, and Şırnak. Residents subjected to these curfews were essentially confined to their homes, with disrupted access to water, food, medicine, and communications. Turkish security forces deployed heavy weaponry, including artillery, mortar fire, tanks, and machine guns, to fight against armed militants in the neighborhoods. The Human Rights Foundation of Turkey documented 321 deaths of noncombatant civilians during the curfews (Hafıza Merkezi 2017).

The curfew implemented in September 2015 in Cizre—the first in the government's string of curfews—lasted for nearly ten days, during which more than twenty civilians were killed. Many of those who were wounded were unable to access medical attention. A few weeks following the end of this curfew, I visited Cizre with a team of colleagues from Hafıza Merkezi. Our visit was not intended as a fact-finding or research trip but rather a trip to show our compassion and deep sadness, since many of the relatives of the disappeared who Hafıza Merkezi had interviewed in previous years were from Cizre.

After the end of the curfew, flights to Şırnak airport, the airport nearest Cizre, were booked, so we flew instead to Mardin. We stayed with a lawyer friend who was representing the victims in the Temizöz case. After a night of long conversations about Turkey's fragile future, we woke up early to go to Cizre. Our first stop in the morning was the square where relatives of the disappeared meet every Saturday. This memorialization and demand for justice started in Istanbul's Galatasaray Square in 1995. When the Temizöz trial began in 2009, relatives of the disappeared started to travel from Cizre to Diyarbakır to follow the case. In 2011, after one of the trial sessions, a group of lawyers, human rights defenders, and relatives of the disappeared met. This meeting gave way to the first Saturday action in Cizre; after that point, they began gathering in Cizre's square every Saturday. The link between the memorialization of the disappeared and the demand for truth and justice was closely linked with the Temizöz trial.

When we reached the square, my two colleagues spotted the women they had previously interviewed, as well as their friends from the association of victims' relatives. Scattered across the square were photographs of the disappeared from the 1990s. However, this time there was a new series of photographs: those killed during the recent curfew. On that day, the demand for justice for past crimes and for yesterday's killings converged. The past collapsed painfully on the present.

This convergence of the past and the present would reveal itself several times during our visit to Cizre. The person being memorialized by the association on that particular day was Abdurrahman Afşar, one of the twenty-one people in our hashtag #21kişiyikimöldüdü. Abdurrahman and four of his relatives were taken under custody by Temizöz and two of his men. After being tortured for a month, the four relatives were released, but not Abdurrahman. Abdurrahman's body was later found dismembered on the Şırnak-Cizre road. He had been killed by a land mine. After giving this account of Abdurrahman's death, the spokesperson making the speech of the day said that although Temizöz was tried, he was now free. This was only partially true, since Temizöz's trial was still going on, even if he was no longer under arrest. However, the man's speech had a tone as if Temizöz had already been acquitted. I wondered if anyone was going to correct him. But a few days later, I began thinking that this was not really a matter of correct or incorrect information—it was a matter of not having expectations of the session scheduled for the following month.

On the same day, there was also a funeral ceremony for three militants who had been killed. As we walked toward the "condolence home" (*taziye evi*)—a building built by the municipality to host collective commemorations and expressions of condolences—we passed by trenches and barricades in the town's narrow streets. The ceremony at the condolence home was a mix of religious and patriotic militant ritual. Someone gave a speech about the heroic deeds of the fallen, and then there was a moment of silence for the fallen fighters, followed by Islamic prayer. After lunch, we visited some of the homes my two other colleagues had visited during previous research trips. As we were welcomed into the homes and the conversations began, families' stories of

survival during the curfew and during the 1990s emerged. What they had just experienced during the curfew was now a continuation of the violence they had endured in the 1990s. The flicker of hope ignited by the peace process had disappeared. The women spoke to us in Kurdish, while the men spoke in Turkish. In most of the homes, Kurdish satellite TV channels were running. The narratives of the war on those channels, of course, were totally different from the ones you would see on Turkish channels. My Kurdish colleague explained to me that during their previous visits it had been more common to hear prayers for peace and justice. This time, however, what she heard from the women were prayers full of curses. The women were saying that since their earlier prayers had not brought peace and justice, the time had come for curses. Whether we were talking with men in Turkish or the women in Kurdish, their accounts of the violence of the 1990s always mentioned Temizöz. Even the violence they endured during the recent curfew was narrated in reference to Temizöz's deeds.

Finding Accountability for Cizre's Past: The Temizöz Trial

Temizöz's first trial proceeding took place on September 11, 2009, in Diyarbakır. He kept his military rank until August 2010, when the Supreme Military Council decided on his retirement. In September 2010, he was sent to prison, where he remained until 2014. Then, in September 2014, the court decided to release him in light of the significant time he had spent in prison. In line with a recent policy of the Ministry of Justice to move politically significant trials away from their locales to reduce the presence of victims' relatives and to limit public interest in the locale, Temizöz's trial was moved to Eskişehir. Given that Eskişehir was 1,300 kilometers away from Cizre and required a fourteen-hour drive, the victims' relatives were no longer able to attend the trial proceedings. It was only for the last session that, with the help of the Şırnak Bar Association, some of the relatives were able to attend. On their way to the trial, the relatives—mostly mothers and wives of the disappeared—stopped in Ankara in order to take part in a press conference organized by the Coalition Against Impunity as part of its campaign. With photographs of their disappeared relatives

in their hands, they told the public their stories, described the trajectory of the lawsuit, and restated their demands for justice.

Veysel Vesek, one of the lawyers of the relatives, discussed the case's evidence, the witness accounts, and the forensic reports, concluding that an acquittal in the face of all this evidence would be impossible under the rule of law. The relatives once again told their stories of the disappearances, noting the hardships they had to endure in their struggle for justice and in order to make a living. At the end of the press conference, one of the participants from a nongovernmental organization in Ankara triumphantly told his friends around him that the meeting felt like a truth commission. He added that this could be thought of as a rehearsal for the truth commissions that would take place in the future. After the press conference, the lawyers met separately as a group to make their final preparations for the next day's trial. Meanwhile, the victims' relatives retreated, distressed, to their hotel rooms. Later, I would learn that some of them spent that time praying for a conviction.

To this day, over a year since that sunny morning when we gathered around a U-shaped table for the press conference, I still wonder why the comment about the truth commission has stayed with me. Perhaps comparing the press conference to a truth commission was possible because of the absence of the defendants' lawyers and the judge. There was no state authority present to challenge the truth.

The next day, we left for Ankara early in the morning. The trial was scheduled for 9 a.m. At the entrance to the city of Eskişehir, a police checkpoint was waiting for us. For "our security," we were accompanied to the courthouse with police cars. Prior to entering the courtroom, victims' relatives were told to leave their photographs of the disappeared; these pictures were not allowed inside.

We, the audience, sat in the back of the room, squeezed into a few rows. We were facing the judge's stand. In between the judge and us were the defendants. We could see only the backs of their heads.

The proceedings ended around 7 p.m. Throughout the session, I sent Whatsapp messages to our office in Istanbul, which, after fact checking the content, would tweet about the trial. Not knowing much about law or legal processes, I was keen on capturing punchlines:

Hanım Candoruk, wife of victim Ömer Candoruk: "I beg you to not grant an acquittal. If my husband had made a mistake, he would have been sent to prison, not buried under stones."

The son of victim Abdülhamit Düdükoğlu: "I wish God would put a curse on you all. I curse you."

Then came the defendants' turn. Several sentences of Temizöz's final defense statement were telling in terms of the relationship between the past and the present. His words defending his actions, which I jotted down in my notebook, filled the room:

When I started my mission in Cizre, the town was a rebel zone. Back then, in 1994–1995, it was the Palestine model. And now it is Kobani. I made the town a peaceful space where Cizrespor could have its soccer matches . . . I took initiative. I did what no one had thought of. And all of this happened because of that. I worked street by street, step by step, with the people, for their peace and welfare . . . My medal of bravery turned into a hangman's knot with this trial.³

He utilized the state's current policy of hostility toward Kurdish autonomy in northern Syria to make the case for his "initiatives" in the 1990s. In other words, he referred to the current curfew policy to defend his initiatives of "peace and welfare." Once again, the past and present bonded, this time in the courtroom. Around 8 p.m., the room rife with nervous anticipation, the court's decision was announced. All eight defendants were acquitted.

Avoiding the joyful faces of the defendants, we left the courthouse with the victims' relatives and their lawyers. The press cameras were waiting outside the courthouse door, their lights brightening the night's darkness. The lawyers and relatives gathered and made their statements. Standing defiantly, they declared that this was not the end of the legal process and that the trial had recorded the atrocities committed. The lawyers and the relatives got on the bus to Ankara. As they departed, we bade them farewell. We promised to maintain solidarity, trying to hide our disappointment.

It was only after the session that I was able to process the tension we had experienced while waiting for the court's decision. As I had been sitting and listening to the statements, sending

3 Personal notes from the courtroom.

Whatsapp messages outlining the striking lines uttered during the trial, I had been trying to see this last trial as a dramatic event with ups and downs and climactic moments. On another level, though, I had been feeling that this last session was more like an epilogue. The resolution had already been decided. This was a rehearsed scene, a written conclusion, that needed to be acted out.

From the perspective of an audience member in the courtroom, this is how you experience impunity. Whatever the plaintiffs and their lawyers might say, they were destined to be inconsequential. Maybe that was the reason why one of the relatives of the disappeared had uttered a curse during his final statement. During the break, he told us that this was the only reason he drove for eight hours from Mersin, where he is now living. He thought that the trial session would be his last chance to see the defendants face to face and pray aloud for a curse. He had no other expectation beyond that.

Conclusion: The Struggle against Impunity

The tension in the courtroom had been very high. During the silences, righteous utterances, and angry words, one would never have thought that the subject matter was that of crimes committed more than twenty years ago. This is what the combination of relatives' struggle and the shields of impunity produces. It keeps the past alive and burning. The absence of political change transforms the fight against impunity for past crimes into a struggle against the present political status quo and ongoing violence. We have a saying in Turkish that is similar to "justice delayed is justice denied." But what about justice that never arrives? Its absence keeps the crime scene close to the heart. Impunity is one of the many mechanisms for sustaining political power. On the one hand, it connotes the passing of time and the absence of an adequate response for the crimes committed. However, this passing of time does not obliterate the memory of the crimes. It holds the violent encounter alive and sustains it. As one of the mothers of the Saturday demonstrations stated, referring to her participation in one of the early sessions of the Temizöz trial:

We go there and hold up our photographs, in Cizre. Now I'm talking about it like this, but sometimes when listening to the others, I can't

take it. It tears your heart out even more. When I listen to them, a pain sears through my heart. I say, “Enough, don’t tell anymore. My chest hurts, I will fall.” Even when I just think about it all, the color drains from my face. (Bozkurt and Kaya 2014, 61)

If one day we could once again begin talking about peace in Turkey, the following statement—from the same woman—should also be kept in mind:

We have always been supporters of peace. I swear I don’t want bloodshed anymore. But if the perpetrators of these crimes, the ones who gave them the orders remain uncovered . . . Why did they kill so many people, why did they burn everything down, why did they disappear so many people? They even disappeared their bones, mind you. If all this is not exposed, and if these people are not punished, . . . if these are not punished just like them—because they should be punished with heavy penalties—if these are not brought to light, I don’t want peace. I am against such a peace. (ibid., 66)

As these lawsuits end with acquittals, we have been telling one another at Hafiza Merkezi that the legal process will continue with appeals, first to the Constitutional Court of Turkey and then to the European Court of Human Rights. The fight against impunity will have more venues. However, there is also a firm belief that change, if it is to be of any consequence, depends first on political change. The peace process, had it continued, could have brought about this long-awaited political change. Now, in the first days of 2017, we still do not see a light at the end of the tunnel. As 2016 has bitterly revealed, the return to arms was not a short-term tactical change. On the contrary, as many analysts around the world agree, in the absence of a resolution in Syria and the formation of the Kurdish polity in northern Syria, peace negotiations in Turkey will remain on hold. What is more, following the failed coup attempt allegedly committed by the US-based cleric Fethullah Gülen and his wide network of followers on July 15, 2016, in Turkey, we find ourselves yet again in a rather challenging political atmosphere.⁴ Since the removal of the pro-Kurdish party MPs’ immunities, eleven MPs, including the party’s co-presidents, have been arrested and incarcerated.⁵ Prosecutors have charged

4 For a portrait of Fethullah Gülen and the coup attempt, see Filkins (2016).

5 As of January 27, 2017.

them with membership in terrorist organizations—namely the PKK—and with promoting terrorist propaganda. Many municipal mayors from the Kurdish region, including the co-mayors of Diyarbakır, Turkey’s largest Kurdish city, have also been arrested and incarcerated for membership in a terrorist organization and for supporting terrorism. Many independent television networks and pro-Kurdish newspapers and news agencies have been shut down during the anti-Gülen government campaign. So the post-July 15th crackdown is targeting not only the Gülenist cadres within major state institutions—including the judiciary, military, police, education, and health—but also different forms of oppositional voices, especially pro-Kurdish ones.

Postscript: End of an Era?

Anyone familiar with the catastrophic scope of the violence Turkey has been going through since the summer of 2015 can identify a big hole in this narrative: the absence of Tahir Elçi, once a leading human rights lawyer in Turkey and president of the Diyarbakır Bar Association. A Cizre native, Elçi was one of the first to visit the city after the implementation of the first curfew in September 2015. He was also one of the lawyers who represented the victims in the Temizöz case. Elçi was the most active Kurdish human rights lawyer in Turkey and a strong proponent of peace. In October 2015, he became the target of mainstream, nationalist, and pro-government forces following a televised debate where he rejected calling the PKK a terrorist organization. The public prosecutor’s office started an investigation because of this televised debate. First he was arrested and then released, and later he was banned from international travel.

On November 25, 2015, during a press meeting in Diyarbakır protesting the armed conflict, he was killed by gunshot. At the time of writing, the ones responsible for his killing had not been identified. Some claim that Elçi was killed in the crossfire between young PKK militants and the police, while others claim that his killing was one of the deep state’s extrajudicial killings. As a human rights lawyer who spent his entire life fighting against impunity and uncovering state crimes, his death dealt a blow to the human rights community. On the one hand, Elçi’s legacy is the issue

in people's minds: the resources of human rights law and activism should be employed to fight against impunity and to continue with Elçi's struggle. On the other hand, we have the analysis of anthropologist Haydar Darıcı, who sees a change in the attitude of the Kurdish with whom he has been working:

The killing of Tahir Elçi is an event that has meant not only the end of a life, but of an era. Tahir Elçi was one of the very few people who from the 1990s on translated the Kurdish question and political violence in Turkey in general into a practice and discourse of universal human rights. Arguably, his murder symbolizes the end of human rights politics in the age of the new wars in the Middle East. Furthermore, the footage showing the two young men running towards the ditches and the dead body of Tahir Elçi on the ground could be read allegorically: the death of a symbolic father and the rise of youth, with their distinct form of politics, as the central actors in the Kurdish movement . . . During the curfews, the state places snipers on high buildings to instantly execute those who do not obey the curfew. Even some elderly Kurds who witnessed the early 1990s, when the war between Kurds and the Turkish state was at its peak, have been saying that what they are experiencing today is unprecedented. The state has effectively decided that if it is unable to reinstate its authority in Kurdish towns, then the solution is to render the towns uninhabitable—at the expense of the lives of numerous Kurds and police officers . . . While in the early 1990s families were trying to find the dead bodies of their loved ones who were disappeared by the state, today they have to sleep with the dead bodies of their loved ones, unable to bury them. (Darıcı 2016)

Whether or not Darıcı's analysis will hold true, in Turkey we all feel the seismic pressures changing the course of history, although nobody knows where the new path will lead. Many analysts argue that the time has passed for Turkey to be able to define its own path. They say that, as was the case during the collapse of the Ottoman Empire, the country's destiny is dependent on the path of the Middle East. While the earth under our feet shatters, dead bodies and communities in turmoil are waiting for documentation, verification, and litigation. As the Temizöz case exemplifies, remains of the past violence continue to pile up, with the dead of the 1990s and their relatives still waiting for justice and truth. Bones are waiting to be found and buried. Without the prospect of peace, the tasks of human rights advocates will be conducted not knowing how long the darkness of war will last.

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CHAPTER 3

Guerrero's Missing Stars

*Meyatzin Velasco**
(Mexico)

* I am grateful to each of the families of the forty-three students for their tireless struggle and their efforts in search of dignity, justice, and truth. I would also like to thank my colleagues Adazahira Chávez and Santiago Aguirre from the Miguel Agustín Pro Juárez Human Rights Center.

Writing about Guerrero has always been complicated for me. There are many lessons and reflections that communities, organizations, and individuals have shared with me throughout the years, which have allowed me to walk alongside them and which are a key part of my work as a human rights defender and social anthropologist. I have many questions and thoughts, but one of the most recent ones is this: How can we put into words the long history of the dignity with which men and women have tirelessly fought for truth and justice, for not forgetting?

Part of our job as human rights defenders is to always find a way forward, and that is how this chapter was conceived. The chapter has three objectives. The first is to share, reflect on, and, to a certain extent, hold a dialogue with other realities regarding one of Mexico's saddest moments in modern history: the disappearance of forty-three students from the Raúl Isidro Burgos Teachers' College of Ayotzinapa and the execution of three other youth on the night of September 26, 2014, in Iguala, Guerrero. The second aim is that of not forgetting, in order to continue constructing a collective memory that helps us resist and have our voices heard. It means not forgetting that forty-three Ayotzinapa students are no longer with us; it means acknowledging the reality of more than 30,000 families in Mexico¹ who search for their loved ones every day, who wait for them every day, and who fight for this to never happen again. Finally, the third objective is to identify and denounce—to ensure that readers throughout the world understand that impunity in Mexico is a thread connecting the past and the present and that many families, sadly, can bear witness to this.

1 For more information on these figures, see Becerril (2017), Amnesty International (2017), and Giles Sánchez (2017).

One of these families is that of Cutberto Ortiz Ramos, who was twenty-two years old the night of September 26, 2014. This chapter tells his history and that of his grandparents, his aunts and uncles, and his parents, Oscar and María. It is a text built on historical facts that link to the present, on a description of the land inhabited by people who are humble but who never lower their gaze, and on the context of inequality in which they live—their pain, their hope, their struggles, their never giving up.

“On the way south, we’re headed toward Guerrero, because it is missing a star, and that star is you.”²

When I lived and worked in the Costa Chica-Montaña region of Guerrero, a state in southern Mexico, I used to think about how the region’s most emblematic song was about lost love. After the night of September 26, 2014—when police and members of organized crime in the city of Iguala detained and disappeared forty-three students from the Raúl Isidro Burgos Teachers’ College of Ayotzinapa and killed several other young individuals—I am certain that this song by José Agustín Ramírez isn’t about a romance gone astray: the stars that are missing in Guerrero are the thousands of disappeared who are being tirelessly searched for by their families.

They are today’s and yesterday’s disappeared. The disappeared of the years of Mexico’s “war on drugs” and the Dirty War. They are the disappeared who leave behind heartache and suffering in their families.

Cutberto Ortiz Ramos was one of the students who went missing that day in September. Twenty-two years old, he was in his first year of training as a rural professor. Cutberto carries the name of his great uncle, Cutberto Ortiz Cabañas, who in August 1973 disappeared at the hands of the Mexican Army during the horrific years known as the Dirty War. But in Cutberto’s family tree, his great uncle was not the only one to go missing: in 1975, his grandfather Felipe Ramos Cabañas, his great-grandfather Eduviges Ramos, and his great uncles Raymundo, Heriberto, and Marcos Ramos Cabañas also suffered the same fate.

2 “Por los caminos del sur,” José Agustín Ramírez Altamirano (1903–1957).

Cutberto Ortiz Ramos's whereabouts remain unknown. On February 9, 2016, after a year's work, the Argentine Forensic Anthropology Team (EAAF by its Spanish initials) publicly presented at a press conference the findings of its independent survey in which it analyzed the Mexican government's official story concerning the fate of the students: according to this story, the bodies of the forty-three students had been incinerated in the city of Cocula's landfill and dumped into the San Juan River by members of organized crime groups who had confused the students for a rival gang.

During the two-hour press conference, which was held at the Miguel Agustín Pro Juárez Human Rights Center (Centro Prodh), where I work, the EAAF showed, step by step, how the Mexican government's story lacked a scientific basis. On the basis of the work of twenty-six experts in archeology, anthropology, criminology, forensic entomology and botany, ballistics, fire investigation, satellite imagery interpretation, forensic odontology, genetics, and bone trauma—who hailed from countries such as Argentina, Mexico, the United States, Colombia, Uruguay, and Canada—the EAAF concluded that the forty-three students could not have been burned in that site due to inconsistencies between physical evidence and testimonial evidence (Centro Prodh 2016).

With this report, the EAAF's expert team would become the second group of international experts in less than a year and a half³ to refute the Mexican government's presentation of "the historical truth" of what happened to the students.

That day, the students' parents went to Centro Prodh to listen to the Argentinean team and to share their thoughts with the journalists covering the event. The first thing that came to my mind in light of their visit to Centro Prodh, which functions as their home away from home in the country's capital, was that they seemed at once outraged and exhausted by the lack of information on their children's whereabouts. And while the EAAF presented its data

3 The first to present evidence disputing the story of the Cocula landfill was the Interdisciplinary Group of Independent Experts appointed by the Inter-American Commission on Human Rights in November 2014, following the agreement signed between Mexico and the families of the forty-three students. For more information, see Centro Prodh (2015).

with technical soundness, I could also sense the families' discomfort and weariness. But I could also see their conviction to not surrender, to continue searching for the truth.

In response to the classic question posed by the press (What next?) came the parents' equally classic answer: continue searching for their children. But there was also something new: the families thanked everyone who had supported them and reiterated that "their struggle" was not just for the forty-three students—it was for the more than 30,000 Mexican families who were experiencing the same pain and uncertainty. It was a moment of overwhelming sadness but also one of great dignity.

After the press conference was over, accompanied by two psychologist colleagues who were assisting the parents, I approached Oscar Ortiz, Cutberto's father. For several weeks, I had been wanting to request his permission to write about his son and his family. After I took a few minutes to explain the issues that my project would address, he responded, "So, what you want to do is write about how history repeats itself." I said yes, that this idea was one of the many motivations for this text; that it was important to not forget and to continue striving to remember each and every one of the disappeared. That it was important to remind the Mexican government of its debt to those of us living in the country, in light of the iron chain of impunity linking the past and the present.

Oscar nodded his head in agreement. Like a good *guerreroense*, he did not have many other words to add; but before walking up the stairs "to attend a meeting to chat about other activities," he asked me not to forget to share the text with him once it was finished. His parting words: "Others should know about what happened to the kids."

I pondered those last words until I began to write this chapter. "Others should know what happened." Perhaps it is good for others to understand that beyond the night of September 26 in Iguala, the story of the Ortiz Ramos family is a story of injustice committed throughout three generations. And that it is also distributed throughout space: it is shared by their community, San Juan de las Flores; by their county, Atoyac de Álvarez; by their region, the Costa Grande; and by their state, appropriately named Guerrero (warrior). And without a doubt, it is a story of pain that is enmeshed with the story of Mexico, a country that has never known justice.

**“Guerrero, insurgent land from the times
of the conquest, its people are brown and they
never look down.”⁴**

The other Cutberto—Cutberto Ortiz Cabañas—was just a bit younger than his nephew when he was disappeared in 1973 (Comverdad 2014). The day he was detained near the city of Coyuca de Catalán, he was on his way home. He was heading back from Colegio Morelos, located in the city of Chilapa, in Guerrero’s central region, about six hours from San Juan de las Flores, to which he would never return. His parents and sisters searched in prisons and military barracks in Guerrero and in Mexico City, but they never found him.

According to testimony provided to the Guerrero State Truth Commission in 2012 and 2013, two letters arrived to their house shortly after Cutberto’s disappearance, asking the family to pay money to members of the army in exchange for information on Cutberto’s whereabouts. His father paid the amount requested in the first letter, but he never received the promised information on Cutberto. And despite the risk involved, he even looked for his son at the guerrilla camp of Lucio Cabañas, a bold move that would cost him dearly: after soldiers from the 27th Military Zone located him in San Juan de las Flores, they beat and detained him for three days (Castellanos 2015).

Grandfather Felipe Ramos Cabañas was twenty-four years old when he was detained and disappeared in 1975, also at the hands of Mexican soldiers. He was already the father of four little children, among them the modern-day Cutberto’s mother, María Araceli Ramos, who was just three years old at the time. Great-grandfather Eduviges Ramos was fifty years old; uncle Raymundo Ramos Cabañas, thirty-eight; uncle Heriberto Ramos Cabañas, twenty-one; and uncle Marcos Ramos Cabañas, twenty-eight (Marchando con Letras 2015; Mina 2017). All of them from the same family, all disappeared, all relatives of the forty-three Ayotzinapa students who went missing on September 26, 2014.

4 “Vivos se los llevaron, vivos los queremos,” Cumbia Che (2015) (lyrics based on the melody of “La Subienda,” by Senén Palacios Córdoba), available at <https://www.youtube.com/watch?v=na9Ru58lAL4>.

How can so much pain converge on just one family? It helps if we look at the region and its history—if not to make sense of this pain, at least to place it in context.

**“A campesino illusion emerges in the workday,
the hills warm with breeze
and the springs with happiness.”⁵**

At the end of the 1960s and beginning of the 1970s, two of the most important armed movements of Mexico’s post-revolutionary history gained ground: the rural guerrilla group led by Genaro Vázquez Rojas and that led by Lucio Cabañas Barrientos, two men with campesino roots who had graduated from the Ayo-tzinapa teachers’ college. As journalist Laura Castellanos writes, their story “begins when both leaders were twenty years old and knew what it meant to not have been born in the idyllic Guerrero” (Castellanos 2015, 102). The Guerrero that dazzles tourists with its beaches is far from reality. For more than forty years, the area has been home to some of Mexico’s highest rates of poverty, violence, and poor education and health indicators. Despite the struggles of indigenous peoples, campesinos, students, teachers, and civil society in general, *cacicazgos* (chiefdoms) and the threat of land dispossession have worked to the benefit of cattle ranchers, private mining companies (both domestic and foreign), and tourist companies.

During the years when the rural guerrilla groups were active, forced disappearances in the Costa Grande region and throughout Mexico increased, reaching their peak in 1974–1975. The havoc of state repression and military siege suffered by communities was a part of daily life: torture, rape, arbitrary detention, forced disappearances, and “death flights” (*vuelos de la muerte*) were just some of the many realities that San Juan de las Flores could not escape.

San Juan de las Flores, a rural coffee-growing town, is located an hour and a half from the county seat of Atoyac de Álvarez, about two hours from the famous port of Acapulco. It has always been a poor community. The Ortiz Ramos family has lived here for as long as it can remember. They were here when farmers were prohibited

5 “Por los caminos del sur,” José Agustín Ramírez Altamirano.

from going out to their *milpas* (fields) to plant corn and when the few crops they did manage to grow were seized by soldiers who, under the pretext of preventing food from going to the guerrillas, razed everything, including the animals (Castellanos 2015).

As a result of the work of several organizations and the Guerrero State Truth Commission—but, above all, the persistence of the families of the disappeared—today we know that the Mexican state, particularly the Secretariat of National Defense, knew “the fate of each and every person who was disappeared during the Dirty War in the state of Guerrero, since survivors’ and witnesses’ testimonies of events, as well as documents consulted in the National General Archive, show that the army and federal and local security forces maintained a registry of individuals to be located, detained, or exterminated and of people who entered military facilities” (Comverdad 2014, 140). In fact, in the case of *Rosendo Raddilla v. Mexico*, the Inter-American Court of Human Rights recognized this situation as one of systematic human rights violations.

In addition to hailing from San Juan de las Flores, the Ortiz Ramos family had the bad fortune of sharing the last name Cabañas with the popular social fighter and guerrilla leader Lucio Cabañas. For the army and the government, sharing any blood relation with Lucio Cabañas was sufficient to warrant a person’s detention or disappearance (“Dos normalistas desaparecidos de Ayotzinapa, familiares de Lucio Cabañas” 2014). According to the Guerrero State Truth Commission’s final report, issued in 2014, “the vast majority of people detained were taken to military facilities or underground prisons. There was a large number of individuals, including minors, who were transferred to Military Camp No. 1, some of whom remained there simply on account of being relatives of guerrilla leaders, particularly Lucio Cabañas Barrientos and Genaro Vázquez Rojas” (Comverdad 2014, 12).

The year Lucio Cabañas was killed, 1974, was the year of the most forced disappearances in Sierra de Atoyac and throughout Mexico (Bonilla 2015; Ballinas 2017). According to the Eureka Committee (Proceso 1997; González Alvarado 2013), since 1975 at least 173 people have been forcibly disappeared in the state of Guerrero, a figure that, based on data from the National Human Rights Commission, represents 50% of disappearances in the entire country (Comverdad 2014).

Among the disappeared are the aforementioned members of the Ortiz Ramos family, whose whereabouts remain unknown due to Mexico's lack of a genuine transitional justice process. This impunity gave rise to an increase in disappearances in Guerrero within the framework of the "war on drugs." It was in this context that another family member, Cutberto the Ayotzinapa student, would also be disappeared.

History, as Oscar had told me, often repeats itself.

**"Alive, alive they were taken, alive, alive
we want them back,
in Iguala they planted seeds, and we shall triumph!
They were from Ayotzinapa,
college students from Guerrero,
they shouted 'enough' like on the first of January."⁶**

The Raúl Isidro Burgos Teachers' College of Ayotzinapa is located in the city of Tixtla, half an hour from the state capital of Chilpancingo. An arch stands above the campus's entrance. From there, a dirt road leads to the main gate, which is guarded by students who, like expert sentinels, know who is allowed to enter. Ayotzinapa cares for its territory: just like the other fifteen teachers' colleges that continue to exist in Mexico, it is a legacy of the Mexican Revolution.

The unpaved road is just the first indication that Ayotzinapa is not a typical school. As one walks through the campus, the neglect and lack of investment in the school's infrastructure is hard to miss. Ayotzinapa is a boarding school. Once, when I entered one of the dorms, I was able to spot a bed; the other places for sleeping included mats, bed rolls, and the cold floor. There was also a hammock and just one bathroom for at least seven students. In 2014, the school's budget was 49,255,817 pesos (about US\$3,500), its lowest on record (Goche 2014).

Cutberto, like many campesino and indigenous youth in Guerrero, lacked the means to attend other institutions of higher education, thus opting to become a rural schoolteacher in Ayotzinapa. To enroll in the teachers' college, he had to take a general

6 "Vivos se los llevaron, vivos los queremos," Cumbia Che.

knowledge test, a socioeconomic test, and a week of fitness tests. This fitness week is just one of the ways that new enrollees prepare for the “extracurricular activities” that they will eventually need to undertake—marches, protests, asking for money in the streets, toll booth closings, and meetings with other students—in order to obtain the resources that the state does not provide to rural teachers’ colleges.

It was precisely one of these activities that Cutberto and another forty-two classmates, ranging from the ages of seventeen to twenty-five, went to do in the city of Iguala: the temporary commandeering of buses in order to be able to attend the march that takes place each October 2 to commemorate the student massacre of 1968, another event that shook Mexican history. Although Ayotzinapa students had always commandeered buses, on this particular occasion they encountered a brutal and violent response, because, as suggested by a group of experts created by the Inter-American Commission on Human Rights, they commandeered a bus that the government and drug traffickers had planned to use for illegal trafficking. That is the only way to explain the forty-three missing, six dead, forty injured, one hundred eighty directly affected, and more than seven hundred indirectly affected.

In that horrific event, the story of modern-day Cutberto—the Ayotzinapa student—shines like a dark light: it shows that impunity is a lair for the worst monsters of our history, until they return to repeat what they know how to do. Centro Prodh has supported the parents of the missing Ayotzinapa students and the six murdered youth in their dialogue with the state, particularly in monitoring the work of the Interdisciplinary Group of Independent Experts appointed by the Inter-American Commission on Human Rights and in the implementation of communication strategies aimed at publicizing the case inside and outside Mexico.

For me, this process has been instructive in my formation as a human rights defender and social scientist. Through internal planning meetings at Centro Prodh, I have been able to see what it means to put comprehensive defense into action, how to view the overall context, and what can be done to support the parents of the missing and murdered.

It might be easy to assume that the task of case accompaniment falls mainly into the laps of lawyers, whether those working

in management or international areas, for it draws on knowledge that we anthropologists are not accustomed to. However, from a holistic perspective, it is clear that each person and area has something to contribute. From an educational standpoint, accompanying the parents allowed me to observe firsthand the pain, anger, and hope that Oscar had shared with me. In addition, once I harmonized that with the work of my colleagues, I was able to identify issues, laws, concepts, and barriers that could be shared with other families who are also searching for their loved ones and who attend our workshops in need of more accessible tools for reasserting their struggles and capitalizing on their achievements in the face of injustice and the government's (historical) lack of sensitivity.

I must also point out that accompanying the parents of the forty-three disappeared students has not been easy. The lack of truth and justice has led to the emergence of critics seeking to delegitimize the families' struggles and the work of both Centro Prodh and other organizations, availing themselves of common tools in Latin America: wiretapping, surveillance, and newspaper notices with unreliable and unsubstantiated information about our work. However, the struggle for truth and justice continues in the Ayo-tzinapa case, a case that has shaken Mexico and the international community.

**“Today their faces multiply,
their hands and feet move,
next to someone who is outraged,
in line with someone who is stirred.”⁷**

As I close this chapter, I think of Oscar's words: “Others should know” and “History repeats itself.” Meanwhile, a question continues to revolve in my head: How is it possible that so much horror has repeated itself in a single family throughout the generations? How is it possible that two Cutbertos have been disappeared, two shining stars that, like so many others, have gone missing in Guerrero? Maybe it is because we did not know how to create memory. Maybe it is because we have been unable to make the experiences

7 Ibid.

of the Ortiz and Ramos families known beyond San Juan de las Flores, beyond Atoyac, and beyond Guerrero.

In the words of Tryno Maldonado, a Mexican writer who has been greatly moved by the Ayotzinapa tragedy:

The faces of the disappeared are a void in reality. An interrupted grief that never arrives and grows intolerable . . . The faces of the forty-three missing students . . . have been converted into a metaphor that encompasses many other traumatic cases of collective violence perpetrated by the Mexican state . . . If we forget Ayotzinapa, if we forget that obscene horror—in its original sense of “what never should have come into play”—will we be worthy as Mexicans in thinking that we maintain a minimum level of humanity, a minimum of empathy, a minimum of courage in our hearts? (Maldonado 2015, 13–14)

I think that Maldonado and Oscar are right. We must not forget; it is good for these things to be known. I thus understand what this chapter can help accomplish, and this gives me the strength to conclude. I will not forget to share the final text with Cutberto's father so he can read it in memory of his son and his brother—two Cutbertos, two missing stars in Guerrero. I will not forget that I must continue fighting so that history does not repeat itself.

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CHAPTER 4
Article 46A: Accountability
according to the Leaders
of Africa

Adebayo Okeowo
(Nigeria)

I am going to tell you a story. It is not fiction. I somehow wish it were because then, at the end of it, we could all breathe a sigh of relief and say, “Thank goodness, it wasn’t real.” But this right here is a living reality, one that has shockingly stayed with us for much too long.

I want to tell you about Omar Hassan Ahmad al-Bashir, the president of Sudan. But even more importantly, I want to tell you about how he oversaw one of the greatest war crimes in Africa and yet still sits in power and rides around in a motorcade. Since 2009, the International Criminal Court (ICC) has been trying to arrest al-Bashir, but he has been evasive. Al-Bashir’s rap sheet is highly telling: his forces were the architects behind the targeted extermination of civilians, the rape of thousands of women, gross acts of torture, the contamination of wells and water pumps with the aim of committing genocide, and much more.

It is bad enough that one man would engineer crimes on such a large scale—but it is even worse that since 2008, when it all began, he has continued to escape justice. Sadly, this situation in Sudan is not a first.

We Have Been Here Before

The year was 2011. The month was July.

Several of us had embarked on a field visit. The location: Natzweiler-Struthof concentration camp memorial at the edge of Strasbourg, France. It was one of the concentration camps built by the Germans during World War II (WWII), and no fewer than 19,000 people died at this particular site.

A gust of wind hit my face as I stepped off the bus and onto the gravel. Walking through the gate built with metal bars and

timber, a reality dawned; I imagined that the “night and the fog” prisoners who were marched through those same grounds almost a century ago would have had nothing but dust beneath them. I imagined them walking through those gates and being stripped of all hope of ever making it out. I imagined that their brokenness must have been so overwhelming that it left them little room to savor seemingly mundane pleasures such as a gust of wind.

I could see traces of the war all around—the four-foot-high cells where prisoners could neither stand up nor lie down; the gas chamber and gallows where prisoners were condemned to death; and the pit where the ashes of cremated prisoners were ignominiously thrown. The tragedy of those years sunk very deep, and I cringed at the thought of it all.

It would have been hard to glimpse the legacy of WWII in the way I did and not resolve that “never again” shall we descend to such depths of despicable and unfathomable inhumanity. But I quickly reminded myself that the world had made that same promise several times, yet sadly there has been a yawning gulf between promise and practice. Indeed, it seems the promise of “never again” has been broken so many times that we now live in a world of “again and again”—Bosnia, Cambodia, Rwanda, Sudan, and Syria are all cold reminders that we have failed. For example, despite the statutory and institutional accountability mechanisms that have been put in place, Syria has remained at war since 2011. This war has claimed an estimated 400,000 lives and has introduced other global concerns such as a refugee crisis because at least 4.9 million Syrians have fled the country (United Nations Radio 2016; Syria Regional Refugee Response 2017).

The year 2005 marked sixty years since the liberation of the Nazi camps. During the United Nations’ commemoration for the six million Jews and others who died during WWII, Kofi Anan remarked:

On occasions such as this, rhetoric comes easily. We rightly say “never again.” But action is much harder. Since the Holocaust the world has, to its shame, failed more than once to prevent or halt genocide. (UN News Centre 2005)

Human nature has the capacity to adapt and stretch to the limits. But it reaches a point where it snaps. With several conflicts

around the globe today, too many people and communities have snapped and become broken. Putting the pieces back together, though possible, is as arduous a task as trying to restore shattered porcelain: it never looks the same again.

Are Our Efforts Not Good Enough?

I recall very vividly, back in 2008, sitting in the library as a final-year law student, punching away at the keys on my laptop. I still remember the smell of some of the old books there—publications whose brown paper pages traced the unpleasant legacies of WWII that shocked the conscience of the world and triggered a series of mechanisms to ensure accountability for the most heinous crimes. It is very chilling to consider that in a single war that lasted seven years (1939–1945), an estimated forty-five to sixty million people were killed, making WWII one of the most devastating international conflicts in history.

However, the fabric of the world today has been woven with the threads of other wars and crimes against humanity subsequent to what was seen in WWII. As a response, trials have been held (the Nuremberg and Tokyo trials), tribunals have been set up (the international criminal tribunals for Rwanda and former Yugoslavia), and, eventually, in 1998, the ICC was created to ensure that the atrocities of the past do not come back to haunt us.

As an aspiring human rights lawyer sitting in that library years back, I was poring over the provisions of the ICC's Rome Statute, which, among many other things, seeks to put on trial and imprison anyone who threatens international peace and security. I have always been worried about the immunity traditionally enjoyed by presidents—an immunity that effectively allows the executive to break the law with no consequences. Break the law and walk free is what immunity encourages; as conservative political commentator Ben Shapiro notes, "The sitting president could literally strangle someone to death on national television and meet with no consequences" (Shapiro 2014). It was therefore a eureka moment when I discovered that the Rome Statute deviates from the norm and is ready to cuff both the soldier and his commander. It does not matter if you are a sitting head of state—you will smell the insides of a cell if you give the world grief.

This empowering provision is outlined in article 27 of the Rome Statute, which reads:

1. This Statute shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as a Head of State or Government, a member of a Government or parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility under this Statute, nor shall it, in and of itself, constitute a ground for reduction of sentence.
2. Immunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the Court from exercising its jurisdiction over such a person.

In a most admirable manner, the prosecutors at the ICC were not going to allow the court to become a mere academic exercise. So on March 4, 2009, they issued an arrest warrant against President al-Bashir of Sudan, marking the first time the court sought to indict a sitting head of state. Lauren Blairon, spokesperson for the ICC, stated that al-Bashir was criminally responsible for “murdering, exterminating, raping, torturing and forcibly transferring large numbers of civilians and pillaging their property” (Dworkin and Iliopoulos 2009).

By July 12, 2012, the ICC had discovered more egregious crimes committed by al-Bashir—overseeing the deaths of 300,000 people and the displacement of as many as three million—and issued a second arrest warrant. Today, he stands accused of war crimes, crimes against humanity, and the crime of genocide—a tripartite combination that should send shock waves through all who claim to want to put an end to senseless deaths. Disappointingly, though, nearly a decade after his initial arrest warrant was issued, al-Bashir still walks free and continues to rack up frequent flyer miles with his unabated trips to several countries. Moreover, for someone accused of committing genocide, it is ironic that he visited China in 2015 to attend an event commemorating the end of WWII (Bashir Watch 2015). Clearly, “never again” has become not only a broken promise but a mere political slogan.

The Day al-Bashir Came to Town

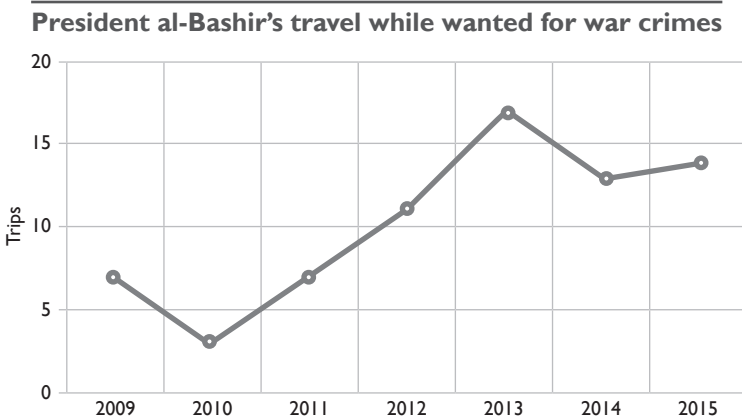
The ICC has declared al-Bashir to be “at large,” a term used when a criminal is yet to be apprehended and put in custody. But it is very curious that someone like al-Bashir can still remain “at large” even though he travels quite often and meets with world leaders who have pledged allegiance to the accountability code. For someone with an arrest warrant hanging over his head, it is indeed audacious that al-Bashir is not keeping a low profile. He is practically displaying the weaknesses in our international criminal justice framework by embarking on these foreign trips and posing for photos. It makes me wonder what these leaders say during the exchange of handshakes—“Protect me now and I will protect you tomorrow”?

Since 2009, when the first arrest warrant was issued, al-Bashir has made seventy-four trips to twenty-one countries (Nuba Reports 2016).

Al-Bashir’s defiance is unprecedented and bewildering. He has traveled to these different countries as if it were business as usual. But one of the trips he made in 2015 has been most talked about.

In June 2015, al-Bashir visited South Africa to attend the African Union Summit in full glare of the world, where he posed for photos and then got back on his jet, returning to Sudan amidst several diplomatic and judicial calls for him to be delivered to the ICC.

FIGURE I



SOURCE: Nuba Reports (2016)

I was driving to work when I heard on the radio that al-Bashir had made it out of South Africa. It became the top news across TV channels, a hot discussion topic as people sipped their coffee, and of course a point of concern for us at the Centre for Human Rights as we planned our next strategy. A few of us sat around the rectangular brown table in the Centre for Human Rights' meeting area. We had already whipped up a press statement and were reviewing the text to ensure it conveyed the emotions required to get the South African government to give it more than just a glance. All the while, my mind kept flashing back to the victims of al-Bashir's crimes—the millions of them. It was obvious that for as many good people who are determined to keep the world at peace, there are just as many (or even more) bad ones ready to send it into chaos.

South Africa could and should have aligned itself with the victims of the conflict in Darfur by arresting and delivering al-Bashir to the ICC, but it chose to play politics. That move was just one more thing added to the litany of blunders made by the South African government in a bid to protect at all costs the "African brotherhood." It is a lack of tact which has tainted South Africa as a conspirator.

Sadly, what played out in South Africa when al-Bashir came to town and left without metallic cuffs around his wrists was merely a replay of what some other African countries had already done in refusing to cooperate with the ICC. There are many cases both before and after 2015 in which countries have failed to cooperate in delivering al-Bashir over to the ICC: Chad (two times), Djibouti, Egypt (six times), Kenya, Malawi, Nigeria, and Uganda (Tladi 2015). Botswana and Zambia have vowed to arrest al-Bashir, but the resolve and strength of such a promise can be tested only when al-Bashir's plane touches down in those countries. This blatant defiance and refusal to deliver al-Bashir to the ICC is not because the seventy-three-year-old head of state is special. Or maybe he is. The genuine reason is because in 2009, African states made a resolution.

A Frosty Relationship

On July 3, 2009, the African Union Assembly, during its thirteenth ordinary session, adopted a resolution calling on African states not to cooperate with the ICC regarding al-Bashir's arrest warrant.

This decision was made due to the ICC's alleged partiality in the execution of its prosecutorial powers. All the cases that have been commenced at the ICC (with the exception of Georgia) have been against African states—the Central African Republic, Cote D'Ivoire, the Democratic Republic of Congo, Kenya, Libya, Mali, Sudan, and Uganda. The ICC's moral integrity has therefore been called into question with accusations that its cases are not "being pursued on the basis of the universal demands of justice, but according to the political expediency of pursuing cases that will not cause the Court and its main financial supporters any concerns" (Murithi 2013, 3). Following the issuing of his 2009 arrest warrant, al-Bashir claimed that the ICC was a "white man's court" aimed at destabilizing his country. The actions of many African heads of state tend to coincide with this perception as these leaders continue to resist the implementation of the ICC's mandate in Africa.

In dismissing the biased sentiments expressed by African leaders, South African Nobel Prize winner Desmond Tutu stated, "Justice is in the interest of victims, and the victims of these crimes are Africans. To imply that the prosecution is a plot by the West is demeaning to Africans and understates the commitment to justice we have seen across the continent" (Tutu 2009).

In the midst of all the criticism against the ICC over its Afro-centric prosecution, African leaders are forgetting that some of the ICC's prosecutions against African leaders were self-referrals by African states. For example, the cases against the Central Africa Republic, the Democratic Republic of Congo, and Uganda were all referred by the governments of these countries. And the case of Darfur was brought before the Pre-Trial Chamber through a United Nations Security Council referral—one that non-permanent members like Benin and Tanzania voted in favor of. Besides, if reliable domestic and regional accountability mechanisms existed, recourse would not need to be made to the international arbiter.

The African Union's (AU) 2009 resolution sends a signal that Africa wishes to shield perpetrators of international crimes from prosecution, and this becomes all the more confusing when placed against the backdrop of the immense support the African continent has given to the ICC. For instance, out of the 124 countries that are party to the Rome Statute, African states account for 34 of them, which is the largest continental representation at the ICC.

Also noteworthy is Resolution 87 of the African Commission on Human and Peoples' Rights, which emphasizes the need for African governments to refrain from acts that will undermine the effectiveness of the ICC. Furthermore is the fact that in its 2004–2007 strategic plan, the AU had as one of its five commitments the ratification of the Rome Statute by all African States (Commission of the African Union 2004, 65). With these instances of overwhelming support for the ICC, a resolution of noncooperation brings up key questions: Did African states not understand the purpose of the Rome Statute provisions before signing? And if they did, is it accurate to say that they merely signed the document and never had any intention of abiding by its provisions? Or is this just a case of a relationship gone bad?

The resolution on noncooperation goes to the root of treaty obligations and violates the principle of *pacta sunt seroanda*—a well-established principle of international law that requires states to be bound by their treaty obligations and accordingly act in good faith. By virtue of this principle, the AU resolution becomes highly questionable and can be tantamount to an illegality. This is because even though parties to the Rome Statute are allowed to withdraw from it, such a withdrawal must be done in accordance with the means stipulated under article 127 of the treaty. The procedure includes the issuance of a written withdrawal notification addressed to the Secretary-General by the country intending to withdraw. As long as African states do not abide by this provision, they remain bound to fulfill their obligations under the treaty.

Kenya has been one of the countries championing the withdrawal of African states from the Rome Statute, but it has yet to “lead by example.” Even though by late 2016 Burundi, The Gambia, and South Africa had all initiated processes to leave the ICC, for countries such as South Africa and Kenya—which have domesticated the Rome Statute—a withdrawal is more complicated than what is required under article 127; additionally, there must be an act of parliament, an executive assent, and a repeal of existing laws, which can be done only after a public consultation (in the case of Kenya).

In all fairness, however, inasmuch as the AU's decision of noncooperation with the ICC has attracted criticism, it is difficult to ignore the AU's allegations of selective justice made against the ICC.

For instance, it is difficult to believe that the ICC, be it through a Security Council referral (article 13[b] of the Rome Statute) or a self-initiated process by the prosecutor (article 13[c] of the Rome Statute), has not investigated the war crimes perpetrated by countries such as the United States. Moreover, the Security Council continues to undermine accountability for war crimes by granting US soldiers immunity from prosecution (Security Council Resolution 1487). Such a double standard is the reason why the global accountability agenda keeps facing setbacks.

Codifying Impunity

Africa is a continent, we should be able to punish and try our people since we have been dealing with our own problems.

—YAHYA JAMMEH, FORMER PRESIDENT OF THE GAMBIA

It seems that the AU has stepped up its game of “protect the perpetrator.” Given that Al-Bashir is not the only African head of state confronted with an arrest warrant from the ICC, these leaders devised a plan on how best to boycott the ICC process (in addition to issuing their resolution of noncooperation). Their grand plan, couched in the form of the Malabo Protocol adopted in June 2014, suggests that the AU will bypass the ICC by setting up its own court and that it will give its countries immunity from prosecution. Article 46A of the protocol provides:

No charges shall be commenced or continued before the Court against any serving African Union Head of State or Government, or anybody acting or entitled to act in such capacity, or other senior state officials based on their functions, during their tenure of office.

They did not even attempt to hide their hypocrisy and pretend that their commitment to ridding the world of atrocities was not cheap talk. With article 46A, African leaders codified impunity under the guise of immunity. Left to them, al-Bashir of Sudan, Laurent Gbagbo of Cote d’Ivoire, and Uhuru Kenyatta of Kenya should not be haunted by the ICC.

The AU’s dramatic decision to create a criminal chamber within the existing African Court on Human and Peoples’ Rights only fuels the hostility between the ICC and African states. It is indisputable that the AU’s fixation on creating an African criminal

justice system that can try international crimes such as genocide, war crimes, and crimes against humanity is nothing short of a response to the ICC. Putting aside the political dimensions of this move, the criminal chamber faces legal and practical barriers. Practically speaking, the AU does not have the funds required to set up a criminal chamber because as much as 70% of the AU's current budget is supplied by external donors, such as the European Union, China, and the World Bank (Mataboge 2015). To put things in perspective, the 2006–2007 budget for the International Criminal Tribunal for Rwanda was a whopping US\$270 million, whereas the AU's 2011 budget for the African Court on Human and Peoples' Rights was US\$6 million (Viljoen 2012). The contrast shows how expensive criminal justice is and how unprepared the AU is. If the AU is trying to break away from the ICC, how does it go back to the same international community to seek help with establishing a parallel court?

The principles upon which the ICC was founded mirror the principles of the AU's Constitutive Act in ending impunity (article 4[h]). It is therefore unfortunate that instead of seeing cooperation in ending injustice, we are witnessing a division.

Conclusion

It is regrettable that the ICC is a “giant without limbs” —no police force to administer outstanding warrants of arrest and no prison structure to hold those convicted of crimes. Its success hinges on states' cooperation, which at the moment is far from ideal.

The response of the international community to issues of international crime has revealed both strength and weakness. While the majority of African states are taking a stance against the ICC, other countries are supporting it not just by signing the Rome Statute but also by offering their prison facilities. For example, the Democratic Republic of Congo is lending its prisons for the fourteen-year sentence of warlord Thomas Lubanga, whose conviction in 2012 was the ICC's first-ever conviction.

Nonetheless, this is grossly insufficient. We do not deserve a pat on the back for the gains made in the race against international crimes. This is not the time for some academic, researcher, diplomat, or historian to remind us that we may not be there yet, but we have tried. This is the time to admit that the promise of “never

again," which has taken over seventy years and has remained unfulfilled, needs to be reviewed. To salvage the future, I have chosen to place my faith in the citizens of Africa and the world as a whole. They are the ones who will someday deliver on the promise. In the famous words attributed to Margaret Mead, "Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has."

I believe that the reason why many of us nearly lose our minds over the immunity clause in article 46A of the Malabo Protocol is because we are familiar with the penchant among African leaders to become "electoral dictators." For instance, Paul Biya—one of Africa's longest-serving leaders—has been the president of Cameroon for over three decades. He is not royalty, so elections have been held several times; each time, Biya has supposedly won by a landslide, as high as 92% in some cases. There are also others who have been ruling for over two decades, including the infamous al-Bashir (Sudan), seventy-year-old Isaias Afwerki (Eritrea), and Idriss Deby (Chad), who is carrying out his fifth presidential term. These leaders and some others within Africa have become pseudo-monarchs, fueling concerns that immunity for them will only translate into a permanent absence of justice for victims of human rights violations in cases where the state has been found complicit. This is why Mead's "small group of committed citizens" is much needed—because these groups are the ones who will, starting with the ballot box, effect change. They are the ones who will reignite a Jasmine Revolution type of showdown, signaling to African leaders the end of impunity. They are the ones who will march before government houses and say, "Your self-made laws cannot protect you. WE THE PEOPLE demand you step down." Somewhat like "We hired you, now you are fired!"

The problem so far is that we have marched for equality and marched against poor wages, poor amenities, and dysfunctional institutions, but for mass atrocities we have merely issued press statements. Imagine the impact that citizens could have had if they had been standing outside of that AU Summit that al-Bashir attended in South Africa. I want to believe that al-Bashir would not have made it out of South Africa. Our "small group of committed citizens" would have held him back, even when a court ruling and an arrest warrant failed to do so.

We therefore need to raise people's awareness, making them see how deeply the lack of accountability for international crimes is hurting us all and reenacting tragedies better left in the past. So my proposition is not to come up with more laws or counter-laws. This is the strategy that the international community has embraced since WWII, and it still has us falling short. My proposition is simple: we must march. Let us stop churning out paper and speeches for once and instead actively and peacefully step out for things like ending mass atrocities, which have sadly been deemed the exclusive preserve of lawyers and judges.

While we forge ahead to mount pressure on politicians and leaders to respect and uphold the fundamental rights of all human beings, I shall remain hopeful that as we combine all strategies, this might just be the generation that will fulfill the "never again" promise.

In Nollywood, we are presented with happy endings where good always prevails over evil. I desperately want to believe that with this story of accountability for international crimes, good will eventually prevail in the end. In the meantime, we must keep demanding, and tomorrow we set out at dawn to continue the struggle for a more just world.

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CHAPTER 5
Accountability: The Value
of Memory, Justice, and Redress
in Argentina

Horacio Coutaz
(Argentina)

Alda—the eighty-year-old mother of Alejandra Niklison, a political activist¹ from the Montoneros political group² who was assassinated in the city of San Miguel de Tucumán³ during Argentina’s last civil-military dictatorship—sent us a text message that essentially said, “I am happy, now I can die at peace.” Her message came just after a ruling was handed down, almost thirty years later, convicting two of those responsible for her daughter’s death; the trial had given Alda the opportunity to testify via videoconference. Despite the ruling’s belated arrival, the punishment of some of the perpetrators and the chance to speak in front of a court helped ease Alda’s suffering.

But at that moment, there was a bittersweet sensation among family members, political activists, human rights organizations, and even my significant other, María Alejandra, Alejandra’s daughter and one of the parties in our complaint who was also a lawyer on the case. Although the rulings were important and in line with what we had been asking for, the court granted house

1 In the Argentinean context, these activists are generally referred to as *militantes*.

2 Montoneros was the largest political-military group of left-wing Peronism. It was particularly active during the 1970s.

3 San Miguel de Tucumán is the capital of Tucumán Province, located in northwestern Argentina. In 1975, when the country still had a democratic regime, Operation Independence was launched there to crush the guerrilla groups who were occupying rural areas. Daniel Feierstein notes that “the planned and systematic genocide in Argentina started under a democratically elected government. The military dictatorship systematized it to a greater or lesser degree and applied it to the rest of the country, but it was first developed at the provincial level in Tucumán” (Feierstein 2014, 134–35).



Picture 1
Romero Niklison trial in Tucumán
Photo: Katja Seidel

arrest to the defendants instead of actual prison time, which was discouraging.

Years later, and just days away from the forty-year anniversary marking Argentina's last military coup, María Alejandra prepared for what could be her final argument in a criminal trial for human rights violations. Her story, like that of many compatriots, encapsulates the vicissitudes of a particular transition to democracy under the motto "memory, truth, and justice."⁴

María Alejandra was born in 1974. Two years later, in San Miguel de Tucumán, her mother was assassinated; in addition, her uncle was disappeared, her father was forced into internal exile, and she was taken in under the care of her aunts and uncles. With the unfolding of democracy, she joined the struggle of human rights organizations calling for trials and punishment, despite the existence of amnesty laws issued in the late 1980s. As a lawyer, she has propelled many trials for crimes against humanity committed during the country's most recent dictatorship.

As for me, I became heavily and almost naturally involved in the human rights trials that were reopened after Argentina's

⁴ The motto "memory, truth, and justice" became so widespread that Law 26085 of 2006 established March 24 as Argentina's National Day of Memory for Truth and Justice.

amnesty laws were declared unconstitutional by the courts and subsequently annulled in 2003. After earning my law degree in 2005, and following a brief stint at the Public Prosecutor's Office, I represented private complaints until the commencement of oral hearings in the province of Santa Fe in 2009. Almost all of us who were part of the claims for justice, and then part of the trial proceedings, were united by our family histories (we all had relatives who had been political prisoners, were disappeared, were murdered, etc.) or by our previous membership in human rights organizations.

As I will try to explain in this chapter, in the wake of Argentina's return to democracy in the early 1980s, the rallying cry of organizations working on behalf of victims and survivors has been the prosecution of perpetrators of grave and massive human rights violations during the dictatorship. This appeal—severe criminal sanctions for those responsible, carried out in the most rigorous form possible—can be seen in the organizations' slogans, legal complaints, and activities.

Nonetheless, the testimonies of thousands of victims seem to indicate another desire. These voices confirm that the mere act of testifying in a transparent trial conducted in accordance with the rule of law has an important reparatory effect. Despite human organizations' incessant calls for criminal sanctions, this is not what victims ultimately appear to be asking for.

Can criminal law be restorative in transitional processes? To what extent is justice achieved through criminal law? Moreover, is criminal law the appropriate response?

Argentina's Last Civil-Military Dictatorship: An Overview

Between 1930 (the year of Argentina's first institutional rupture) and 1983, governments came into power more often through combat boots than through votes. During those fifty years, citizens endured one military coup after another. The armed forces, disregarding popular sovereignty, overthrew democratically elected governments six times, imposing dictatorships unfriendly to human rights. Each dictatorship was bloodier than the previous one. Without a doubt, the most brutal one was the regime that took power on March 24, 1976, installing a political, economic, and

social framework that answered to the interests of the country's dominant classes, with the military in charge of executing those interests.

This new de facto government was headed by three military commanders: General Jorge Rafael Videla (army), Admiral Emilio Eduardo Massera (navy), and Brigadier-General Orlando Ramón Agosti (air force). They overthrew the then president María Estela Martínez de Perón, who had assumed office in 1974 after the death of Juan Domingo Perón, for whom she served as vice president.

Established as the highest state authority, the military junta tasked itself with setting general government directives and replacing the president and all other officials. The junta also proclaimed that it would assume administration of the state as part of "a decision by the Fatherland" and "in compliance with an inalienable obligation" in search of "the recovery of the national being."

Immediately upon taking over, the junta—which dubbed itself the National Reorganization Process—declared a state of siege; declared all work sites to be military objectives; removed the executive, legislative, national, and provincial powers; released all federal, provincial, and municipal authorities, as well as national and provincial courts, from their duties; forced all judges to take leaves of absence; suspended the activities of political parties; intervened in trade unions and in workers' and business confederations; revoked the right to strike; abolished collective bargaining agreements; imposed the death penalty for crimes of public order; and strictly censored the press, to name but a few measures. In addition, in order to ensure the joint exercise of power among the three branches of the armed services, each branch assumed control of one-third of the various jurisdictions and state institutions.

Many sectors of society passively accepted the military takeover, others supported it, others were against it, and a few put up resistance. In any case, the dictatorship sought to eliminate all opposition, squashing any attempts to dispute its authority.

The junta's modus operandi was to "disappear" the sources of any challenges. From its perspective, as well as that of dominant economic groups and citizen supporters, Argentina's social conflicts and political instability that emerged after 1955 were the result of industrialization and modernization. The junta believed

that this model had been artificially sustained through state intervention and that it had sparked the exaggerated growth of the state apparatus and the strengthening of an organized labor movement that was willing and able to defend its interests through various means. Not coincidentally, at an international monetary conference held in Mexico, Argentina's finance minister, José Alfredo Martínez de Hoz,⁵ said that the change in government constituted "a transformation of the political and socio-economic structure that the country had maintained for nearly thirty years." From this perspective, "it was necessary to modify the structure of the Argentinean economy. This proposed change was profound: it required not just the organization but the transformation of institutional, administrative, and business rules and frameworks, policies, methods, customs, and even people's mentalities themselves."⁶

The massive and systemic violation of human rights was the defining feature of the era. It involved depriving the liberty—illegally and through operations led by members of the security forces (usually at night and in plainclothes)—of those suspected of opposing the dictatorship. Captured individuals would then be transferred to clandestine prisons or facilities of the armed forces, with their relatives unaware of their whereabouts and authorities denying any knowledge of their detention. Authorities would also torture these individuals in order to extract information or sometimes simply as a form of punishment. They would then release, officially detain, assassinate, or disappear the victims according to dubious criteria that gave wide them discretion to determine whether a victim lived or died.

These operations were complemented by the denial of thousands of habeas corpus petitions and claims of illegal deprivation of liberty. These denials were due not only to the armed forces' claims of ignorance in their responses to habeas corpus petitions but also to the complacency of the courts—which legitimized the

5 Martínez de Hoz was the driving force behind the dictatorship's economic plan. At the time of his death in 2013, he was under house arrest for the kidnapping of two businessmen and for involvement in other crimes against humanity.

6 25th International Monetary Conference, Mexico, May 22, 1978, published in *Boletín del Ministerio de Economía* 235 (May 29, 1978).

illegal repression of the state—and the direct participation of judicial officers in the repressive structure. It is thus not surprising that in the first trial in which I participated, one of the perpetrators convicted was Víctor Hermes Brusa, a former judge.

The final report of the National Commission on the Disappearance of Persons aptly summarizes the dictatorship's crimes:

Based on our extensive review of documentation, we can conclude that human rights were violated organically and through repression by the state's armed forces. These violations were not sporadic but systematic, always committed in the same manner, with similar kidnappings and identical torments throughout the national territory. How can this not be attributed to a methodology of terror planned by high-ranking officials? How could these crimes have been committed by nefarious individuals acting out of their own volition during an extremely military regime, with all the powers and means of information that this entails? How can we speak of "individual excesses"? Our information points to the conclusion that this technology of hell was carried out by sadistic but regimented implementers . . . In this way, in the name of national security, thousands upon thousands of human beings—usually youth and sometimes even adolescents—became part of a dismal and even ghostly rank: that of the "disappeared." This word—a sad Argentinean privilege!—appears today in Spanish throughout the world's press. (Comisión Nacional de Desaparición de Personas 1996, 8–9)

The Transition and *Argentinidad al Palo*⁷

Democratic transitions are generally characterized by difficulties in grappling with a violent past that is still present. In countries transitioning from violence toward a democratic order based on the rule of law and on a guiding policy of national reconciliation, it is essential to approach the past on the basis of two prerequisites: truth and justice.

In the words of Carlos Santiago Nino, a philosopher and jurist who coordinated the Council for Democratic Consolidation:

7 "La Argentinidad al Palo" ("Argentine-ness in Erection") is a song by the Argentinean rock band Bersuit Vergarabat concerning the country's passions, symbols, and contradictions, as well as its unique way of doing certain things. The country's transitional process also shows clear signs of *argentinidad*, or national uniqueness.

How shall we live with evil? How shall we respond to massive human rights violations committed either by State actors or by others with the consent and tolerance of their governments? . . . History indicates that confronting massive human rights violations is a much more difficult task than confronting ordinary crimes, even when the political agents who committed the crimes have ceased to possess power and influence. Silence and impunity have been the norm rather than the exception, and the investigations that have been undertaken often targeted the wrong actions and the wrong people. Massive human rights violations involve what Kant called “radical evil”—offenses against human dignity so widespread, persistent, and organized that normal moral assessment seems inappropriate. (Nino 1996, vii)

Indeed, in Argentina, and following the decision of President Raúl Alfonsín in 1983 to prosecute high-ranking perpetrators and annul the country’s amnesty laws, the recurrent demand of victims and their families was centered, above all, on the criminal punishment of those responsible for the crimes.

A Persistent Demand: Justice, Justice You Shall Pursue⁸

The story of human rights violations in Argentina from the seventies, of the thousands of disappeared, at the hands of the military dictatorship, is much more than a story, but it is also a story. From a journalist’s perspective, it is the most important story of the last fifty years in this country and remains so today. Someday, someone will be able to write that story, which will then stop being the present in order to become history. (O’Donnell and Melamed 2015, 11)

It is difficult to understand Argentina’s transitional justice process without considering the long journey shouldered by human rights organizations, and the important role they have played.

Clandestine state repression during—and even prior to—the last dictatorship was the departure point for the emergence of a long and prestigious human rights movement in the country.

8 “Justice, justice, you shall pursue, that you may live and possess the land which the Lord your God is giving you” is a verse from the Torah (Deuteronomy 16:20) that addresses justice and how judges should act. It was a slogan used by Active Memory, an organization formed by relatives and friends of victims of the 1994 attack on the Argentine Israelite Mutual Association building and the 1992 attack on the Israeli Embassy, both of which remain unpunished.



Picture 2
The slogans of human rights groups
Photo: Author unknown

While some key organizations already existed—such as the Argentinean League for Human Rights (created in 1937), the Peace and Justice Service (created in 1974), and the Permanent Assembly for Human Rights (created in 1975)—human rights organizations were formed mainly in response to the massive human rights violations committed during the last dictatorship, and they would take the lead in the country’s recurrent claims for truth and justice. This was the case with the Ecumenical Movement for Human Rights (1976), Families of the Disappeared and Imprisoned for Political Reasons (1976), Mothers of the Plaza de Mayo (1977), the Center for Legal and Social Studies (1979), the Association of the Formerly Detained-Disappeared (1984), the Argentine Forensic Anthropology Team (1984), and Amnesty International Argentina (1985).

As mentioned earlier, for more than thirty years, the demands of victims and their families, through organizations and associations, were focused on criminal punishment for the perpetrators. A review of organizations’ slogans reveals that the key demand was always that of justice, understood as criminal proceedings where convictions were the priority and where sentences were effectively carried out.

This process is framed by human rights organizations, their slogans, and the central connection with victims and their families.

It was not by chance that the Mothers of the Plaza de Mayo, the Grandmothers of the Plaza de Mayo, and families' associations acquired prevalence, and that a new generation was subsequently incorporated into the struggle with the creation of HIJOS.⁹

As Elizabeth Jelin notes:

The Argentinean experience reflects a case of the power of the “directly affected” and of the personal narratives of suffering with regard to disputes over the dictatorial past of the seventies. In the post-dictatorship era, “truth” became identified with the position of the “directly affected,” first in the voices of direct relatives of victims of state repression (the most emblematic figure is that of the “Mothers,” later complemented by the voices of “HIJOS” and “Herman@s”). The voices of the survivors of clandestine detention centers and of the activists from the seventies were not present with the same force in public spaces until later, and they came to take center public stage almost thirty years after the military coup of 1976. (Jelin 2007, 39)

**“Alive they were taken away,
alive we want them back.”
“Appearance alive and punishment of the guilty.”**

At the beginning of the democratic transition—and based on the idea that all the disappeared should return alive and that all perpetrators should be punished—the human rights movement adopted the slogans “Alive they were taken away, alive we want them back” and “Appearance alive and punishment of the guilty.” In addition, they categorically, conclusively, and tirelessly repeated, “We will not forgive. We will not forget. We will not reconcile.”¹⁰

Meanwhile, the new democratic regime annulled the amnesty law that had been issued by dictator Bignone and prepared to comply with its campaign promises: the prosecution of military leadership and “subversive” organizations, which limited liability and left unpunished those who “had just been following orders.”

9 The emergence, name, and significance of HIJOS will be explained later in the chapter.

10 These early slogans became an almost rigid dogma for some human rights organizations—so much so that, at the beginning of the 1990s, frictions were generated with those (the majority) who accepted policies of pecuniary compensation for former political prisoners, other victims, and children of the disappeared; it even led to divisions within the Mothers of the Plaza de Mayo.



Picture 3
Banners from human rights organizations
Photo: Author unknown

Moreover, after the democratic government took office, the National Commission on the Disappearance of Persons was established by decree. This commission of prominent figures, which had a brief term of 180 days, was tasked with identifying the whereabouts of disappeared persons in Argentina, accepting denunciations and evidence, and issuing a final report. Its report, entitled *Nunca Más (Never Again)*,¹¹ formed the basis for the trial of high-ranking officials initiated in 1985. This trial, which was accompanied by other human rights protection measures¹² and was christened the “trial of the juntas,” instantly stood out as an international example but quickly suffered a serious setback when tensions subsequently arose between the Alfonsín administration and the armed forces. The accusations against many military

11 This title was quoted by prosecutor Julio César Strassera during his closing statement in the trial of the juntas. “Your honors, never again” has become immortalized in Argentinean collective memory, associating justice with the guarantee of nonrepetition.

12 These measures include the enactment of Law 23049 (reforming the Military Code of Justice) and Law 23097 (modifying the Penal Code by raising the penalties for the crime of torture); the signature and ratification of international human rights conventions, such as the American Convention on Human Rights (accepting the jurisdiction of the Inter-American Court of Human Rights); and the creation of the Office of the Undersecretary for Human Rights.

personnel for having committed crimes against humanity led to a state of general discontentment within military ranks.

Seeking to assuage the military's concerns, the government approved the Full Stop Law in December 1986, which sought to limit prosecutions by setting thirty- and sixty-day deadlines—from the moment of the law's approval—for the filing of new claims and the prosecution of military personnel. Nonetheless, this did not appease the demands of those uniformed officials who wanted a definitive political solution to the prosecution of grave crimes.

In 1987 in Córdoba, during the Catholic Holy Week, Major Ernesto Barreiro, who had been accused of torture at the clandestine detention center known as La Perla, refused to testify or to surrender himself to authorities. Meanwhile, in Buenos Aires, Colonel Aldo Rico joined the rebellion and occupied the infantry school at Campo de Mayo. The public repudiated these actions, and massive protests were held in defense of democracy. After four tense days, on Easter Sunday, Argentina's president announced to the crowd gathered in the Plaza de Mayo that the rebellion had surrendered.¹³

Days later, the Alfonsín administration resumed its original plan, issuing the Due Obedience Law (Law 23521), which established a presumption under which evidence to the contrary would not be admitted for crimes in which officials had merely been carrying out orders from higher-ranking officers. In other words, those who held posts as chief officers, junior officers, non-commissioned officers, and enlisted individuals from the armed forces, security forces, police forces, or penitentiary forces could not be prosecuted for having acted out of due obedience. In these cases, it was assumed that the individuals had been acting in a state of coercion by higher authorities and without the possibility of questioning the actions' appropriateness and legitimacy.

Both laws excluded from their application the crimes of rape; abduction or concealment of minors or the falsification of their civil status; and the appropriation of property—a loophole that human rights organizations were able to use many years later to

13 "Happy Easter! . . . The house is in order and there's no blood in Argentina" was the announcement made by President Alfonsín in front of the historic Plaza de Mayo, aptly encapsulating the tensions of the democratic transition at that time.

reopen criminal trials. Both of the amnesty laws were supplemented by pardons for the few who had been convicted and prosecuted in the eighties and nineties, marking what seemed a definitive end to the possibility of carrying out a transitional justice process.

It is worth pointing out that during the trial of the juntas, the prosecution managed to avoid making reference to the political or ideological affiliations of the victims of illegal repression. In this sense, the notion of the disappeared as “innocent victims” (Caparrós 2011) was emblematic of the era. The same is true for the claims of relatives, not just during the dictatorship but also well into democracy.

As mentioned earlier, although the passage of these laws and the presidential pardons appeared to mark a retreat in the public’s interest in the issue and an irreversible end point regarding the possibility of prosecution, human rights organizations tirelessly searched for new strategies to dismantle the impunity brought on by legislation, pardons, and official policies of forgetting. Before the country’s failure to move forward with prosecutions—save for cases of child abduction—civil society’s innovative strategies remained strong. So did its demands for justice.

Does the impossibility of criminal prosecution for serious crimes preclude the investigation of those same crimes?

The mid-1990s saw the emergence of judicial proceedings that investigated crimes against humanity. These proceedings were known as “truth trials” (Schapiro 2002), and their aim was to shed light on forced disappearances during the dictatorship, the circumstances surrounding those disappearances, the whereabouts of victims, and the identification of those responsible.

The trials were novel because their ultimate objective was to conduct a judicial investigation of the aforementioned issues—in other words, to achieve a judicial recognition of the truth. They offered neither the possibility of punishing the perpetrators nor the option of acquitting those who lacked responsibility.

The “truth trials”—which provided an alternative to criminal punishment (since such punishment had been legally impaired) and were based on a friendly settlement reached before the Inter-American Commission on Human Rights in the *Aguiar de Lapacó*

case¹⁴—were carried out throughout Argentina’s provinces (if unevenly) and were based on the right of victims and society to know their past and the whereabouts of the disappeared. Against this background, the country thus embarked on genuine court-led processes without the possibility of criminal punishment.

Was this the justice that victims’ families had been asking for? Were the “truth trials” one more way to break down the barriers of legal impunity? Or were they also an indication that the marked demands for justice did not necessarily require criminal convictions? Weren’t the calls for justice also a tool in the struggle for memory and memories? What did victims need: justice and truth, or judicialized truth? In the following sections, I will address these questions and reflect on the value of justice, truth, and memory in transitional processes, paying particular attention to the victims.

“If there’s no justice, there’s *escrache*.”

In 1995, the group Sons and Daughters for Identity and Justice against Oblivion and Silence (known by its Spanish acronym, HIJOS, which means “children”) was created. This group brought together the children of those who had been disappeared, assassinated, exiled, and politically imprisoned during the dictatorship (Cueto Rúa 2010).

HIJOS chapters were formed in more than a dozen cities throughout the country and abroad, and they joined together to create a national network. The emergence of HIJOS occurred within the framework of support networks and of legal and political



Picture 4
An *escrache*
Photo: Sebastián Granata

14 Inter-American Commission on Human Rights, *Carmen Aguiar de Lapacó v. Argentina*, Report No. 21/00, Case 12.059, February 29, 2000.



Picture 5
March in commemoration of the fortieth anniversary
of the military coup, Buenos Aires, 2016
Photo: Agencia Télam

denunciations made by relatives of victims and rooted in human rights principles. The group drew on the experiences of other organizations and utilized personal contacts that had been established through other networks. HIJOS made explicit reference to the political activism and ideological allegiances of its members' parents. Moreover, it sought to reclaim their spirit of struggle. In this way, a new generation took up the struggle for human rights and reared its head on the national stage.

After 1995, and particularly for the 1996 commemoration of the twentieth anniversary of Argentina's military coup, human rights groups focused primarily on recovering and preserving memory. Together with various social sectors and institutions, they raised public awareness through tributes, newspaper articles, academic studies, and artistic protests that commemorated the experiences of the 1970s. The central themes were the recovery of political and social mobilization, as well as remembrance of the victims.

From that point, the political activism of the 1970s began to acquire an increasingly prominent role in writings and cinema,

which featured the testimonies of members of the main political organizations from that era.

This historic moment marked what would end up defining the current process: the integration of a new generation into the struggle, the broadening of the civil society groups waging this struggle, and the modification of the struggle's content. The appearance of "militant as militant" (Caparrós 2011) also affected the way this history would be rewritten. Moreover, the vindication of political history reminded society that the perpetrators had not murdered individuals out of a sense of perversion but rather to maintain a particular social and economic order, and that the dictatorship had been responsible for bringing about the country's current social and economic conditions. Taking such a narrative seriously—and defending the idea that people deserved to die for being considered militants—forces us to ignore the fact that the victims were political subjects. It was also perhaps one of the greatest qualitative leaps of this new stage of justice that was on the horizon: confirming that the victims had not been aggressors, but at the same time acknowledging that they had been political activists.

Within this new setting, one popular tool was the idea "If there's no justice, there's *escrache*," in addition to the utilization of various national and supranational legal mechanisms. *Escraches* were a form of direct protest used by HIJOS that involved demonstrating in front of perpetrators' homes in order to publicly shame them. The chant "Attention! Next to your house lives a torturer!" allowed protestors to expose those accused of committing crimes against humanity (and who had remained unpunished) and who traveled freely through the same places as their victims. *Escraches* became popular beginning in 1995.

Escraches sought to compensate for Argentina's legal impunity by provoking a social reaction toward those accused of the most abhorrent crimes—in other words, they stirred public rejection of the genocidal criminals who lived among their victims. In this way, human rights organizations, rejuvenated by the integration of younger generations, kept their claims for justice alive, but without embracing actions of vindictiveness or taking justice into their own hands.

Meanwhile, an important external factor was at play. Drawing on the principle of universal jurisdiction, several Spanish judges

initiated legal proceedings in Spain, even going so far as to request extradition. These actions—bolstered by the provisions of extradition treaties—applied one more bit of pressure that helped trigger the reopening of cases in Argentina.¹⁵ Congress, for its part, repealed the Full Stop Law and the Due Obedience Law in 1999, but since it could not muster the required votes to formally declare them null and void, the effect was merely symbolic.

As mentioned earlier, these amnesty laws did not apply to cases of child abduction, due to the severe and abhorrent nature of the crime (one that not even the Nazis systematically committed). And thus, through the loopholes left by these laws, committed Argentinean jurists were able to request the laws' nullification on the grounds of unconstitutionality and the contravention of national regulations and international human rights law. The system in place at that time was absurd in the sense that someone like Julio "Turco" Simón could be convicted for abducting a baby and for property theft but not for the assassination and torture of that baby's parents.¹⁶

By 2003, Congress annulled these laws, and in 2005, the Supreme Court of Justice deemed them unconstitutional and also nullified the pardons that had been granted. These legal advances, combined with a clear political willingness from the Kirchner administration that was later accompanied by the willingness of provincial governments and much of civil society, created the conditions for the reopening, in 2007, of thousands of cases that had seemed destined for oblivion.

15 Under these extradition treaties, if Argentina refused the extradition requests of the Spanish government, it was obligated to initiate its own legal proceedings for the cases at hand.

16 Julio Simón (known as El Turco Julián) and Juan Del Cerro (known as Colores)—who were detained and prosecuted for abducting a baby girl and giving her to an infertile military couple, who then registered the baby as their own—could not be prosecuted for the kidnapping, torture, and forced disappearance of the infant's parents, José Poblete and Gertrudis Hlaczik, which was an even graver crime. The Grandmothers of the Plaza de Mayo and the Center for Legal and Social Studies brought a lawsuit against the two perpetrators for this latter crime. In March 2001, federal judge Gabriel Cavallo declared unconstitutional the Full Stop Law and the Due Obedience Law and extended the defendants' prosecution to include the forced disappearance of the baby's parents. Cavallo's ruling was upheld by the Federal Chamber, and many other judges throughout the country subsequently adopted similar rulings.

Memory, Truth, and Justice

The reopening of criminal trials in 2007 prompted human rights organizations to adopt a more encompassing message of memory, truth, and justice with regard to the transitional justice process. In light of the possibility that the prosecution of crimes against humanity would not face any legal limits, organizations focused on the length of the sentences and the way in which they would be carried out, as well as on the deepening of the idea that an end to impunity was essential for democracy building and for laying an ethical foundation for the rule of law.

Social movements thus adopted new slogans, such as “Common prison, life sentences, and effective sentences; not one genocidist roaming Argentina’s streets” and “A court tries them, we all condemn them.”

The key demand was always justice, understood as criminal proceedings in which effective sentences were the most important aspect and where their implementation would be rigorous and would not involve the reduction of penalties. And so were our claims, those of prosecutors and of victims who were plaintiffs in the various oral proceedings that continue today. In all of the pleadings for those trials in which I participated, I asked



Picture 6
“Romero Niklison” trial, Tucumán
Photo: Katja Seidel

the court, when it was considering the sentences for the accused, if these crimes were not the ones that deserved the maximum punishment.

Punishment is forcefully present in the aforementioned slogans, legal claims, and statements. But is this what victims truly wish for? Or do the claims for justice disregard punishments and the forms of carrying them out? Can criminal law be reparatory for victims even if it doesn't apply an effective prison sentence? Can such redress be collective in nature?

Judicial Proceedings in the Wake of the Reopening of Human Rights Trials

Human rights organizations emphatically view the process of memory, truth, and justice as a model for the rest of the world and as irreversible. Moreover, it is one of the current banners of resistance against the recent political change in Argentina's government, a banner demanding the continuity of these policies and the government's explicit support for the legal proceedings currently underway.

Today, forty years after the military coup, the number of victims is still being discussed. Depending on the source, the dictatorship disappeared 8,000 to 30,000 individuals,¹⁷ in addition to detaining 12,000 to 15,000 political prisoners. This conundrum—yet one more desired effect of the dictatorship—prevents us from having a clear idea of the number of victims and relatives whose cases have been addressed by the justice system. This uncertainty is complicated by the fragmented nature of legal proceedings

17 "The 30,000 disappeared" became a permanent rallying cry not only of the human rights movement but also of a range of social sectors. The figure, not an arbitrary one, was arrived at based on several variables: (i) the number of clandestine detention and killing sites throughout the country, which exceeded 500; (ii) estimates of the number of prisoners in the larger detention and killing sites; (iii) estimates of the proportion of habeas corpus cases filed in the country; (iv) the number of members of military facilities that were affected by illegal repression during the dictatorship, which surpasses 150,000 men; (v) the statements of military officials prior to the coup, indicating that more than 30,000 people, from those in schools to those in factories, needed to be eliminated; and (vi) reports of the US Embassy confirming that, in 1978, leaders of Argentina's dictatorship informed the Chilean National Intelligence Directorate that the number of victims had already reached 22,000.

(which the Public Prosecutor's Office later attempted to rectify through clearer criminal policy guidelines).¹⁸ The same caveat holds true for potentially accused individuals—and here it is important to note that the three divisions of the Argentinean military and all the federal and provincial police forces participated in illegal repression.

According to the Public Prosecutor's Office, by the end of 2015, 662 individuals had been convicted and 60 had been acquitted in trials, but during the investigation stage 199 cases were deemed to lack merit and another 60 were dismissed—in other words, they did not even make it to oral hearings. Of all the convictions issued through December 2015, only 38% involved the maximum penalty of life imprisonment; a bit less, 31.5%, involved prison sentences ranging between three and fifteen years; 27% involved sentences between fifteen and twenty-five years; and 3% involved sentences of up to three years (Ministerio Público Fiscal 2015).

Of the 925 individuals prosecuted for crimes against humanity by the end of 2015, 383 remain free and 542 are in preventive detention. But of the latter, 224 enjoy house arrest. In addition, there are 48 fugitives, of whom one had already been issued a sentence at the time of fleeing. In summary, only 318 prisoners (34% of those prosecuted) are in prison units. One out of every three convicted individuals is enjoying house arrest, a status that, for common crimes, is granted only in cases of terminal illness or under exceptional circumstances.

It is worth pointing out that on top of the steadfast demand for criminal trials, severe penalties, and rigorous fulfilment of those sentences, there is a combination of high levels of satisfaction with the process and results that do not seem to correspond to that demand. A simple look at the aforementioned numbers—regardless of their imprecision—shows a low percentage of convicted individuals (which is even lower if we use the number of convicted individuals who have exhausted all possible judicial remedies), few detained in prisons or penitentiary facilities, high percentages of prosecuted individuals who remain in liberty (well above the

18 It is common for witnesses to have to repeat their testimony on various occasions in different criminal proceedings, each with different defendants.

average for common crimes), and few civilians charged. At play is a key element whereby criminal proceedings under Argentina's transitional justice process acquire different tones that mean that the demand for justice exceeds the level of criminal punishment.

Survivors' Voices: Giving Prominence to Justice

When Paula, the daughter of a political activist who was assassinated at the same time as Alejandra, was asked to describe her experience with the justice process, she said fervently, "I couldn't return here; I just want Tucumán to no longer be a synonym for fear, horror, and death . . . I want this trial to mark a new stage in which everything they tried to do with our lives, so much pain and death, can be converted into life" (Tres Líneas 2011).

Clarisa, Alejandra's sister, responded to the same question thus:

I want to point something out in order to explain my expectations regarding the situation in May of 1976: the armed forces had taken control of the media. There was a single discourse, the voice of the official communiqués. In addition, there was the *secreto operacional militar* [an unpublished decree authorizing the military to eradicate the activities of subversive elements throughout the country]. When news of the operation on Azcuénaga Street broke out, it described a "confrontation"; for thirty-five years, the relatives of the dead, of those who died in that operation, didn't have access to any other version. The only version was that of a confrontation—there was no possibility of investigating anything, of discovering something else. It was the only thing we were allowed to know. Meanwhile, there was the official discourse, which the military regime had put together, creating an image of order and security to cover up the terror. So one of my hopes for this trial is to discover the truth. I want the world to know that it was not a confrontation, that it was execution by firing squad.¹⁹

Paco, another sibling, stated during the same hearing that "these trials should help dismantle the storyline of 'war,' of the theory of the two demons."²⁰ The truth should be revealed. A lot of time has passed; we will not be intimidated." Similarly, Adolfo, the

19 Record of hearings from the Romero Niklison trial, 2011.

20 The "theory of the two demons" seeks to justify the state's practices by drawing moral equivalence between the dictatorship's systematic violence and the violence exercised by guerrilla groups.

son of another murdered activist that day in the house on Azcué-
naga Street in San Miguel de Tucumán, said that he wanted “to
make clear who the victims are and who the perpetrators are.”²¹

About a year before the above trial, a ten-year prison sentence
was handed down in the city of Santa Fe for a civilian intelligence
agent, which prompted us to declare to the press that we were
satisfied that the facts had been proven. But we also noted that we
did not understand the reasoning behind the sparse penalties or
why the prosecutor, in his sentence recommendation, had been
“lenient,” given the seriousness of the crimes exposed during trial.
Moreover, we noted ironically how in a trial for a lesser crime (ex-
tortion), the same individual had received a proportionally lon-
ger sentence than that which he had just received for being guilty
of torture, kidnapping, and sexual crimes. Seconds after our an-
nouncement, Amalia, the only survivor of the event in question,
told the same press that she was pleased with the ruling and did
not need anything else from the justice system. As described in
the newspapers, her eyes were teary but happy. “I am satisfied.
The important thing is that a sentence has been issued—not just
for me, who can tell the story, but for all of those who cannot. So
now I’m going to continue standing by all of those who must pass
through this difficult stage” (Tizziani 2010).

Froilán, who had been detained and tortured when he was six-
teen years old, responded thus after being asked several questions
by the accused’s lawyers, who were seeking to sow doubt about the
identity of his torturer: “I want to be very clear that I personally,
and all of those who are in this, seek truth, memory, and justice.”²²

Since the reopening of trials on crimes against humanity, state-
ments such as these have been repeated time and again. In fact,
survivors and witnesses frequently note that the mere act of tes-
tifying in a trial held in a duly established court—with all of the
guarantees and rights for the accused and where victims and vic-
timizers are clearly established—is sufficient and reparatory.

Most recently, Roberto Cepeda²³ said:

21 Both quotations come from the record of hearings from the
Romero Niklison trial, 2011.

22 Record of hearings from the Martínez Dorr trial, 2012.

23 Roberto “Negro” Cepeda was a political activist from the Mon-

I'm really here as a witness without knowing what the relationship is, but in any case it's good for the health of our nation, of our homeland, that the truth continues to prevail over this terrible situation of so much injustice and pain, and with a heavy weight on the backs of those who have survived it. I wish that so many others, who were surely worth more than me, could be alive today—many, so many, due to the inequality and brutality of those individuals just mentioned.²⁴

In this same hearing, the one for which María Alejandra prepared her argument, Hernán Z. (the son of a couple assassinated by the dictatorship) said that “with this trial, we expect to see justice delivered so that those responsible can be convicted with a firm sentence and common prison, and we also hope that this trial opens the doors for additional investigations of all those responsible who are not being tried today, of whom there are many more—I would like this to continue moving forward.”²⁵

His brother Gabriel believed that the trial

will serve for the future, but that today it will also help [Hernán's] daughters begin to understand why their dad has situations that are hard for a six-year-old girl to understand, when he suffers a panic attack or begins to hyperventilate, lacks air, has physical sensations that they don't understand, [so] that they begin to understand a little what this does to someone and what this trial is for . . . For me, it is a very important step, a break in the silence that was created in general, that my family created. Also for me it will at least show what happened, where we stand, how we got here, and what it means to have gone through all of this, and to stand up, be present, and say “I'm here,” with everything I had to live through and all that happened.²⁶

toneros organization who was kidnapped, brutally tortured, and imprisoned for years. He provided critical testimony for the conviction of ex-judge Federal Víctor Hermes Brusa (the first civilian convicted in the country), one of his torturers. During the hearings, I was able to meet him personally and find warmth in his friendship. He passed away in January 2016. His example of struggle, coherence, and love of one's neighbor was one of the greatest rewards I experienced when participating in those trials. It is in tribute to him that I quote his words here.

24 Record of hearings from the González trial, currently underway.

25 Ibid.

26 Ibid.

Gabriel and Hernán's mother and father were murdered in two emblematic massacres in the city of Santa Fe. Their father died in a large joint-force operation of the army and provincial police—an operation that would later be called the Ituzaingó and Las Heras massacre (Salierno 2015). Today, the building's bullet holes and blood stains serve as silent reminders of the event.

The Castelli Street massacre (Tizziani 2015, 2016), which occurred in 1977, took the lives of Enrique Cortassa (who was kidnapped and then disappeared); his wife, Blanca Zapata, who was nine months pregnant; and Cristina Ruiz de Ziccardi, Hernán and Gabriel's mother. In both cases, as usual, the official story was that subversives were killed in a confrontation with security forces. Despite the gravity of the massacres, only one of the individuals responsible was convicted. Another died before the hearings began. However, sentences aside, for Gabriel and Hernán the publicizing of the massacres, the chance to clearly establish the sequence of events, the debunking of the idea of a "confrontation," and the power to be heard seem to have been sufficiently reparatory.

Justice as Memory

Memory is like a big library we all have inside our souls; you need it because when you're feeling down, you can go in and find something that you thought you had lost.

—NINE-YEAR-OLD TOMÁS²⁷

As illustrated in this chapter, for more than forty years the continuous demand of human rights groups was to punish those guilty of grave and massive human rights violations during Argentina's last civil-military dictatorship.

However, there is a different tinge in Alda's text message, in Amalia's outpouring of emotion, in the demands of Clarisa, Paco, Paula, Adolfo, Froilán, and Roberto, in the wishes of Gabriel and Hernán, and in the testimonies of thousands of other victims and survivors. These people's voices are the ones that

27 Tomás said these words during the event titled "Children's Congress: Let's Talk about Happiness," organized in 2013 by the government of Santa Fe Province (Santa Fe 2013).

shed light on the restorative value of testifying in a trial, of being able to speak on behalf of disappeared or assassinated colleagues, of being able to describe their own version of events, of helping expose the long-winded lies of the dictatorship in front of a court established under the laws of a democratic state.

The fact that being able to tell the “true history” within a formal procedural and legal setting helps vindicate the victims’ political militancy—and in some way helps establish the truth about what happened—is sufficient in most cases. And it is also reparatory. Victims have established the law’s function as a producer of truth. The role of victims in these prosecutions of crimes against humanity acquires very different contours from other processes, and sometimes even legitimizes the criminal response.

Despite a constant and rigid demand for criminal justice following Argentina’s return to democracy, there is evidence that this is not what victims truly wish for. The testimonies featured here—taken from various trials in which I participated and coming from a range of individuals (witnesses, victims, relatives of the assassinated or disappeared, children who barely got to know their parents, etc.)—seem to buttress this idea. These statements even go so far as to disregard the calls for justice in the forms of sentences, as in the case of Alda. Moreover, they sometimes even offer a divergent view with regard to the application of penalties or a guilty verdict, as shown by Gabriel’s optimism regarding the future.

What, then, provides healing for victims?

The passage of time allowed Argentina’s process to incorporate elements that had not initially been contemplated. The first attempt was an unprecedented effort to achieve justice that began laying the foundations for a very weak democracy in a country unaccustomed to institutional continuity, in which the demand for justice was unable to assimilate the political-militant history of victims and centered largely on clarifying victims’ whereabouts. Today, we have reached a point where, in addition to justice, we seek memory and truth.

The reconstruction of memory, difficult though it may be, acquires a leading role in the process of transition and democratic consolidation. Victims characterize it as a form of collective reparation, which becomes even larger in light of the entire generations

today that lack a direct connection with the dictatorship. Today, we face additional challenges with regard to this new component of the transition process. For example, there is the challenge of not only ensuring justice but also preserving memory of past injustices for new generations. And there is the other challenge of building democracy on a foundation of justice and memory and of understanding what happened to us, in order to achieve the true guarantee of “never again.”

As mentioned earlier, no efforts were made for a long time to dismantle the collective memory imposed by the dictatorship: the “there must be a reason” form of thinking that justified disappearances, along with the theory of the two demons that equated the state’s terrorist actions with the guerrilla actions of activists, among other things. This false memory created by the dictatorship was not countered by a new democratically based policy until well into the reopening of the criminal trials. Until that point, the protection and custody of a new memory remained limited to the realm of human rights organizations.

The new form of “memory” that was eventually established allowed Argentina to resituate victims in their proper place. From this perspective, the process has had an undeniably reparatory value for victims and has possibly helped rebuild the ethical foundations of Argentina’s democracy. It goes without saying, however, that serious and documented discussions remain to be had regarding the aims and actions of revolutionary political activists, their successes, and their errors.

In the words of Reyes Mate Rupérez:

Memory of the injustices committed against the dead is justice. Primo Levi, one of those privileged witnesses of the Holocaust, explains this simply but profoundly. At the end of *If This Is a Man*, Levi includes a list of questions that students had been asking him for some time and provides his responses. His attention is drawn to the fact that in many schools, the young students, after hearing about those horrors, would ask him, “What can we do?” Levi’s response: “You are the judge.” This is an enigmatic response, for what justice can be imparted by a listener, a reader? Levi is very clear about this. He is aware that the generation of witnesses is about to fade away together with him, with his generation; and he knows very well that without a memory of injustice, there is no injustice, that injustice ceases to be. What he asks of his young listeners is that they not remain mere readers and lis-

teners, instead becoming witnesses who remember—and in this way, justice can be delivered. Justice created through memory, which is a very modest justice, a very modest form of justice, which is that of remembering, of recalling injustice, reminding current generations that their world is built on injustice. And to the extent that this injustice is recognized, justice is delivered. It is a very modest form of justice, but perhaps without it, no justice is possible. (Mate Rupérez 2009)

Could this role also be performed by criminal law and by trials in transitional justice processes? In the case of Argentina, the answer is yes. Since the reopening of the trials, memory has become a part of justice and is perhaps one of its most latent claims. It is also an antidote to repetition. “Never again” is crystallized in memory and in the duty to remember called for by Theodor Adorno.²⁸

In light of the fuzzy parameters of collectively constructing the recent past, victims’ need to create an institutionalized truth through judicial measures acquires critical importance, perhaps even more so than the concrete results of the judicial process itself.

Some Final Reflections

The Argentinean case suggests, first, that criminal justice articulates a key part of victims’ aspirations for justice in the face of a violent past. As we have seen, soon after democracy was restored in 1983 and the first attempts to investigate the past were initiated, impunity set in as a distinctive trait of Argentina’s transition, as a result of military pressures and uprisings against the trials underway. The country’s amnesty laws and Menem’s presidential pardons for perpetrators ended up protecting those responsible for human rights violations and destroyed almost any hope for justice.

The trials’ reopening should thus be viewed as a decision made within the context of an impunity-laden environment prone to antidemocratic pressures. This decision was not just a reaction designed to address past crimes but also—perhaps especially—a response to the impunity that had been decreed in the 1980s.

28 “Hitler has placed a new imperative on us: that, quite simply, Auschwitz should not be repeated and that nothing like it should ever exist again” (Adorno 2000, 116).

Today's trials are therefore more than a response to the atrocities of the past; they are a reaffirmation of the work of the justice of democracy, whose first attempt had been unable to overcome such pressures.

Leonardo Filippini aptly describes the role played by criminal proceedings in the Argentinean case:

Criminal prosecutions help materialize, to an irreplaceable extent, the aspiration for justice denied by laws and pardons of poor democratic value. They are not free from error, and undoubtedly suffer from the same problems characteristic of any criminal response to a deep social conflict. Even so, they express a rejection for unrestricted impunity as a collective escape from a shameful and embarrassing past. [Argentina's] prosecutions assimilate three decades' worth of the struggle for memory, truth, and justice, and it would seem suspicious to sustain that any institutional tool other than the reopening of prosecutions that had been forcefully closed (such as truth commissions and other accountability systems) could achieve the same results. (Filippini 2011, 28)

In the same sense, Kathryn Sikkink argues that both normative and coercive factors are important for human rights change. Judicial processes serve not only as instances of punishment and enforcement but also as high-profile events that communicate and amplify norms. Given that trials simultaneously encompass punishment and communication, it is difficult to know which of the two is responsible for improvements in human rights. Are would-be perpetrators afraid of punishment, or have they been influenced by the normative process of observing the trials? "The fact that our research shows that both truth commissions and prosecutions are associated with improvements suggests that transitional justice works through a normative mechanism like socialization as well as through deterrence" (Sikkink 2011, 258). Evidence from Argentina seems to show that neither truth commissions (such as the National Commission on the Disappearance of Persons) nor criminal prosecutions (which were limited and did not involve the reconstruction of memory as a key objective) were sufficient to address this problem.

Criminal prosecutions are an important, though insufficient, component of peace transitions, and as such they should be coordinated with or linked to other transitional mechanisms, such as truth commissions. At the same time, criminal trials assume

characteristics for victims that are out of line with traditional and classical ideas of justice. Victims define and redefine the value of justice and even shape it into an instance of individual and collective reparations.

Ultimately, Argentina's transition process navigates a complex sea of structures, complicity, opposition, and preconditions that served either to inhibit or to enable the reinstatement of this second phase of trials. Nonetheless, we must not fail to see the process in its totality and acknowledge that the passage of time was also a key factor, for it permitted the modification of power relations and the incorporation of new actors.

The prosecution of crimes against humanity will likely continue without completely satisfying our ideals of justice—or it might even prompt us to challenge those ideals—but it represents an improvement over past scenarios. This sentiment is expressed daily by victims. It also necessarily implies a redesign and reframing of criminal mechanisms in terms of the production of truth in contexts of massive human rights violations, truth that is acknowledged as necessary for victims, who see it as a form of individual and collective reparation. Criminal punishment without truth does not replace the need for justice, although criminal trials without punishment (as in the example of Hernán and Gabriel) are recognized today as reparatory by many direct victims.

Our history capriciously placed us in a position that perhaps corresponded more to others than to us, especially me, who had not even been born when most of the events on trial took place. It placed us in a spot that had been earned by victims and claimants, human rights groups, social organizations, lawyers who risked their lives (and also helped construct a relevant legal framework), and all those who, despite the many obstacles and amnesty laws and pardons, kept the demand for justice alive.

Andrés Gil Domínguez (2005, 839) writes that “the Argentinean tragedy will not be silenced in the trappings of impunity. There will be no more unanswered-for deaths nor continuous psychological torture. A nation's history is built on the basis of truth, memory, and justice.” It is likely that at the beginning of our professional careers, we were given the greatest opportunity possible: contributing a grain of sand to the beginning of the end of impunity for the most serious crimes committed in Argentina.

This chapter is based on files and records from the following legal proceedings: (i) “Brusa, Víctor Hermes – Colombini, Héctor Romeo – Ramos Campagnolo, Eduardo Alberto – Perizzotti, Juan Calixto – Correa, Nicolás – Aebi, María Eva – Facino, Mario José – Marcellini, Domingo Manuel s/infracción arts. 144, 1er. párrafo de la Ley 14.616; art. 144 bis, incs. 1 y 2 y 142, inc. 1 último párrafo de la Ley 23.077 y art. 55 Código Penal,” Expediente No. 03/08, Tribunal Oral en lo Criminal Federal de Santa Fe; September 1–December 22, 2009; (ii) “Barcos, Horacio Américo s/infracción art. 144 bis inc. 1, 142 inc.1, 144 ter. 2 párrafo y 55 del CP,” Expediente No. 43/08, Tribunal Oral en lo Criminal Federal de Santa Fe, March and April 2010; (iii) “Romero Niklison, María Alejandra s/ su denuncia por privación ilegítima de la libertad y otros delitos en perjuicio de María Alejandra Niklison – Acumulados: Romano, Miguel Armando y otros S/Infracción Arts. 213 bis C.P.,” Expediente No. 358/78 y “Meneses, Adolfo Francisco s/su pedido,” Expediente No. 1119/00,” Expediente No. 30/09, Tribunal Oral en lo Criminal Federal de Tucumán, February and March 2011; (iv) la causa “Martínez Dorr, Roberto Jose s/inf. art. 144 bis inc. 1 del C.P. Y art. 144 ter. 1 y 2 párrafo del C.P. Según Ley 14.616 y art. 55 del C.P.,” Expediente No. 26/10, Tribunal Oral en lo Criminal Federal de Santa Fe, March and April 2012; (v) González, José María y otros s/asociación ilícita, homicidio simple, imposición de tortura (art. 144 ter. inc. 1), inf. art. 144 bis en circ. art. 142 inc. 1, 2, 3, 5, allanamiento ilegal, sustracción de menores de 10 años (art. 146) y supresión del est. civ. de un menor (art. 139 inc. 2) Querellante: Guallane, María y otros, Tribunal Oral Federal de Santa Fe, proceedings currently underway.

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CHAPTER 6
Doomed at Birth:
Transitional Justice in Egypt

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Every day as I walk home, I choose a longer route just to avoid passing by Tahrir Square, for the memories it reignites continue to haunt me with an unanswered question: Why did Egypt's transition to democracy fail? I like to believe that this is a complicated question that encompasses various interrelated issues. Whenever I pass by Tahrir, I am also unable to ignore how we activists never came to terms with a history of mass human rights violations and how this failure haunts us today, as we witness one of the world's most brutal contemporary regimes. In this chapter, I use a mix of personal accounts, interviews, and analysis from the past five years to understand how different factors and actions contributed to the failure of Egypt's post-2011 transitional justice process.

I start by providing background on Hosni Mubarak's regime and its human rights record. I then explain the major actors in Egypt following the events of 2011, the various discourses on transitional justice, and the actors' positions on justice. Next, I identify reasons for the failure of the transitional justice process. Finally, I conclude by offering a critical reflection on the pro-reform discourse on transitional justice among the Egyptian human rights community.

In the course of writing this chapter, I faced a major challenge. Reconstructing recent memory entails an inherent bias, since interviewees are deeply involved in the country's political dynamics. Individuals' memories are heavily affected by their experiences, and given that polarization remains true in Egypt, the accounts offered here should be read as the products of their time, and not in abstraction.

Background

Egypt has long been ruled by security-based autocratic regimes whose stability relied on massive human rights violations. When Gamal Abdel Nasser took power through a military coup in 1952, he proceeded to establish a brutal regime that widely employed torture and violence to control society (Human Rights Watch 1992, 15). The most affected group was the Muslim Brotherhood, whose members continue to suffer the effects of such brutality even today (al-Youm 2012). At the same time, Nasser's legacy remains popular with wide sections of Egyptians due to his generous socioeconomic programs.

Nasser's successor, Anwar el-Sadat, considerably decreased the use of torture, eliminated military involvement in domestic security issues, and relied on a more legal-based repression through the judiciary (Human Rights Watch 1992, 13). However, Sadat's economic policies rolled back much of Nasser's welfare state. Mohamed Hosni Mubarak came to power in 1981, following the assassination of Sadat, and resumed torture as a tool to control dissent ("Profile: Hosni Mubarak" 2017; Human Rights Watch 1992, 16). During Mubarak's thirty years in power, his regime committed massive human rights violations with absolute impunity (Human Rights Watch 2011). Moreover, due to advances in technology, Egyptians were often able to document these violations with videos that were watched by millions all over the world. Violations included forced disappearances, extralegal detention, sexual assault, religious and ethnic discrimination, election rigging, socioeconomic violations, and, most notoriously, torture. Security forces under Mubarak did not restrict torture to political activists (*ibid.*).

I grew up with tales of Mubarak's torture. These practices were so prevalent that they even became embedded in Egyptians' everyday humor. Human Rights Watch has described the situation:

Police and SSI are known to use similar torture techniques, such as beating with hands and fists, as well as with whips and clubs; suspending a person in a painful position from the ceiling or a door; applying electroshocks to his or her body; forcing him or her to stand for long periods of time; and rape and threat of rape of the victim and/or family members. (Human Rights Watch 2011, 17)

Furthermore, Mubarak's regime continued Sadat's unpopular economic policies—and while their impact is still debatable, Egyptians perceived Mubarak's policies as harmful, and his government was generally acknowledged as corrupt to the core (Nelson 2010). By the mid-2000s, Egypt was witnessing almost weekly protests for a variety of reasons, and by the late 2000s, these protests intensified following rumors of Mubarak's desire to hand power to his son, who was perceived to be the driver of Mubarak's neoliberal policies. The torture and murder of a young man named Khalid Saeed and blatant election rigging that delivered 96% of parliamentary seats to Mubarak's party, the National Democratic Party (NDP), proved to be the last straw for Egyptians (Shenker 2010).

On January 25, 2011, Egyptians protested against Mubarak's rule, police brutality, corruption, neoliberal policies, and the handing over of power to Mubarak's son. The protests were originally planned as part of a wider campaign against Mubarak's regime that sought to instigate a popular uprising in time for the presidential elections.¹ Egyptians protested in unprecedented numbers, resulting in three days of continuous clashes between protestors and Central Security Forces (CSF), Egypt's notorious riot police. The clashes left hundreds dead, with cameras and the media capturing the magnitude of violence and killing of protestors. On January 28, 2011, Mubarak's regime reduced cellular reception and internet access and deployed tens of thousands of CSF personnel. However, protestors crushed the once-feared CSF and burned down hundreds of police stations, prompting the withdrawal of security forces across Egypt (Abaza and Youssef 2015). As the protestors proceeded to barricade Tahrir Square, the military immediately went to the streets but refrained from attacking the protestors. On February 2, Mubarak's regime resorted to a final measure to save itself by deploying hundreds of thugs on camelback to attack the Tahrir camp, prompting the "Battle of the Camel," but protestors managed to beat the assailants back. Mubarak sacked the government, arrested major figures of his regime, and attempted to negotiate. However, there was a mountain

1 Interview with Ahmed, April 2016, Cairo. The interviewee's name has been withheld to protect his safety.

of corpses standing between him and the protesters, and protesters instead insisted on Mubarak's ouster. Meanwhile, the economy grinded to an almost complete halt. Finally, on February 11, 2011, Mubarak handed power to the Supreme Council of Armed Forces (SCAF), Egypt's highest military body (Kirkpatrick 2011).

Actors Explained

Even before Mubarak handed over power, various contenders began taking shape. First were the activists, who comprised a vague coalition of pro-democracy movements (such as the April 6 Youth Movement), human rights organizations, individuals, minor leftist movements, and liberal parties. These activists referred to themselves as "revolutionary" and remained fragmented and without a clear agenda during the protests against Mubarak and following his ouster. Although these groups enjoyed significant momentum and public support early on, they quickly showed their weakness when they were defeated by the Muslim Brotherhood and the military in the first elections following Mubarak's fall.

The second group of contenders was the Muslim Brotherhood, Egypt's oldest and most organized political movement. The group was founded in 1928 and maintains a vague vision of Islamism. Nasser crushed the group in the sixties, but Sadat freed its members in order to counter Nasser's legacy and move past Egypt's socialist regime. The Muslim Brotherhood had a complicated relationship with Mubarak's regime, which granted it limited political participation.² However, the group was met with distrust by revolutionary movements and urban population centers. Although the Brotherhood was reluctant to join protests on January 25, it later joined the protests along with other activists. It emerged from Mubarak's February 11 resignation with unified leadership but a shaky strategy.

The third group was the Egyptian military, which has always been a major political pillar in the country, with billions of dollars in investments and a sizable chunk of the economy. The military maintained popularity among the Egyptian population but was distrusted by revolutionaries and the Muslim Brotherhood.

2 For example, it was not allowed to have a political party.

Moreover, it did not seem to have a clear agenda for the future; instead, its interest was mainly in stopping protests and strikes.

Finally, the last set of contenders consisted of remnants from Mubarak's regime—specifically, a loose coalition of Mubarak's family, top administrators, NDP members, and the police. Although this group was removed from formal power and its senior leadership arrested, it maintained some power after February 11, since the military had been reluctant to shake the structures themselves.

Discourses on Transitional Justice

The discussion on transitional justice in the wake of Mubarak's fall always revolved around the nature of the tools needed to usher in a new regime. The term "transitional justice" was often used interchangeably with "revolutionary justice," although the latter was usually used by more politically inclined actors, as it appealed to revolutionary masses. The focus was always on ending Mubarak's hold on power via judicial tools, even though that same regime controlled the legislative process and thus many of its "crimes" were not considered crimes under Egyptian law. For example, there are very few laws that protect Egyptians from torture and enforced disappearances, and the ones that exist are vague. As a result, it is difficult to prosecute police officers who commit these crimes—and when they are prosecuted, they can easily escape justice due to the various loopholes in the laws. It thus followed that since the previous regime controlled the legislative process, attempting to prosecute it using the same laws it had passed would be pointless, since these laws were skewed in its favor.

Egypt's first experience with a judicial process as a harbinger of a new regime was in 1952, when Nasser and the military took power. Upon assuming power, they immediately established a set of exceptional courts presided over by the military that decimated workers' unions, the monarchy, the old aristocracy, and, later, the Muslim Brotherhood (Hamad 2008, 120). These courts purged the Egyptian political arena, the country's bureaucracy, and its economy, and opened the door for the military to take control of Egyptian society (*ibid.*, 122). Egyptian literature shied away from criticizing the drastic measures that were taken by the courts under Nasser and instead argued that they were suitable to

overcome the monarchy and its social institutions, most notably the aristocracy. The logic of purging the state and society from the old regime through the judiciary remerged once again in 2011.

In the immediate aftermath of the events of January 25, 2011, activists and political movements, buoyed by a sense of triumph, pushed for government officials' personal accountability for past crimes and a break with the old order. These demands came in response to the mass murders, widespread corruption, and authoritarianism of Mubarak's regime. For us activists, transitional justice was about the criminal accountability of all those who committed atrocities. The simplistic logic behind this thinking was that if future officials saw their predecessors in jail, they would refrain from committing these actions themselves. I remember the rampant euphoria in Tahrir Square and across Egypt in the aftermath of the January 25th revolution. We were standing across Egypt's main squares while the once-dreaded Egyptian security was in shambles (CNN Wire Staff 2011). We had already occupied the state's security offices, ousted the president and his team, and triggered the arrest of top security officials ("Egypt Security Building Stormed" 2011; Kirkpatrick and Stack 2011). It felt like a total victory! On the other hand, there was a mountain of corpses and a long history of abuses and authoritarianism ("Egypt Unrest: 846 Killed in Protests – Official Toll" 2011; Moryef 2015). As Ahmed, an activist from the April 6 Youth Movement, explained during an interview, "In the early days of the revolution, I was very optimistic . . . We wanted to try those who committed crimes, corruption or murdered the martyrs in revolutionary courts in Tahrir Square. I believed that we must destroy the state and rebuild it by the hands of activists."³ This feeling was almost universal among activists, as evidenced by the rampant statements calling for revolutionary trials and *qisas*.⁴

Qisas is an Islamic term meaning "retaliation in kind." It refers to a category of crimes, including murder, for which the court

3 Interview with Ahmed, December 2015, Cairo. Unless otherwise noted, all quotations from Ahmed in this chapter derive from this interview.

4 Copies of the statements can be accessed through the University on the Square project at the American University in Cairo, available at <http://aucegypt.edu/about/square>.

punishes the accused in kind. This idea dominated the discourse for justice in the aftermath of January 25. With Mubarak's regime seemingly decimated, we were determined to have *qisas* for our dead and in retaliation for years of political repression. When we called for Mubarak and his security leadership to be tried, in our minds those people were already convicted, and we would not accept anything short of life in prison or the death penalty. Politically, there was a push to ban former members of the NDP from future political participation (Hegab et al. 2011). The logic was simple: now that we had the momentum and popular support, we should use this force to wipe out all political power among former NDP members.

The radical desire for retribution and for disenfranchising old political rivals pressured "liberal" politicians into taking a position of appeasement toward the demands for *qisas* and stifled the potential for a dialogue on a process of transitional justice. Back in 2011, I did not really understand the populist significance of using the word *qisas*. For many activists, including myself, it was a generic term that bestowed a sense of justice as opposed to a desire for revenge, due to its association with Islamic Sharia. Although the concept is based on vengeance, the largely conservative Egyptian society—which generally associates Islam with justice—did not see the innate hypocrisy in the idea, nor was anyone willing to signal it, likely out of fear for societal or even legal repercussions.⁵ Ironically, many self-proclaimed seculars and liberals would adopt this populist and religious term. Whether this decision was the product of dominant idealistic (even puritan) ideals or of political calculations to win support among activists, the result was the rejection of calls for a transitional framework acceptable to all stakeholders. As activists demanded a one-sided process, the idea of a transitional justice process that would include negotiations and potentially lighter sentences did not mesh well with activists' sense of justice. A number of politicians even praised the "revolutionary purity" of activists and asked other politicians to follow their lead.

The concept of *qisas* found several forms to replace transitional justice. These forms included not just crimes such as murder,

5 Blasphemy is punishable by detention in Egypt.

torture, and human rights violations but also economic crimes such as corruption, embezzlement, and the abuse of power. Moreover, the discourse emphasized that these crimes must be punished as opposed to understood or addressed within their own historical context. In the words of one interviewee, “The criminal must be punished.”⁶ In fact, this was a slogan that has dominated Egyptian streets for years now. One of the largest human rights organizations in Egypt, the Cairo Institute for Human Rights Studies, issued a paper in 2012 titled “This Is How Repressive Regimes Must Be Tried.” According to the paper, one of the tools for implementing transitional justice is “trying individuals responsible for past crimes, whether human rights violations or economic crimes” (Cairo Institute for Human Rights Studies 2012, 3). The paper also champions the importance of political exclusion as a means to punish, set a deterrent, restore trust, and cleanse Egypt’s bureaucracy from the remnants of the old regime (ibid., 7).

The other objective of *qisas* was to establish a deterrent for future would-be violators. The logic is simple, as Ahmed explained: “We need to punish those who committed those crimes harshly, so that no one would dare think about committing similar crimes in the future.” He went on, “As officials had total impunity, they could do whatever they want.” This was indeed a very popular belief at the time. And the people in Tahrir Square practiced what they preached. Despite protestors’ chants against torture and mistreatment, they violently assaulted the thugs they captured (FreeTalba.com 2011). According to Ahmed, “We had to teach them a lesson, so that other thugs would fear us.” Interestingly, Tahrir protestors did not treat policemen with the same level of violence.

This application of selective justice by protestors helped stiffen opposition to any sort of transitional justice process that would be controlled by revolutionaries. Five years after the events of Tahrir, I look back and see the contradictions in our actions. Tahrir Square protestors called for punishing certain crimes. Meanwhile, the very same protestors committed similar crimes. Protestors decried torture, the lack of fair trials, and political exclusion. Yet they were demanding the exclusion of Mubarak’s supporters, judging captured thugs on the spot, and torturing them. The underlying

6 Interview with Ahmed, December 2015, Cairo.

problem was that protestors did not necessarily see these actions as wrong in themselves; instead, they were against the fact that they had previously been on the receiving end. Moreover, even if they considered these actions wrong, some saw them as a necessary evil. However, this could very well have been the same view held by perpetrators under Mubarak's rule. As Ali, a recently graduated police officer, explained in an interview, "If we do not use force against criminals, how do we prevent other criminals from doing the same crimes?"⁷ This view is shared by a wide range of Egyptians, from average citizens to civil society activists. For the large segment of Egyptian society connected to Mubarak's regime, this rhetoric of vengeance meant that they were about to get the same treatment that they used to administer.

The SCAF avoided any reference to transitional justice and instead highlighted the integrity of the Egyptian judiciary and the importance of maintaining a normal judicial process. Following protests calling for the imprisonment of Mubarak's men and of police officers accused of killing protestors, the SCAF attempted to heed calls for restitution and truth by establishing a fact-finding commission, but it fell short of satisfying activists' demand for justice. The council remained reluctant to adopt any measures that would see activists or politicians involved in prosecuting Mubarak's men or police officers. In retrospect, it is clear that the SCAF was resistant to any type of structural transformation. Instead, it initiated a process of nominal truth seeking and restitution that was not aimed at contributing to any real change. The goal, rather, was to avoid public discontent by taking symbolic actions. This approach caused it to lose support with revolutionaries and opened the way for the Muslim Brotherhood to criticize the SCAF on its inability to initiate a transitional justice process.

The Muslim Brotherhood highlighted transitional justice as a pillar of its electoral platform but maintained the SCAF's mechanisms—truth seeking and victims' restitution—and similarly fell short of satisfying activists' demands for justice. The Brotherhood, which had been careful not to alienate businessmen, the media, the military, or the police, treaded lightly and commenced

7 Interview with Ali, March 2016, Cairo. The interviewee's name has been withheld to protect his safety.

a process that did not satisfy victims. The Brotherhood clearly lacked a coherent formulation on transitional justice. Instead, it emphasized *qisas* but in reality left trials to the normal judiciary. Moreover, the fact-finding commission did not reveal its findings to the public (el-Shewy 2014). Only after the military coup in July 2013 did Brotherhood members claim that the commission found that military and police committed violations. On the restitution side, the Muslim Brotherhood continued the same process of the military council, which oversaw monetary compensation for the wounded and deceased from the events of January 25. Since the process did not include admissions of guilt or prosecution, it effectively meant that victims were victims of crimes without perpetrators. The final result was an unsatisfactory process for victims that did not effectively address crimes or wounds. It also exacerbated the growing animosity between victims and security forces.

As a result, large segments of Egyptian society saw the issue of transitional justice as a zero-sum game. First, activists from the uprising failed to advance a truly unified vision of how justice should be, instead floating vague ideas of punishment and deterrence. We were also heavily divided organizationally into various small movements, and none of us could claim to represent the entire movement. Second, the Muslim Brotherhood felt that it was strong enough to assume power on its own and saw the idea of justice and cleansing as a knockout blow to its biggest rival, the NDP. The organization, however, was more concerned with securing power in the first place and treaded with caution around the issue of justice, preferring to stall rather than directly confront NDP's members. For its part, the military council preferred to maintain a wait-and-see approach, with a preference for the status quo. It also showed a contradictory approach toward the Egyptian judiciary, on the one hand nominally rejecting any nontraditional form of justice for Mubarak-era politicians while, on the other, expanding the use of military courts against protestors and in cases deemed vital to its interests. Mubarak's former regime and its allies were obviously quite opposed to trying themselves and saw trials as a means for their political rivals to knock them out. Finally, the judiciary was vehemently opposed to outside intervention in its actions and openly rejected calls for transitional justice processes outside the scope of traditional courts.

Whose Law?

Differences in visions revealed an uglier truth: Egypt's traditional judiciary lacked the credibility and trust needed to oversee the transitional justice process. In the aftermath of the 2011 events, major players in Egyptian politics distrusted the judiciary for a variety of reasons. Despite strong rhetoric about the judiciary's transparency and professionalism ("The Military Council in Egypt Refuses Muslim Brotherhood's Doubts in Its Integrity" 2012), major political actors preferred to take matters into their own hands rather than trust the judiciary on the issues they deemed serious. This mistrust was historical and well founded. In a sense, the Egyptian judiciary is indeed autonomous, but it is also quite politicized. Like other major institutions in Egypt, the judiciary can be seen as one of the "fiefdoms" ruling Egypt (el-Sherif 2014, 9). As such, its actions have served to advance its own interests—and, most importantly, this is how it is perceived. This perception helped shape the positions of the various actors. Revolutionary movements wanted to establish special tribunals. The Muslim Brotherhood tried to "cleanse" the judiciary. Mubarak's regime relied on extrajudicial measures to deal with dissidents and, later, tried to cut deals directly with the successive governments instead of going to court. Finally, the military expanded the mandate of military tribunals over civilians and barred the traditional judiciary from investigating active or retired military men.

The relationship between revolutionary movements and the judiciary has always been rocky. As activists and the judiciary both tried to gain influence in Mubarak's era, they found themselves allies on more than one occasion. As Ahmed recalled, "In 2005, we protested in support of Zakria Abdelaziz, Hesham el-Bestawsy, and Mahmoud Meky against the intervention of the Egyptian state in the judges' club elections." In fact, a common trend among the activists I interviewed was that older activists tended to have more faith in the judicial system compared to their younger counterparts. For older activists, the judiciary was seen as an ally against Mubarak's regime and businessmen. This feeling was further engrained by several observers of the Egyptian political scene during the 2000s. In a paper on judges in Egypt, Nathan Brown (2012) described how he saw the situation: "In the middle of the first decade of the twenty-first century, the critics

seemed to gain the upper hand within the judiciary.” And a book by Bruce K. Rutherford (2013) championed the judiciary as a harbinger of liberalism in the country. While it is generally agreed that the Egyptian judiciary provided human rights activists with much-needed support during Mubarak’s rule (Abu-Odeh 2011), younger activists did not see it the same way.

The Egyptian judiciary’s positive image emerged from an understanding of temporal political life rather than the courts’ ideological proximity to human rights discourse in Egypt. According to Lama Abu-Odeh (2011), the Supreme Constitutional Court pushed for political reform at the expense of economic policies. As she notes, this shows that the court supported the human rights community in order to have a strong ally on its side during the early nineties, as opposed to doing so out of ideological conviction. At the same time, the court supported the state in its economic policies. She argues that in doing so, “the [Supreme Constitutional Court] *made* its human rights groups and didn’t exactly *find* them” (ibid., 998). This explains the connection between the older generation of activists, who were predominantly lawyers, and the judiciary. Moreover, it also explains why younger activists, many of whom raised economic demands, were not as impressed by the judiciary. Many of these activists thus doubted that the courts would deliver the coup de grace to Mubarak’s regime. The darker side of the argument was that since the judiciary was interested in its own goals, it was not likely to support a radical agenda that aimed to decimate another temporal ally. In any case, for activists from the uprising, the judiciary was seen as a politicized actor with no interest in ending human rights violations or ending the political influence of Mubarak’s regime.

The relationship between the Muslim Brotherhood and the judiciary was plagued by mutual distrust. Egyptian courts regularly handed down prison sentences for Muslim Brotherhood members. But when Mubarak’s government desired heavier sentences for the organization’s leaders, it referred these cases to military or state security emergency courts, which are not as autonomous as regular courts. However, the interests of the Brotherhood and the judiciary collided briefly on two occasions: during the 2000 elections, when the Supreme Constitutional Court ruled that there would be a judge monitoring every ballot box, and during the

2005 elections, when judicial monitoring helped deliver eighty-eight seats to the Muslim Brotherhood and both decried electoral fraud by the state. After the second occasion, the Brotherhood returned the favor by joining in the pro-judiciary protests in 2006 (International Crisis Group 2008). But this did not lead to increased trust or even temporary alliances between the two groups. For the Muslim Brotherhood, the judiciary was an integral part of Mubarak's repressive apparatus. For the judiciary, the Brotherhood was another faction that wanted a share of the economic pie. As a result, the judiciary was unable to reach a similar understanding with the Muslim Brotherhood as it had done with the military and Mubarak's regime.

The conflict between the Brotherhood and the judiciary came out into the open once Mubarak stepped down. First, once it became obvious that Mohamed Morsi of the Muslim Brotherhood was going to win the 2012 presidential elections, the Supreme Constitutional Court ruled that the Brotherhood-led parliament was unconstitutional and thus dissolved it (Hearst and Hussein 2012). Brotherhood supporters later staged a rally in front of the courthouse in order to prevent the court from ruling on the constitutionality of the Brotherhood-led panel that drafted the 2012 Constitution (Saleh 2012). Currently, the judiciary has taken a harsh stance against Brotherhood leadership, activists, and supporters, sentencing hundreds to death, including the organization's supreme leader and former president Mohamed Morsi (Kirkpatrick 2015). The Muslim Brotherhood thus did not trust the judiciary—and considering the gravity of the current situation, it is unlikely that the organization will trust it in the near future.

Mubarak's regime had an uneasy alliance with the judiciary, signaling the complexity of Egyptian politics. Mubarak actually empowered the judiciary and granted it a great deal of autonomy, particularly during the 1990s. He did so to establish a court whose "role is to reassure potential foreign investors that their property rights will be protected" (Abu-Odeh 2011, 992). Moreover, the court embarked on legalizing the political economy in a manner that Mubarak's regime felt unable to do on its own. The problem, however, was that the court went too far with the logic of liberalization: "The court pushed too hard and challenged the regime in directions it hadn't foreseen (liberalizing the political)" (ibid.).

The trend of allying with human rights and activist communities against Mubarak's regime continued when "reformists" won the elections of the judges' club and the state aimed to bring the club to heel. In some of the biggest protests during Mubarak's rule, human rights activists and opposition figures protested in support of the judiciary.

As stated earlier, Mubarak's regime managed to circumvent the judiciary in matters it deemed serious. Whenever the regime needed to land harsh sentences on its opponents, it resorted to a series of exceptional courts. And in 2005, Mubarak's showdown with the judiciary prompted constitutional amendments that broke the branch's power and independence. First, the new Constitution ended judicial supervision of elections. Second, it granted the president the power to refer any terror-related crime to exceptional courts (Guirguis 2010). These exceptional courts consist of military courts and state security courts, both under the control of two executive offices (the Ministry of Defense and the Ministry of the Interior, respectively). Mubarak used such courts to target Islamists (Blair and Awad 2012). These amendments paid Mubarak's regime handsomely in the 2010 elections, when the NDP swept up 96% of parliamentary seats (Shenker 2010).

For its part, the Egyptian military acts outside the jurisdiction of the civil judiciary, effectively removing any leverage that the judiciary might exercise toward it. The military has enjoyed this status since Nasser, and, in 2012, the SCAF introduced an article into the 2012 Constitution that established the military judiciary as an independent judicial authority with jurisdiction over all military-related matters; this was further enshrined in the 2014 Constitution following the military coup in July 2013. These moves effectively established the military as a *de facto* autonomous entity. With little access to military officials to comment on the issue, it is possible only to speculate on the reasons behind these actions. Regardless, they reveal a lack of trust toward the civil judiciary. This separation meant that the military was immune to judicial processes and would not be liable for its actions. It thus followed that the military's vision of a transitional justice process would involve the dual legal structure (traditional courts versus military courts), whereby the military enjoyed immunity and was liable only internally.

The lack of trust in the judiciary meant that any transitional justice process would be possible only through an independent mechanism. The Egyptian judiciary was adamant in its rejection of an independent transitional justice process, emphasizing that the current legal system would be sufficient to conduct the process (Brown 2012). None of the major players swallowed that argument, except Mubarak's former regime, which was largely powerless after its fall and during subsequent trials, but emphasized the integrity of the Egyptian judiciary and warmed to it, since the judiciary provided better odds than a mechanism controlled by Mubarak's political enemies. Meanwhile, the human rights community kept on pressing for an independent process (Tawab 2013); the Muslim Brotherhood assumed that the problem with the judiciary was its personnel and attempted unsuccessfully to sack a large number of judges and the general prosecutor (Auf 2014); and the military adopted a dual strategy in which it isolated several issues of interest and handed them to military courts, while rejecting calls for independent judicial mechanisms. The paradox was in how a judiciary that was deeply implicated in the crimes of the former regime could be tasked with leading the process of prosecuting the actions of that same regime. The answer to this question tells us a lot about the expectations of the various actors. The paradox was further aggravated by another element of post-revolutionary politics in Egypt: polarization.

Polarization

The second challenge to any sort of transitional justice process was the magnitude of polarization among the major actors. The opaqueness surrounding judicial processes and the nature of power relations on February 12, 2011, meant that none of the actors could claim total victory. Instead, to move forward with a transitional justice process, the various actors needed to compromise. I realize that writing these words seems easy now, but back in 2011 I would have never considered compromise. For us activists, some of the opposition, and the human rights community, the crimes of the Mubarak regime were still fresh in our memories. Now that Mubarak and his police force were finally defeated, there seemed to be no need for talking. We had been trying to talk to them for thirty years. Mubarak, his family, the top leadership

of the NDP, and officials from the Ministry of the Interior were already in jail, so why compromise? But this was not exactly how the reality of 2011 was. The military was firmly in control, the judiciary was still powerful, and the Ministry of the Interior understood the value of security to the general population and how it could leverage that. None of those actors would have allowed the destruction of the elites of Mubarak's regime, nor they would have allowed an independent process that could threaten their own. For the different parties in 2011, we were all shouting in foreign languages to one another. To understand the post-2011 polarization, we must explore the various actors' understandings of the foundations for such polarization.

Youth movements represented a wide range of views and experiences but perhaps were most connected by the recent experiences of the events of January 25, which created a bond revolving around anti-Mubarak rule. Fresh memories of torture, murder, and violence meant that Mubarak's regime was synonymous with everything they were mobilizing against. It did not matter what individuals thought, because in a sense this rejection of the constructed image of Mubarak's rule, regardless of how true it was, constituted the collective identity of activists. For me, when I thought of tyranny in 2011, I pictured Mubarak; many shared this experience. However, the emotional dimension was not the only one—there were important political calculations involved as well.

Activists in 2011 focused primarily on gaining popular support, which nurtured a populist vision and approach to the political process. For much of 2011, the various groups lacked a clear consensus on almost every political, economic, and social issue. In fact, a large number of these groups did not even have clear ideas on those issues themselves. Instead, during SCAF rule, these groups' discourse revolved around vague concepts of political reform and social justice. None of the groups provided coherent policies or visions, instead taking positions—usually populist ones—on the issues that came to light. According to Ahmed, this was “because we are activists not politicians, and our goal is to improve Egyptians' lives.” However, upon closer investigation, it seems that this stemmed from a simplistic view of politics whereby activists assumed that pandering to populist rhetoric would win them ground with the “people.” This could also explain activists'

aversion to directly criticizing the military. A common phrase at the time was “We are not against the military; the military is you and me, your and my brothers, and your and my fathers. We are just against the military leadership.” Activists’ populist positions meant that their opponents could present them as idealists who lacked connections to the realities of average Egyptians. The situation became harder for activists following the Muslim Brotherhood’s electoral wins, which led them to adopt an even more populist rhetoric as they hoped to outmaneuver the Brotherhood. Central to this was the issue of transitional justice, which activists rejected, instead emphasizing *qisas* as the way forward, in an attempt to reach out to supporters within the Brotherhood. In conclusion, activists would not and probably could not engage in a dialogue around a transitional justice process, lest they lose the support of their constituencies.

The Muslim Brotherhood, on the other hand, enjoyed a solid hierarchal structure that granted it more ability to maneuver and negotiate. However, a history of exclusion and its distrust of other actors prevented it from engaging in a serious dialogue on transitional justice. The Brotherhood’s story is also the story of Egypt. After Nasser came to power in 1952, he launched a campaign to decimate his political opponents, starting with landowners, then parties, and finally the Brotherhood. He used military and special tribunals to sentence large numbers of Brotherhood members to death and to send others to prison, where they endured unimaginable horrors. When Sadat came to power, he released the members from prison and allowed the organization to gain a foothold in Egyptian universities and public life, in order to combat Nasser’s and socialists’ influences that were preventing him from shifting the state to a market economy. However, Sadat’s political reforms were more of a façade, and there was growing discontent over his economic and foreign policies. Sadat met these criticisms with a massive crackdown, arresting scores of political leaders and members of the Muslim Brotherhood (Freudenheim and Slavin 1981). Islamist elements from within the military assassinated Sadat on the anniversary of the October 6 War. Mubarak came to power and freed the Brotherhood members in an attempt to gain its support for his war against more radical Islamist groups. Over the years, Mubarak and the Brotherhood

developed a relationship of limited cohabitation. The organization was allowed to maintain a presence in public, politics, and the economy, but the state would curtail its influence—via the police force or special courts—whenever it felt that the group was gaining too much power. Large segments of the Egyptian opposition even supported the state’s oppression of the Brotherhood. By 2010, the Brotherhood had developed a long sense of distrust toward both the opposition and the state.

Following Mubarak’s fall, the Brotherhood, fueled by distrust, avoided open dialogue on the issue of transitional justice. From the start, the organization disregarded activists, and the rise of a more right-wing opponent, the Salafists, pushed it to adopt a more Islamist discourse. Central to the rhetorical conflict was how to address the violations by Mubarak’s regime. The Brotherhood favored a rhetoric of *qisas*, while at the same time commencing a project aimed at reconciliation with Mubarak-era businessmen (Awad 2012). At the same time, the Brotherhood attempted—but failed—to bring the judiciary to heel. This move sparked animosity from the wider Egyptian population and contributed to perceptions of the organization’s authoritarianism. The Brotherhood seemed uninterested in any concept of transitional justice. Although Mohamed Morsi commissioned a committee to investigate serious human rights violations, the resulting report was not released to the public, which effectively rendered the committee’s work irrelevant. The reasons behind this decision can be inferred from the Brotherhood’s cautious approach to the entire issue of transitional justice and its reluctance to fuel the indictment of senior military or police officials. If that is the case, as the Brotherhood later claimed following the coup, then the logical conclusion is that the organization refrained from publishing the report in order to avoid confrontation with those institutions.

As Mubarak’s regime crumbled, many of its leaders feared retaliation by the people they had long exploited. Many of Mubarak’s former aides escaped Egypt with their families and belongings as it became obvious that the government was crumbling; others, including Mubarak’s interior minister Habib el-Adly, were not so fast and were arrested. Mubarak and his family went to Sharm el-Sheikh in southern Egypt. Whether this decision was due to Mubarak’s refusal to leave Egypt or to pressure

from the military will probably remain a mystery for some time. The SCAF later arrested Mubarak and his two sons following sustained public protests. This marked a high point for a potential transitional justice process and for dialogue among stakeholders. Even though Mubarak might not have trusted the judiciary, the progression of trials showed that the judiciary was a safer bet than negotiating with activists or the Muslim Brotherhood.

Although Mubarak's regime was willing to engage in dialogue during the early months of 2011, it would eventually become less compelled to do so. As time went on and with the Ministry of the Interior virtually unscathed except for its most senior officials, this group began to reorganize. In time, the unpopular policies of the Muslim Brotherhood and worsening economic conditions would shift popular frustration toward the Brotherhood. In a twist of fortunes, many of the protestors during the June 2013 protests, which were held to demand Morsi's resignation, would end up carrying policemen on their shoulders. With the military's official return to power—through Morsi's ousting and arrest, as well as the arrest of the leadership of the Muslim Brotherhood and hundreds of its activists—there were no more reasons for dialogue.

When the SCAF assumed power in February 2011, its concerns were mainly stability and safeguarding its economic interests, particularly ending widespread labor strikes. The SCAF aimed to ally with the Muslim Brotherhood and Islamists in order to discredit these strikes, using a mix of nationalism and religion to challenge strikers. Sadly, even activists fell for the anti-labor movement in 2011, rejecting labor strikes as factional protests that were harming the greater cause. During the SCAF's rule, the military showed unrestrained violence toward labor strikes and passed several laws effectively safeguarding its economic and political interests from any civilian oversight. The military also sponsored "talks" with several activists, but its preferred format for such talks was always that of closed-door meetings, which many of the activists conceded to. In any case, nothing of value came out of these meetings, and it would take sustained protests to compel the SCAF to commence elections and a transition of power. Similarly, the SCAF commissioned truth-finding committees for several incidents but ended up disregarding the recommendations (Ali 2011). Finally, the SCAF did not want to rock the boat, as long as it could

rely on the civilian judiciary to prosecute people for issues that did not directly affect its interests, while isolating its more direct interests by designating several institutions—including military-owned factories, companies, and clubs—as military institutions, which allowed them to be subject to military (and not civilian) law.

The military's preference for dialogue over a transitional justice process is connected to the threats to its interests. Throughout 2011 and 2012, activists learned that in order to elicit a reaction from the SCAF, they had to complement dialogue with street actions that posed a direct threat to production and stability in Egypt. While the SCAF conceded to some demands, the lack of sustained campaigns of public resistance allowed it to marginalize activists through a temporary alliance with more established political forces, most prominently the Muslim Brotherhood.

Justice and Reform

As activists, we faced a serious question around the meaning of justice and reform and their relationship with one another in the aftermath of the 2011 events. We never really resolved that question, instead approaching it in a counterproductive manner. In 2011, there seemed to be no contradictions—in fact, reform seemed possible only through justice. Within the collective memory of activists and quite a large number of Egyptians, memories of the Mubarak regime's violations and of their legacy on every aspect of life were plenty, which united large swaths of Egyptians in a call for revenge against Mubarak and his former regime (Morsy 2013). To achieve reform was to punish everyone who had wronged the "people." There was no interest in the wider ramifications of a one-sided judicial process against Mubarak's regime. Nor was there any interest in the reality of power relations or the political cost of such a process. It was a simplistic vision in which reform would spring on its own from the corpses of Mubarak's regime. For many Egyptians in 2011, these gruesome violations were not the product of contradictions within Egyptian society but rather the product of an occupation force.

This vision hindered our understanding of how we could overcome the memory of Mubarak's role. In fact, for many people, Mubarak's regime alone was responsible for these crimes. We refused to acknowledge that these crimes were possible due to

the partial compliance of society at large. This idea continues to live on today and is most evident in reactions toward violations against minorities and marginalized groups. While large portions of Egyptian society agreed that Mubarak's regime committed crimes, there was no analysis of the boundaries of these crimes. Are violations against the LGBT community part of them? What about violations against Christians, Shia, Baha'is, and non-religious Egyptians? Or the murder of Sudanese refugees? Or state-sanctioned violence against women? What about the torture of criminals? And violence against poorer and marginalized Egyptians? Why was there a huge debate on whether Khalid Saeed, who was tortured to death by police, had drugs on his person? Would the torture have been okay if he was indeed a drug dealer? And what about "terrorists"? Is the Muslim Brotherhood a terrorist organization that deserves its fate? These are all questions that were rejected in favor of a reductionist vision of the Mubarak regime's violations against Egyptians. At that time, I assumed that these questions were ignored out of political expediency; however, with the current popular sanctioning of a fascist and quite violent regime, it seems that these questions were rejected not out of expediency but out of a conviction that these were not crimes. In calling for individual trials, what we were really asking for was not to overcome a period of mass human rights violations but rather to put on trial the inefficiency of Mubarak's regime while maintaining the structure that would continue these practices. It is no wonder that the 2012 presidential election was such a close one, with Mubarak's former prime minister losing by a mere 3% margin (Kirkpatrick 2012). In fact, it is not a surprise that the main candidates did not really address any of the aforementioned issues and that the winner, Mohamed Morsi of the Muslim Brotherhood, did not care to tackle them when in office, even overseeing their continuation.

In addition to the contested understanding of justice, reform remains a highly contested idea today. What exactly is reform in Egypt? This question has different answers for different groups, and so far we have not been able to resolve it. For many older generations, reform is simply about security. For others, it is about economic well-being. For many Copts, it is about the freedom to safely practice their religion. As for the activists, I would say that

our vision of reform was that of political liberty, democratization, human rights, and political participation. I am not sure how true this holds today. Islamists, on the other hand, seem to have a vision of an Islamic society and state, but with wide variation over the details. In 2011, our vision of reform was also that resulting from our vision of justice, and thus we were unable to address these concerns or to produce an inclusive vision of reform. Today, I do not believe that we have resolved this issue—in fact, the violence that is engulfing Egypt seems to bait these contested visions of reform against one another.

In order to arrive at an inclusive vision of reform, we need to conduct a serious political dialogue that entails compromise. Because Egyptian society and politics are highly polarized, starting a transitional justice process requires a common vision for reform and justice. This does not seem possible in the current atmosphere of polarization and political violence. Moreover, large segments of the Egyptian population maintain fascistic notions regarding the social contract, and since the memory of the first democratically elected regime remains negative, it is even harder to produce a democratic alternative that is inclusive of ideas of security and conservatism. It is even harder for many of the activists who lost family or friends, or who were harmed themselves, to compromise on the issue of justice and the role of the military.

A common hurdle in the face of commencing a dialogue on transitional justice is the memory of death, torture, and violence, which underlines a much bigger question on structural versus personal responsibility. Even though Mubarak and his top aides have been removed from power, the same violent pattern remains. This suggests that the problem of human rights violations in Egypt is a structural one. However, calls for justice have remained consistently personal in nature.

Conclusion

Egypt still has a long way to go, and the issues identified here represent only the structural challenges that we face. The current regime is intent on rolling back the victories we have achieved since 2011. The level of violence is unprecedented in modern Egyptian history and threatens to further dash any hopes for reform. At the moment, the issue of transitional justice has become less urgent,

as our main concern is survival and addressing urgent ongoing human rights violations. But it remains an important issue to address if we hope to avoid the same situation that we found ourselves in back in 2011.

I do not have any illusions that such a task is challenging, especially with the changing power realities and the resurgence of state violence. Recent developments have only made formulating a coherent transitional justice discourse more challenging, as society has become increasingly polarized and trust in the judiciary is at an all-time low. Furthermore, the military is expanding its power and control over Egyptian politics, making the notion of accountability nearly impossible. Today, it is also much more difficult to conduct free and open discussions on these issues, with political parties nonexistent and civil society fighting for its life.

And yet, as Egypt spirals toward worsening political and economic conditions, there could be opportunities for a future transition of power. Such a prospect rests on political and economic developments and our discourse on transitional justice. Although we have little control over political and economic developments, we can do something about our transnational justice discourse. It will require admitting that many individuals in the military will escape justice. It will also require admitting that reform is the way to ensure justice in the long term. It might be too late to prosecute individuals responsible for human rights violations, but it is not too late to do so at a structural level. For that, we must look to transitional justice programs undertaken in countries like South Africa, where the political reality required compromise from victims. I realize that this is not an easy task, but it is the most realistic approach to avoid a repetition of the same level of violence in the future.

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CHAPTER 7
The Latin American and
Caribbean Feminist Encounter
and Three Colombian Women:
Fragments of Colombian
Feminism

Nina Chaparro
(Colombia)

¿Y su mamá qué hace? (*And Your Mom, What Does She Do?*) is a nine-minute comedic film by the Colombian group Cine-Mujer that won first prize at the Cartagena Film Festival in 1982 (Cine-Mujer 1981). The film presents a typical morning in the home of a Bogotá family. As soon as the mother wakes up, she moves frantically about the house, getting her children and husband ready just before the baby's milk boils over on the stove. The mother's scenes are quick, taking place to the beat of the salsa song "Cocinando Suave" by Ray Barreto. Meanwhile, the husband's scenes are slow and unhurried, as he leisurely eats breakfast, reads the newspaper, and lovingly says goodbye to his wife. Then the scene changes, taking us to a park where two five-year-olds play on a jungle gym. One asks the other, "What does your father do?" and his companion responds, "He's an accountant." The first child then asks, "And your mother?" to which his friend responds, "She doesn't work; she stays at home."

This 16-millimeter short originally debuted in 1981 at the First Latin American and Caribbean Feminist Encounter in Bogotá. There, for the first time in Latin America's history, nearly 300 women gathered to discuss feminism. Having been notified of the event by word of mouth and through letters and telegrams, participants arrived to Bogotá by bus and plane. Although the encounter did not generate a great recollection in feminists' collective memory, its importance was felt in each woman who attended.

Over the event's four days, participants conversed without end. They did not know one another, but they had very similar lives; they shared their traumas and grievances regarding a world tailored to men, as well as their hopes and dreams for a more

equal society. They spoke about productive work and unproductive work (what today we call the care economy). They discussed forming groups and associations, what today we call nongovernmental organizations. They talked about strategies for communicating to the government, what today we call advocacy. They talked about abortion and sexuality, what today we call sexual and reproductive rights. In general, they talked about the problems of inequality that today we refer to as rights. Their words and ours: a story of numerous struggles that pile up over time and that are renamed by each passing generation.

I have gotten to know three of the women who attended that 1981 feminist encounter. Despite our age differences (they are nearly seventy, while I'm in my thirties), we crossed paths at various meetings—I was just beginning my career as a lawyer and researcher, and they were well-armed in their distinct professions, all leaders in women's organizations. I wrote to each of them a few times to try to coordinate meeting times for when they could tell me about their lives and the famous encounter of 1981. Finally, we agreed on dates for getting together; one meeting would take place in one of the women's homes, and the other two would be in cafés. When we met, the voice recorder began to mark the time, and their voices took on the intimate tone of someone speaking with a longtime friend.

As I listened to their words and nuances, I entered their lives. I imagined the three of these women together—not knowing one another—at the feminist encounter, and then each one, back at home, working for similar causes. I listened to them and could envision them, back then, as strong and vulnerable women. As they told their stories, I also noted the years of unrelenting work in Colombia, work that was marked by conflicts, failures, and triumphs. Their views on feminism are diverse, and their role in the transformation of Colombian society is substantial. Thanks to the work of these three women and the organizations they represent—as well as many other women and organizations—today there are laws that codify the various types of violence against women, quotas that ensure women's participation in positions of power, statutes that require a differentiated approach, laws that decriminalize abortion under certain circumstances, and laws that punish workplace harassment, among others.

This chapter tells the story of the First Latin American and Caribbean Feminist Encounter of 1981 and the lives of three Colombian feminists who met one another there and embarked, from distinct perspectives, on working toward a more equal country. Unfortunately, very few sources document the 1981 encounter in detail. Nonetheless, as Svetlana Alexiéovich (2015) notes, the act of remembering is a creative way of narrating in which individuals create and compose their lives, a fundamental act in the making of history. This set of documents, voices, and memories makes up part of the fragments of Colombian feminism.

The First Latin American and Caribbean Feminist Encounter

The Beginning

In 1979, Giovana Machado, a Venezuelan feminist from the group *La Conjura*, came to Bogotá. The group had a revolutionary proposal. For months, they had been envisioning a gathering of Latin American feminists, but the economic situation in Venezuela made the event's organization difficult there. Therefore, they proposed that it be held in Colombia, where they already had contacts with women in Cali and Bogotá (Suaza Vargas 2008, 75).

Their idea was well received, and Colombia was chosen as the site. The event's scope was ambitious. Women from across the region heeded the call: tired of the *machista* world they lived in, tired



Picture 1
"The women discuss," 1979
Source: Suaza Vargas (2008)

of fighting for the rights to attend college, to not be harassed in the workplace, to not work a double day, to not be sexually violated by strangers or their spouses, to not die during childbirth, to not be underestimated in scientific and artistic settings, and, in general, to not be treated as lesser human beings.

The event's planning was handled by a special group of feminists created for the task. The event sought to "bring together women committed to feminist practice to exchange experiences and opinions, identify problems, and evaluate established practice, as well as propose tasks and projects for the future" (Suaza Vargas 2008, 89). The key themes were feminism and political struggle; women and work; sexuality and life; and women, culture, and communication. The work was magnificent and arduous. There was no internet. No financing. Publicity was conducted through word of mouth and by sending letters to feminist groups in Colombia and elsewhere. Each participant would have to pay her own travel costs and a registration fee that would cover food and lodging for four days. The fees were US\$50 for Latin Americans and \$80 for others.

In July 1981, the feminists arrived. Three hundred women from around the world unpacked their bags in Bogotá and attended the great event. They came from Mexico, the Dominican Republic, Puerto Rico, Panama, Venezuela, Ecuador, Peru, Chile, and Colombia. And although the encounter was conceived of for



Picture 2
 "Women don't have mustaches,"
 by Luz Jaramillo, 1981
 Source: Suaza Vargas (2008)

"La imagen de las feministas se ha ridiculizado, pero éstas son mujeres que han comenzado a pensarse como personas y se han atrevido a romper con los esquemas impuestos por la sociedad".

Latin American women, other women were welcomed, including two women from Canada, three from the United States, and a dozen from Europe (Spain, Italy, France, Switzerland, the Netherlands, and Germany). The event was announced in the press and then promptly ignored (Navarro 1982b).

The gathering was held just outside Bogotá, at the National Institute for Social Studies, a school for rural workers. The site could not have been better: "it was a modern building, with a square design, a flower-filled main patio with offices around it, an enormous meeting hall, and a large cafeteria, and along the sides, classrooms and dormitories" (Navarro 1982a, 94). Participants hung up posters on the walls. One large poster provided details on women's status in Chile under the Pinochet dictatorship, as well as a map of information on the groups and activities in each country. "Also, whoever wanted to express themselves grabbed a piece of paper, a colored pencil, wrote what they wanted, and hung it on the wall" (Navarro 1982b). One woman wrote the message, "We have erased borders by traversing our roads, crossing the sea, flying, to be able to gather here in solidarity with women who struggle, and we don't feel strange because of our different nationalities, cultures, languages. We have dismantled these structures of belonging to a country, a father: what can make us feel foreign is the [women's liberation] Discourse!" (Navarro 1982a, 95).

Until that point, Latin America had apparently remained on the fringes of the women's liberation movement. This first encounter showed not only that the movement existed but also that Latin American feminists had not known about it.

The Knot

The encounter was divided into sessions that explored the most important topics for feminism at that time. One of them was on workers' rights. During that session, participants agreed that labor standards for women were unfair and reproduced gender roles that put women at a social disadvantage. They talked about maternity leave, the poor conditions for birth and the postpartum period, wage disparities, the lack of child care facilities, women's participation in unions, and household work. This last item in particular was discussed in depth, with participants agreeing that women's work in the modern world was both outside and inside the home

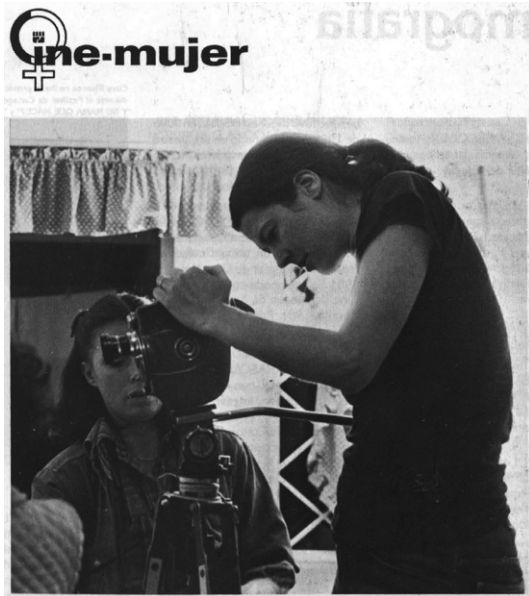


Picture 3
A feminist sign
Source: Suaza Vargas (2008)

and that this double shift kept them constantly busy. That led to the slogan “The right to laziness!”

Another lively discussion took place on the topic of double militancy—in other words, the act of being a feminist while also belonging to a political party. Here, women voiced a general complaint: those who took part in political parties felt ignored and undervalued by these entities. Their work within the parties was that of secretary, coffee server, and logistics supporter. The women’s agenda—that of rights on an equal basis with men—was not discussed, and it was not, nor was it going to be, on parties’ radars given that the revolution took primacy over feminism. In this way, a large majority of participants criticized double militancy. They did not understand how a woman who called herself a feminist, who fought for women’s rights, could simultaneously let her feminist agenda be ignored within a political party.

On occasion, the sessions ended early so participants could watch short films and audiovisuals made by Mexican, Ecuadorian, Colombian, and Venezuelan feminists (Navarro 1982b). It was



Picture 4
 Clara Riascos (left) and Sara Bright (right) during the filming of *¿Y su mamá qué hace?*
 Source: Cinemateca Distrital (1987)

here that Cine-Mujer, a group of Colombian women¹ that was formed in 1978 with the aim of using cinema to transmit the experiences and realities of Latin American women, presented its short film *¿Y su mamá qué hace?*

A third key theme was sexuality—without a doubt, the most popular issue. It included the subthemes of sexual violence, motherhood, contraception, abortion, and masturbation. But the most discussed was that of lesbianism. For many women, the Latin American encounter marked the first time they left their home countries to attend a feminist meeting and to speak with lesbians. Martha Vélez, one of the conference organizers, recalls:

There was one woman from Canada who would follow us all around, inviting us to talk about lesbianism. As soon as you snuck away from her and looked back over your shoulder, you'd see her approaching another person. At one point we said, "We should have a workshop on lesbianism, even if no one goes." Well, it turns out that they cancelled

1 Clara Riascos, Luz Fanny Tobón de Romero, Eulalia Carrizosa, Dora Cecilia Ramírez, Sara Bright, and Patricia Restrepo. For more information, see Cinemateca Distrital (1987).

the other workshops because everyone went to the lesbianism one! It was great. Suddenly a women stood up and said, "Feminism changed my life. I have four children and a husband, and now I'm in love with a woman." There, we talked about lesbianism calmly and without fear. No one expected the First Encounter in Bogotá to include discussions on this issue. It was a big surprise. (Suaza Vargas 2008, 89)

There was also a workshop on health led by Puerto Rican women:

Carmita Guzmán taught us show to use a speculum to learn about our "genitalia." Many women didn't want to do the self-exam because they were scared or ashamed. The workshop also taught us about relaxation massages and exercises to control menstruation discomfort, increase pleasure during intercourse, control the sphincter in old age, give birth without tearing, increase vaginal lubrication, and help expel objects like condoms. The idea was to talk about our bodies, about sexuality, to perceive the body as its own in a different way. (Suaza Vargas 2008, 90)

During the course of the event, bombs were thrown at Colombia's Palace of Justice. Jacinta Montes, a Mexican woman who was at the feminist encounter, recalls that the revolutionary armed organization M-19 had launched two grenades toward the Palace of Justice, taking President Turbay Ayala by surprise. False information was circulated in the media, justifying arrests and political detentions. In addition, graffiti on the streets proclaimed that the



Picture 5
"The feminist movement: Man's old enemy," 1979
Source: Suaza Vargas (2008)

country's partial amnesty was working only to the government's benefit. This was Colombia at the time: unsafe, arbitrary, and repressive (Suaza Vargas 2008).

Music from around the world could be heard at the encounter, where the women danced among themselves. Whenever someone mentioned the lack of a man on the dance floor, she would be subtly admonished with a stern look. The conversations were endless: during dinner, while singing, while dancing, at night. Friendships were formed. Women who lived thousands of miles from one another bonded through stories of similar experiences. Suaza explains, "We wanted them to open a 'third eye' and to understand that each woman was the master of her fulfillment and her future, that her dreams were her own and were respectable, and that they could share them with their partners, their fathers, their brothers, without having to subjugate themselves" (Suaza Vargas 2008, 120). In this setting, feminism became a contagious virus that would change the women forever.

Coming to a Close

The end arrived. Participants gathered together for a plenary. They read reports and resolutions on sexual liberation, lesbianism, sexual pleasure, reproduction, motherhood, contraception, rape and abortion, equal pay, working mothers, child care, free access to training, double shifts, lack of recognition of household work as labor, support to the Mothers of the Plaza de Mayo in their search for their disappeared children, the need to construct a feminist aesthetic and to search for a language created by and for women, the way children's literature reproduces gender roles, the denunciation of rape and violence, solidarity with women from other countries in even more difficult situations, the struggle against military intervention, and the torture of women political prisoners (Navarro 1982b). At the end, "the last resolution, adopted among hugs, tears, and 'long live feminism,' was to agree that another encounter should be held in two years,² and Lima was selected as the site" (Navarro 1982b).

2 Since 1981, there have been thirteen feminist encounters throughout the region, including in Colombia, Peru, Brazil, Mexico, Argentina, El Salvador, Chile, the Dominican Republic, and Costa Rica.



Picture 6
Gathering in Bogotá's Plaza de las Nieves, November 25, 1982
Source: Suaza Vargas (2008)

The slogans continued:

The right to laziness.

I am mine.

My body is mine, mine, mine.

Double day, doubly shitty.

Men, we're not against you. We're for ourselves.

The personal is political.

Take back the nights and the streets. (Suaza Vargas 2008, 147)

That day, they agreed that November 25 would be marked as the International Day for the Elimination of Violence against Women in honor of the Mirabal sisters, who were jailed, raped, and tortured by the Trujillo dictatorship in the Dominican Republic in 1960. This initiative was subsequently supported by international bodies: in 1994, the Organization of American States included this commemoration in the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, and the United Nations General Assembly issued resolution 54/134 designating November 25 as an international day against gender violence.

They also decided on the site of the event's closing party and who would be allowed to attend. A heated discussion took place:

80% of the women wanted to bring their spouses. A number of questions arose from the discussion: Where is the autonomy? Respect for the protection of private places? The right to be alone, to party alone? In the end, some women did not attend the party (Suaza Vargas 2008).

At this feminist encounter, without planning it, Claudia Mejía, Beatriz Quintero, and Olga Amparo Sánchez met. They were three middle-class women from Colombia's coffee region who were in their twenties and thirties and who, in light of the injustices in the country, had been more involved in leftist student movements than in feminism. In 1981, they came to the event by chance and found themselves in the company of 300 feminists from throughout Latin America, with whom they shared their deepest insights. They left as different women. They went home and continued their lives, but with a different path, another perspective: it was no longer the party but the feminist struggle that mattered. Today, Claudia, Beatriz, and Olga Amparo are in their sixties and seventies and are leaders of the most important feminist organizations in Colombia: Sisma Mujer, Red Nacional de Mujeres (National Women's Network), and Casa de la Mujer (the Women's House), respectively. The stories below, which come from their private and public lives, reflect fragments of the history of Colombian feminism, and the history of Colombia.

The Feminists

Claudia Mejía³

Nina Chaparro: Tell me about yourself.

Claudia Mejía: I'm the oldest of four sisters and the daughter of a radically feminist woman and a prestigious lawyer father who worked tirelessly in pursuit of justice. I would always hear talk about equality between women and men and about justice for those whose rights had been violated.

My father was a criminal prosecutor and judge of the Superior Court of Bogotá; he also held other positions. He issued the first ruling in the country ordering the release of alleged guerrilla

3 Interview with Claudia Mejía, February 6, 2016, Bogotá. The following text has been lightly edited for clarity.

fighters because they didn't have a lawyer during their summons to give an investigative statement and also because authorities tortured them to obtain information. Another one of his important rulings, a pioneering one in Colombia, convicted a man for raping his wife. Jurists like my father began to recognize that women control their own bodies.

NC: When did you start to feel that being a woman meant paying an additional price within society?

CM: I grew up in a neighborhood that lived as a community, like many during that era. Very early, I began to sense that my ability to play outside freely wasn't the same as for boys. I was about nine when I began to feel this discontent because I couldn't play outside like they could, I didn't have the same allowances, and although my mother was very respectful of our autonomy, she didn't give us the same possibility of going outside that the boys in the neighborhood had. This feeling of indignation grew when my body started to change around the age of ten and, with that, I had to face even more limitations to my freedom, just for being a woman. It was the first time I felt certain that something wasn't right for women, or at least that there were things that I didn't like.

NC: How did you get involved in feminism?

CM: I came into contact with the feminist and leftist movements when I was very young. I very quickly became irritated by the patriarchy of the left, not just due to the inequality within its hierarchy—which was a lot—but also due to the way men would use seduction to access women's bodies beyond what we were comfortable with. Yet this new unease didn't prevent me from competing with other women for the men who were our role models; at that moment, I began to understand that patriarchy permeated all of us, men and women, almost equally.

My path toward feminism was inspired by my professor Rosa Inés Ospina, a member of *Mujeres en la Lucha*, which was the predecessor of *Casa de la Mujer*. My path toward the left was thanks to another great woman, Amparo Parra, my other professor, an activist of civic movements at the time; she was from Ciproco, a leading organization in Bogotá's Kennedy neighborhood. She died very young.

NC: Tell me about one of the most important feminist moments of your life.

CM: One of the most important events of my life took place in 1981: the First Latin American and Caribbean Feminist Encounter. I was twenty-three. During the meeting, it became clear that my path would be feminism. Although I dedicated myself to leftist parties for a few more years, there was no turning back from my choice to be part of autonomous feminism. This was even one of the main debates during the gathering: Could you be a feminist from within the political parties, or should the feminist path be pure and independent from those patriarchal structures? This dilemma would be present for years in our feminist way of doing things. In fact, even when the country was preparing for the National Constituent Assembly, we would debate with one another, not always peacefully, as was the case with the Love Encounter for Life,⁴ regarding whether we could simultaneously be feminists and leftist activists.

The 1981 gathering was very important because it designated November 25th as the international day on violence against women. And it took force from there. This was historic for the feminist movement, and after the event Latin America continued to organize feminist encounters and to commemorate November 25th. All of this was organized by the mothers of Colombian feminism.

NC: What happened after your life as a feminist began? What happened in your work environment?

CM: I was at an early stage in my career, alternating between government offices and civil society offices, and what I learned from one contributed to the other. My work in the public sector enriched my civil society agenda, and what I learned from civil society strengthened my work within the government.

Then several feminists, myself included, founded Sisma Mujer in 1998, an organization dedicated to promoting women's rights from the legal and social spheres. Our general focus was on discrimination against women, and we gradually came to concentrate on violence against women, especially during the conflict, but without abandoning other interests, like women's political participation.

4 The Love Encounter for Life was a national gathering of women held in October 1990 in Bogotá.



La mujer rechaza la violencia

Con éxito se conmemoró en Bogotá el "Día de la no violencia contra la mujer". Una concentración femenina se reunió frente al

Palacio de San Francisco, en Bogotá, contra la discriminación, sometimiento y abusos contra la mujer.

Picture 7

Women protesting against gender-based violence

Source: Suaza Vargas (2008)

NC: Through Sisma Mujer, you were able to see the conflict up close. What did you learn from this?

CM: The horror of war. We saw it up close through the women who lived in rural areas, and we discovered, little by little, how it targeted their bodies. These women would come to our meetings talking about recent disappearances, they would tell us about the massacres that devastated their villages, they would talk about how dead bodies were thrown to the alligators, they described how women were frequent victims of sexual violence.

During this time, we also clearly saw how histories of family violence preceded histories of paramilitary violence. One woman who was now a victim of paramilitaries—because they had kidnapped her husband—had also been a victim of violence since childhood because her stepfather raped her. That period was very hard, not because it was something new to us, but because it was being verified directly by women who were living the horror of the conflict. That caused a lot of pain for us. In those days, we didn't talk about the need to protect human rights defenders, and we had to do it ourselves. My colleagues would say, "Since we started documenting the lives of women in the conflict and in patriarchal families, we've begun to worry that our own daughters

might be raped. We're in crisis for thinking about the rapes of the women we work with." From there, we began to protect our daughters from their uncles and grandfathers. Others would say, "Do you think that nowadays I'm going to let my daughter be alone with her uncle?" "Do you think I've let my daughter go back to visit her grandfather, my own father?" We were devastated not just by the horror of the war but also by the horror of the patriarchy both within and outside it.

When we women work on the issue of sexual violence, there's a fear that we're going to be victims. That our daughters will be victims. Sexual violence is a phantom that haunts us all. That is why the war reinforced our commitment to eradicating violence against women, because sexual violence during armed conflict is but one more expression of the havoc that patriarchy wreaks on women's bodies.

NC: What has Sisma Mujer left for Colombia, for women victims of the armed conflict, for you?

CM: Together with the women victims, we paved two paths. First, the enforceability of rights with a differentiated approach by revealing war's disproportionate impact on women. Second, access to justice from a feminist perspective. Now that the country is on a path to peace, we're proposing a differentiated approach in the peace accord and in the country's postconflict policies so that the construction of peace is inclusive and guarantees the nonrepetition of this terror that has dominated our lives.

My life project is summed up by Sisma. I hope to be able to leave soon; it's time for me to close this chapter of my life and make way for new generations who can replace our efforts to survive the war with their efforts to construct peace. I will be satisfied with having contributed at a personal and collective level to the empowerment of women who have survived violence and to the transformation of the state in its appreciation of a differentiated and feminist approach and in fulfillment of its obligations regarding women's human rights.

And I don't want to forget to mention that many times when I lacked strength, I got it from my daughters and then from my grandson; they renewed the confidence I had lost in life upon seeing the horrible violence suffered by women. Many of my best moments have been while at their side—not because there

weren't other very difficult situations but because they were my refuge when outside there was only confusion.

Beatriz Quintero⁵

Nina Chaparro: Tell me about yourself.

Beatriz Quintero: I was born in Medellín to a traditional family with lots of children, with a father and mother who love each other very much. There are ten of us: eight women and two men. Our childhood—one marked neither by great wealth nor by great hardships—was in a peaceful and loving environment.

NC: Have you ever felt discriminated against for being a woman? Do you remember the first time this happened?

BQ: In my house, all ten of us went to college. I can still say that I never experienced any act of violence within my family. None. A rather peaceful life. I enrolled at the National University of Medellín to study systems engineering. I didn't really understand what discrimination was. When I got to college, the classroom was full of men. That was when I felt my first sense of discomfort with the *machista* world. I could feel that I was a woman and that it meant something different. On the second or third day, my geometry professor, when he saw that there were three women and thirty men, asked us if we were there to find a husband. So you start to realize that professors and students see you differently, they start to criticize, to weigh in, to make comments; it's a sensation that never goes away. I also remember that in the School of Mines in Medellín they didn't have women's bathrooms because they never imagined that women would go there. So we used the secretaries' bathrooms. That was toward the end of the sixties.

NC: How did you become a feminist?

BQ: In college, I began to connect with leftist groups and participated in long strikes. While there, I witnessed discrimination against women, but I think that according to the tale of the left, this discrimination is secondary—the class struggle comes before women's rights.

After a while, I saw that the left wasn't accepting the women's discourse. So I began to separate myself from the movement

5 Interview with Beatriz Quintero, February 16, 2016, Bogotá. The following text has been lightly edited for clarity.

and join women's groups. I also began to understand, with more awareness, that I had also been subject to discrimination even though I hadn't realized it since it had been so natural. I began to understand that I lived within relationships of inequality—that first I was my father's daughter, then so-and-so's girlfriend, then so-and-so's partner, and that society saw me that way, without my own identity.

NC: What prompted the emergence of feminist groups in Medellín?

BQ: In the seventies in Medellín, two important things converged for those of us who were joining the women's movement. First, we began to talk about abortion. I remember some women who came back after studying in France and began campaigning for "free and unrestricted abortion." In those days, there was no internet or cell phones or anything, and posters were one way of communicating. For us, it was enlightening; we joined that campaign and began to talk about abortion. The topic was really hard and somewhat marginal within feminism because it meant fighting with even more people since they saw you as a monster. When you say "I believe that women should be able to have an abortion," they glare at you; but if you say "Women have equal rights," now isn't that nice.

I also have to recognize that I lived this experience firsthand. I had two abortions, which I was able to do under good conditions because I had a friend who was a doctor. I also had the right information and I sought out good conditions. But I realized that many women had abortions under unsafe circumstances and with lots of risk and a lot of guilt. That also motivated me to support the cause, and we campaigned for free and unrestricted abortion. They hated us, they glared at us.

I didn't want to have children because I don't think my personality accommodates caring for others. My personality is enough and then some. So even though my current partner lives close by, I prefer to live alone, and my life has very little routine. When you live with someone, you need to cook at the same time every day, you need to have groceries in the fridge to feed the little ones, and it can't just be any kind of food. As for me, I don't eat lunch every day, I don't eat dinner every day, I don't always have breakfast, and my meals may or may not be balanced. I have a life without

schedules and I like it that way. I never come home at the same time. I never leave at the same time. For me, each day is different.

The second development was the three documents that Colombian feminists started to read and that affected us intensely. The first of these was a book by a group of women in Boston from 1971 called *Our Bodies, Ourselves* and that became “the” feminist book of the seventies. The second was *The Hite Report*, which was based on research by American sexologists who claimed that many women faked orgasms and that the best way to orgasm is by masturbating, and not through sexual intercourse. So this was a big scandal. And the third was *The Second Sex* by Simone de Beauvoir, which was our bedtime reading. These were key milestones for the issue of sexuality, and they revolutionized minds in Colombia. Some friends and I formed a book group called the “Monday Collective.” It had five or six women, and together we learned about the North American feminist discourse on self-awareness of our bodies. We started to talk amongst ourselves about violence against women, masturbation, relations between men and women, of everything that is the feminine being. It was an eye-opening time with these friends. It was also about creating unconditional friendships among women.

My first serious relationship was with a medical doctor from the university, and we were together for ten years. One day I decided that I didn’t want to live with anyone, that I needed my space, so I decided to separate. I really didn’t have clear reasons for the breakup. We got along well, but I told him, “I love you and I’ve lived very well with you, but I need something different. I want to live alone. I want to know what it’s like to live alone.” And that’s how it went, nothing more; I wanted to live alone. Nobody understood that. We tried continuing the relationship while living separately, but it didn’t work. We couldn’t keep dating each other.

NC: What did the First Latin American and Caribbean Feminist Encounter mean for you?

BQ: The 1981 Latin American and Caribbean feminist congress defined my life as a feminist. I traveled to Caracas and had a meeting with a feminist there who then sent a letter so the event could be organized in Bogotá. I really wasn’t that involved in it. So then the event begins to be designed, and the feminists began

organizing by word of mouth and through letters. I was working for Almacafé at the time and had to travel to Bogotá for work, so I took the opportunity to attend. When I got there, I stayed in Cris and Maín's house, who are members of the group known as Las Mujeres de Medellín. They began to organize the feminist encounter. That inspired the book *Soñé que soñaba que un encuentro feminista se realizaba*, by Cris Suaza.

I attended that first Latin American and Caribbean gathering on behalf of the Monday Collective. I arrived by plane because I was a bit more well-off and was already working at Almacafé. My friends arrived by bus. Three hundred women from Latin America and the Caribbean came, which is a lot. The major topics of discussion at the beginning of the event were anti-institutional anarchists, how the event was being carried out, and double militancy—which was whether you were attending as a feminist or as part of a political party. It was a very intense gathering. They were very strong. I have to admit that I couldn't have cared less about this last topic, since I didn't have any problem with it. I said, "Whoever wants to be here is here. We're all here, let's just see how it goes."

NC: What made the encounter so special in the memory of the women who attended?

BQ: The encounter was very important for me and many others because we realized that we were a diverse group, that there were many ways to do things and to continue being. I saw the anarchists, the lesbians, the Trotskyists, and the communists all as feminists. They were feminists but they had different ways of getting there. For me, it was like discovering a whole new world of surprising things. Although I had graduated from college and was working, I was still quite immature in the political sense of the word.

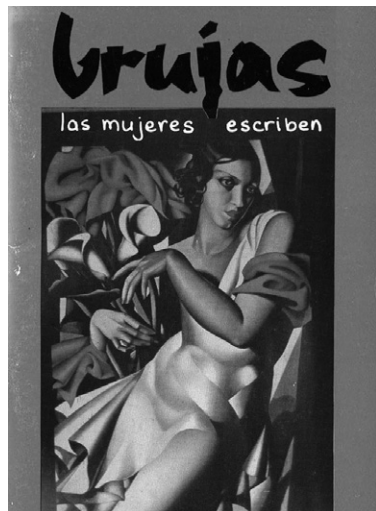
One striking aspect was the number of lesbians who came. I realized that there were many lesbians out there. My best friend was a lesbian, but it was one thing to have a friend who I would spend time with, and another to see groups of lesbians. Groups of lesbian moms. It opened up my eyes, making me think, "The world is a big place, with lots of differences, not all rose colored." So of course, there was a lot of voyeurism with the lesbians, since for all of us it was something new and we were curious. They were like

strange insects to us, in the best sense of the term. We would say to ourselves, “How shocking, these women seem so pretty.” And, “Could I also be a lesbian? They’re making me wonder about myself.” All of that was there.

So to sum it up, the encounter was a defining moment for me because I discovered that the world of lesbians was much larger than I had imagined and because I reaffirmed that my path was not that of political parties but of feminism. I’m talking about the leftist groups, because they didn’t advocate for women’s rights. They were just about rhetoric, and we all had a general feeling of frustration with the left. So this idea that feminism was very important was hanging in the air—the idea that feminism existed all over the world. The encounter allowed us to see that the big universe was the same as the small one.

NC: Would you say that there is a before and after in terms of the encounter?

BQ: After the event, a range of feminist groups emerged. In Medellín, the feminist magazine *Brujas* was launched, and it published about seven or eight issues. Personally, I became very curious about the work of women artists, who were invisible at the time. I wanted to know what they were working on, and I went to their exhibits. Then I came to Bogotá for a three-month contract and ended up staying for nine. I looked for Casa de la Mujer and found a collective called Colectivo de Mujeres por Bogotá. A little



Picture 8
The feminist magazine *Brujas*
Source: Suaza Vargas (2008)

more serious than the group in Medellín, but the feminists here weren't as friendly.

NC: How did the Red Nacional de Mujeres come into being?

BQ: In 1991, a few of us women's collectives took part in the National Constituent Assembly and nominated Rosa Turizo as our candidate for the assembly, but she didn't make the cut. After the assembly process ended, we believed that the war had come to an end, since many of the armed groups had been re-integrated into society, like the M-19, the EPL [Popular Liberation Army], and a faction of the ELN [National Liberation Army]. And what was left of the FARC [Revolutionary Armed Forces of Colombia] was very little; they were a small organization, very *mamertos*.⁶ And so of course, we all thought, "Now peace has begun." I just hope that the same thing doesn't happen with the current peace process—that we think peace has arrived when in fact conflict traps us again.

So after the process ended, the women organized a meeting in Cali to assess our participation in the Constituent Assembly, and about forty or sixty women from various places attended. There, we decided to create the Red Nacional de Mujeres, which is basically an alliance of various independent women's organizations that work toward the full realization of human rights in the country, with a feminist approach.

NC: At that time, was the Red Nacional de Mujeres talking about the war and its impact on women?

BQ: When we formed the network, we never talked about the war because supposedly it was over, and that's why what happened to the country is really sad: sliding back into war. I don't think that the guerrillas' cause is really about social injustice or inequality because if it were, there would be armed groups all over the world and especially in Latin America, but there aren't. I think that in Colombia we made a mistake and chose the path of war. It's like when you go down a road and you choose the wrong route. And we have to examine it closely and realign ourselves again because what this conflict has done is create greater injustice and inequality. That is, shall we say, my armchair theory.

6 *Mamerto* is a pejorative term for individuals or groups from the left who are more idealist than realist.

Colombia made the wrong decision when it chose to follow the path of violence, and I think that all of us contributed in some way.

NC: What was the Red Nacional de Mujeres' agenda during the 1990s?

BQ: Together with other feminist organizations, we began to talk about the issue of violence and about women's participation in Congress. We proposed advocating before Congress and began with a bill on violence against women that ended up having various problems but was finalized relatively quickly in 1996, through Law 294 on domestic violence. But the issue of participation began to face hurdles. This bill began to be combined with other proposals, and in the end it was best to just sink it because the mix that would have resulted was ridiculous. The person who presented the bill said, "But girls, why do you want to come to Congress, and why do you want equality, how nice it is to be at home, we take good care of you and we love you. I don't understand you. Why do you want to work?" So then Viviane Morales took leadership of the bill and we presented it seven times until Law 581 was passed in 2000, which regulates women's participation at the decision-making level in various branches and bodies of government.

Also, something important happened in 1995. As a women's social movement, we decided, in partnership with other groups from Latin America, to participate in the United Nations Fourth World Conference on Women in Beijing. Regional coordinators were appointed, and each country selected someone to lead that country's participation in the conference. So they picked me. The whole world went to Beijing. China made arrangements to welcome us. Buses drove us from one point to another. The inauguration was held in the stadium; it was full of people of all colors. There was simultaneous interpretation. About 150 women from Latin America went, and about 20,000 from the whole world. Massive numbers of people came from Africa and Asia. It was so beautiful that a train from Spain, the Trans-Siberian, left a month ahead of time to pick up people, and traversed the world before arriving to Beijing. It was full of signs that said "We're going to Beijing." It was madness. People got on in Spain to get to China, passing through the world.

There are also some funny stories. Before our trip, people told us that there were no forks or spoons in China. So we all took the

cutlery from the plane. I think that flight was probably the biggest time a plane lost its cutlery. And obviously, there are chopsticks in China, but also forks and spoons. Back then, the world wasn't as globalized.

The UN had an official meeting with member states and another parallel one with women's organizations. The idea was to sign a platform for action on women's rights. By the third day, we could see that the declaration wasn't going to be what we were hoping for, that it wasn't going to talk about equality or sexual and reproductive rights, and that there were a lot of problems in reaching agreement, a lot of things left in square brackets. Collectively, the groups from Latin America and the Caribbean decided to hold a protest. So Gina Vargas, our Latin America representative, got up to speak, and instead of speaking, she pulled out a banner that said "Less words and more action." The platform was a lot of talk, but when it came time to make commitments, they didn't commit to anything. Then we organized a protest within the convention center with the same banner in all of the languages. We rode up and down the escalator. And of course they kicked us out. UN security showed up to take us out. We said, "When the United Nations security, the police, arrive, let's keep on walking as if nothing is happening." And that's what we did. It made the news, which is what we wanted.

After we got back to Colombia, we received support from the Red Nacional de Mujeres and Profamilia to provide feedback on the conference in the same places we had visited women earlier. We named it "From Cairo to Beijing," and the idea was to share information from the platform for action with women's groups in Cali, Santander, the Atlantic coast, Antioquia, and Chocó, to hold meetings and share these experiences. All this helped strengthen the women's movement in Colombia.

Then in 1996, the war with the FARC resurfaced with drug trafficking and kidnapping. Estanislao Zuleta, a very important Paisa⁷ writer, said that the war taints people because it makes them commit crimes. This affected people a lot. In the end, what I think is very difficult for Colombia is that the Constituent Assembly was a failed attempt at peacebuilding.

7 Someone from the northwestern region of Colombia.

NC: How was the feminist movement affected by the failed peace attempts of former presidents Pastrana, Samper, and Uribe?

BQ: The country started to become unsustainable. Samper was elected under the worst conditions. Pastrana and El Caguán⁸ didn't achieve any results. Then along came Uribe's administration with the paramilitary problem. Here I also felt that the feminist movement in Colombia began to blur. It started focusing on the war instead of being feminist. It's not their fault—it had to be that way. At one point I wrote an article that said, "The war is killing the movement" and that explored what we should do about it. That's why in Colombia, because of the war, there is more of a social movement of women than a feminist movement. The victims' movement is not a movement of women or feminists—it consists of women because they represent the majority of victims. But it's not a movement of women who in principle pursue the situations and experiences of women. So all of this became tangled up, and the country started to fall apart, to become polarized. And what us feminists have tried to do is give the victims' movement ideas for feminist claims and ideas, but we are not always successful.

NC: What role have feminists and women played in Colombia's peace process?

BQ: Our position was to always be there contributing because, otherwise, when a peace deal was reached, there wouldn't be any country left. We have to continue with our advocacy, insisting on the enforcement of laws, progressing in the protection of rights so that if we finally achieve peace, the country can have some kind of structure. If not, we're not going to be able to manage peace. Where is the feminist movement? It's there, but it's a small minority and we don't have much impact. We keep trying to open cracks, injecting small bits of women's rights, and there continues to be a lot of rejection, which is why it's so hard for the country's agenda to assimilate the feminist agenda.

Wherever possible, we have progressed in the legal arena and through alliances with women in Congress. Today, we have laws on violence, on women's participation, on quotas, etc. I think that

⁸ El Caguán refers to peace talks that took place during 1998–2002 between the FARC and the Pastrana administration.

Colombia is a less bad place and more open to peacebuilding thanks to movements like us. As feminists, we have contributed to making it possible for the country to embrace democracy and the possibility of peace.

NC: What are your plans as coordinator of the Red Nacional de Mujeres?

BQ: I've been doing this for seven years, which is a long time. I'm trying to start letting go because it's tough. But I'm not leaving because I'm tired. For me, the right word isn't exhaustion—for me, political action has become so vital that it doesn't worry me. It's part of my life and doesn't overtake me. I enjoy this work a lot. I work for this country, for its women. I enjoy it and get to meet people. I learn about the political situation, about the different spaces and discussions happening in different sectors, about what is happening in the peace process, about how it's coming along and what the knots and difficulties are.

NC: What would you say is Red Nacional de Mujeres' biggest contribution to Colombia?

BQ: For me, the most important contribution of the Red Nacional de Mujeres has been, since its inception, its constant advocacy in support of women's rights. The idea is for those rights, which are enshrined on paper, to become a reality for women, to have an impact on their lives. It's important to keep pushing. Of everyone in the network, there are many of us involved in this effort of insisting, all with the idea that women should have a better life with more secure rights.

Olga Amparo Sánchez⁹

Nina Chaparro: Tell me about yourself.

Olga Amparo Sánchez: I was lucky to be born into a large family: five men and five women. And it's a lucky situation because in large families—even though this isn't always the case—you learn to share, to accept differences, and to value the needs of others. My mother had liberal ideas while my father had conservative ones. The family had clear instructions on what was expected of women and what was expected of men. But despite those rules,

⁹ Interview with Olga Amparo Sánchez, February 12, 2016, Bogotá. The following text has been lightly edited for clarity.

there was a clear one for the women: “You need to get an education because you’re not going to be dependent on any man.”

I grew up in a middle-class urban environment and went to college. I’m a privileged woman. I didn’t have to fight for the right to go to college, or the right to control my fertility, or the right to divorce. Other women had already fought those fights for me, they handed down these rights. But the right to autonomy, on the other hand, I did have to fight for—and I still fight for it. The autonomy to decide whether to marry or live in a consensual union, to think differently from my mother, my father, and the partners with whom I have shared experiences of love, eroticism, and sexuality. This is a struggle of all women that continues today.

NC: Have you experienced situations of gender-based discrimination or violence?

OAS: I can’t say that I haven’t been discriminated against or excluded; of course I have. I have also experienced violence. The man I married and had children with is very different from me. He is conservative, with very traditional ideas about relationships. People would often ask me why I got married, and I told them because I loved him. I was convinced that love could change people’s visions of the world. I was a bit naïve, or rather a prisoner of that idyllic and romantic vision of love that causes so much pain to women and maybe even to men.

Today, when I look back at those twelve years of my life with the father of my daughter and son, I think it was worth it because of what I learned, because of how I had to reshape myself as a woman, and because it solidified my rebellion against the rules about what women should be. Those twelve years of marriage taught me a great deal—the conviction that I would never marry again. This didn’t mean giving up loving, respectful, erotic, and free encounters among two people, nor giving up the option of living with a partner. I also don’t think that the decision to get married is necessarily a bad one. This is my path, the one I chose, and it isn’t a yardstick or rule for anybody else. Each woman, each human being, should find their own way, the one that responds appropriately to their backgrounds, emotional needs, wants, and even neuroses.

I am happy about being a mother because I think it’s an experience that makes you grow, that challenges your autonomy.

But I also don't think it's the destiny of all women—it's one of the many life choices that I happened to choose. I am very proud of my daughter and son, that's something all us mothers say. They aren't perfect, and I don't put them on a pedestal; they are two human beings who seek their own way and who respect mine. On a daily basis, my daughter teaches me about how to be in life and how it's possible to live as part of a couple without losing your autonomy and without having to abandon your dreams. She is one of my teachers in life. I miss her company because she doesn't live in Colombia. My son is a man who has assumed his role as a parent very differently; he is thoughtful about his relationship with his wife, and he is a man who challenges himself daily and who is always transforming himself.

NC: How did your life as a feminist begin?

OAS: At college, I was involved in the student movement. That gave meaning to part of my rebellion because it provided me with theoretical and political tools for understanding the injustices in Colombian society, it showed me new horizons, and it reaffirmed my commitment to the quest for justice. But it also allowed me to understand how inexperienced, rebellious, and eager youth became linked to leftist groups. After I graduated, I went to Bogotá to look for a job and found feminism. My older sister, who is a feminist, created the group *Mujeres en la Lucha* with some friends of hers, and she invited me. In the beginning, I went just to see what it was all about. But as I listened to the arguments and allowed myself to be taken in by the experiences of self-help groups, I found meaning in the feelings of discomfort and rebellion that I had felt since a girl and which I couldn't quite pinpoint or find an outlet for.

Mujeres en la Lucha came about during the administration of Turbay Ayala—one of the governments that stands out for its persecution, torture, forced disappearances, and violation of the human rights of anyone who thought differently from the government. In that context, the *Mujeres* group had the courage to denounce the torture and sexual violence being committed by the Turbay government, especially against women from M-19, such as Margot Pizarro and Olga Botero. During the International Year of the Child, the group also called for amnesty for Latin American mothers who were political prisoners, pushed for the right



Picture 9
María Victoria Ángel, Julia Camargo, Mara Viveros, and Olga Amparo Sánchez (left to right)
Source: Suaza Vargas (2008)

to freely choose motherhood, and denounced the massive sterilizations that were being performed on poor women not just in Colombia but throughout Latin America.

NC: What was the Latin American and Caribbean feminist encounter like, and what did it mean for you?

OAS: In 1981, *Mujeres en la Lucha*, together with other feminist groups, organized the First Latin American and Caribbean Feminist Encounter. I was twenty-seven at the time and it was perhaps one of the most important experiences in my life as a feminist. It was held in Bogotá, and almost 300 women from around the world came. And even though it was a Latin American and Caribbean event, women from Europe and Canada also attended. The event raised several key issues; for example, at the time there was a very heated debate in many countries about double militancy, about how feminists had lost their autonomy in political parties, about how the women's agenda wasn't respected within the parties or that feminists who joined parties were considered "traitors" who abandoned their agendas upon joining. My take was to defend the autonomy of the feminist movement because the parties couldn't coopt women's organizations. Today I wouldn't make the same argument—today I think it's key to learn

to live among our multiple differences. The atmosphere of that first gathering was one of joining forces, meeting with one another, building bridges, and accepting the demands coming from throughout Latin America.

NC: Tell me about the origin of Casa de la Mujer, where you're currently serving as coordinator.

OAS: Casa de la Mujer arose in 1982 as the result of an initiative between *Mujeres en la Lucha* and women socialist-unionists who were in disagreement with unionism and with leftist parties because they weren't addressing women's issues. It came about as a result of the rebellion of feminists who wanted a "room of their own," to use the words of Virginia Woolf. Since its inception, Casa de la Mujer has been a feminist center created for women, by women. Over the years, it has made internal and external adjustments according to women's realities and the Colombian context. During all these years, its vision has integrated peace, democracy, and the end of the armed conflict through dialogue.

NC: Tell me about one of your recollections of Casa de la Mujer's beginnings.

OAS: One of the most significant experiences in the 1980s at Casa de la Mujer and *Mujeres en la Lucha* took place in the Esperanza neighborhood, a virtually inaccessible part of Bogotá. We talked with poor campesina women about the meaning of productive and nonproductive work, what we now call the "care economy." All of these are really cyclical themes in feminism: they emerge, they regress, and they return to the public eye, sometimes with other names and in other contexts, but always with the same objective of unveiling women's oppression and subordination in all areas of life. There, we played the video that Cine-Mujer had made, *¿Y su mamá qué hace?* I still remember the face of a campesina woman, with her sombrero, with her rosy cheeks, who said at the end of the session, "Hey, what do you mean? The housework that I do is important?" And she finished by saying, "Okay, so if that's how it is, then my husband or his boss should pay me for the work I do." For her, this was a huge discovery because she became aware of the value of her work and her contribution to the family economy. I think that the most important thing about this work is planting a seed so that women begin to make changes in their lives. That's why, for us, the process that women go through

over time—transforming their relationships, lives, and children—is more important than actual laws and public policies.

NC: During the Samper administration, you were the director of the National Directorate for Women’s Equality. What was it like to simultaneously be an activist and a government employee?

OAS: In 1994, President Samper created the National Planning Council. Together with María Lady Londoño, I participated in the council as a representative of women’s organizations. And as part of the first National Development Plan, we raised the issue of society’s outstanding debt with women, which led to the publication of the *Libro blanco*. Also in the plan, we raised the need for a strong institutional framework focused solely on women’s issues.

The National Development Plan was sent to Congress for approval, where Piedad Córdoba¹⁰ was a senator for the Liberal Party. She was the one who had to fight for the budget, and that’s where the Law on the National Directorate for Women’s Equality was created within the plan. And how did I end up there? I was picked because Samper asked the Liberal Party to nominate someone qualified for the role, and Piedad said to the party, “Instead of choosing someone from the party, I think we should pick a woman who knows about women’s issues, who has legitimacy,” and she proposed that it be me. I was director of the National Directorate for Women’s Equality for three years.

It was a tough job. Those three years taught me about the importance of self-restraint in order to not get carried away by grudges and unnecessary debates. The directorate was an autonomous entity, so we had a budget and administrative autonomy. We answered only to the president. It was a very important experience because you’re able to do a lot more from within the state with an assigned budget than you can from a women’s organization. I also learned how the state operates from the inside, the inner workings of government, its interests, its monopolies. Although it was difficult, I think I served women well. Today, I often come across people who say that thanks to the directorate, the

10 Piedad Córdoba is a Colombian lawyer and leader of the leftist Patriotic March movement. She has been elected senator four times and in 2003 was elected president of the Liberal Party.

country began a process of gender mainstreaming that continues today and keeps on transforming lives.

NC: Why did you leave the directorate?

OAS: Samper asked me to resign because of my position on abortion, which wasn't supposed to diverge from the message that the Colombian government had committed to in Beijing and Cairo around loosening the criminalization of abortion. It was hard because for the government, I was pro-abortion, and for the feminists, I was selling out to a corrupt and drug-trafficking government. Samper called me personally and said, "You aren't on board with the government. Resign."

That was the situation. There was a lot of pressure, and the church was breathing down our necks. There was a fractious debate in Congress on abortion. The House of Representatives was full of people from Opus Dei and the organization called *Por el Derecho a Nacer*. So when I entered the room, the women yelled, "Assassin!" The minister of health was there, and so was the counselor for social policy and members of the House. When I started to give a report on what the directorate had accomplished in terms of sexual and reproductive rights, a man from *Por el Derecho a Nacer* stood up and said, "We've researched your views and you're a disgraceful feminist." I wished I could just disappear right then and there.

After that, they asked the president of the House of Representatives to declare an informal hearing because members of *Por el Derecho a Nacer* wanted to pay a tribute to the National Directorate for Women's Equality—in other words, to me. So then a woman gets up and says to me, "Doctora, you and I are going to cross paths in this life because you're fighting for women's rights and I'm fighting for the rights of the unborn," and she launched into a speech. They had a little plastic fetus with an awful video and a button with little footprints, because they said that footprints exist from the moment of conception. They said, "Let's decorate her with the button," and I said to myself, "If they give me that fetus, I'm not taking it. I can't receive it." So I got up from my seat—and everything was being broadcast live—and she was going to put the button on me, and I accepted it in my hand. I sat back down, and the button remained there in my hands. And of course, all that was really heavy. The government thought it was awful, and

so did the feminists because, according to them, I should have gotten up to say, “Yes to abortion.” After that, I was asked to resign.

After my time in the National Directorate for Women’s Equality, I knew that my place was in the feminist movement and more specifically in Casa de la Mujer.

NC: Casa de la Mujer participated in the liberation of members of the armed forces and politicians who had been taken prisoner by the FARC. What was that experience like?

OAS: They called it the Brazilian Operation to Free Six Prisoners of the FARC. There, we organized a movement called Colombians for Peace. It was an incredible experience, but at the same time, for us, it shed light on the stigma of being part of the FARC or being among its sympathizers. Both the government and human rights and women’s organizations agreed that we were given this task because we were part of the insurgency—or at least sympathizers—and that we were selling out the feminist agenda to Piedad Córdoba and the FARC.

What I most remember about that experience is that the Uribe administration began talks with the FARC, as did all presidents. At that time, Pablo Emilio Moncayo’s¹¹ father, after walking for several days, set up a tent in Bogotá’s main plaza, where he planned to stay until they gave him an answer regarding the liberation of his son. One day, he had a confrontation with Uribe where he lambasted the state for its negligence, and this was aired on TV. We were in a meeting, and I saw him on TV. I called Piedad [Córdoba] and said, “This is so awful, we need to do something.” She said, “Yes, we must. We can’t leave behind these people whose relatives are being held prisoner.” So that’s when we began to form Colombians for Peace, which involved initiating a dialogue with the insurgency through letters saying, “Why don’t we talk about putting an end to kidnappings?” and “Why don’t we talk about freeing the prisoners?” This went back and forth for about a year, through letters and meetings with people, until Uribe agreed to pursue the first prisoner releases.

NC: Could you talk a bit more about how the releases went? What were they like on the ground?

11 Pablo Emilio Moncayo was a soldier who had been kidnapped.

OAS: The last release was very exciting—you can't imagine how it feels. Of all the powerful moments from my work at Casa de la Mujer, I think contributing to those releases was the strongest. The last release was for four members of the armed forces. We arrived in the middle of the jungle, to a place that had been chosen by the insurgency. We were with the Red Cross and had to follow strict protocols—you couldn't take your phone, couldn't make calls. Also, the protocols required you to leave the area at 3 p.m., and it was already 2 p.m. and there was no sign of the FARC or their prisoners. A messenger from the FARC told us, "They're going to be late. They might not even come because they're traveling by river and there's a military operation. Let's go." And Piedad said to me, "I'm not going anywhere, I'm waiting until they come with the prisoners." We decided to stay because otherwise it would have meant leaving a community exposed in the sense that it was already clear where the prisoners were going to be released and there were military operations.

Then 4:30 p.m. rolled around and still nothing. A ways away, a campesino shouted, "Here comes the boat!" It was an immense river, and it was so exciting when all of a sudden we could see two boats on the horizon. As they came nearer, we saw four people ready to debark. We were speechless, it was so beautiful. We left there at 5 p.m.

Our role in the operation was important because we helped liberate four people. The FARC did this with the conviction that there would be an eventual dialogue, and the final releases took place during Santos's first year as president. I think that this helped open the door for the peace talks that are currently taking place in Havana. It's just that no one says this publicly.

All of which is to say that the process of releasing prisoners put Casa de la Mujer in the eye of the hurricane, since people thought that we belonged to the FARC, and the saddest thing was hearing democrats say this. For us it was a really difficult time, but I think it had to be done because it opened the door for today's acts of peace by the insurgency. It allowed them to say goodbye to kidnapping and to consider issues like sexual violence, sexual and reproductive rights, and women's participation as important issues.

NC: What did Casa de la Mujer learn from this experience?

OAS: This whole process taught us that the world isn't black or white but a rainbow with 20,000 motives and possibilities that we don't understand. It's easier to divide the world into bad and good than it is to understand the complexities of a particular context. I'm not trying to justify war or the harm it causes—I'm just aware that to be able to put an end to it, we need to understand it, to recognize the grays of war and the fact that it involves human beings who suffer, love, who are complex. I don't think war is the answer, but to halt it we have to comprehend its human dimension, not just because of the adverse impacts that it had on victims but also because of its impact on those who fought in it. Understanding war's complexity strengthens our ability to continue fighting for a society without public and private wars. It gives us hope that it's possible to dream of a society where conflicts are resolved through dialogue, and politics is exercised without weapons.

Conclusion

Along with 300 other women, Claudia Mejía, Beatriz Quintero, and Olga Amparo Sánchez participated in the 1981 Latin American and Caribbean Feminist Encounter. The gathering involved four days of dialogue on, among other things, women's productive and nonproductive work, the type of feminist associations that should be created in order to advocate before the government, and sexual and reproductive rights. All of these problems of inequality are still being discussed today among new generations, but under different names and processes. The event also involved various forms of expression, from Cine-Mujer's presentation of its short film *¿Y su mamá qué hace?* to poetry, music, and slogans like "the right to laziness." This chapter pays homage to the feminist encounter in light of the fact that it marked the first time that so many women from Latin America, with similar demands for equality, gathered together to express themselves and seek ways to join forces.

After the encounter, Claudia, Beatriz, and Olga Amparo steered their careers toward feminism and the women's movement, from different perspectives but with the same vision of making Colombia a more equal place. Today, these women are the directors of three important organizations in Colombia—Sisma Mujer, Red

Nacional de Mujeres, and Casa de la Mujer, respectively—which have achieved important gains in the recognition of women’s rights and that will continue shedding light on the gaps that remain to be filled with regard to gender equality and democracy. These voices, evidence, and recollections are fragments of Colombian feminism.

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CHAPTER 8
**The Indigenous Community
of Cantagallo: Preserving
Indigenous Identity amidst
Asphalt and Concrete**

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Cantagallo: Identity in the Concrete Jungle

If you live in a city or urban area, be adventurous and open the window. What colors do you see? Mostly grays, blacks, browns, maybe some blues. Now imagine that in the midst of these tones, you spot a red, a green, or a pink. A splash of color in the middle of an opaque landscape. That is what this chapter is about: an oasis in the middle of a city.

The oasis is the community of Cantagallo, a group of indigenous migrants who abandoned their expansive green territories for a confined and dark space in Lima, the capital of Peru. Their reasons for this change in residence are many, and we will learn about them later. What is certain is that this community of about 200 families lives, learns, practices their customs, sells their handi-crafts, and dances and sings among honking cars and the road-paver machines that repair Lima's streets time and again.

Cantagallo sits between two of Lima's most impressive points. The first of them, at the rear end of Cantagallo, is the Rímac River, one of Peru's most important bodies of water; the second is the highway known as Vía Evitamiento, where a steady stream of cars and semi-trailers passes by from north to south. Amidst all of this movement and noise lives a community of immigrants from the Amazon who belong to the Shipibo-Konibo indigenous people from Ucayali, a region in southeastern Peru along the Brazilian border. Between this brown, dirty river and the gray paved highway, the Cantagallo community tries to keep its colors alive.

Cantagallo includes nearly 200 families from the Shipibo-Konibo people, one of the fifty-five indigenous peoples recognized by Peru's Ministry of Culture (Ministerio de Cultura 2017). Community members arrived in Lima beginning in the mid-1990s, and

they would eventually see their tranquility interrupted after construction commenced for the Vía Parque Rímac Project, a development initiative of the municipality of Lima aimed at rearranging traffic adjacent to the Rímac River.

The project has never adequately shared information with or encouraged the participation of the Cantagallo community, which has been fighting for almost ten years to halt it. As the project has moved forward, it has wreaked havoc on Cantagallo; for example, it excised part of the community and disrupted their living conditions and basic amenities. The project has even led to fractures within the community: on one side is a group that seeks to resettle the community elsewhere as a result of the project and on the other is a faction that wishes to remain in Cantagallo. Both sides have one thing clear: either they stay together or they go together. There is no other way.

This is the story of a community that despite confronting many hardships, continues to remain united. It is a community that has had to tackle external problems (the municipal development project) as well as internal ones (clashes among representative associations) but that searches for a way to maintain its sense of unity above the individuality that looms large in Peru's capital. Members of Cantagallo already feel like citizens of Lima, but they also feel like Shipibo-Konibo. This chapter is therefore the story of a community that sees itself simultaneously as indigenous and as *limeño* (belonging to Lima). It is a community that seeks to safeguard its traditional institutions in the midst of the maelstrom of Peru's busy capital.

This chapter explores the history of Cantagallo, the community's establishment in Lima, and its peaceful existence until the municipality commenced a development project that usurped part of the land that people had begun to consider home. It narrates the community's struggle to be relocated elsewhere with better housing conditions, and how it finally abandoned this struggle in order to continue living together as one group. A community ceases to exist if it does not share a common coexistence—so the Cantagallo community's decision to remain together until the end, under whatever conditions may be, is understandable and even obvious. But this decision was not always so clear to many of us on the outside.

Those Who Sought Out the River

I met the members of Cantagallo in 2015, when rumors began to circulate about the city's use of funds that had originally been allocated for the community's relocation to instead construct a bypass on Avenida 28 de Julio in downtown Lima.

My colleagues and I quickly observed that although this was a migrant community, its members still maintained many of their Shipibo-Konibo traditions: they spoke their native language, they made decisions via community assembly, they dressed in traditional clothing, and they made a living by selling their traditional handicrafts. Olinda, a well-known artisan in Cantagallo, told me that their handicraft trade was one of the distinguishing factors that set them apart from other *limeños* and that allowed them to preserve their identity as Shipibo.

I first met them in the office of a nongovernmental organization in Lima, but it soon became clear that I had to visit them on their own turf if I hoped to truly get to know them. So, a few days later, I made my first visit to Cantagallo, where I learned that one of their traits as an indigenous people was their desire to live close to the Rímac River. As a coastal people, the Shipibo-Konibo need to live alongside a river. Their brightly painted wooden houses punctuate the shore of the Rímac, as if trying to imitate the surroundings of the powerful Ucayali River.

I entered Cantagallo as a lawyer, with the emotional distance required of the profession. Little by little I tried to earn their trust, to get them to see me less as a lawyer and more as a compatriot in their struggle. I was outraged by their living situation: slum-like neighborhoods and a lack of basic amenities such as electricity, water, and a sewer system. It is because of this undignified situation that the organization I work for—the Amazon Center of Anthropology and Practical Application (CAAAP by its Spanish initials)—is supporting the community in every way we can.

But despite all of the studies, visits, and conversations led by our organization, I felt that we never fully came to understand the community. Although we slowly gained the trust of community leaders and women artisans, this proximity was not enough to understand a group of people who remained a mystery in their aspirations and way of being. CAAAP has always worked with indigenous communities, but there is usually something distinct

about indigenous communities who settle in the city: an internal struggle to balance the mix that defines them, a group that is at once native and *limeño*. If we wish to at least try to achieve a better sense of this community's true identity, we must go back to when its members first arrived to Lima.

Escape and Arrival: Cantagallo Meets Lima

After 2000, Shipibo-Konibo families from Ucayali settled on the so-called Cantagallo Island, a vacant lot alongside the Vía de Evitamiento, a wide boulevard on Lima's outskirts that allows cars to circulate through the city's periphery and thus "circumvent" traffic. In the end, the "circumvented" seemed to be the members of Cantagallo.

The Shipibo-Konibo are not the only indigenous people who have migrated to Lima. There are also the Ashaninka (from Peru's central rainforest) and the Awajun (from the northern rainforest), who reside in different districts of the capital. According to recent studies on Amazonian migrants in Peru, large groups of such migrants have settled in nine districts in Lima: San Miguel, Rímac, San Martín de Porres, Ventanilla, Ancón, Santa Eulalia, San Juan de Lurigancho, Ate Vitarte, and Chosica (Vega Díaz 2014).

They migrated for various reasons. Some of them came for the usual reason behind migration to Lima since the 1950s: better jobs and education. In the case of Amazonian communities, the first migration from this area of Peru occurred in the 1980s, with the emergence of national indigenous organizations based in Lima, specifically the Interethnic Association of the Peruvian Amazon and the Confederation of Amazonian Nationalities of Peru (Vega Díaz 2014). Today, both organizations have become the two main representative bodies for Amazonian indigenous peoples.

Others came with relatives to escape the horrific phenomenon of terrorism that ravished Peru between the 1960s and 1990s. Yet others came on the promise of former president Alejandro Toledo as part of the massive 2000 protest known as the March of the Four Suyos.¹ These last two reasons marked a push among the Shipibo-Konibo to come to the capital. According to fieldwork

1 La Marcha de los Cuatro Suyos (whose name was an allusion to the four corners of the Incan empire), was convened by then presi-

from 2013, five members of Cantagallo came to Lima in the 1980s, forty-six people came in the 1990s, and most members came in 2001 (159 people) (CAAAP et al. 2013).

This suggests that a large part of the contingent that came to live in Cantagallo came as a result of the march. And although they may have stayed to search for better jobs or to go to school, the reason for their trip was the protest against Fujimori's second reelection. This is another case of indigenous people being displaced by terrorism and political circumstances. Although they were not displaced from their territories by terrorist forces, like the Ashaninka people (Fabián Arias and Espinosa de Rivero 1997), the Shipibo-Konibo were displaced by the promises of opposition leader Toledo to overthrow the corrupt Fujimori.

These promises were broken. The Shipibo-Konibo came to Lima and participated in the march, but they did not receive the necessary resources to return to their native Ucayali. This forced them to remain in Cantagallo. Thus, at the beginning of the twenty-first century, as various indigenous migrant groups began to appear in Lima, one of them established itself as the most unique and populous group: the community of Cantagallo, which had settled along the edges of the Rímac River, five minutes from Lima's central plaza, and which would create a new focus for interculturality.

One of the tasks of transitional justice is to ensure that those displaced by armed conflict and war can return to their lands or, at the very least, receive lands in similar conditions as a form of compensation. In the case of Cantagallo, on top of the community's demand for better living conditions and basic amenities is a demand for the protection of its right to territory and the conditions for good living that community members enjoyed before the emergence of the circumstances that drove them to the capital. In this way, the case of Cantagallo is critical not just because of its demand for economic, social, and cultural rights but also because of its transitional justice component. If these two angles are not viewed together, the case is not being seen in a truly comprehensive light.

dential candidate Alejandro Toledo to protest against President Alberto Fujimori's third term.

The Cantagallo Community: Keeping Identity Alive

With the passing of the years, and on the basis of the family networks characteristic of Amazonian peoples, the community of Cantagallo grew. The number became so big that its members formed three representative associations—the Housing Association of Shipibo in Lima (AVSHIL by its Spanish initials), the Pro-Housing Association of Artisan Shipibo Residents in Lima (ASHIRELV), and the Association of the Urban Shipibo-Konibo Community in Lima (AKUSHIKOLM)—for each of the three levels into which the community was organized. Associations are also representative of Amazonian peoples, as they aid decision making and life directions. Amazonian communities have a very active political life, and Cantagallo is no exception. An elderly village leader, Augusto Valle, told me that they had come to Lima but had not forgotten their traditional ways, one of which was decision making via associations.

The way of life among the various members of Cantagallo varied, but they still struggled to keep some of their traditions alive. They were in Lima in the twenty-first century, and they had to adapt to the city's frenetic pace. Many of them would now have to seek work in new trades to support their families. And their homes were not just inhabited by spouses and children: according to recent data, 53% of those interviewed lived with other relatives (CAAAP et al. 2013). It is therefore normal to find families with five or six members, despite the fact that the living spaces are small.

The members of Cantagallo knew that they did not want to lose their identity. Although the community's structure resembled that of any other settlement (or "shantytown," as is the common term in Peru), residents sought to add a unique touch that would allow them to recall their roots on a daily basis. Thus, their homes, though constructed of plywood and corrugated metal, feature brightly painted walls. Some houses even feature paintings and drawings of Shipibo-Konibo themes, such as women and children and animal shapes with bright colors like green, orange, and electric blue.

But it was not just the infrastructure. Residents sought to maintain their identity in their clothes and actions. Community members, particularly the women, still wear traditional Shipibo-Konibo

clothing and jewelry. Handicrafts represent one of the most developed trades in Cantagallo. Women perform handiwork not just to preserve their culture but also to earn money. They sell their jewelry to tourists both within and outside their neighborhood.

Finally, a key aspect for understanding how the members of Cantagallo seek to keep their culture alive is the use of their native language. Both men and women, and even the young, speak in Shipibo-Konibo. They also speak Spanish, but their native language is used above all in important decision-making moments and in debates of critical importance for the community. Even in public appearances and press conferences, it is common for greetings and the first words of their speeches to be in Shipibo-Konibo.

It is important to highlight this group's identity as an indigenous people, since it was decisive during negotiations with state authorities. Regardless of whether certain leaders or associations had more of a presence than others at meetings and roundtable discussions, they always introduced themselves as "members of the Shipibo-Konibo community of Cantagallo." This description was not gratuitous; since arriving to Lima, Cantagallo has presented itself as a "community" within a "people." This sense of unity and of a group is an important aspect that has often been difficult for the Peruvian state, especially the municipality of Lima, to understand.

The area inhabited by the community was an old landfill site, which meant precarious sanitary and living conditions, especially for children and the elderly. Nonetheless, residents stayed there, together as a community, since their sense of unity prevailed over all else. But they also stayed there because they had nowhere else to go.

For an outsider, it is difficult to be able to assess a group of people that has been living in the same place for more than twenty years. When the case of Cantagallo was making frequent headlines, taxi drivers and vendors (including those who worked near the area) would say to me, incredulous, that they couldn't understand why the Shipibo-Konibo wanted to stay in Cantagallo: "it's a dump," "it's a pigsty," and "it's a landfill" were some of the descriptions offered of the area.

As a lawyer and someone external to the community, I coolly analyzed the situation: it was about a group of Peruvian citizens

who lacked basic services (electricity, water, sewage), who lived huddled together without a right to adequate housing, and who, without appropriate waste disposal, suffered violations of their right to health. The immediate natural conclusion was that this group would be unable to keep living under such conditions indefinitely. But the people of Cantagallo, though quite aware of this fact, superimposed something that we who are not part of a community generally overlook: the need to live together, however that may be.

Members of Cantagallo faced a double contradiction in terms of their identity. First, they were defending their indigenous identity despite not living in their native territory of Ucayali. An indigenous people maintains its identity even when it has lost some of the traits that define it as such. Therefore, if a people stops speaking its native tongue (something that, regrettably, is increasingly common) or no longer dresses in its traditional clothing, it does not mean that it is no longer indigenous. The indigenous classification still applies.

But perhaps the other aspect of contradiction in terms of identity was even more severe: Cantagallo continued to live as a community within a city of individualisms. *Limeños* have many virtues, but one of their main flaws is the notion of individual



Picture 1
Women in Cantagallo celebrating
Photo: Mario López Garelli

life, where personal objectives overrule social well-being. This can be seen from the political workings of Congress to traffic on any street. In Cantagallo, the goal was to live as a community, without imposing the interests of any leader or individual above those of the group at large. The idea that the common good should always prevail was one that often conflicted with public opinion and with the notions of the Peruvian government.

Although they faced many problems where they were, residents lived together, as a community. And they lived in peace—until something happened.

Vía Parque Rímac: The (Once Again) Threatened Territory

On November 12, 2009, during Luis Castañeda Lossio's second term as mayor, the concession contract for the Vía Parque Rímac Project (formerly known as the Línea Amarilla Project) was signed between the municipality of Lima, in its capacity as grantor, and the company Línea Amarilla, in its capacity as concessionaire. The project would include the expansion of the highway known as Vía de Evitamiento that connects Lima's southern and northern areas. To this end, the roadway would be rehabilitated, bridges and walkways would be constructed, and part of the Rímac River would be redirected; this river ran parallel to the Vía de Evitamiento and would end up flowing through an important part of Cantagallo. It was this last item that most worried the community.

Vía Parque Rímac's construction would require the community's relocation, given that the Rímac would now run through it. The river's waters, so sought after by the Shipibo-Konibo when they first arrived to Lima, had now become the shears that would sever the community. This curtailment would cause the exile of one part of the community and the overcrowding of the part that would remain in Cantagallo. Resettlement was imminent.

This development, together with the signing of the project's concession contract, raised the question whether a prior consultation process was needed. Prior consultation is based on the internal dimension of the right to self-determination. The right to "internal" self-determination emerged around the time when various peoples sought to gain independence from their colonizers, and it was framed in the United Nations' landmark Resolution 1514.

In its internal dimension, the right to self-determination grants autonomy, but not the power to secede. For Patricia Urteaga, the right to self-determination allows a people to “decide how they wish to live and what destiny they wish to choose for themselves; that is, the autonomy to decide over their development and over all aspects that are of interest to them and that affect them” (Urteaga 2009, 130). James Anaya, former United Nations Special Rapporteur on the Rights of Indigenous Peoples, has noted that the right to self-determination is not defined by the concepts of statehood or sovereignty, making it erroneous to assume that this right empowers indigenous peoples to seek secession or the formation of a new state (Anaya 2010).

According to the right to internal self-determination, a people has the capacity and autonomy to determine its priorities for development and maintain its own internal social, political, economic, and juridical systems. The right includes prior consultation, which is triggered by external measures that stand to affect a people’s collective rights and ways of life. Under Convention 169 of the International Labour Organization (ILO), prior consultation consists of an intercultural dialogue established by the state with one or more indigenous peoples in the face of a legislative or administrative measure that has the potential to affect their collective rights.

Although it was clear that this development project was a case of an administrative measure that stood to affect multiple rights of the community of Cantagallo, the million-dollar question was whether this group should be considered an indigenous people. The group clearly descended from the indigenous Shipibo-Konibo people, but it was now necessary to analyze a new factor—the community’s migration—and ask whether this migration away from ancestral Shipibo-Konibo territory affected the group’s ability to be considered indigenous. I address this point later in the chapter.

In addition to the question whether the community of Cantagallo should be considered an indigenous people was the question whether prior consultation was mandatory, considering that ILO Convention 169 had been in force in Peru since 1995 but that a domestic law on prior consultation had yet to be passed (such a law was passed only in 2011). In the face of this question, in 2011 and under the mayoral administration of Susana Villarán,

the municipality of Lima initiated a dialogue with the community with the aim of agreeing on the community's relocation under the framework of Convention 169. This dialogue, which was seen as a type of "pre-consultation," achieved some key agreements: the relocation of families and of the Schools of Intercultural Bilingual Education, as well as the construction of a housing project.

Villarán's administration was prepared to respect the community's rights in addition to the rights of the developer and of the citizens who would benefit from the Vía Parque Rímac Project. As a result, on February 15, 2013, the administration added an addendum to the contract that had already been signed, giving the development effort a new name: the Río Verde and Urban Renewal Project. This new project would include not just the diversion of the river and the construction of highways and bridges but also the resettlement and improvement of the lives of Cantagallo members and the reforestation of the area surrounding the Rímac. The area currently traversed by the river currently is sandy and desolate, while the river's low water level has transformed the waterway into a dump. The new Río Verde project sought to revolutionize this longstanding aspect of Lima's landscape.

As part of the municipality's new vision for Cantagallo, through Mayoral Resolution No. 124 of May 16, 2013, a working group was created in order to define, within the framework of the Río Verde project's implementation, the relocation of the Shipibo-Konibo population that had settled in Cantagallo. The working group was made up of municipal representatives and Cantagallo residents.

In addition, in September 2013, the project's master plan was approved. This plan is an administrative document that outlines all of the components to be executed. Río Verde's master plan consisted of the following works: Shipibo Residential Complex, Shipibo Cultural Center, Cantagallo Park, Alameda de los Barrios Altos, and urban integration works (Puente Cantagallo, Puente Martinete, Puente Avenida Mariátegui, Puente Maynas, and Puente Calle Quiroga). Thus, the community's relocation and the construction of new housing began to take shape. At that time, in mid-2013, the community consisted of 226 Shipibo-Konibo families.²

2 Management Resolution No. 112-2013-MML/GPIP of October 11, 2013, included "guidelines for the identification of the popula-

The working group undertook certain measures to ensure the community's relocation. In its sixth meeting, on April 24, 2014, the group approved the construction of the Shipibo-Konibo Housing Project, which would feature a bilingual school and a multipurpose center. And on May 9, 2014, a management trust agreement was signed between Línea Amarilla (settlor), the municipality of Lima (trustee), and Scotiabank Peru (fiduciary) for the Río Verde project. This trust, valued at US\$74,500,000, would be allocated toward the project.

Meanwhile, measures to facilitate the community's resettlement continued. Through Official Communication No. 218-2014-MML-GPIP, dated June 5, 2014, Lima's Department for the Promotion of Private Investment stated that the priority of the first stage of the Río Verde project was, among other things, the Shipibo-Konibo Housing Project, which consisted of housing, a community center, and a bilingual school. On October 7, 2014, a sales contract was even signed for a 7,141-square-foot building located in the district of San Juan de Lurigancho, where most of the 200 families were to be relocated.

But time was running out for the Cantagallo community and Villarán's administration. The mayor had begun her term in 2011 and would leave office at the end of December 2014. During her time as mayor, she faced a great deal of criticism and even an attempt to remove her from office.³ By the end of her term, she was worn out and had lost council members and allies. That was perhaps why one of her last political acts as mayor was to try to concretize the community's relocation and the construction of the Shipibo Residential Complex. Thus, on December 22, 2014, the municipality issued Mayoral Decree No. 16, which prioritized the signing of a contract between the municipality and the Brazilian company Grupo OAS for the construction of the housing

tion belonging to the Urban Shipibo-Konibo Community and non-Shipibo residents to be located as a result of residing within the area of direct influence of the Vía Parque Rímas Project." The resolution identifies 226 Shipibo-Konibo families in Cantagallo.

3 The recall process was led in 2012 by citizen Marco Tulio Gutiérrez in the face of Villarán's high disapproval ratings. A recall vote was held in March 2013, and the "no" vote won, allowing the mayor to stay until December 2014 to complete her term.

complex. Unfortunately, this would not be enough for protecting the community and its right to housing.

A little more than a week after this decree was issued, Villarán left office and a new mayor, Luis Castañeda Lossio—the same mayor who had launched the project, back when it was known as Vía Parque Rímac—took office. This new administration has demonstrated its preference for development projects over respect for the rights of minorities. And Castañeda, being the pioneer of the original project, did not hesitate in pushing the original vision forward.

Unfortunately, Villarán’s administration had not fully concretized the relocation option for residents of Cantagallo. Although it had created the trust (which would finance the relocation), had developed the master plan (which described all of the components of the Río Verde project), and had issued a mayoral decree to seal, at a political level, the priority of signing a construction contract for the housing complex, it had neglected one important detail related to this last point: it had not actually signed a contract for the housing complex’s construction.

Villarán’s administration had not signed a contract with OAS or any other developer, meaning that there was no legal obligation to build the housing complex. Castañeda’s administration used this fact to ignore the claims of community members regarding the complex’s construction. As a result, a new battle emerged in the community’s struggle for a dignified life in its negotiations with the government.

As a new round of negotiations with a new municipal administration began, the community was already suffering damages caused by the progress of the Vía Parque Rímac Project, which had come to be called Río Verde only to return, under Castañeda’s administration, to be called Vía Parque Rímac. And despite ongoing negotiations and roundtables, the steel and concrete project forged ruthlessly ahead.

Here, it is important to reflect on the different types of bargaining power that generally exist in conflicts involving native communities. For Nobel Prize-winning economist Joseph Stiglitz, there is an information asymmetry “when the two parties to a transaction [offerors and claimants] have different information” (Stiglitz 2015, 90). Moreover, as Stiglitz notes, when there is

information symmetry, there are problems in enforcing contracts, which leads to market failure. In Peru, it is common for extractive projects to move forward even when a particular aspect of the project is questioned on the basis of information asymmetry between communities and companies or the state.⁴ Cantagallo was no exception, as it involved, on the one hand, the community of Cantagallo, which had little specialized knowledge about concessions or trusts, and, on the other, the municipality of Lima, which reviewed and negotiated such contracts on a daily basis. Being the underdog in such a situation is very difficult.

The project's construction had cut back part of Cantagallo (approximately one-third of the land that the community had occupied), which had led to two significant effects: first, it had meant that some families received individual compensation and left Cantagallo (making them twice-over migrants). And second, those who had remained in Cantagallo lived in extremely overcrowded conditions. The three levels within Cantagallo, mentioned earlier, are now increasingly closer to one another, and the pressure that nearly 200 families place on this small piece of land has caused ruptures in the ground and in drainage pipes. It is thus common to find pools of water caused by broken pipes.

One of the deepest impacts has been on intercultural bilingual education. Cantagallo's downsizing caused not only the transfer of entire families but also the relocation of the bilingual school to the site where the community's sports field had previously been. This school, which had been officially recognized in 2008 by the Ministry of Education, offered the children of Cantagallo education that drew on indigenous knowledge and traditions.

This violation of the rights of members of Cantagallo was so flagrant that the Ombudsman's Office conducted a visit to the area in November 2014. After its visit, the office ordered the municipality to initiate construction of the housing project and deliver to community representatives the public registration of the Campoy plot of land, which had originally been purchased for the community's relocation.

4 For specific cases and an in-depth exploration of the information asymmetry between communities and companies in negotiations over access to mineral-rich soil, see O'Diana Rocca (2014).

Violated Rights, Silent Municipality

The violation of the community's rights is even more evident today than when works began for Vía Parque Rímac. Today, violations of the rights enshrined in ILO Convention 169 have been confirmed (right to self-determination, right to cultural identity), as well as violations of other human rights in general (right to health, right to water, right to adequate housing).

Under Peru's Constitution, all Peruvians have the rights to health, to cultural identity, and to an appropriate and balanced environment. Article 11 of the International Covenant on Economic, Social and Cultural Rights protects the right of everyone to "an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions." The Peruvian state, through the municipality of Lima, was failing to protect these rights of Cantagallo residents by denying a culturally adequate relocation. As a result, the idea emerged of filing an *amparo* (remedy for the protection of constitutional rights) against the municipality. But regrettably, this idea never came to fruition.

Although these violations of the community's fundamental rights were evident, the community's attempts to engage in dialogue with state authorities fell on deaf ears. The municipality was not interested in negotiating or speaking with community representatives. For the Castañeda administration, the Vía Parque Rímac Project would continue, and any extra funds would go to the various development components that had to be executed, not to the affected population.

But community representatives did not stand idly by, instead undertaking a series of actions to achieve dialogue with the municipality. In March 2015, they sent a document describing their situation to the municipality. The municipality did not respond. They then decided to send a notarized letter to the municipality, requesting a meeting with the mayor and documenting information about an advertisement that had greatly bothered community members. (A few days prior, city officials had advertised in national newspapers that funds from the former Río Verde project would be used for another component: the 28 de Julio Bypass. One of the most congested roads in the city, Avenida 28 de Julio is

located in downtown Lima. The bypass would be located half an hour away from Cantagallo, prompting the community to question why project funds originally set aside for their relocation would instead be used for such a faraway work.)

In the face of the municipality's refusal to meet and this surprising advertisement about the construction of a bypass using funds from the trust, the community decided to hold a press conference. Here was where Cantagallo's opposition leadership began to take form. Present were the three associations representing members of the community: AVSHIL, led by Ricardo Franco; AKUSHIKOLM, led by Wilson Valles; and ASHIRELV, led by Karina Pacaya. These three associations, accompanied by other leaders from the community, delivered moving speeches and displayed colorful banners to show that they would not give up in this years-long struggle. Keeping their Shipibo-Konibo style alive, residents agreed that a united front against the municipality was their best strategy.

This strategy is a classic example of BATNA, or "best alternative to a negotiated agreement," a term introduced by Roger Fisher and William Ury in their book *Getting to Yes: Negotiating without Giving In* (1981). BATNA is a group's best alternative if negotiations fail and an agreement is not reached. In this specific case, the Cantagallo community was best placed to know what was good for its members, and it used this strategy in its negotiations with the municipality. Residents knew that if they couldn't achieve what they were seeking (relocation to optimal housing conditions), the alternative would be to remain where they were currently living. They would lack ideal living conditions, but at least they would be together. This raises the question, then, whether the negotiations were, as mentioned earlier, marked by an asymmetry of information or whether the community had actually always negotiated with the certainty that in the worst-case scenario, members would at least remain together as a community.

In the face of the community's public strategy, the municipality ceded to pressure and began to organize a series of meetings with Cantagallo representatives. In March and April 2015, about five meetings were held, but without any serious results. Throughout these meetings, the municipal government promised to relocate the community, but it never offered a serious proposal.

Moreover, it refused to recognize that the trust's funds should be used for relocation. In other words, the idea of using those funds to construct the 28 de Julio Bypass remained its top priority.

The city's lack of answers and the passage of time worried residents. The bypass forged ahead, and overcrowding in Cantagallo made residents increasingly vulnerable. It was perhaps this desperation and inaction that began to lead to rifts within the community. Like all Amazonian peoples, the Cantagallo community was organized into several associations. Although the three associations had experienced their differences, they had maintained a united front against the municipality. A few months after roundtable negotiations with the new administration began—but years after having negotiated with the municipality in general—tensions among these groups began to surface.

This wedge was exacerbated by the municipality, which convened a meeting at the end of April 2015 with the president of just one of the associations: Wilson Valles of AKUSHIKOLM. Despite the meeting's secrecy, the city merely repeated what it had said in earlier encounters. But its political aim of creating rifts among the associations was underway. This situation would detonate when the city offered Wilson a job in the bypass, which was in its last stage of construction.

Things have not been the same since. The three associations have grown farther apart. When Wilson began working for the municipality, which neutralized AKUSHIKOLM, Karina Pacaya of ASHIRELV did not put up the same fight against the city, and she stopped attending meetings. The only one who remained fighting was Ricardo Franco of AVSHIL. Alone, Ricardo tried to organize meetings with the municipality and to keep the once public and massive "Cantagallo case" on the radar of various media outlets. But the press's interest had waned as a result of press releases by the municipality indicating that agreements had been reached between the two parties. The meetings had ended and nothing had been resolved, which caused a natural wear and tear within Cantagallo. This burnout meant that fewer community members raised their voices in protest, despite the precarious situation they continued to experience. Ricardo kept fighting, but he was on his own.

The Consequences of Failed Negotiations: Ruptures within the Community

Ricardo's struggle kept our advisory organizations in check, but we knew that without two of the three associations, the cause would be difficult. The municipality continued to meet selectively with some leaders and did not make further commitments. At the most, it facilitated a few visits by health authorities. The relationship between Cantagallo and the municipality had never been worse. Meanwhile, the bypass was almost finished.

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Richard O'Diana

Truly worrying, though, was not the distance between the two parties but the distance being created among members of the community. Although there had always been a tense relationship among the three associations, they had never stopped acting as a group, as a community. Now, the three leaders did not even speak to one another: Wilson worked for the municipality, Karina was busy with her own projects, and Ricardo was the only one fighting for the cause.

Ricardo, nearly fifty years old, had always been a leader within Cantagallo. His small stature and thinness belied his strength: on the inside, he was a trusted authority. His serenity allowed him to serve as a guide and advisor not just with members of AVSHIL but with all residents of Cantagallo. Although he had neither Karina's determination nor Wilson's ability to articulate, he was always present.

In our most recent meetings, we could see Ricardo's weariness. On the one hand, his opposition to the municipality had made him a target of old allegations that had emerged some years before. But he was also the object of attacks and distrustful looks from his own community. This was what hurt him the most—and it was what finally wore him down and prompted him to surrender. He had even been threatened with expulsion from Cantagallo.

He faced a dilemma: either continue fighting against the municipality and earn the disdain of his fellow residents who wanted to live in peace, or abandon the struggle and rejoin the community. He felt a strong need to struggle for better living conditions. Yet stronger still was his need to remain a part of the community and remain the leader and voice of reason that he had always been. This sense of belonging was what now marked the community's agenda.

There were now two different stances in Cantagallo: on one side was a group that wanted to remain there, overcrowded but together; and on the other was a group, led by Ricardo, that wanted to continue pressuring the municipality to meet its commitments and relocate residents to a better area. The second position, which had been the only one in Cantagallo for years, was now being thrown by the wayside. Little by little, the community began to prefer to remain in Cantagallo, under poor and unsanitary living conditions, but together and without the annoyance of the municipality.

This highlights an interesting collision of rights within the community of Cantagallo: first, the right defended by one part of the community, which emphasizes better living, health, and education conditions; and second, the right to cultural identity and to live as an indigenous people, sought by a majority of the community who wished to remain together. In the face of this collision was a state that was charged with protecting both sets of rights but that, above all, had to respect the community's will. One could even say that the claim to a dignified life was pushing aside the idea of better living and health conditions, and redirecting itself toward the idea of being able to live together as a community. Thus, these two sets of expectations marked a before and after in the community's struggle with the municipality. The stances were no longer so clear.

The pending agenda had always centered on better living conditions. Villarán's administration had clearly shown the political will, if not the necessary legal actions, to carry out the community's resettlement. The Castañeda administration then came into office and abandoned any hope of dialogue. Legally speaking, there were no forceful arguments that the community could use: the trust of US\$74 million did not involve the community as a signatory, and its object was Río Verde. The 28 de Julio Bypass had been included as one of the project's integration works. Moreover, although a mayoral decree had been issued, a contract for the construction of the Shipibo-Konibo Housing Project had never been signed. Politically and legally, the Cantagallo community was defenseless.

That is why Ricardo ended up surrendering, and the community decided to remain in Cantagallo. The last time I spoke with

Ricardo, I asked him—based on my urban inexperience—why he decided to stop struggling after almost a decade. In a moment that I will never forget, he responded that he had decided to stop trying to negotiate with the municipality since he preferred to remain together with his fellow community members. If he continued fighting, he said, he would continue to draw apart from them; in fact, if he won, the municipality would relocate him and his association, who would then be separated from the others. In a sense, if he “won,” he would lose—because separation from the community was the cruelest defeat of all.

In the face of this situation, Ricardo decided he had had enough. And with that, Cantagallo’s fight of resistance came to an end. Paradoxically, Ricardo and his fellow community members had found peace. They had not achieved their objective, but within the apparent defeat they had found a victory: remaining together. Even during Villarán’s administration, there had been a concern that just one part of the community would be relocated and another would not. But now that would not happen. Now they would be together. This decision brought the case to a close and even ended up alienating the community from the civil



Picture 2
Cantagallo after the fire of November 2016
Photo: Jonathan Hurtado

society organizations, like mine, that had initially tried to help. The time for advisors was over; now, the only thing that mattered was the community.

Being ignored by the municipality guaranteed the community that it would stay together in Cantagallo. The area had been downsized and people were huddled together now more than ever, but they were together. And this is vital when it comes to communities. This leads us to one of the main questions of this chapter: whether Cantagallo can still be considered an indigenous community.

Ashes Remain

A year and a half after the failed negotiations with the municipality, some facts began to come to light: in March 2015, the municipality had changed the master plan of the Río Verde Project to prioritize the construction of the 28 de Julio Bypass as an “urban integration work.” In addition, on March 4, 2015, through Letter 028-2015-MML-GPIP, project management had stated its wish to sell the Campoy plot of land. The following day, through an addendum to the trust agreement, the three parties to the concession contract had decided to sell Campoy.



Picture 3
Cantagallo resists
Photo: Richard O'Diana

All of this led to the conclusion that while municipal officials had been negotiating a possible relocation with the community of Cantagallo, the same municipality had already modified Río Verde's master plan (in which the community's relocation is identified as a component of the project) and had decided to sell the plot that had been purchased for residents' relocation.

But this deception was not the worst one. Two weeks after the Inter-American Commission on Human Rights sent a delegation to visit Cantagallo, the community suffered a large blaze. At daybreak on November 4, 2016, a fire razed almost 90% of the area: nearly everyone lost their houses, and a small boy died.

A sense of helplessness and frustration ran through our minds as we walked through the remnants of a community that had once brought vibrancy to the dingy Rímac River. The color in the midst of Lima's endless gray had been washed out. Help immediately came from all sides: civil society, the government, international institutions, churches, and others. The flames that had razed Cantagallo finally caused *limeños* to take notice of other *limeños* who were living near them and were now suffering. After the fire, Cantagallo once again occupied the hearts of city residents and the front pages of national newspapers.

Circle of Trust

Recovery efforts began a few days after the fire. The people of Cantagallo once again had a fixed idea: to remain together. On a piece of land where the only thing that defends their interests is the right to possession over it, the people of Cantagallo, now homeless, did not want to leave. The three associations searched for the best solution, but, unfortunately, divisions emerged once again.

Two blocs quickly formed: on one side was AKUSHIKOLM and ASHIRELV, which began to negotiate with the municipality and the Ministry of Housing; and on the other side was AVSHIL, which was gradually neutralized during the negotiations. The main reason behind this neutralization was perhaps the allegations that emerged against Ricardo Franco, who was accused of having received an indemnification for the Línea Amarilla Project. Ricardo, already isolated by his own community for the shattered negotiations of 2015, was more alone than ever and was looking for a way to have a seat in the negotiations once again.

Currently, Cantagallo is being represented by Wilson Valle and Karina Pacaya in talks with the municipality and the Ministry of Housing, which is in charge of the reconstruction roundtable on Cantagallo. Both leaders have put aside their differences and are pushing for the community to enjoy, at long last, a basic standard of living. Both have even put aside their differences with the municipality in order to search for solutions to the community's problems.

Residents of Cantagallo have viewed the fire of November 4 as an opportunity to finally have their voices heard. They are even open to leaving Cantagallo and receiving another piece of land (with official property titles) if that is what will ensure their right to property. The community's pragmatism is as strong as its desire to finally resolve its problems. And whether the people remain on a charred piece of land in Cantagallo or move to a new area, their basic prerequisite remains unchanged: beyond any ideological or political differences, the community stands as one and must remain that way. Together.

Amazonian Identity and Indigenous Community in Cantagallo

Having lived in Lima for nearly twenty years, the members of Cantagallo proclaimed in their demands, "We are Shipibo-Konibo, and we are *limeños*." Thus, the big unanswered question is whether the Cantagallo community can still be considered an indigenous one. Although community members asserted their indigeneity (which is the only perspective that really matters), the answer was not so clear for local authorities or the Peruvian state—and therefore the community was not offered an adequate standard of protection.

Other countries have also experienced situations of indigenous groups in urban areas. In 2013, the government of Colombia, for example, reviewed eighty-three applications for the creation of "urban *cabildos*" (indigenous councils) in twenty departments within the country; in addition, ten communities sought recognition of their *cabildos* in Bogotá (Valenzuela 2014b). According to some estimates, there are 10,000 indigenous people in Bogotá (Pardilla 2014). These communities were making these claims not only

in order to be recognized but also so that all of their rights, such as the right to prior consultation, would be protected.

In Bogotá, the issue of improved living conditions for indigenous migrants is not a new one. Thus, in 2014, the mayor issued Decree 166, which relocated 171 indigenous families that had been living under inadequate conditions. Moreover, the families would not be transferred to just any kind of housing complex but rather to *malocas* (communal thatched houses) that resembled those they used to have in their native territory (Valenzuela 2014a). This action shows that other countries consider urban indigenous communities as indigenous groups and even implement special measures to safeguard their collective rights.

According to article 1 of ILO Convention 169, indigenous peoples are defined by two objective criteria and one subjective criterion: at the objective level, indigenous peoples are those who (i) descend “from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries” and (ii) “retain some or all of their own social, economic, cultural and political institutions.” The subjective criterion centers on self-identification as an indigenous people.

Under this technical definition, we can consider the Cantagallo community to be an indigenous community. The members of Cantagallo descend from the Shipibo-Konibo people and still maintain many of their traditions and customs: language, clothing, decision making, political actions, etc. In addition, the community self-identifies as Shipibo-Konibo. They see themselves as indigenous *and* as *limeños*.

The Inter-American Court of Human Rights has elaborated in depth on the rights of indigenous peoples in a dozen or so rulings. For example, in its 2007 *Saramaka v. Suriname* judgment, the court established that even if a group is not considered entirely indigenous, it is still eligible for rights protection as a tribal people. As the ruling reads:

First of all, the Court observes that the Saramaka people are not indigenous to the region they inhabit; they were instead brought to what is now known as Suriname during the colonization period . . . Therefore, they are asserting their rights as alleged tribal peoples, that is, not indigenous to the region, but that share similar characteristics with

indigenous peoples, such as having social, cultural and economic traditions different from other sections of the national community, identifying themselves with their ancestral territories, and regulating themselves, at least partially, by their own norms, customs, and traditions.⁵

Beyond the academic debate over whether the community of Cantagallo qualifies as an indigenous people, what needs to be addressed is whether it should be the subject of indigenous rights such as prior consultation and the right to territory. In light of the definitions provided by ILO Convention 169 and the jurisprudence of the Inter-American Court of Human Rights, it is clear that the group that today inhabits Cantagallo should be the subject of indigenous rights.

The key, however, to understanding the community's status as an indigenous people can be found in the end to its conflict with the municipality of Lima. Almost all of the community members ultimately preferred to remain together in Cantagallo rather than separating themselves or allowing just part of the community to be relocated. This decision was what finally made me understand that Cantagallo was a community that, despite its problems, preferred to stay together. The clear objective was the group's continuity, and its members kept alive this sense of collectivity. Beyond their clothing, the colors of their homes, and their language, what truly marked their sense of community was their decision to stay together instead of separating in search of comfort.

From the cool and comfortable armchairs of technical advisory organizations, it is hard to make sense of the community's decision. Since the beginning, our goal had been to ensure that the municipality would relocate the entire community in order to improve its vulnerable living conditions, which had already worsened as a result of the Línea Amarilla Project. What we didn't take into account was that this struggle would be so arduous and tiring that, halfway through, the community would prefer to remain in what was left of Cantagallo in order to stay together. We as organizations did not know how to interpret this in time; we failed to distinguish that the strategies and goals of indigenous communities often varied over time and do not necessarily align with the

5 Inter-American Court of Human Rights, *Saramaka v. Suriname*, November 28, 2007, para. 79.

aims of advisory organizations. It also showed us that from our inner field, there is still much to learn.

That is why we must take measures to safeguard the rights of indigenous communities, particularly those living in urban areas. Thus, for example, indigenous communities who live in cities should be recognized as indigenous peoples with the same rights as those who live in rural areas, without discrimination (Espinoza de Rivero 2009). Such recognition is, firstly, symbolic, as we would be treating an urban community on an equal level as an indigenous community that remains in its original territory. As a result, we would also be in line with legal standards according to which a group is considered indigenous when it maintains all or some of the characteristics that define it as indigenous.

At the same time, this recognition as indigenous would be a vindication for a community that left its native territory not out of its own volition but rather due to a series of reasons external to its free development. As mentioned earlier, the first migrants came to Lima as a result of the terrorist upheaval, and subsequent migrants came with the aim of unseating the authoritarian government that had stayed in power precisely with the excuse of ridding the country of terrorists. It would be a significant act to recognize the indigenous nature of this people in spite of the fact that—for reasons external to them—they left their territory.

Moreover, the treatment of the Cantagallo community as an indigenous community is critical for ensuring that it is protected by the same rights that offer legal security to other indigenous peoples recognized by the state. Communities recognized as indigenous peoples receive special treatment regarding the protection of their collective rights, as well as their cultural and territorial identity. In addition, they have the right to be consulted before the state can implement any measure that threatens their collective rights. Recognizing Cantagallo as one of these groups means acknowledging that these special rights are granted to the community due to its unique nature, and that they protect that which defines community members as more than “mere” *limeños*: their cultural identity. This is what we also seek when protecting a people—keeping a human group intact, but also keeping a culture alive.

If we fail to recognize urban communities as indigenous peoples, we are forcing the situation to end as the case of Cantagallo



Picture 4
The author with leaders of Cantagallo, including Ricardo, Wilson, and Karina
Photo: Richard O'Diana

did: with a community preferring to abandon its struggle for its rights in order to remain together as a community. We must reflect on the struggle of Ricardo and his fellow colleagues in order to learn and to avoid, in the future, failing to recognize an indigenous community and protect its collective rights. The fact that the Cantagallo community lives in the city does not mean for a second that its members stop being indigenous. This multidimensionality of their identity is something that we as city dwellers must understand. We still have a long way to go.

Epilogue: The Struggle Goes On (This Time at the International Level)

After the devastating fire of November 2016 and the indifference of state authorities, an important group within the Cantagallo community, the Central Commission of Cantagallo, requested a hearing before the Inter-American Commission on Human Rights during its 161st regular session.

As a result, on March 20, 2017, the commission granted the community a hearing in Washington, DC. There, the leader of the Central Commission of Cantagallo, César Maynas, with the support of CAAAP and Peru's National Coordinator for Human Rights, presented the community's stance in the wake of the fire.



Picture 5

Cantagallo leader César Maynas (center) at the Inter-American Commission on Human Rights, accompanied by Ana María Vidal, lawyer at the National Coordinator for Human Rights (right), and Richard O'Diana (left), lawyer at the Amazon Center of Anthropology and Practical Application

Photo: Richard O'Diana

The community wished to remain united, to seek official recognition as an urban indigenous community, to have its collective property recognized, and to request a prior consultation process as part of its temporary reconstruction and relocation. As we can see, the community is appealing to international mechanisms to achieve recognition of its rights as a native people that, despite living in the city, deserves the protection of indigenous rights such as prior consultation and collective property. This is part of the path taken by a community that, now more than ever, fights for official recognition as an indigenous group and that has not lost its fundamental rights despite living in the city for almost twenty years.

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CHAPTER 9
Agrarian Conflicts in the State
of Pará: A Troubling Side of
the Brazilian Amazon

Isadora Vasconcelos
(Brazil)

All sorrows can be borne if you put them into a story
or tell a story about them.
—ISAK DINESEN (CITED IN ARENDT 1958, 175)

Introduction

This chapter explores agrarian conflicts in the state of Pará, located in the Brazilian Amazon, based on my work as a case rapporteur for the Campesino Truth Commission of Pará. This commission's work contributed to the final report of the National Truth Commission, an entity of the Brazilian government.

Beginnings: My Involvement in the Issue of Agrarian Conflicts in Pará

My name is Isadora Vasconcelos. I am a lawyer and a law professor. I was born in the state of Rio de Janeiro, in southeastern Brazil. Many of my relatives were born in northern Brazil (where much of the Brazilian Amazon is located), in the state of Pará.

As a girl, I would often visit the region, enamored by its culture (which includes indigenous, Afro, and European roots) and landscapes—traits that are not so easy to find in other places. I do not deny that my vision of the Brazilian Amazon, a vision still held by many, was tied to its rich biodiversity and immense size. The Brazilian Legal Amazon stretches over nine states, equivalent to more than half of the country's national territory.

In 2001, when I was eleven, this was the reality that I encountered when we left Rio de Janeiro and moved to Pará. Influenced by my mother, Maria Cristina (a social worker and professor at the Federal University of Pará), I eventually began to study the

Amazon region, particularly Pará. This caused my vision to evolve, as there is much more to the Amazon than its resources.

After completing an internship in the environmental section of the Public Prosecutor's Office of the State of Pará and then becoming a lawyer a few years later, I began working at the Campesino Truth Commission of Pará, led by professor Girolamo Treccani and involved in the issue of agrarian conflicts.

The Work of the Campesino Truth Commission of Pará

The Campesino Truth Commission of Pará, which includes private and public actors, academics, and researchers (myself included) with ties to the Federal University of Pará's Amazon Human Rights Clinic, focuses on the implementation of actions aimed at the protection of human rights and on sharing this work with the public and the government.

The commission's work is important and has a strong socio-environmental focus. I believe that my efforts there have allowed me to contribute to improving certain aspects of my region. But it isn't easy; each person, each story, each family who lost a loved one represents a sad and appalling tale. Reading about so much humiliation is mentally and emotionally exhausting. It is the most painful aspect of my work.

The pictures shown in figure 1 are just a sample of what I must look at every day. I remember not sleeping well after reading about those particular cases, as the emotional drain was overwhelming. It was impossible to not be moved by every testimony, by the families who lost their loved ones, by the photos, everything.

Sometimes it was very distressing to read those documents. The reports describing people's situations and the violence suffered by victims, with photos of bodies—all of it gave me nightmares and anxiety, since, after all, I was also working under the same conditions as some of the human rights defenders who were described in those cases.

This reminds me that when people would ask me what area of law I work in, and I would tell them that I worked in environmental, agrarian, and land law, many looked at me like I was crazy. There is a general perception—indeed, a valid one—about these



Figure 1
 The *O Movimento Popular* magazine on deaths in the countryside
 Source: Comissão Pastoral da Terra (2014)

regions being dangerous, because many human rights defenders have been killed. Take, for example, missionary Dorothy Stang, lawyer Paulo Fontelles, and others.

But despite the difficulties, and regardless of what people think, I have always thought it worthwhile to study and work on these issues. From there, I began asking myself, why does the state of Pará have such high rates of violence in the countryside?

Through my work at the Amazon Human Rights Clinic, through the sources I consulted, and through the valuable contributions of professor Girolamo Treccani (whom I consider a living memory of people’s struggle on behalf of land in our state), I was able to see that violence in the countryside is a historical problem that stems from illegal land grabbing (*grilagem*) and other unresolved land issues in Pará.

Many crimes were committed in violation of national laws and international human rights treaties, especially during the country's military dictatorship. That is why the commission's analytical work is also interested in the state's actions and omissions, since these crimes were not adequately investigated by authorities, which translates into injustice and impunity and runs counter to the rights to justice, memory, and truth.

Against this backdrop, the Campesino Truth Commission of Pará and the Amazon Human Rights Clinic launched the project "Assassinations based on Land Conflicts in the State of Pará (1964–1988): History and Legal Analysis." This project seeks to corroborate, at both a theoretical and a procedural level, the crimes emanating from land conflicts in Pará and to confirm the human rights violations that took place. To that end, we have presented proposals in the legal and policy arenas that have enabled funding for both our commission and the National Truth Commission.

In the meantime, in order for us to better understand the actions of the truth commissions at the national and state levels, we must take a step back into Brazilian history.

Brazil's Military Dictatorship

In 2011, the Brazilian government, in an attempt to address the atrocities committed under the military dictatorship, created the National Truth Commission. The commission consisted of various working groups, including one charged with examining violations of the human rights of campesinos. The country's military dictatorship lasted from 1964 until 1985. It is estimated that 243 people were forcibly disappeared and 191 were murdered (Government of Brazil 2014).

On December 21, 2009, the Third National Human Rights Program was launched through Decree 7037/2009, whose sixth "guiding axis" addresses the right to memory and truth and includes the following directives:

- a) Directive 23: Recognition of memory and truth as a human right of citizens and a duty of the state;
- b) Directive 24: Preservation of historical memory and public construction of the truth; and
- c) Directive 25: Modernization of laws related to the promotion of the right to truth and memory, thereby strengthening democracy.

To achieve these directives, the decree's first strategic objective proposed the creation of a national truth commission tasked with gathering information related to the military dictatorship to "record and divulge [the dictatorship's] official procedures in order to ensure the circumstantial uncovering of torture, death, disappearances, and to direct them to the competent entities."

Another important milestone regarding the dictatorship's legacy relates to the Federal Supreme Court's ruling from April 29, 2010, which upheld Law 6683/79 guaranteeing amnesty for both victims and their victimizers. The court ruled that it was not within the scope of the judicial branch's powers to rewrite the amnesty law and to ignore the competence of the legislature and thereby violate the separation of powers.

The problem lies in the fact that this amnesty law is a framework for both good and evil. Brazil's highest court provided amnesty both for victims of the dictatorship and for those who committed the crimes, which is a complete absurdity.

During the dictatorship, landowners and their gunmen acted as a private arm of the state (in the sense that they received a range of public benefits) to "defend their lands" in the most oppressive and cruel ways possible. However, it is important to highlight that this chaotic situation transcended the historical period studied by the National Truth Commission and remains present even today. Further, this phenomenon was at its worst in the state of Pará.

Only when I spoke with individuals who lived through this situation was I able to understand how heinous the country's dictatorship had been. I recall one conversation with a retired professor from the Federal University of Pará (whose name I will not mention in order to protect her privacy), who told me that in her youth, she was tortured and her jawbone was dislocated. Today, she still goes to therapy to cope with the trauma she experienced over forty years ago.

This makes me think that the victims continue to experience pain, suffering, and trauma (all of which is accompanied by a good dose of faith). Something that touched me deeply from that conversation was that the professor did not want monetary restitution for the harm she suffered. She only wished that the state would acknowledge its wrongdoing and ask for forgiveness, because no amount of money could recover a person's mental well-being or the lives of those who are gone.

Violence beyond the Military Dictatorship: The Case of Pará

Pará is home to one of the highest rates of violence against rural workers. This rate is the highest in Brazil in terms of the spatial distribution of deaths and the disappearances of campesinos, which stands at 28.6%, according to data from the Secretariat for Human Rights of the Presidency of the Republic (Secretaria de Direitos Humanos 2013).

According to the Pastoral Land Commission (Sauer 2005), more than 700 campesinos and human rights defenders were murdered in Pará over the last thirty years, with most of these deaths taking place in the south and southeast areas of the state. In light of this reality, it is important that we understand the reasons behind such brutality.

According to professor Girolamo Treccani, the roots can be found in “extremely concentrated land ownership” (Treccani 2001, 12). This concerns the form in which land is acquired in Brazil, especially in the midwestern and northern parts of the country:

The occupation of sparsely populated areas of the central-west and north of the country was part of the military dictatorship’s national security strategy and national development and integration strategy. This state policy included: tax breaks for large companies based in the south-southeast to relocate there; a settlement policy that transferred thousands of families from the south and stimulated the nonofficial migration of thousands more; the opening of highways that devastated the biomes of the Cerrado and the Amazon; and the installation of military barracks at strategic points. (Secretaria de Direitos Humanos 2013, 26)

Until the mid-1960s, Amazonian lands belonged, in essence, to the federal government and the states. According to Violeta Loureiro, 87% of the lands registered by the Brazilian Institute of Geography and Statistics were forests and lands with no specific destination and were exploited by thousands of *mestizos* and riverside communities that made a living from plant and animal extractivism. Eleven percent consisted of natural pastures where longtime ranchers had established cattle ranches, many of them centuries old, such as those of Marajó, Roraima, and Baixo Amazonas, whose property titles were just as old. The forests and

rivers were protected and were relied on by residents as a source of food, work, and life (Loureiro and Pinto 2005).

Land was an intrinsic part of life for the region's residents, as they had lived on this land for many generations and never thought there could exist owners with more legitimate claims than they (Loureiro and Pinto 2005). In the 1960s and 1970s, the Amazon was seen as a backward region due to its lack of productive capital and infrastructure to spur new investments (*ibid.*).

During the same period, the federal government began to develop projects in the Amazon in order to attract national and international capital to the region. It offered tax benefits to entrepreneurs and economic groups willing to invest in companies in the region, mainly in support of cattle-raising, logging, and mining activities (Quintans 2008). The government's offer of such attractive financing (at low and sometimes even negative interest rates), together with other incentives, meant that it depleted money that could have been used for social efforts in the region, instead "privileging large investments to the benefit only of economic groups" (Durães and Whitaker 2014, 33).

Thus, in Pará, land-use processes and settlement patterns underwent changes with catastrophic effects. The National Integration Program,¹ the construction of the Trans-Amazonian Highway in the 1970s, and the rollout of large-scale mining projects in the 1980s² also contributed to a large contingent of migrants arriving to Pará.

These government projects attracted companies interested in acquiring large expanses of land, conferring a new dynamic of occupation in the region in which "all of the country's large

1 The National Integration Program was a political-geographic program created by Brazil's military dictatorship via Decree-Law 1106 of July 16, 1970, signed by President Emílio Garrastazu Médici. The program included incentives for migration, mainly from the northeastern region, to the Amazon's large "demographic voids," based on the slogan "land without men for men without land."

2 According to Marlon Aurélio Tapajós Araújo and Patrícia de Sales Belo, the mining projects were a type of "large-scale project embedded in the logic of positioning the Amazon as a large deposit of natural resources that are always accessed when needed, a logic that shows us how history is always repeated and reissued, with new nuances, but with identical, prejudicial, and unending effects" (Araújo and Belo 2009, 275).

companies, banks and supermarkets became cattle raisers: Volkswagen, Bradesco, Bamerindus, Alô Brasil, Tecelagem Parahyba and many others" (Hébette 1992, 121–22).

The activities carried out by large landowners and companies required vast amounts of land and generated little employment. Entrepreneurs therefore did not invest in the creation of new businesses but instead concerned themselves with land acquisition, which unleashed fierce property speculation and very little social, economic, and environmental development. This led to increased tensions in the countryside, as not all of the region's workforce was absorbed.

Conflicts were thus inevitable between, on the one hand, squatters (small-scale farmers, laborers, and traditional and indigenous populations), the longtime occupants of areas that ended up being sold by the state, and newly arrived residents to Pará (mainly from the states of Ceará, Piauí, and Maranhão in the northeast, who since the mid-1900s had been residing in the region), and, on the other hand, ranchers from the central-south, national and foreign companies, mining companies, logging firms, and *grileiros*³ (Comissão Parlamentar de Inquérito da Assembleia Legislativa 1991).

For several decades, land disputes involving various groups and the state were therefore the result of a controversial, contentious, elitist, and exclusionary state policy. With regard to these conflicts, Alfredo Wagner Almeida notes:

the conflicts are not only a manifestation of self-defense but also a form for indigenous peoples and campesinos to grapple with the pressures that accumulated on their lands over time. More than this, they came to represent a way of engaging with the apparatuses of power, whose main mode of intervention is that of "crisis management." (Almeida 1991, 93)

Several factors turned the region into chaos. First, public lands in Pará became points of interest for large conglomerates. Second, the federal government embraced an erroneous conception of the Amazon as a vast empty space, which allowed it to be seen as the last frontier in terms of resources to be exploited (from a capitalist

3 Individuals who engage in land theft and land fraud.

lens). Finally, there was a firmly entrenched archaic territorial structure.

The government's stance was extremely polemical and conflictive. At the same time that it presented the Amazon as a "land without men for men without land," it fostered an image of the area as the "last frontier" of capital, where tax incentives led many properties to be sold to businesses and large landholders. Nonetheless, the state was not concerned with analyzing the titling situation for lands that had been sold, which led to the first conflicts between occupants and buyers.

The state government of Pará, preoccupied with the possibility of profiting from the land, failed to comply with Law 762⁴ and alienated many vacant lands located along the PA-70 and BR-316 highways. According to Paulo Lamarão (1980), entrepreneurs, attracted by the vast quantities of land, requested the purchase of these lands before the Land Department of Pará, constituting an almost generalized form of anarchy. These state-condoned irregularities led to territorial chaos, especially in southeastern Pará (Comissão Parlamentar de Inquérito da Assembleia Legislativa 1991).

Making matters worse, the National Institute for Colonization and Agrarian Reform,⁵ the Lower Amazon Executive Group,⁶ the Pará Land Institute,⁷ and the Executive Group for the Araguaia-Tocantins Region,⁸ the entities responsible for land issues in Pará,

4 Law 762 prohibited the sale of vacant lands greater than 100 hectares for agricultural purposes.

5 The National Institute of Colonization and Agrarian Reform is a federal body created via Decree 1110 of July 9, 1970, with the primary function of promoting agrarian reform, maintaining a national registry of rural properties, and administering public lands.

6 The Lower Amazon Executive Group was created via Decree 84516 of February 28, 1980, with the aim of coordinating actions to strengthen the state's presence in the left bank of the lower Amazon and monitoring development and settlement projects, in addition to proposing measures for mediating and resolving land-based conflicts in the region. This entity was later extinguished.

7 Created through State Law 4582 of October 8, 1975, the Pará Land Institute is a state body responsible for the implementation of agrarian policy in Pará.

8 Decree-Law 1767 of February 1, 1980, created the Executive Group for the Araguaia-Tocantins Region, whose objectives were to coordinate, promote, and implement measures for land regularization in southeastern Pará, eastern Maranhão, and northern Goiás. It was later extinguished.

did not work in coordination. For example, while one entity provided for families' settlement on a given parcel, another had already negotiated the commercial sale of that same parcel. This type of situation led to even more violence and conflicts.

With regard to politics in the region, *grilagem*, which "consists of fraud and the falsification of property titles," is still prevalent (Wanderley 2011, 64). *Grilagem* is practiced in a variety of ways, such as the sale of the same piece of land to various buyers, the forging and manipulation of property titles and other certificates, the sale of public lands, and so forth.

Confrontations among former inhabitants of lands that had been sold by the state, the newly arrived northeasterners, large landowners, and entrepreneurs converted Pará into a site of social tensions that reached alarming proportions. Pará is Brazil's leader in terms of homicide in rural areas (Government of Brazil 2014). The brutality it has suffered can be seen in the thousands of campesinos, indigenous people, and others who have been threatened, tortured, and killed.

Violence in rural Pará manifests itself in various ways. For example, there are lists of people threatened with death. Expedito Ribeiro de Souza, president of the Rural Workers' Union of Rio Maria at the beginning of the 1990s, stated that "once you're on a kill list, sooner or later they find you" (Treccani 2001, 255). Shortly after making this statement, on February 2, 1991, he was brutally murdered. This tragic story is just one of the many examples of what happens to the members and supporters of campesino movements. And, sadly, these atrocious practices persist today.

In this way, "violence is selective, not accidental" (Figueira 1986, 105), as killings are intimately linked to people's roles within workers' organizations, in defense of human rights, and within the campesino struggle. The perpetrators seek to weaken campesino organizations and dismantle the efforts of workers defending their rights.

Therefore, the state's historical actions in the Amazon, especially in Pará, were extremely contradictory. On the one hand, it had an ostensible plan to implement a development model in the region and financed large-infrastructure settlement projects that benefitted large landowners and *grileiros*. On the other, it failed to respect the rights of traditional populations. Furthermore, these

populations were cruelly used as cheap or slave labor. Put another way, at the same time that the state purported to bring development to the region, it closed its eyes to the problems of hardship, *grilagem*, violence, and killings in the countryside.

All of this spurred resistance among occupants who disapproved of the land concentration exerted by large economic groups. Petitions were sent to the state regarding the use of “available lands” for large rural settlement projects, critiquing the model in which large estates enjoyed state benefits.

Meanwhile, the courts were woefully slow in fulfilling their institutional mission, which consists of ensuring “full respect for the fundamental rights of the human person,” as indicated by Fábio Konder Comparato (2004). Comparato notes that the courts’ noncompliance reflects a submission to political and economic power, which slows or influences legal proceedings and rulings. In fact, this collusion on the part of the state extends beyond the judiciary to the legislative and executive branches. This is particularly problematic because, under democratic ideals, the branches should be independent and responsible.⁹ They are independent because, as a rule, they do not submit to the other two branches, and they are responsible because they represent the interests of the governed, not the governing.¹⁰

In summary, the territorial chaos affecting Pará is a complex web that encompasses the concentration of land; *grilagem*; the negation of an ecologically balanced environment with regard to the criminal extraction of natural resources; slave labor; intimidation by “agro bandits” (Sauer 2005, 14); the violent expulsion and detention of occupants, extractivists, riverside communities, indigenous peoples, and traditional populations; high murder rates of workers and their leaders; and the complicity of the three branches of government.

9 Fábio Konder Comparato refers to responsibility as accountability. This term is also used by Guillermo O’Donnell (1998), who follows Robert Dahl’s ideas of horizontal and vertical accountability.

10 This means that as power becomes greater, so does responsibility.

The Campesino Truth Commission of Pará in a Practical Context: A Work Methodology

In light of the violence suffered by rural workers in Pará, the absence of consolidated data on crimes against campesinos, and the national search for transitional justice, the Campesino Truth Commission of Pará was created on August 14, 2013, under the initiative of the Amazon Human Rights Clinic and coordinated by professor Girolamo Treccani. The commission offers an important setting for the search for truth, memory, and justice, and is made up of representatives from the public and private spheres.

The commission's research is carried out within the framework of the project titled "Assassinations based on Land Conflicts in the State of Pará (1964–1988): History and Legal Analysis," in association with Amazon Human Rights Clinic. The clinic offers a space for debating human rights issues and bringing together civil society and the government to analyze both the statistical side of the struggles for land in Pará and the crimes relating to these struggles, opening the way for recommendations concerning the adoption of relevant measures and public policies.

Our commission takes a historical look at the murders that clearly involve human rights violations and are a result of land-based conflicts, with the aim of identifying the state's role and responsibility in promoting (in)justice. In general, it seeks to promote, protect, and coordinate efforts so that actions can be implemented in favor of human rights protection, bringing together social, governmental, and nongovernmental parties.

More specifically, we seek to (i) compile a list of assassinations, including the status of inquiries and proceedings concerning campesinos and their supporters; (ii) organize data on conflicts; and (iii) once a human rights violation is confirmed, offer recommendations for addressing it, including recognition by the National Truth Commission and the Truth Commission of Pará.

In the Campesino Truth Commission of Pará, we use different methodological approaches. First, we collect data to analyze information on the deaths of rural workers and their supporters that occurred in the state of Pará between 1964 and 2013. Second, we select and analyze historical information on paradigmatic cases. Third, we confirm which cases include investigations or

proceedings that have begun. Fourth, we cross-check information from the federal government and social movements that are part of the truth commission in official and nonofficial capacities. Fifth, and from the outset of our research, we promote coordination with various institutions. Six, we publish reports on violence in the countryside. And finally, with the aim of increasing the public's access to information, we organize events that promote debate on violence in rural areas during the military dictatorship.

Based on the above, the Campesino Truth Commission of the State of Pará obtained interesting results during its investigation. Our inquiry was not limited to the period of the military regime but instead looked at events up until 2013, as agreed on during the commission's first meeting. We chose to prioritize the analysis of cases up until 1988, but without excluding murders that took place afterward, considering that in Pará (as well as in other Brazilian states), violence against and assassinations of rural workers remain a problem even today.

The commission asked relevant government bodies to provide information on investigations and proceedings that had been commenced for crimes involving the assassination of rural workers, union leaders, political leaders, and religious leaders. We requested documents from a variety of agencies, such as the Public Prosecutor's Office, the State Secretariat of Public Security, and the Agrarian Ombudsman of the Court of Justice of Pará, among others.

Although we requested such information from the Public Prosecutor's Office on April 3, 1990, we received a response only a year later, on August 3, 1991, via document number 138/91/MP/PGJ, which noted that 225 cases had been reported. Of these cases, only 206 proceedings and 157 investigations were found. The office claimed that it was difficult to locate the documents for the cases listed in our request (which were ordered by victims' names), since, until 1983, investigations were recorded only under the name of the accused and not the victim. The Public Prosecutor's Office also noted that many times it asked the police to conduct investigations, which were essential for the complaints, but that these investigations were not always completed or were extremely delayed.

The Agricultural Workers' Federation of the State of Pará submitted a document to rural workers' unions, together with a list

of killings by municipality, requesting information on and contact information for relatives and witnesses. The Pastoral Land Commission is doing the same with its local teams. The National Agrarian Ombudsman presented the status of the proceedings in January 2014. The Court of Justice of Pará and the State Secretariat of Public Security claimed that they were analyzing the lists and, as of today, have not provided a definitive response to our information request. Of these cases, many had not made any progress in the investigation phase, much less in court proceedings.

At the end of our investigation on the number of killings, we established that 930 campesinos had been murdered in Pará between 1988 and 2013. Of these cases, only 745 had police investigations, according to an analysis carried out by the Amazon Human Rights Clinic. Between 1964 and 1988, 556 murders occurred in Pará's countryside. Of those, a mere 66 had police investigations, and in many of the cases, the statute of limitations had expired or the accused had since died.

Based on the data gathered, the commission identified emblematic cases involving campesinos who had been tortured, murdered, or disappeared up until 1988. In July 2014, we then sent forms to the National Network of University Researchers requesting information on the murders in Goianésia in the Uba and Princesa Haciendas, as well as the assassinations of Armando Oliveira da Silva, Avelino Ribeiro da Silva, Belchior Martins Costa, Benedito Alves Bandeira, José Manoel de Souza, Paulo César Fonteles de Lima, Pedro Gomes da Silva, Raimundo Ferreira Lima, and Sebastião Souza Oliveira.

Our reports contain detailed information on each victim's identity, the date of the crime, the location of the crime, the nature of the violence, and the conflicts in the region that involved human rights violations. In addition, they outline the businesses and state agents involved, the direct actions of state agents in the crime or the state's omissions and complicity, and other relevant issues for advancing the right to memory concerning these serious human rights violations against campesino leaders in Pará.

The crimes stand out for their cruelty and impunity. In all of these cases, the state was negligent, as it failed to take appropriate measures, many times claiming the lack of an appropriate institutional framework. The state's direct participation was verified in

the inventory conducted by the State Secretariat of Social Defense. Of the 595 registered cases, thirty-one are suspected of involving military police; two are suspected of involving civil police; and four are thought to involve military police working together with gunmen. Moreover, gunmen are thought to be responsible for 115 of the murders.

Based on our investigation, we also contributed complementary information on human rights violations against campesinos for a document authored by Maria Rita Kehl (Government of Brazil 2013), who is a member of the National Truth Commission. In this light, Brazil urgently needs to implement a protection policy for human rights defenders working in regions with high rates of violence against campesinos, as is the case in much of the state of Pará.

The bloody agrarian conflicts in Pará necessitated the creation of the Campesino Truth Commission, with the Amazon Human Rights Clinic as its partner, both committed to discussion on and the protection of human rights. On this basis, the work of truth commissions is essential because they help ensure the right to truth, memory, and justice. In Brazil, these commissions seek in particular to restore victims' dignity and help recover the state's credibility by reconstructing history through the memory of those involved and through relevant documents.

In this way, based on information from the cases, we seek to obtain a variety of truthful details in order to deliver justice through legal instruments. Even more, by addressing the brutal context of Pará's countryside, the Campesino Truth Commission of Pará stands as a local actor that is fundamental to the search for the right to memory, truth, and justice.

Final Considerations

Although the task of recovering memory is painful and distressing, it offers the best path for investigating what truly happened, and it is essential for democracy, justice, the construction of the rule of law, and the recovery of human rights.

When I was at college, I was once asked about my commitment to the work I do, based on the assumption that it is ideal for one to distance oneself from the object of research. But human beings are not objects! They are rural workers and human rights defenders, they have families, and more. They are lives. It could

be me, you, someone you live with, which makes it impossible to not become involved.

I know that I was not tortured, that I did not lose a relative, that I do not carry the grief of someone who was directly or indirectly affected by these atrocities. But my empathy as a human being was such that these cases touched me, and have I tried to tell them in the form of a story, trying to be as faithful to reality as possible, since “all sorrows can be borne if you put them into a story or tell a story about them” (Isak Dinesen cited in Arendt 1958, 175).

I can confidently say that the Isadora who began her work at the commission in 2014 is not the same person today. Working on issues of this magnitude makes us more sensitive and connected to reality. Sensitivity comes from being careful when reading and understanding documents, from taking care to look into people’s eyes, from trying to feel empathy. It is a never-ending practice of being less judging of others and trying to understand them in all their complexity.

As difficult as my work might be, someone has to do it. And maybe that is why I chose to work in human rights, because the same reality that confronts us is also what inspires us to continue working on behalf of something better. And that is why we keep fighting, always.

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CHAPTER 10
The Metamorphosis of an
“Amphibious” Human Rights
Lawyer: Life Transitions
and Transitional Justice

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* My work can be followed on my personal blog at <https://lawhumanrightsbusinessmyanmar.wordpress.com>.

Introduction

The mind, once stretched by a new idea,
never returns to its original dimensions.

—RALPH WALDO EMERSON

It was not until my participation in Dejusticia’s Global Action-Research Workshop in Colombia in the summer of 2015 that I realized I was leading a “double life of an amphibian researcher” (Rodríguez-Garavito 2015). The intensive workshop had focused on constitutional transitions, transitional justice, and human rights in the global South and had gathered young activists—lawyers, policy makers, and civil society members—from the global South to hone their “action-oriented” research, writing, and advocacy skills to address pressing human rights problems in their respective countries. During the workshop, I learned that amphibious research requires the seamless synthesizing of the academic and public spheres, much like an amphibian straddling both land and water. The double life of an amphibian researcher was described as “the transition from the introverted world of the classroom to the extroverted world of the media and meetings with activists and public officials” (Rodríguez-Garavito 2015, 7). The director of Dejusticia aptly described this multitasking role as follows: “the humidity and heat of fieldwork is a far cry from the climate-controlled air of university offices, courthouses, and philanthropic foundations” (ibid.).

I loved the idea of having an exotic-sounding morsel of identity, but an “ectothermic, tetrapod vertebrae of the class Amphibia” surpassed even my own expectations. Keen to answer to the sobriquet “the amphibious researcher,” I did an online search

of amphibians. The species were mostly colorful and big eyed and had impish looks. The physical resemblances were already striking.

The amphibian metamorphosis resonated with me. During metamorphosis—when an aquatic organism prepares for a primarily terrestrial existence—an amphibian such as a tadpole loses its gills to develop lungs, grows legs and large eyes, and undergoes changes to its brain to enable better functioning of its new eyes. The change is conspicuous and relatively abrupt—but quite a transformation nevertheless.

When I was asked to write a chapter about my journey as a human rights activist so far (i.e., from a student in a small island city-state to a young human rights lawyer engaged in fieldwork in Asia, Latin America, and Africa), I was hesitant. It is not easy to share one's stories publicly and put oneself out there like that, giving others free rein to read, challenge, enjoy, or misunderstand them. *Dejusticia* suggested that sharing my experiences, career choices, and struggles, in simple terms and without much legal jargon, could perhaps inspire or assist other young lawyers from the global South hoping to engage in international human rights research and advocacy. I really liked that idea and accepted the challenge.

In this chapter, I borrow the analogy of the amphibian because my brief journey has involved significant transformations that have opened my eyes, mind, and heart to new experiences. Each new experience has been vital in my journey to become a human rights lawyer, helping deepen my understanding of the world and of issues and causes that drive me. I had been an activist during my student years, leading discussions and advocacy around many human rights issues, including the treatment of migrant workers, human trafficking in Southeast Asia, and women's legal rights in Afghanistan. When I traveled to seven countries in a year to explore the role of performance art as an informal system of empowerment and education, I quickly learned that a sense of humor was just as important as my curiosity to research political theater, if I hoped to survive the year of independent research and travel on my own. When I was a litigator at a top law firm at home in Singapore, I assisted counsel with cross-border commercial fraud cases and pro bono capital matters at the Court of Appeal

and found myself invariably drawn to my criminal litigation work, which was a matter of life and death for my clients. When I helped an international litigation team represent survivors of mass crimes in Cambodia, I discovered that I was very interested in utilizing the law as a tool in truth seeking and achieving justice, and also in documenting human rights violations to preserve social memory, history, and culture. When I moved to Myanmar to advise the International Commission of Jurists on rule of law issues and business and human rights, I found myself having to network; cultivate relationships with relevant stakeholders in the executive, legislative, and judiciary of a country still under military rule; earn the trust of senior officials; co-manage a team of international and national colleagues; provide astute legal analysis; and live in a country that was only just waking up from hibernation (Myanmar was under military rule for decades, and its first elected civilian president was sworn in for the first time in fifty years in 2016). All of this meant putting up with frequent power outages, no internet access outside the office for a long time, living in uncomfortable and unclean housing, and learning to deal with discrimination based on age, gender, race, and religion. There are valuable life lessons to be learned outside of law school and beyond the world of earning top grades or being made partner at a law firm. These experiences have taught me about tenacity, adaptability, resourcefulness, and compassion.

When I left home sixteen years ago on a scholarship to study overseas, I never fully grasped how rich and powerful my experiences would be. My horizons haven't just stretched. They have exploded.

It All Began with Watching the News on TV as a Kid

When my brother and I were kids, our parents used to insist that we watch the evening news on TV. The routine was simple: school, nap, homework, playground, dinner, the news—then sneak in some story time—and to bed. The news used to fascinate us so much that we decided our ambition was to become broadcast journalists. We would cut out newspaper clips, sit at both ends of the dining table, get dad or mom to mute the TV immediately after the opening credits ended, and begin to read aloud

the news of the day. We would ruthlessly subject our parents to our spiel: "Palestinian militant actions escalated in the Gaza Strip; NATO leaders discussed the impact of the fall of the Berlin Wall; the International Atomic Energy Agency has been applying safeguards in Iran since the mid-1970s; civilians, including women and children, have been killed in reprisal attacks in Kashmir; Singapore's first prime minister—the world's longest-serving prime minister—has chosen to step down."

I can't recall when I properly learned English grammar or the multiplication table, but I do remember that I knew, when in elementary school, that NATO stood for North Atlantic Treaty Organization and IAEA was the International Atomic Energy Agency. I would read about the Nehru and Gandhi political dynasties and force an unsuspecting friend at recess the next morning to listen to my tales of learning new words like "assassination" and "satyagraha." Some of my classmates found my antics quite odd.

By the time I got to high school, I was consumed by a childlike curiosity to explore the world that I had caught only a glimpse of from watching the news on TV. The scenes were mostly troubling and sad, but they piqued my interest; I was sheltered in my safe home in Singapore, but others were leading extremely different lives elsewhere.

Of all the books we were reading for literature lessons, I was most deeply moved by Harper Lee's *To Kill a Mockingbird*, which portrays a criminal justice system with a responsibility for the truth.

The one thing that doesn't abide by majority rule is a person's conscience. (Lee 1960, 140)

...

I wanted you to see what real courage is, instead of getting the idea that courage is a man with a gun in his hand. It's when you know you're licked before you begin but you begin anyway and you see it through no matter what. (ibid., 149)

Words can create strong ideas and leave an indelible print in one's memory, especially in the head of a curious teenager. My head was bursting with questions: What does it mean to have a responsibility to the truth? When Atticus and the sheriff conspired to pervert the course of justice, albeit to help an innocent man, why are we comfortable with absolving their action but quick to

condemn the jury’s interference with the rule of law? What do we mean by the rule of law anyway? Must morality be enshrined in the law and applied impartially to everyone?

The book’s main takeaway for me, however, was that the law has the power to provide redress; it can be used to challenge discrimination and defend the rights and freedoms of ordinary people under threat. That was a powerful realization for a young teen.

For the first time, I began to seriously think about what causes were important to me and what tools I needed to tackle those issues and to effect positive change around me. I needed to learn more, much more.

Committing to Peacebuilding as a Student

It was in Italy that I came closer to finding answers to those questions.

At seventeen, thanks to a United World College (UWC) scholarship, I left home to study at UWC Adriatic in northern Italy for two years. The UWC was founded in 1962 with the aim of bringing together young people from a diverse range of backgrounds and experiences to act as champions of peace and unite in a “commitment to positive social action to build a more equitable and fairer world” (United World College 2017).

In that small coastal Italian town, I made firm friendships and had a transformative experience sharing dorms, classrooms, and social spaces with fellow teenagers. Many had led lives very different from mine and experienced physical, mental, and psychological anguish that I hadn’t felt in my childhood. One classmate had lost a limb to a land mine in Bosnia; another had lost a parent to AIDS in Zambia; some had family or friends who had been tortured or killed in the Arab-Israeli conflicts. Naturally, their political discussions were fiery and informed by the pain and suffering that they had endured at such a young age. Most of my classmates—and thousands of UWC alumni globally—have found ways to positively transform communities. Many strive to create sustainable environments to achieve a more peaceful future for our next generation. These students were agents of change who inspired and challenged me. Simply put, they were some of the people who made me look at myself and ask, “What do you want to do with your life?”

I was genuinely interested in my classmates' stories, and by living together in such close quarters for two years and sharing a powerful experience together—studying, debating, laughing, crying, planning, worrying, missing, falling in love, dancing, celebrating, misunderstanding, arguing, dreaming—I began to realize that if we just tried to understand one another, we would no longer be as afraid of our differences. We were inching closer to combatting bigotry and prejudice, and as the walls between us gradually crumbled, raw emotions gave way to solid friendships. Some of my closest and dearest friendships continue to be ones I made at the UWC in Italy.

As a UWC student, I volunteered at a refugee camp in Slovenia for two years. My college was located in Trieste in the northernmost part of the Adriatic, close to the Slovene border. Each week, a small group of students and a teacher would teach English to children in the refugee camp, help build a library or playground, organize skits to entertain the refugees, or visit ailing refugees in the hospital with gifts such as flowers and cards. Most of the refugees in the camp were victims of the ethnically based insurgencies in the former Yugoslavia. Their dire situation between 2001 and 2003 was not very different from that of 2015, when European governments instituted a range of restrictions against refugee movements and did not allow for decent and effective accommodation. In response to these new border restrictions, the International Organization for Migration, United Nations High Commissioner for Refugees, and the United Nations Children's Fund jointly stated in November 2015 that there was an urgent need "to give people uprooted by violent conflicts safe, legal avenues, such as resettlement, humanitarian admission and family reunion, as alternatives to the chaotic and dangerous smuggling routes they are forced to take today to reach safety" (United Nations High Commissioner for Refugees 2015).

For a student from Singapore, this was a humbling and eye-opening experience as I learned more about the harrowing stories of refugees who had fled persecution in their home countries. The friendships that I had made in the refugee camp deeply affected me. Many spoke of their sense of hopelessness, of not expecting justice from corrupt politicians and unfair judiciaries. Their stories would always leave me a bit restless and more curious about

human rights and criminal justice. What is the role of a criminal lawyer? Do extrajudicial measures help with social memory and truth seeking? How do globalization and neoliberalism marginalize communities and displace people? How do countries provide redress for the human rights abuses committed by corporations and state actors?

Training to Be an Activist Lawyer

When I got to Middlebury College, located in the US state of Vermont, and discovered that at that time people fleeing war-ravaged Bosnia made up the majority of refugees arriving in Vermont,¹ I wanted to not only raise awareness about the conflict but also find a way to bring together the Bosnian community in Middlebury. I had applied for and won a grant awarded by the college to organize a symposium about a particular subject, and I now had to find the speakers who would educate and inspire the student community.

I established a student organization called Dialogues for Peace. Along with three friends, I organized discussions and conferences to promote awareness of various political issues and encourage a deeper understanding of judicial and extrajudicial mechanisms to tackle civil conflicts in the home countries of many of the college's international students.

I want to highlight two such events because they helped cement my interest in conflict and justice, peacebuilding and social memory, and the capacity building of youth activists.

Bosnia

In the early 1990s, the Socialist Federal Republic of Yugoslavia was one of the most developed and diverse countries in the Balkan region. However, it suffered a severe political and economic crisis after the collapse of communism and nationalism in Eastern Europe. Militant nationalist rhetoric led to feelings of fear, hatred, and mistrust among ethnic groups, with many republics flirting with the idea of outright independence (United Nations International Criminal Tribunal for the Former Yugoslavia 2017). The

1 In 2002, Bosnian immigrants reportedly accounted for 0.2% of Vermont's population of about 608,000 residents, which was the highest percentage of Bosnian immigrants in any US state (O'Keefe 2002).

ethnically based wars and insurgencies between 1991 and 2001 resulted in more than 100,000 deaths.

I remember looking up the address of a highly recommended conflict resolution expert who had been involved in peacebuilding projects in conflict zones throughout the world. He had coordinated humanitarian aid in Iraq; managed education, sanitation, and health projects in the Gaza Strip; mediated between Israeli and Palestinian forces in the West Bank; and facilitated the return of refugees in Croatia. When I was in Boston for a UWC reunion, I visited his office and personally invited him to the event I was organizing, since he hadn't responded to my email invitations. I was an enthusiastic college student pleading for him to speak at our conference entitled "Why Bosnia? Sustainable Peace in the Balkans." His schedule was packed, but he smiled and said he was quite impressed by my persistence and would participate in the event.

Another speaker was a high-profile journalist to whom I had been hesitant to send an invitation. He was a former South Asia correspondent for the *Far Eastern Economic Review* who had also written extensively on Asian and European affairs for the *Guardian* and the BBC. Why would someone of his stature even bother to open an email from an unknown college student? But it was great that he did, and even more wonderful when he said he'd be delighted to speak at our event.

I even wrote to Noam Chomsky to invite him to deliver the keynote address. He replied (he has a reputation of personally replying to emails) to say that his schedule was generally booked nearly two years in advance but wished us the very best with our important event. I may have printed that email and displayed it on my desk for a long time.

I had no clue back then of the protocols for inviting speakers to a college event, but I discovered that most people responded well if you just spoke directly and presented them with clear details about the aims of the event and your expectations of the panelists.

After a screening of the Academy Award-winning film *No Man's Land*—set during the heaviest fighting between Bosnia and Herzegovina in 1993—Dialogues for Peace hosted a dinner for members of the Bosnian community in Middlebury. The event brought together members of the close-knit community, who

shared their stories of struggles, hopes, and triumphs over home-cooked Bosnian food that they generously made. I will never forget that evening when my college recognized and celebrated the diversity of its surrounding environment and the contributions of a small and close-knit refugee community.

Inspired by what I had learned during the conference and from the interactions among the speakers, I decided to spend the first half of my junior year of "study abroad" enrolled in the Washington Semester Programme, with a month-long practicum in Bosnia, Serbia, and Croatia. The peace and conflict resolution seminar I enrolled in offered an experiential learning opportunity through the study of politics, conflict, and justice in international settings. Each week, I was exposed to fantastic opportunities offered in Washington, DC, as I met with activists, ambassadors, officials from the US State Department, and other esteemed speakers. I gained valuable insight into policy making and learned about topics such as political psychology, political negotiation tactics, and "soft power" mediation to resolve disputes.

During our field-research trip to the Balkans, we had the opportunity to meet with the heads of state of Bosnia, Serbia, and Croatia; engage with members of parliament on the importance of these countries becoming a part of the European Union; talk with civil society and youth leaders about their postconflict capacity building efforts; visit the cemetery of those slain during the Srebrenica massacre; and see the bullet-ridden buildings and collapsing structures that had been bombed by NATO in Belgrade.

During the semester, I also had an internship with Amnesty International and learned about its work on a multitude of projects to ensure that human rights violations were redressed and justice prevailed. I worked mainly with the anti-death-penalty team. My internship was an enriching experience that allowed me to see how civil society organizations can play a role in investigating and exposing facts and lobbying governments and corporations to respect international law. I was beginning to understand the role of sustained advocacy in shaping laws and policies and ensuring that they align with international norms and standards.

Chechnya

During my sophomore year at Middlebury, I met the college's first student from Chechnya. He had traveled for almost a week to

get to Vermont from his war-torn hometown in Grozny. Astonishingly, he displayed no signs of fatigue and was always laughing with friends. I later discovered that he was a UWC alumnus like me and had hardly been able to speak a word of English when he had begun studying for the International Baccalaureate in the international school. Here he was now, a scholar in one of America's top liberal arts colleges. His story was inspiring.

Then there was one evening when celebratory fireworks went off nearby—and while many of his peers, me included, were shrieking in delight, he seemed shaken. The fireworks had reminded him of the Russian planes that used to launch missiles on his hometown in southern Chechnya, near the Caspian Sea, on an almost daily basis.

There was no lack of drama or tragedy in his young life. As a boy of eleven during Chechnya's first war for independence in 1994, he was taken to a refugee camp in Dagestan, where he lived with his grandparents until it was safe to return home. By the time the second Chechen war had started, he found himself once again in another refugee camp in Dagestan but risked his life by (barely) escaping back to Chechnya by bus. His aunt, with whom he had lived, insisted that he leave Chechnya, since youth were being attacked and killed. He had seen his close friends lose their lives after being tortured by Russian soldiers. He told us that Russian troops had bombed his city day and night for six months. He had completed his final year of high school in three months in a kindergarten classroom, which underscores the tolls of the conflict on education and daily life.

Like almost all young men growing up in Chechnya, he was accustomed to senseless violence, death, and mistrust of Russian soldiers. One of his closest friends at Middlebury, however, was a Russian student.

I once asked him what he would have done with his life had he not received an academic scholarship to study abroad. Without much of a thought, he replied, "Become a guerrilla fighting for the independence of my country."

Chechnya is a tiny, oil-rich, and landlocked province in Russia's North Caucasus. It was invaded by Russia in 1994 in an effort to oppose Chechnya's declaration of independence and to restore Russia's territorial integrity. In 2001, the United States Holocaust

Memorial Museum placed Chechnya on its genocide watch list (Mirovalev 2014).

My Chechen friend helped Dialogues for Peace organize its second symposium, entitled "Struggle for Independence or War on Terrorism? The Example of Russia and Chechnya." There was an interesting session in which he and Russian students shared their views on the conflict, the human rights toll of the atrocities, and their hopes for peace in the region, including information on how youth could become involved in peacebuilding efforts. The symposium also featured a speaker who headed a think tank in Moscow who spoke about the positions of political forces and social movements regarding the Russian-Chechen conflict.

The symposium included two film screenings. The first one was *Chechen Lullabies*, which featured five war correspondents who related their personal and professional experiences as witnesses to the most recent Chechen war with Russia. The second film was *Assassination of Russia*, a documentary that examined the 1999 explosions in Moscow and other Russian cities, and the foiled bombing in the Russian city of Ryazan.

The last evening of the symposium involved a panel discussion between political science professors and Ilyas Akhmadov, the foreign affairs minister of Chechnya. He was living in the United States, where he had been granted political asylum following the second Chechen war. Although it had seemed almost audacious for us college students to reach out to his office to see if he would be available to visit our school and speak at a student-run event, we did.

Thirty minutes before his panel session began, just a handful of students and professors had gathered in the lecture theater. There was a torrential downpour outside, and I wondered if the rain had deterred people from attending the event. We also did not receive any confirmation that the foreign minister's plane had made it in. Twenty minutes later, the room was teeming with people, including members of the public who were keen to hear about the conflict that they knew so little about. Five minutes before the session was set to begin, a black car turned into the building's entrance, two men jumped out with black umbrellas, and the foreign minister emerged. In front of him, my Chechen friend looked nervous but was politely leading the way to the theater.

For a brief moment, he looked straight at me and smiled. I saw a look of pride flash across his face that such a high-level minister of his “unknown” country was at his college, flying in to participate in an event that he had co-organized.

The mood was suddenly electrifying.

These leadership experiences in college, spurred by my close friendships with people whose homes were conflict zones, created a strong desire in me to pursue human rights law. I was aware of international criminal litigation but was curious to discover if other avenues existed.

I decided to apply to law school for my postgraduate studies.

On the Road Again: Political Theater and Sociopolitical Activism

But there was something else I wanted to do before law school. I wanted to travel more and engage in purposeful, independent study. Thanks to the Thomas J. Watson Fellowship, that was made possible. I was one of fifty fellows selected from one thousand graduating seniors across twenty-four states and seven countries. During my fellowship, I traveled for a year, lived in seven different countries, and explored political theater. The fellowship is described as follows:

The Watson is a rare window of time after college and pre-career to engage your deepest interest on a world scale. Fellows conceive original projects, execute them outside of the United States for one year and embrace the ensuing journey. They decide where to go, who to meet and when to change course. The programme produces a year of personal insight, perspective and confidence that shapes the arc of fellows’ lives. Started in 1968, Watson alumni comprise leaders in every field. (Watson Foundation 2017)

The fellowship offered students like me a chance to propose our own projects to explore a theme, question, or issue and to test our aspirations and abilities to gain a broader perspective beyond our home countries.

My project focused on the use of theater and other forms of performance art as informal systems of education and empowerment in Malaysia, India, Australia, South Africa, Argentina, Chile, and Canada.

Political theater satirizing the ordinary lives of citizens probably started off with Aristophanes, a comic dramatist whose earliest writings and plays provided valuable details about politics, morality, and everyday life in Athens. Street theater, urban-based plays, and puppet theater are examples of theater that caters to different sectors of society. Augusto Boal, for example, established the Theatre of the Oppressed in Brazil (Brecht Forum Archive 2017), where he uses participatory theater as a means to promote social change and get the audience to challenge oppression and transform their realities. This kind of theater spurs a renaissance of social activism at the grassroots level.

The sociopolitical upheavals that characterized the countries I traveled to meant that there was a demand for, and an enthusiastic reception of, activism as a vanguard for reform. I witnessed groups shouting *reformasi* (reform in Malay) in Kuala Lumpur, senior citizens banging pots and pans to protest increased farm taxes in Chile, silent marches in Melbourne held against the leadership of then prime minister John Howard, and a group of orphaned and disabled children putting up street performances in Mumbai—there was clearly a culture of progress that performance art and activism was contributing to.

For instance, I caught the remake of Norwegian playwright Henrik Ibsen’s *Enemy of the People* in Malaysia, which touches on the subject of corrupt and despotic politics and the need to stand by one’s principles in the face of autocratic opposition. A play I saw in Melbourne, *Mercury Fur*, dramatically portrayed the clash of identities and how ordinary young people fight for their survival despite the enormous trauma of war. In Buenos Aires, the Grandmothers of the Plaza de Mayo have been protesting since 1977 to find the children who were stolen and illegally adopted during the Dirty War (Abuelas de Plaza de Mayo 2017). As a result of the group’s social activism, more than 10% of the estimated 500 children who were kidnapped, were born in detention, or had their identities hidden during the military era have been located. Meanwhile, in Tamil Nadu in southern India, hundreds of villagers who had been illegally evicted from their homes were using various forms of street theater to demonstrate against the authorities who had led the illegal land grab and mass displacement.

My interviews with several award-winning playwrights, directors, and actors (including those from banned theater troupes) allowed me to really understand the social function of satire. Today, we see how the Trump presidency in the United States has galvanized political satire. As American stage director, educator, and producer Zelda Fichandler has noted, “There is a hunger to see the human presence acted out. As long as that need remains, people will find a way to do theater” (Tischler 2016).

Making the Decision to Be a Human Rights Lawyer

Even though I didn’t see it at that time, I now know that my Watson year strengthened me and taught me lessons that I apply to my work today as an international human rights lawyer. It was a journey of self-discovery. I picked up skills of investigating and documenting; I learned to pose questions to victims of conflict with sensitivity and compassion; I discovered that I could set up my own “traveling office” wherever I went and could work quite independently. I engaged in fact checking and seldom relied on one source for key information. These were skills that later helped me in law school and with my pro bono work involving victims of mass crimes in Cambodia.

My mind could not break off from my year-long journey. I returned home to law school and sat in lecture theaters among budding corporate lawyers and commercial litigators, often replaying images and sounds in my mind from my year of travels. Sometimes, I would feel like smells from a certain country would waft into my classroom as my mind swerved sharply into a memory bubble of my time in that country. I was home, but I was finding it extremely difficult to fit in. In the words of G. K. Chesterton, “The whole object of travel is not to set foot on foreign land; it is at last to set foot on one’s own country as a foreign land” (Chesterton 1926).

Much like the tadpole developing a bigger brain to better use its eyes, I was undergoing enormous changes in my thinking and interests. To return to the metaphor of an amphibian, I guess I felt that I would not complete the metamorphosis without pursuing a law degree.

After law school, I was called to the bar as an advocate and solicitor of the Supreme Court of Singapore and practiced commercial and criminal litigation briefly. I then joined a local law school

to research public international law issues, with a focus on direct impact litigation and transitional justice in postconflict Asian nations, as well as business and human rights issues.

Throughout most of my law school years and right into private practice and my academic research experience, I assisted an international litigation team in representing victims of mass crimes in Cambodia at the Extraordinary Chambers in the Courts of Cambodia (ECCC). I was involved in this pro bono litigation work for a Singapore-based nongovernmental organization while making frequent trips to Phnom Penh and the provinces to research, document evidence, and help build the case for trial.

During the Khmer Rouge’s reign from 1975 to 1979, nearly two million Cambodians were executed, tortured, or starved to death. In 2003, the ECCC was set up as an international hybrid tribunal after an agreement between the Cambodian government and the United Nations; its aim was to hold perpetrators of the Khmer Rouge regime accountable for international crimes of genocide, war crimes, and crimes against humanity. The ECCC is the first international court prosecuting international mass crimes to allow victims to participate in the trial as “civil parties” with important procedural rights.²

One of our clients, a civil party from the minority Khmer Krom group, provided oral testimony that evidenced the targeted persecution of the Khmer Krom in the context of forced transfers and how the community was “screened and segregated from the central Khmers based on their distinct dialect, family names and cultural practices.”³ He described forced transfers, displacement from his home, and torturous living conditions in the countryside cooperatives that they were moved to. When describing his family’s suffering from food shortage, he told the court the following:

Due to the lack of food, my three nephews, including my other sibling, got sick and died. My nephews, before they died, were in a very pitiful state. Even if the food was coming out among the feces, they ate that food as well. Even for my brother, before he died, he only begged for a small piece of palm sugar but we could not find the palm sugar

2 ECCC, Internal Rule 23(1), as revised on February 9, 2010. See Khan and Rudy (2010).

3 Civil Parties Closing Brief to Case 002/01, September 26, 2013.

for him before he died. My elder sister-in-law tried to find the sugar but when she arrived, her husband already passed away. (ibid.)⁴

His pain and sense of loss reflected his community's decades-long suffering.

After years of research, analysis of evidentiary documents, and interviews with civil parties, it was a momentous day for us, as young international criminal lawyers, to see the civil party take the stand at the tribunal and vindicate the dignity and desires of the Khmer Krom victims of mass crimes through his powerful testimony.

One must quickly learn to straddle the roles of researcher and investigator when traveling to the provinces to talk to victims and seek out credible representative testimony to press a case in court. I had picked up some of these skills during my year as a Watson scholar and was able to put them to good use as a human rights litigation associate.

The “Amphibious” Human Rights Lawyer—but Miles to Go Before I Sleep

On my thirtieth birthday, I moved to Yangon, Myanmar, to work with the International Commission of Jurists as the organization's international legal advisor. It was one of my most intense experiences to live and work on rule of law issues in Myanmar, but also a privilege to have such an incredible opportunity at that stage in my career.

Working with the International Commission of Jurists allowed me to engage in work focusing on access to justice for serious human rights violations. I was actively engaged in field research and led advocacy and policy work aimed at strengthening the role of the government, as well as lawyers and judges, to protect and promote human rights and the rule of law in Myanmar. I regularly devised and delivered training to judges, lawyers, government officials, and civil society activists on international justice and responsible investment, bilateral investment and public policy, special economic zones and human rights, and independence of the judiciary and attorney general's office. I traveled around

4 See also Sathisan and Holligan (2013).

the marvelous country to meet with people from different ethnic backgrounds, listened to their stories, and documented violations of their economic, social and cultural rights, so that the state could enact relevant legislation to protect the human rights of the people of Myanmar. I brought these stories to Geneva to discuss Myanmar’s human rights legal challenges with the diplomatic community there, calling for states to push the Myanmar government to adhere to its international human rights obligations. I worked with the Independent Lawyers’ Association of Myanmar to set up a human rights committee to support the lawyers. I led trainings on women’s rights in Myanmar’s poorest state. I worked with my colleagues, esteemed commissioners at the International Commission of Jurists, to collaborate with the Supreme Court in drafting and implementing a judicial code of conduct to ensure that the judiciary remained independent from the executive and legislative. I also witnessed the historic chapter in Myanmar’s history as its first democratically elected civilian government took power after almost fifty years.

All of the experiences I have tried to describe above have led me here today. After years of sitting with quiet rage against injustices around me, I am fortunate to have built up the experiences and skills that have allowed me to be a practitioner of international human rights law and do work that I am truly passionate about. I continue to be humbled and inspired by my friends and colleagues who are doing their best to fight injustice and remain committed to upholding the rule of law and protecting human rights in various parts of the world. With the right opportunities, skills, and hard work, the amphibian researcher gets to adapt, discover, change colors and textures, and grow. There are miles to go before we dreamers sleep, but for now, the amphibious journey has been exhilarating.

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PART TWO: COMMENTARIES

CHAPTER 11
New Voices in the Debate
on Justice and Transition
in the Global South

Nelson Camilo Sánchez

The contributions to this book have a twofold collective richness. First, they represent a diverse array of situations, topics, contexts, and approaches, which, when viewed together, unveils a wide repertoire of information and analysis. Second, they share a common theme: all of them respond, in their own way, to the concerns of a new generation of human rights defenders who are asking new questions about the meaning of justice and rights in dissimilar contexts of political transition.

Some academics have referred to these new agendas and pursuits as the “preoccupations of fourth generation transitional justice” (Sharp 2013), meaning that the interests of today’s scholars and practitioners are in some way different from those of the generation that inaugurated the field nearly forty years ago. And these changes respond both to the way in which transitional justice is pursued and to the definition of justice itself. Much of this new panorama can be seen in this book, even if it is not expressed directly.

In this chapter, I briefly present some of the cross-cutting contributions that the authors in this volume make to current debates regarding the nature and scope of transitional justice. In particular, I refer to three themes in the literature with which the chapters in this book communicate: (i) the importance of contextual analyses for determining transitional justice frameworks and measures; (ii) the content of the “toolbox” of transitional justice strategies; and (iii) dilemmas over what is, or should be, the time frame for a given transition.

The Importance of Contexts and Their Analysis

Leaving Colombia, traveling through Indonesia, Sudan, Egypt, and Turkey, and returning to Latin America via Peru, Brazil, and Argentina, the chapters in this book illustrate the enormous contextual differences between these countries' societies. The cultural, institutional, and historical contrasts are apparent. Against this backdrop, is it possible to speak of a vision of transitional justice that encompasses generalized solutions to the dilemmas of justice faced by different contexts?

Today, it is common to hear calls for transitional justice to take context into account or to become more context specific (Duthie and Seils 2017). Some authors have argued that despite the fact that initial reflections on transitional justice were based on local circumstances (such as those of Argentina, which are discussed in two fascinating chapters in this book), the globalizing dynamics of the field gradually caused it to become separated from the local context and to embrace cookie-cutter formulas on democratization and justice (Sharp 2014). This is why in today's debate on transitional justice, there are frequent calls for locating or contextualizing transitional justice in order to achieve two main objectives. The first objective is to ensure that transitional justice measures and processes respond more to local needs, expectations, and realities. The second is to ensure that victims and communities involved in these processes have a greater voice, which, in turn, ensures that the transitional justice process enjoys greater legitimacy and more possibilities of success (McEvoy and McGregor 2008). What these chapters confirm is that if the field wishes to remain relevant, its advocates must have a better grasp of the richness of the contexts in which transitional justice measures are currently being discussed.

The young, local, and empowered voices that narrate the cases in this book are an example of the enormous richness that is overlooked by a hegemonic, universalist, and one-way vision of transitional justice. Such a vision, which emanates largely from the offices of international think-tanks (all located in the global North), purports to dictate guidelines on the recipe that communities in the global South should follow in order to achieve successful transitions.

What Justice Do You Mean?

A second trait of almost all the chapters in this volume is an exploration—sometimes at a personal level, other times at a legal or philosophical one—of the meaning (or rather meanings) of justice during transition. The cases presented here reveal a plethora of unjust situations. But the fundamental question is to what extent the notion of transitional justice can be expected to address all of these facets of injustice.

Here, contributors also juggle with current concerns of the field. For example, insofar as the contexts where transitional justice is applied have become more diverse and both the legal regulation of rights and the expectations of society and victims have grown, one question that now pervades the field is, what theory of change does (or should) the transitional justice strategy promote? In other words, to what extent can transition be used to address structural deficits and generate social transformations sought after for decades or even centuries?

In this regard, many in the transitional justice field have explored whether structural issues should be addressed as part of the transitional justice agenda and whether the transitional justice “toolbox” is sufficiently stocked to carry out this task. Several reputable scholars argue that the objectives of transitional justice should be modest, considering that these goals in themselves are already overwhelming and difficult to reach (De Greiff 2009). Therefore, the argument goes, transitional justice should resist the temptation to become a standard formula for addressing everything within a society’s turbulent past. For these scholars, the field should focus on the concrete aims of accountability, uncovering the truth, and the opening up of the political system, leaving issues such as agrarian policy, income distribution, and the environment for the post-transition democratic process.

A significant portion of this discussion seeks to establish whether the field should embrace a greater focus on socio-economic aspects of transitions or on the fulfilment of economic, social, and cultural rights (Haldemann and Kouassi 2014, 514). For many, transitional justice should steer clear of these areas for several reasons: the field lacks the appropriate legal tools and technical knowledge, it would become unnecessarily overburdened,

and it would lose effectiveness and legitimacy, among other things (De Greiff 2009; Waldorf 2012; Haldemann and Kouassi 2014).

In contrast, another camp maintains that if transitional justice does not tackle these justice-related deficiencies and needs, it will fail in its mandate (Mani 2005; Gready and Robins 2014). Ultimately, the decision regarding what to include in or exclude from a given intervention is a political one aligned with the priorities and vision of justice of those who set policy. Some scholars and activists even posit that if transitional justice does not adequately address these issues, it should make way for other intervention models, such as the transformative justice model (Gready and Robins 2014).

Several chapters in this volume embrace complex notions of justice that go beyond mere accountability for bodily harm. For example, some address social issues such as agrarian and environmental conflicts, others consider the identities and rights of indigenous communities, and yet others look at historical exclusions and how violence always seems to lurk among the poorest, the marginalized. Together, the stories and cases presented here offer a vivid portrayal of the importance of this debate.

When Does Transition End?

The third aspect that—without being intentionally coordinated—emanates throughout the chapters has to do with one of the current concerns of the field: the transience of transitional moments and strategies. Early transitional justice frameworks, known today as “paradigmatic contexts,” had fairly fixed notions about the precise moment at which their measures should be designed and implemented. Indeed, the idea of transition evokes a juncture in which the violent past is being left behind and a transition to new social arrangements is underway. In this sense, the premises for transitional justice in such contexts required (i) that violence, hostilities, and violations had ceased or markedly diminished to the extent that processes of truth, memory, justice, and reparations could be initiated; (ii) that the transitional justice framework be implemented just after the fall of the regime or status quo that had maintained such violence and that society be in an exceptional state that is open to experimentation and change; and (iii) that the

transitional justice framework have a relatively short duration to the extent that as the political and social project is strengthened, transitional justice measures gradually become unnecessary.

Nonetheless, these premises are now being scrutinized by academics and practitioners of transitional justice. First, experience has shown that the window of implementation of transitional justice measures is not as transitional as one might hope. Second, such measures are carried out within social, political, and human processes that are often neither linear nor incremental. Depending on the political environment, transitional justice processes can reach a standstill, move backwards, or advance swiftly.

Moreover, by widening the spectrum of situations in which such processes are applied, it becomes less clear that the aforementioned expectations about behavior can be met. For one, the variety of contexts makes it difficult to establish differentiated periods. While in classic contexts (such as that of Chile) the fall of a dictatorship generally marks a decisive moment between the old regime and the commencement of a transitional process, in contexts of prolonged violence (such as those of armed conflicts and, even more so, of meta-conflicts) the fault lines are harder to locate.

In addition, with the political and practical broadening of the transitional justice field worldwide, an increase in normative standards, and heightened expectations among local communities and the international community alike concerning the benefits of these processes, transitional justice mechanisms have been increasingly implemented outside the ideal time frame. This could be because the implementation of transitional justice measures begins before the break with the past takes place (as in cases where transitional measures are implemented during a conflict) or because claims are belatedly raised with regard to a past that was thought to have been settled (as in the requests to reexamine cases of abuses that had occurred decades earlier in Spain and Taiwan).

Broadening the period of validity and opportunity of transitional measures has potential and benefits, as well as risks and constraints. Some authors, such as United Nations Special Rapporteur Pablo de Greiff, argue, for example, that it is dangerous to apply a transitional justice framework in the midst of an armed conflict in the hopes that it might contribute to peace. This risks

not only delegitimizing transitional justice measures but also risking the integrity—and possibly the lives—of those individuals involved in these processes, which neither address nor reduce violence. But others, including myself, have defended the idea that in some instances where certain conditions allow, developing a transitional justice process in the midst of a conflict seems almost unavoidable. Furthermore, cases such as that of Colombia demonstrate that the early application of a transitional justice framework can help set the stage for future peace negotiations (Uprimny and Sánchez 2017).

The cases presented in this volume are a testament to these challenges. The examples are fascinating. Some show how difficult and painful situations with historical patterns that date back centuries cluster together in a united front of impunity and denial. Others present cases where the transitional time frame is difficult to establish since, as in Brazil, it is not entirely clear whether the measures labeled as transitional initiated a specific period to accomplish the transition. In other cases, as seen in the chapters on Argentina, communities and victims have spent decades paddling upstream in their search for justice. But they are still far from shore. Finally, other chapters, because of the unique contexts they represent, inquire whether they can even begin to speak of transitional justice.

In summary, the cases, approaches, and narratives in this volume reveal a rich contribution to the debates and concerns of what is now a globalized and heterogeneous network of voices regarding justice in times of political transition. Three aspects converge in this objective. First, those who narrate: the contributors to this book represent a new generation of human rights defenders who raise new questions, new concerns, and new visions in response to old problems. Second, the issues they address—even if some appear to be traditional—reveal innovative ideas that challenge the traditional doctrines of the human rights and transitional justice fields. Third, the search for a unique, more personal, and more reflective approach offers a refreshing change from the rigid and one-dimensional literature that has traditionally led academic discussions on the issue. In all three aspects, both old connoisseurs of

transitional justice debates and those reading about these issues for the first time will find these chapters a stimulating read.

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CHAPTER 12
**A Narrative Expedition
in Search of Truth from
the Shores of the Caribbean**

Nelson Fredy Padilla

The title of this reflection is inspired by lawyer-writer Franz Kafka, who once said that literature is “an expedition in search of truth” (Janouch 2006, 94). That was my inspiration when I met the participants of the third Global Action-Research Workshop for Young Human Rights Advocates in San Antero, a Colombian port built amidst mangroves, a fragile ecosystem where the salty waters of the Caribbean Sea merge with the freshwater of the Sinú River.

At first, the group of foreign visitors found it paradoxical to sit down and talk about transitional justice in a country where peace was being negotiated after a half-century of war, just a few steps from one of the most beautiful and touristic beaches of the department of Córdoba. Their opinion changed, however, after I explained that here, where gray ocean dolphins have learned to live in harmony with pink river ones, one can find traces of all types of violence: from the massacres of the Spanish conquistadors that wiped out the indigenous peoples of the Caribbean, to the various mafias seeking control of the strategic Cispatá Bay in the name of leftist guerrilla groups, right-wing paramilitaries, drug traffickers, and arms smugglers.

In 30-degree-centrigade heat in the shade, and with the fans on full blast, I began by showing them a photograph that I had taken in that same area in 1989, during one of my first trips as a war reporter. The photo shows a National Police helicopter and a huge cloud of smoke rising from the incineration of ten tons of cocaine that had been seized from the Medellín Cartel, led by Pablo Escobar Gaviria. As guerrilla fighters and paramilitaries killed one another in the jungle, drug traffickers paid people to export cocaine to Central America, Mexico, and the United States.

Meanwhile, the state did nothing, accused of being complicit in these activities. So, in other words, we were in the right place to discuss conflict, justice, memory, and narrative.

I talked to them about Imre Kertész, a Holocaust survivor born in Budapest in 1929 and winner of the 2002 Nobel Prize in Literature, who wrote the novel *Fatelessness*. Kertész calls on us to produce works of liberation, noting that writing allows for a great catharsis. I extended this invitation to the participants, declaring, "Let's do that from this point forward!" I said, "Each one of you comes from a different environment. You bring unique experiences and expectations, but we all share an interest in defending human rights. Let's add writing as an existential experience to your fieldwork, to your mind as a researcher."

I talked about another European author, Polish writer Ryszard Kapuściński, who bore witness to the colonial wars in Africa. By day he chronicled as a journalist, and by night he pondered memory and wrote books. I told the participants, "From what I've read about your projects, you have similar potential because you've lived remarkable experiences. Do I want all of you to become writers like him? Not necessarily. Hopefully. But at least I want you to learn how to place the narrative aspect of journalism and literature at the service of what you do and want to do without losing your daily experiences or your critical point of view."

This was the basis for the writing exercises that increased participants' awareness of their narrative potential as a result of being firsthand witnesses to conflicts that could be transformed into collective memory documents via journalistic genres such as chronicles, reporting, and profiles, and literary genres such as stories, novels, and essays.

With this preamble, participants began to share stories of the violence of their countries. We shared our experiences and our visions of memory and narrative through various learning activities: describing the most impactful situation they had witnessed as human rights activists, letting off steam through an opinion piece based on the last event that had outraged them. In another session, participants focused on getting to know the person sitting next to them and were tasked with describing that person as an individual and a professional; and in another, they spent time thinking about new forms of writing based on impressions gleaned from their five senses.

It was my hope that this collective catharsis, which is repeated during each annual workshop, would allow Ana Daneri, from Argentina, to fine-tune her narrative perspective of the excesses of her country's military dictatorship and so-called Operation Independence in Tucumán. When I read her final text, I saw how she tapped into her on-the-ground experiences that had been missing from her earlier lawyerly writings. Part of the chronicler's technique is to become a witness narrator:

We arrived in Santa Lucía around 10 a.m. The judges were already at the main traffic circle, and members of human rights organizations were beginning to hang flags with the faces of the disappeared. One woman with a sign displaying the face of her loved one shouted into the crowd, "Let justice be done for all."

The result was a forceful text inspired by author Ernesto Sábato and the *Never Again* report. That is why she was able to write authoritatively about human rights violations and "walls that talk."

Her fellow Argentine, Horacio Coutaz, showed how not to be afraid to use the first person, the voice of the author: "I became heavily and almost naturally involved in the human rights trials that were reopened after Argentina's amnesty laws were declared unconstitutional by the courts and subsequently annulled in 2003." Plausible how he pored through so many archives of the dictatorship in order to denounce homicides like that of Alejandra Niklison. Coutaz also revealed his talent in citing sources such as philosopher Adorno and Argentinean chronicler Caparrós.

Although I did not have a chance to read her final text,¹ Karol Guerrero's essay bore witness to her dangerous community work on the outskirts of Cali—Colombia's third-largest city—with Afro-descendant communities that had been forcibly displaced by the conflict in the Pacific region. Nina Chaparro, also Colombian, came to the workshop with the aim of reconstructing the history of Colombian feminist organizations working in the midst of the country's armed conflict. I served as her tutor until she delivered a study worthy of becoming a book: "Fragments of Colombian Feminism." Her text began by describing the First Latin American

1 Although not all of the participants' texts are included in this volume, I worked with these individuals during the workshop's writing sessions. That is why I refer to their works in this essay.

and Caribbean Feminist Encounter, held in 1981, and profiled three of the feminists who attended the conference and subsequently became leaders of Colombia's women's rights movement. How did she do it? By writing and rewriting drafts that we reviewed together. The influence of *The Unwomanly Face of War*, by Belarussian Nobel laureate Svetlana Alexievich, is evident. The lesson learned here: the history of a country, especially a country at war, is not the story of men alone.

Isadora Vasoncelos, from Brazil, was extremely disciplined, with a methodical work plan for researching the role of the state and civil society in the face of agrarian conflicts, especially in Pará, where many assassinations occurred as a result of these conflicts. Her final text was fluid and rigorous, with effective narrative descriptions such as this one: "Influenced by my mother, Maria Cristina (a social worker and professor at the Federal University of Pará), I eventually began to study the Amazon region, particularly Pará. This caused my vision to evolve, as there is much more to the Amazon than its resources."

With Richard O'Diana, from Peru, we identified a shared interest in accompanying indigenous cultures displaced to urban areas. He explored the case of the Shipibo-Konibo community of Cantagallo, made up of 200 families who migrated to Lima from the tropical department of Ucayali nearly twenty years ago. His text is entitled "The Indigenous Community of Cantagallo: Preserving Indigenous Identity amidst Asphalt and Concrete." The prior year, I had published an article in the Colombian daily *El Espectador* entitled "Wounaan Cry in the Concrete Jungle," revealing a similar case in Bogotá. We discussed the need to connect to a universal reader, not just those interested in human rights. Richard began his essay thus:

If you live in a city or urban area, be adventurous and open the window. What colors do you see? Mostly grays, blacks, browns, maybe some blues. Now imagine that in the midst of these tones, you spot a red, a green, or a pink. A splash of color in the middle of an opaque landscape. That is what this chapter is about: an oasis in the middle of a city.

Meyatzin Velasco, from Mexico, arrived to the workshop overwhelmed by so much information in her notes and her head regarding violence in the state of Guerrero. As coordinator of a diploma on transitional justice organized by Ibero-American

University, the University of the Cloister of Sor Juana, and Cenro Prodh, writing in the genre of chronicle was “a complicated task” for Velasco. But with patience and encouragement, she completed an excellent document centering on the massacre of students from Ayotzinapa. Her inspiration came from the father of one of the victims, who told her, “Others should know about what happened to the kids.” She shared this observation and put it on record: “Perhaps it is good for others to understand that beyond the night of September 26 in Iguala, the story of the Ortiz Ramos family is a story of injustice committed throughout three generations.” In her final version of the chapter, she added: “There are many lessons and reflections that communities, organizations, and individuals have shared with me throughout the years, which have allowed me to walk alongside them and which are a key part of my work as a human rights defender and social anthropologist.” With the same courage, Natalia Pérez Cordero, also from Mexico, tackled the narrative comparison of two eras: her experience defending families who were victims of forced disappearance both in the context of the “Dirty War” of the 1960s and 1970s and in the context of today’s “war against drugs.”

I also had the honor of reading the works of those from the other side of the globe, who demonstrated equal, if not more, conviction. I recall how Adebayo Okeowo expressed his interest in reviewing, from the perspective of Nigeria and South Africa, the relationship between the African Union and the International Criminal Court in his quest to hold responsible the perpetrators of crimes against humanity. The guiding theme of his text was the case of Omar Hassan Ahmad al-Bashir, the Sudanese president who continues to evade justice. Okeowo was interested in developing descriptive techniques, which he demonstrated in his portrayal of his walk through the World War II concentration camp of Natzweiler-Struthof, on the outskirts of Strasbourg, France:

A gust of wind hit my face as I stepped off the bus and onto the gravel. Walking through the gate built with metal bars and timber, a reality dawned; I imagined that the ‘night and the fog’ prisoners who were marched through those same grounds almost a century ago would have had nothing but dust beneath them.

I also admired the attitude of Faith Alubbe, from Kenya, who was dedicated to reconstructing the memory of her country

through the role of the Mau Mau War Veterans Association during the struggle for independence in the 1950s and early 1960s.

Equally impressive was the commitment of Hussein Bauomi, from Egypt, who described what it was like to be a human rights advocate under a repressive government that rejects attempts at transitional justice in relation to the crimes of the state and fails to raise public awareness of the need for a transitional justice process. Upon reading his final text on “justice doomed at birth,” I remember our exercises aimed at including one’s innermost feelings in order to describe the impact of a national event: “Every day as I walk home, I choose a longer route just to avoid passing by Tahrir Square, for the memories it reignites continue to haunt me with an unanswered question: Why did Egypt’s transition to democracy fail?” We were all excited to witness the momentum of his fellow countryman Ramy Rostom, leader of Lawyers for Democracy, when he talked about how his organization monitors events and cases in Egypt, such as protests, conferences, strikes, and official and unofficial practices that can affect democratization. In the clarity of his discourse lay his narrative clarity.

Everyone was open to the challenge of exploring new writing styles. Johanna Lokhande, from India, used the essay writing technique to frame her exploration of how to go beyond offering humanitarian assistance and legal justice for those whose rights have been violated. Vani Sathisan, representing Singapore and Burma, adopted a reporting structure to explore the human rights impacts of companies in Burma. Christine Ramos, from the Philippines, embraced travel writing to analyze the debate on the proposal for an autonomous region in the southern island of Mindanao following the peace agreement between the Philippine government and the Moro Islamic Liberation Front.

Enis Köstepen, from Turkey, had doubts about including himself as part of the history of the peace process between the Turkish state and the Kurdistan Workers’ Party, as well as the role of citizens in the new Constitution, justice, and truth. Nonetheless, perhaps influenced by our activities during the workshop, he handled it adeptly. The author as an information source: “Hafiza Merkezi entered my life when I decided to spend less time producing films and to practice my production and social research skills in a new field.” The management of timing: “This convergence

of the past and the present would reveal itself several times during our visit to Cizre.” Fitting descriptions: “The flicker of hope ignited by the peace process had disappeared. The women spoke to us in Kurdish, while the men spoke in Turkish. In most of the homes, Kurdish satellite TV channels were running. The narratives of the war on those channels, of course, were totally different from the ones you would see on Turkish channels.” His text also preserved the essence of victims’ and victimizers’ dialogues during court hearings. Ideal forms of narrating what Enis calls “the darkness of war.”

We got to know one another, worked, learned, enjoyed the Caribbean Sea, and achieved the objective of the workshop: enabling these young human rights defenders to return to their countries with narrative tools for strengthening their influence in human rights debates and for pioneering high-quality research in the global South. Thanks to all of them for this enriching experience.

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Justice through Transitions

Conflict, Peacemaking, and Human Rights
in the Global South

What does justice mean in times of transition? What kinds of possibilities and disappointments emerge from processes of seeking justice through transition? How might we understand these processes through narrative?

This book, the third in a series, addresses these questions in texts written by young human rights advocates from across the global South. Each chapter illuminates the divergent ways in which justice and transition manifest themselves in the authors' countries, as well as in their professional and personal lives. The authors recount the implications of attempts to build both justice and memory after the military dictatorship in Argentina; efforts to combat historical impunity in countries such as Mexico and Turkey, as well as the international sphere; struggles over power in Egypt after the Arab Spring; the emergence of feminist movements in Colombia; the inequalities and violence associated with agrarian conflicts in Brazil and urban indigenous communities in Peru; and the search for justice through international work from Bosnia to Myanmar.

Together, these narratives weave a story that speaks to the hopes and the disappointments of seeking justice in times of transition, as well as to the creativity and beauty that can emerge from those efforts.

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