TRANSITIONAL JUSTICE AND MEMORY: A CASE STUDY OF ARGENTINA

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ABSTRACT

TRANSITIONAL JUSTICE AND MEMORY: A CASE STUDY OF ARGENTINA

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Transitional justice has been the subject of different disciplines across the spectrum of social sciences. Transitional justice mechanisms have played an important role in restoring legitimacy to state institutions with the ultimate aim of establishing rule of law, order, and to facilitate justice in successor regimes. Despite this, transitional justice processes appear to focus more on nation building and reinstating state legitimacy rather than concentrate on providing victims with justice. In this vein, this thesis proposes that transitional justice may benefit from memory studies in broadening its theoretical scope, especially by incorporating the emerging narratives of victims and their interpretations of past events. It is argued that doing so can ultimately facilitate more pervasive justice on a societal level, as well as helps identify continuities and ruptures of practices of predecessor regimes in successor regimes. As a case study, this thesis focuses on the transitional justice process in Argentina, and the role of the Mothers of the Plaza de Mayo as a mnemonic community, arguing that the successor regime in Argentina did not necessarily establish a rupture with the predecessor regime of the military junta.

Keywords: Plaza de Mayo, human rights, memory studies, collective memory

ÖZ

GEÇİŞ DÖNEMİ ADALETİ VE HAFIZA: ARJANTİN ÜZERİNE BİR VAKA ÇALIŞMASI

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Geçiş dönemi adaleti, sosyal bilimler yelpazesinde farklı disiplinlerin konusu olmuştur. Geçiş dönemi adaleti mekanizmalarnın nihai amacı hukukun üstünlüğü, düzenin tesis edilmesi ve devlet kurumlarınnın meşruiyetinin yeniden kazandırılmasıdır. Buna rağmen, geçiş dönemi adaleti süreçleri, mağdurlara adalet sağlamaya odaklanmak yerine daha çok ulus inşa etmeye ve devlet meşruiyetini yeniden tesis etmeye odaklanmıştır. Bu bağlamda, bu tez, geçiş dönemi adaletinin, özellikle yeni ortaya çıkan mağdur anlatılarını ve geçmiş olaylara ilişkin yorumlarını dahil ederek, teorik kapsamını genişletmede hafıza çalışmalarından yararlanabileceğini öne sürmektedir. Bu doğrultuda, hafıza çalışmalarının toplumsal düzeyde daha kapsamlı adaleti kolaylaştırabileceği ve ardıl rejimlerde önceki rejimlerin uygulamalarının sürekliliklerini ve kopuşlarını belirlemeye yardımcı olabileceği ileri sürülmektedir. Bu tez, bir vaka çalışması olarak Arjantin'deki geçiş dönemi adaleti sürecine ve Plaza de Mayo Anneleri'nin “hafıza topluluğu” olarak bu süreçteki rolüne odaklanmakta ve Arjantin'deki ardıl rejimin selef rejiminden, iddia edilenin aksine bir kopuş teşkil etmediğini öne sürmektedir.

Anahtar Kelimeler: Plaza de Mayo, insan hakları, hafıza çalışmaları, kolektif hafıza

To my mother and father

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LIST OF ABBREVIATIONS

CGT	General Confederation of Labour
CONADEP	National Commission on the Disappearance of Persons
ERP	People's Revolutionary Army
NRP	National Reorganization Process
UCR	Radical Civic Union

CHAPTER 1

INTRODUCTION

In its broadest description transitional justice is a socio-legal process undertaken by states, that have experienced significant violence and conflict, with the aim of resolving atrocities carried out by a preceding regime (Teitel 2000, 11). The term "transitional justice" is generally used due to traditional justice mechanisms being unable to cater the needs that have arisen out of such complex situations. Transitional justice processes mainly focus on ensuring those who have committed atrocities are held accountable, and ultimately aim to provide justice to victims of atrocities. The complexities surrounding transitional justice processes make it difficult to understand to what degree justice has been established for victims, and whether or not the new emerging state has been able to successfully initiate a break with the predecessor regime to ensure such acts are not carried out again. In view of this, transitional justice studies have mostly focused on activities carried out at the state level, underlining the importance of both restoring key state institutions with the capacity to function and reinstating legitimacy. This state centric approach has resulted in largely ignoring the societal aspects of transitional justice settings, which in turn has rendered it difficult to gauge whether or not states that have carried out transitional justice processes have successfully discontinued the practises of preceding authoritarian regimes.

Transitional justice processes take place within the specific contexts, constraints and possibilities of states, and are shaped by the values and interests of actors involved in both pre and post transitional justice stages. It is vital to take into account the historicity of the state in question, as well as how contestation over values would give rise to conflict or be used by authoritarian regimes to legitimize the violence they inflicted. In this vein, contemporary scholarship on transitional justice

underlines the importance of facilitating social justice for victims as a means to ensure societal inclusion and welfare rather than prioritize or solely focus on reinstating legitimacy of the state institutions which do not necessarily ensure accountability or redress for victims (Gready and Robins 2014, 342). Further, a vital tenet of transitional justice processes is the production of alternative accounts with the aim of establishing the truth regarding what had happened under the preceding authoritarian regime. More recently, scholars have been critical of how these accounts are produced by successor states, and how this may act to obscure the accounts of victims and serve as part of a wider political agenda of nation building which can also be defined by political pragmatism (Wilke 2010, 136). In view of this, this study argues that memory studies provide vital tools that complement transitional justice theory in terms of understanding how actors in these settings view their pasts, how interpretations of past events and their incorporation or dissolution may help us understand continuities and ruptures between predecessor regimes and post transitional states.

In this regard, as a case study, this thesis focuses on the transitional justice process in Argentina that took place after the collapse of the military junta which had initiated the National Reorganization Process (NRP) between 1976-1983 during which hundreds of thousands of people were murdered, kidnapped, and were forcefully disappeared. The NRP was initiated by the military junta following a period of increased political violence during the 1970s in Argentina, which culminated in what has been described as the "Dirty War". The contentious term "Dirty War" has been used to historically define the era between 1974-1983 in Argentina, which was marked by significant political conflict and turmoil. Critical scholars have argued that the "Dirty War" was overplayed by the military as means to intervene and assume power in Argentina (Feitlowitz 2011, 7). The NRP was marked by forced disappearances, also known as "*desaparecidos*" in Spanish, which targeted persons deemed "subversive" by the military regime, an accusation the regime vehemently denied. These forced disappearances would be carried out extrajudicially and openly, leaving relatives of disappeared persons utterly traumatized.

The Mothers of the Plaza de Mayo, a group of middle-aged women, were the first group of people to expose forced disappearances carried out by the junta, and were instrumental in drawing international attention to this fact through their public display of resistance carried out in the May Square of Buenos Aires every Thursday (Bouvard 1994, 70). It was not until the military regime fell and National Commission on the Disappearance of Persons (CONADEP) was established that these crimes were officially documented.

This thesis accepts the premise that the National Reorganization Process and the so-called "Dirty War" was not a historical anomaly of military violence, rather the junta functioned as a continuity of extrajudicial activity that targeted leftist "subversives" with the ultimate aim of cultivating an Argentine identity in the military's own conception. In this regard, the thesis problematises the official account produced by the succeeding Alfonsín regime during the transitional justice process of Argentina, arguing that the new administration sustained the notion of the military junta having fought a legitimate war against subversion. In doing so, this thesis also focuses on the Mothers of the Plaza de Mayo as a social group composed of mothers who have lost their sons and daughters to forced disappearances carried out by the military regime. The Mothers of the Plaza de Mayo, who actively demanded knowledge of their loved ones during the military regime, continued their demand for truth in scrutiny of the transitional justice process of the Alfonsín administration.

This paper argues that the Alfonsín regime prioritized state legitimation rather than ultimately seek justice for victims and social change, this becomes visible through critically assessing the accounts produced by the Mothers of the Plaza de Mayo in their continued public displays. In this vein, this thesis proposes that memory studies would provide more comprehensive understanding in how transitional justice processes that take place on the state level with limited participation of victims can act to sustain injustices, and how this may obscure truth and prevent alternative accounts of victims to permeate into official accounts. Finally, this thesis discusses the continuity of human rights abuses post transitional justice in Argentina and argues that this is linked with a continued culture of impunity, which is rendered visible through the scope of memory studies.

Structurally the thesis is divided into six chapters, the second chapter provides a theoretical framework in understanding transitional justice along with its different conceptions and contemporary understandings. This chapter also provides the theoretical groundwork on how memory studies may serve to increase the scope of transitional justice, underlining how memory is an active site of contestation in transitional justice processes, and how interpretations of past events and their incorporation or dissolution may help researchers understand continuities and ruptures between predecessor regimes and post transitional states.

The third chapter provides a historical overview of military regimes in Argentina, underlining a continuity in restricting public participation in rule and how past military regimes have excessively used violence as a means for curtailing political dissidents. This chapter also argues that the so-called "Dirty War" is not confined to 1974-1983, and that pervasive human rights abuses -more specifically forced disappearances- did not occur solely during the National Reorganization Process (NRP) but were carried out by clandestine groups within the state mechanism prior to the NRP.

The fourth chapter provides a historical overview of the activities carried out by the Mothers of the Plaza de Mayo, establishing the context within which the Mothers of the Plaza de Mayo began their quest for truth and justice. This chapter elaborates on how the Mothers of the Plaza de Mayo made forced disappearances visible during the National Reorganization Process, as well as discussing what makes the Mothers distinct regarding other human rights organizations in Argentina that were active during the military regime.

The fifth chapter discusses in depth the transitional justice setting during the Alfonsín administration, and problematizes how the transitional justice process was carried out with limited participation of civil society organizations, much of whom were active during the military regime. This chapter also discusses the structural elements of the transitional justice setting, and how the military played a coercive role with the aim of dissuading the civilian administration from seeking further litigation and trying the military as an institution.

The sixth chapter explores the politics of memory in Argentina and the Mothers of the Plaza de Mayo's quest for establishing an alternative account to what was produced by the successor regime of Alfonsín administration. This chapter also investigates internal cleavages within the Mothers of the Plaza de Mayo, how the movement has shifted post transitional justice, and how memory studies may provide a wider theoretical understanding in identifying human rights abuses akin to predecessor regimes.

CHAPTER 2

LITERATURE REVIEW AND THEORETICAL FRAMEWORK

This chapter is organized in two sections. The first section focuses on the literature on transitional justice exploring different conceptions of transitional justice theory, main tenets and changings perspectives. The second section dwells on the memory studies theory and its different conceptions. Finally, there is a discussion on why memory studies would complement transitional justice theory.

2.1 Transitional Justice: Theory

Transitional justice has been subject to significant analysis across the spectrum of social sciences and the humanities. Each discipline has taken on a different approach, implementing its own intellectual tools in analysing what transitional justice is, what it has been deployed to solve, its consequences, deficiencies, its genealogy, its success and its failures. Before taking on the task of assessing these tenets, it is first necessary to define what transitional justice is.

In its broadest sense, transitional justice is how successor regimes recon with the atrocities of its predecessor with the aim of facilitating peace, ending conflict, and/or with the aim of legitimizing itself (Teitel 2000, 3). It is not limited to the past or present, but is used to strive to establish a sustainable future for a polity and its people (Teitel 2000, 4). Taking this description into account, it would be false to assume that transitional justice has been practised through the ages as a way for every society to deal with its past as a result of the destruction of a state or regime that had lost its legitimacy. Quite the contrary, transitional justice is a context-based response to political change which has arisen out of our changing sense of legitimacy in the 20th century (Arthur 2009, 326) . Therefore, in view of the above, it is safe to

say transitional justice is intrinsically linked to human rights as a cornerstone of establishing state legitimacy in the 20th and 21st century (Barkin 1998, 250).

The term "transitional justice" first began to be used in the late 1980s and early 1990s (Arthur 2009, 324) a genealogical perspective employed by Teitel provides us with three consecutive phases: Phase I is linked to the Nuremberg trials, and emphasizes international law replacing domestic law. This phase was primarily focused on the upper echelons of the Nazi regime and aimed to establish retributive justice. Phase II focused on transitions from authoritarian states that lost legitimacy due to the atrocities it committed, aiming to establish rule-of-law, to provide pervasive justice to those affected, and to facilitate liberalization. Phase III is considered to be the present phase, and is linked to the normalization of transitional justice in dealing with post-conflict situations (Teitel 2003, 70-71).

Teitel's (2000, 6) seminal work employs a constructivist understanding of transitional justice: "[the] conception of justice in periods of political change is extraordinary and constructivist. It is alternately constituted by, and constitutive of, the transition. […] What is deemed just is contingent and informed by prior injustice". By doing so Teitel aims to resolve the theoretical tension between idealist conceptions of law regarding transitional justice that focus on retributive or corrective forms of justice and perceives it as exempt of politics, and realist conceptions that claim states strive for justice within the boundaries of tangible circumstances. According to Teitel, it would be false to employ one or the other when dealing with transitional justice, and she rejects "the notion that the move toward a more liberal democratic political system implies a universal or ideal norm" (Teitel 2000, 4). Accordingly, there is a reflexive relation between how a state facilitates justice in its transition, and in return how a state is affected by the transition; this is dependent on historicity, how a society views its past, and what is deemed acceptable to be legitimized in defining a common future.

Designating separate phases to transitional justice (Teitel 2003, 69) provides us with a general sense of what transitions seek to aim in their respective eras, and what these transitions are constituted by. As mentioned above, Phase I is associated with

the Nuremburg trials; international law was used to try individuals who were deemed responsible for atrocities committed during the Nazi regime rather than focus on systemic injustices within a state, to which contemporary research points toward. Phase II distinguishes itself from Phase I, since in Phase II it is a state taking on its own transition through its own legal system that is in question: "The leading model in this phase is known as the restorative model. In this phase, the main purpose of transitional justice was to construct an alternative history of past abuses" (Teitel 2003, 78). Transition in this phase, in its broadest definition, focused on reparations and establishing a historical truth that was denied or obscured by a preceding regime, and has mostly been associated with the third wave of democratization (Hansen 2017, 34). Phase II has been subject to much debate in the social sciences, since rather than fostering justice, transitional justice has been accused of being preoccupied more with state building (McAuliffe 2017, 75). Teitel underlines the use of domestic legal systems in dealing with past atrocities in Phase II contrasting the international universalist approach which defined Phase I, which is associated with the Nuremberg Trials (Teitel 2015, 54).

In Teitel's genealogical approach to transitional justice, Phase III differentiates itself from Phase I & II by adopting universal human rights discourse, which Teitel claims to be problematic due to issues regarding compromises in rule-of-law. This "steady-state" phase is marked by globalization and "presently appears to be based upon an expansion of the law of war" (Teitel 2015, 64). Rather than focusing on intra-state conflict with the aim of facilitating legitimacy and peace:

> Humanitarian law incorporates the complex relationship between the individuals and the state as a legal scheme which enables the international community to hold a regime's leadership accountable and condemn a systematic persecutory policy, even outside the relevant state (Teitel 2015, 64).

2.1.1 Paradigmatic & Non-Paradigmatic Transitions

Transitional justice has also been categorized in terms of what the transition sets out to resolve. In other words, transitional justice is not only implemented retroactively

through trials to legitimate a successor regime with the aim of reckoning with its past and facilitate democracy; more recent research on transitional justice has suggested that non-liberal transitions that have failed to promote liberalization, or democratization, *have* facilitated order and peace and should be considered within the scope of transitional justice mechanisms (Hansen 2011, 19). In other words, transitional justice mechanisms have also been employed to facilitate peace and order, and have taken their place in transitional justice literature accordingly.

Hansen (2011, 1) provides us with four distinct typologies of transitional justice: transitional justice in liberal transitions, transitional justice in non-liberal transitions, transitional justice in deeply conflicted societies, and transitional justice in consolidated democracies, the latter two being "non-transitions". However, the transitional justice in liberal transitions is what is typically associated with the field: a delegitimized regime is replaced by a regime that is buttressed on dealing with grave rights violations and facilitating rule-of-law; this is the casual definition of a paradigmatic transition most associated with the field (Aoláin and Campbell 2005, 174).

Paradigmatic transitions have been associated with four major tenets: *criminal accountability*, *amnesty*, *reparations*, and *truth-seeking* (Quinn 2017, 16). These four tenets may not all be employed to facilitate transition (or all be employed at the same time), but are implemented to respond to distinct aspects of rights violations and atrocities committed under a former regime. More specifically, criminal accountability has been tied to establishing rule-of-law, especially by those who have emphasized the law's role in facilitating liberalization (Teitel 2015, 150).

2.1.2 Non-Paradigmatic Transitions: Conflicted Democracies

In addition to the core tenets of paradigmatic transitions provided above, transitional justice theory has started to encompass transitions carried out not only in states under authoritarian rule (or in conflicted societies under martial law) but have also started to focus on non-paradigmatic transitions. Aoláin and Campbell (2005, 176) widen the scope of transitional justice theory by theorizing non-paradigmatic transitions

which could take place within democracies, rather than during transition between totalitarian rule and liberal democracy. Aoláin and Campbell underline that non-paradigmatic transitions occur in "conflicted democracies" which are marked by state of emergency measures, especially derogation. In a conflicted democracy:

> First, there must be a deep seated and sharp division in the body politic whether on ethnic, racial, religious, class, or ideological grounds. (…) Second, this division must be acute, and the political circumstances such as to have resulted in or threaten significant political violence (Aoláin and Campbell 2005, 176).

As per the definition provided by Aoláin and Campbell, conflicted democracies are procedural systems. That is, conflicted democracies function according to majoritarian principles and are in contrast to pluralist public participation in rule. Furthermore, elections may be held in conflicted democracies for the public to limitedly exercise their will, yet the political power may frequently act to not take into account the needs and identities of significant minorities, or can even act to further repress these groups. As mentioned above, Aoláin and Campbell (2005, 176-177) underline that conflicted democracies are distinctly divided on political, ethnic, class, or ideological grounds; these most often constitute what the transitional justice mechanism sets out to resolve.

Aoláin and Campbell (2005, 174) employ the term "substantive democracy" as a guiding principle for what transitional justice should aim to establish in conflicted democracies. According to Aoláin and Campbell, a substantive conception of democracy must incorporate increased inclusivity, consolidating legally protected citizenship to further participation both in the public sphere and in the political. Based on this description, it is theorized that transitional justice in conflicted democracies must aim to facilitate increased participation of unrepresented (or oppressed) and underrepresented groups within a society to resolve issues that give rise to conflict among these groups, or set out to resolve issues between these groups and the state in question.

It could be argued that transitional justice taking place within a conflicted democracy is paradoxical due to the more traditional definitions of transitional justice mostly being associated with regime change. It is therefore important to note that Aoláin and Campbell argue that transitional justice in conflicted democracies must strive for substantive democracy positing "substantive democracy" as an ideal rather than a clearly defined goal; thus, in turn, opens up the possibility to address issues that may arise in the future. In line with Aoláin and Campbell, Gready and Robins have argued for significance of broadening the theoretical scope of transitional justice to make room for social justice in addition to core tenets such as criminal accountability. According to Gready and Robins (2014, 342), consolidating social justice facilitates the "transformative" aspect of transitional justice. Again, Gready and Robins (2014, 343) also set the ground for further incorporation of those affected by injustices within the transitional justice mechanism, citing that traditional transitional justice experiences have failed to incorporate those whose rights have been violated the most, or those who are the most vulnerable and have the least power to exercise within the system. In other words, Gready and Robins incorporate social justice in transitional justice mechanisms with the aim of facilitating social transformation.

Parallel to Gready and Robins, Lundy and McGovern raise the issue of societal exclusion in transitional justice procedures. Lundy and McGovern (2008, 270-271) claim that transitional justice mechanisms must facilitate participation in order to produce more sustainable outcomes. By raising the issue of truth-commissions (without denying their importance) being conducted on an individual level without comprehensive social inclusion of those affected by the injustices, Lundy and McGovern critique top-down practices that often do not have a tangible effect on the society in question. Lundy and McGovern (2008, 271) further state that political "engagement and agency" must not be denied to a society that has been subjected to significant violence, conflict, and oppression.

2.2 The Core Tenets of Transitional Justice

Transitional justice is not a uniform process, despite this it is possible to identify several components that serve an integral role in transitional justice processes. These components have been provided below, first the role of reparations in transitional justice process is highlighted, it is underlined that reparations can take on different forms than tangible compensation such as the restoration of goods. This is followed by a brief discussion on the role of amnesty, punishment and accountability in transitional justice processes, as these tenets are interlinked and are connected to both rule of law, as well as trials undertaken during transitional justice processes. Finally, truth and truth-seeking is argued to be a core tenet of transitional justice processes but pose additional complexities to transitional justice due to the epistemic intricacies of truth.

2.2.1 Reparations Under Transitional Justice

Reparations play a key role in transitional justice settings, especially in striving for establishing the legitimacy of a successor regime. The term "reparation" is etymologically linked to "the act of repairing, restoration" and has frequently taken the form of compensation for wrongdoing. Reparations generally take on tangible forms such as providing victims with money, restoring lost goods, and other compensatory acts. Recently, reparations have also been linked to establishing alternative historical truths about events that occurred under a former regime as a form contesting past official narratives. Thus, it can be argued that the production of an alternative historical account differing from the former regime's official narrative, that acted to cultivate a subversive identity casting it as the "other", has also be claimed to act as a form of reparation (Teitel 2000, 90). Based on this, some human rights organizations have refused to accept state reparations, and have considered the act as receiving blood money (Moffet 2017, 382).

2.2.2 Amnesty, Punishment and Accountability

Amnesty, in regard to truth, underlines the importance of a constructivist approach and a departure from theorizing an ideal form of transitional justice. While in many cases amnesty has been issued in order to establish peace and order, Teitel (2000, 72) claims it brings forth a dichotomy between *punishment* and *amnesty*, or *collective memory* and *collective amnesia*. Again, the importance of trials in transition proves important, as they not only provide a platform for criminal adjudication but are also instrumental in collective history-making.

It is argued that while amnesty can provide order to some states, this is not a universal phenomenon as it can sustain impunity and prevent bringing forth accountability of those responsible of human rights violations. The dichotomy between punishment and amnesty rests on what transitional justice sets out to resolve, which in turn lays on what is tangibly possible within that society. Again, the dichotomy between punishment and amnesty also acts as a site for contesting accounts of what has happened under a preceding regime, or in other words the actors' memory of the past regime.

Teitel (2000, 72) claims that trials are established forms of collective history making, and they are the fundamental method of bringing forth controversial and contested accounts. While trials can rule for and assign personal responsibility to those who have partaken in injustices, they can also serve to establish a historical account. Tietel uses the Foucauldian concept "regimes of truth" to further elucidate this claim; "regimes of truth" as a concept serves to define what a society deems to be true and how it reproduces this truth within or as part of its politics (Lorenzini 2015, 2). In this vein, "truth" is not exempt or external to power, it is produced within a power structure, and is reproduced within the confines of this power structure, and is thus political. It is within the realm of a "regime of truth" of the state does amnesty, in terms of establishing order and reconciliation, facilitate or obstruct legitimacy.

2.2.3 Truth & Truth-Seeking

Another key tenet of transitions is establishing the truth. As mentioned above, establishing an official truth of what has occurred under an oppressive regime can act as a form of reparation (establishing the truth can also be the biggest step towards pervasive justice). It is without doubt that *truth,* in an epistemological sense, is a complex issue. Many actors are involved in transitional justice settings and many of which who claim to profess the truth. Therefore, rather than being a concrete fact, the truth becomes a site of contestation and competition resulting in "'cognitive battles' over memory which [sic] highlight that there is not one 'truth' but various competing 'truths' that will compete to gain ascendancy" (de Brito 2010, 365). Truth, has also been conceived to be in the form of a right; a right that is also related to several other rights such as the right to information, the right to an effective investigation, right to judicial remedy (Klinker and Ellie 2015, 6). Therefore, it is evident that in transitional settings, truth takes on many meanings; perhaps most importantly establishing and discussing truths that were denied by the former regime, especially in cases concerning those who have disappeared. As Hayner argues (2002, 26) "official acknowledgement at least begins to heal wounds"; truth, therefore can become a site where official narratives are actively contested, and an integral tenet of recovery.

2.3 Memory: Articulating the Past, Presenting Possible Futures

Memory as a concept and phenomenon has been studied for centuries by both the social and natural sciences. This section focuses on collective memory, the concept theorized by Maurice Halbwachs (1992), underlining the sociological aspects of transitional justice that are often overlooked, and then on the politics of memory. This section argues that memory studies provide important intellectual tools in understanding how the past is interpreted by societies in transitional justice settings, and how memory can be a site for contesting official narratives, or as de Brito puts it forging "cognitive battles" over memory, and how this may facilitate more pervasive justice and accentuate social transformation.

2.3.1 Collective Memory

Due to the topic on hand being the past, it is important to first define what history is according Halbwachs, and how it differs from the concept of collective memory. According to Schwartz, Halbwachs' definition of history:

> Seeks an objective standpoint to assess the causes and consequences of events. […] It is 'situated external to and above groups' and describes the past independent of contemporary opinions and conditions. Once established, Halbwachs believes, historical knowledge remains stable—its stream of facts and demarcations "fixed once and for all". (Schwartz 2015, 10)

While this may not be a definitive and contemporary understanding of history, it is safe to deduce from the passage that history remains static in Halbwachs' conception of it; in other words, history remains (or strives to be) factual, it is external to (or "above") the interactive social sphere. Recollections, on the other hand, are what "we retain in memory of our past experiences—[they] are not just simple imprints; they are truly active selections and reconstructions of this past" (Apfelbaum 2010, 85). Therefore, memory, for Halbwachs, is an active process that is continuous and open to subjective interpretation and reinterpretation.

In his seminal work "On Collective Memory", Halbwachs (1992) theorizes that memory cannot be limited to individual recollections of the past, even going so far as claiming that individual recollection is performed as a result of interaction within the social sphere:

> To be sure, everyone has a capacity for memory [memoire] that is unlike that of anyone else, given the variety of temperaments and life circumstances. But individual memory is nevertheless a part or an aspect of group memory, since each impression and each fact, even if it apparently concerns a particular person exclusively, leaves a lasting memory only to the extent that one has thought it over-to the extent that it is connected with the thoughts that come to us from the social milieu. (Halbwachs 1992, 53)

In line with the above, Erika Apfelbaum (2010, 85) argues that at the core of Halbwachs' thesis of collective memory rests the assertion that no human is ever truly isolated from their surroundings, and that all human activity is thus socially

constructed. In this vein, social exchange defines how we as individuals understand, interpret, and reconstruct our past. Apfelbaum (2010, 85) also argues that in Halbwachs' conception, collective memory maintains the structure within which (or against which) individuals try to understand their own experiences. Accordingly, it is within this dialectic relation "our experiences and private recollections are continuously evaluated and shaped by confrontations with collective memory, which confer legitimacy on our memory".

Based on the dialectic relation between the individual and the social, Apfelbaum (2010, 86) employs a powerful analogy regarding the articulation of memory by stating there cannot be too much of a conceptual difference between the narrator and the listener for the story to be conveyed and perceived; in other words, there must exist common ground between the storyteller and the listener for communication of the story to be possible. Apfelbaum further elucidates this analogy by giving the example of political exiles who have been subjected to or have witnessed grave human rights violations not being able to express their experiences (or recount their memories) in social settings external to where these events occurred. Further, Apfelbaum asserts that it was "[…]some kind of state discourse that allowed people to couch their personal experiences within a collective narrative of events" (Apfelbaum 2010, 86), and it has been the changes in official narratives which has been subject of the politics of memory (Apfelbaum 2010, 89). Therefore, public acknowledgement of events that occurred under an oppressive regime can facilitate active recognition of victims, lifting the veil of silence that often obscures atrocities committed by such political systems.

2.3.2 The Politics of Memory

The difference between history and memory was defined above. In order to reiterate, in terms of Halbwachs' conception, history was defined as being static and striving to be factual while collective memory was defined as being active, it is reconstructed by the recollections of individuals within a given social setting. While the past has been experienced, how we view the past is subject to change. This not only denotes agency in reproducing memories, it also denotes contesting interpretations of the past

by different groups, who in turn attribute different meanings to shared past events. This results in the production of alternative narratives. Interpretation of the past is carried out in the present, or in what is described as "the now"; this has led some studies to emphasize on the prospective, future-oriented tenets of memory. According to Jeline "actors and activists 'use' the past, bringing their understandings and interpretations about it into the public sphere of debate. Their intention is to establish/convince/ transmit their narrative, so that others will accept it" (2003, 44). In other words, memory becomes an active site of contestation, giving ground to alternative accounts of past events circulated in the social sphere by different groups.

Jeline (2003, 47) asserts that political shifts and transitions can provide a platform for these alternative public interpretations of past events to come forth which in turn can facilitate the visibility of obscured and supressed groups and their narratives. These narratives and interpretations of the past can act to contest official state narratives that often deny the existence of such past events to ever have occurred. Jeline links the surfacing of alternative accounts of past events as being an integral part of facilitating justice, especially in terms of those who have been subjected to human rights violations, particularly in societies where forced disappearances have occurred. "In such moments, memory, truth, and justice blend into each other, because the meaning of the past that is being fought about is, in fact, part and parcel of the demand for justice in the present" (Jeline 2003, 47). The multifaceted process involving memory, truth, and justice blending into each other over the meaning of the past can define the trajectory of the possible forms the future might have in store for the society in question.

Echoing Jeline, De Brito provides the following definition of the "politics of memory":

> The 'politics of memory' refers to the various ways that political elites, social groups and institutions reinterpret the past and the breakdown of civility and propagate new interpretative narratives about the 'what happened' to legitimate a new political dispensation and develop a new vision of the future for the polity. (2010, 360)

In line with the above, de Brito subsumes transitional justice within the domain of memory studies, and claims that the politics of memory provide a more comprehensive understanding of how identities are crafted and socialised in these settings. De Brito (2010, 360) also underlines the transformative aspect of the politics of memory which can alter existing restrictions of political inclusion and exclusion within a society.

According to de Brito, how a society interprets its past can act to instigate ruptures with past "regimes of truth". Regimes of truth are narratives propagated to sustain political power by aiming to facilitate the legitimacy of the regime in question. This legitimacy rests on what is considered right or wrong within that society and defines appropriate conduct (Lorenzini 2015, 2). Therefore, ruptures with past regimes of truth can open up the possibility of crafting a possible future for a society, or facilitate active discussion which can enable narratives, obscured by past regimes of truth, to emerge (de Brito 2010, 361).

De Brito's conception of memory as a 'meaning-making apparatus' and also a 'membership-making apparatus' provides important tools in analysing transitional justice, different interpretations of past events produce divergent narratives, and can thus set the parameters of social inclusion within a group. Memory, or more correctly "collective memory" is not static, it is charged with values and is therefore social. What distinguishes memory from history is experience; this experience does not occur or manifest in a void, but is inherently social- for without interaction it would not have existed or taken place, at all (de Brito 2010, 362).

Due to memory being an active social phenomenon, its interpretation is diverse and open to reinterpretation. De Brito uses the term "mnemonic community", which can be loosely described as a "memory group", a collective ascribing similar meanings to past evens and one that shares common values. De Brito states that the literature maintains the nation as the main mnemonic community but also is also composed of ethnic groups and the family. Since groups do not act deterministically, or as some claim on purely rational terms, de Brito asserts that how mnemonic communities interpret the past can provide greater depth in understanding on how they may act in

post-authoritarian contexts, and also provide space for exploring future possibilities in establishing "imagined communities" (de Brito 2010, 363).

According to de Brito:

> The political science literature tends to see transitional justice as the one-off set of policies adopted by new democratic regimes that serve to break with the past and re-insert a country into the "moral family of democracies". This perspective is clearly the best for understanding truth and justice policies as a part of the politics of transition, but it is less useful for understanding how transitional justice efforts fit with broader ongoing social efforts to establish an "imagined community". (de Brito 2010, 364)

In line with the quote above, de Brito argues that societies that are not involved or subject to active conflict still actively participate in memory making and disagreement may occur, yet there exists a consensus on founding values which sustains it. When this consensus ceases to exist, this often gives raise to violent conflict. In the ensuing period, where transitional justice takes place, mnemonic communities involved in the process produce new official histories through the active participation of victims in mechanisms such as truth commissions (de Brito 2010, 364). De Brito (2010, 365) defines this new period of memory making as a *disjuncture,* which marks a qualitative shift in memory making cycles, or a break with past memory making cycles through facilitating new patterns of inclusion and exclusion, thus establishing new "founding values".

Accordingly, it is the shifts in 'patterns of inclusion and exclusion' that enable the societal "other" to both permeate into the social sphere and the political, granting those previously denied a sense of legitimacy and, of course, a sense of justice. Again, this shift is not definitive and is subject to "cognitive battles" over memory, which according to de Brito (2010, 364) underlines that there is no one truth "but various competing 'truths' that will compete to gain ascendancy, and the dominance of one 'narrative' over another may shift with the passage of time".

2.4 Discussion

In the first section of this chapter, a general definition of transitional justice is provided. Transitional justice was initially conceived to be how successor regimes recon with the atrocities of its predecessor with the aim of facilitating peace, ending conflict, and/or with the aim of legitimizing itself (Teitel 2000, 3). This understanding has mainly been associated at the state-level, in other words within the political sphere under the domain of political actors.

Transitional justice theory has started to encompass social justice in what Gready and Robins have conceived as "Transformative Justice" (Gready and Robins 2014) Parallel to this approach, Lundy and McGovern raised the issue of societal exclusion in transitional justice procedures, underlining the importance of a "ground-up" approach that enables participation of victims and facilitates social justice (Lundy and McGovern 2008). These conceptions have paved the way for understanding the sociological aspects of transitional justice, as what is at aim here is not only to establish "rule of law" or "state legitimacy" but to incorporate victims, in other words those reduced to the "other" by the repressive regime, in political participation. Such mechanisms are implemented in transitional justice settings mainly due to conflict arising out of stark societal alienation most often under authoritarian/repressive regimes with grave human rights violations. Aoláin and Campbell have also included transitional justice taking place in what they call "conflicted democracies" which are democratic in procedural terms but significantly lack public participation, or the purposeful obstruction of certain groups from participating in rule or to lack legitimacy in the social sphere (Aoláin and Campbell 2005).

Memory studies provide important and useful intellectual tools in understanding how victims suffered at the hands of oppressive regimes, and to what degree justice has been established in the transitionary period- if at all. Apfelbaum argues that the state plays an integral role of providing victims a platform to express the horrors they have faced for these experiences to be intelligible in the social sphere, especially when forced disappearances have occurred. The changing collective narrative defines what

has culminated to be “the politics of memory” (Apfelbaum 2010, 89). Jeline states that the past is used by activists (and other political actors) and can form a platform for victims to become visible, or past trauma to become intelligible within the social sphere. Jeline (2003, 47) links the surfacing of alternative accounts of past events as being an integral part of facilitating justice, especially in terms of those who have been subjected to human rights violations, particularly in societies where forced disappearances have occurred but must be approached in a holistic way interlinking memory, truth and justice. De Brito states that transitional justice must be understood within the domain of memory studies and the intellectual tools it provides to better understand political transition and its actors in view of opening up the possibility of building “imagined communities”, in other words a common future for post-authoritarian societies by breaking with past memory-making cycles.

In view of the above, transitional justice theory should increasingly make use the diverse approaches of memory studies in order to understand how victims of human rights violations are affected, and to facilitate more pervasive and sustainable justice in post-authoritarian contexts. Not incorporating the narratives of victims of human rights abuses in open trials, or in truth-commissions, have often resulted in top-down practices that often do not have a tangible effect on the society in question (Lundy and McGovern 2008, 270-271). This has not only sustained impunity, but has also resulted in obscuring the politically charged identities of victims of human rights abuses at the hands of an authoritarian-regime, denying the possibility of establishing justice for these groups and further denying their legitimate participation within their societies (Wilke 2010, 136). This has resulted in human rights abuses to persist, and has rendered transitional justice “transitional” without facilitating justice, further sustaining impunity. Therefore, memory studies can increase the efficacy of transitional justice mechanisms to further facilitate pervasive justice through providing a platform for victims to voice their narratives in creating new official narratives in setting the proverbial record straight.

In order to better understand and analyse the transitional justice process that took place in Argentina following the end of the coup, it is first important to understand the context within which the military coup of 1976 took place. For without properly

comprehending the issues the military claimed to resolve through an intervention, and without understanding how the military strived to legitimize this intervention, it would be difficult to get a clear picture of how Argentine society viewed the coup, and how it remembers it.

CHAPTER 3

ARGENTINE DICTATORSHIPS, A CONTINUITY

This chapter provides the historicity and structural elements that paved the way for the culmination of the National Reorganization Process (NRP). The chapter focuses on past military regimes, how these did not necessarily differ from *El Proceso*, and how the so-called Dirty War started prior to the military regime of General Videla. Therefore, this chapter will first focus on the political climate that led to the coup of 1976, and then the response of the Argentine public. There will also be a discussion on the cultivation of the societal "other" under the military regime of 1976-1983, and how this facilitated obscuring human rights abuses during the so-called "Dirty War", particularly concerning *los desaparecidos*, also known as forced disappearances in Argentina.

Military rule and political turmoil were not new phenomena for Argentina in the 1970s, as the country underwent many military interventions since the 1930s, and was marked by limited public participation. According to Marchak, only two elections were held between 1946 and 1973, these were for the terms 1946-52 of which Juan Perón prevailed, and 1952-55 which again was won by Perón but was cut short by a coup. Again, the election held in 1958, according to Marchak, was a restricted election which saw the rise of Arturo Frondizi. In 1962, the military placed Jose Maria Guido in power, which was followed by the restricted elections held in 1963 which saw the rise of Aturo Illia which was abruptly ended with a coup by General Juan C. Ongania between 1966-1970. This was followed by General Roberto Livingstone 1970-1971, and General Alejandro Lanusse from 1971-1973, until Juan Perón assumed office for his final term, after returning from exile in 1973 (Marchak and Marchak 1999, 67).

Ever since taking office in 1946, Juan Perón and Perónism deeply affected Argentine politics and society. Argentinian economy was marked by import substitution industrialization in the first half of the 20th century, which in turn consolidated and concentrated power in the hands of an oligarchy that controlled the state. Perón made use of the political power this granted in mobilizing the working class, which resulted in powerful state-oriented labour unions (P. Marchak 2003, 240). The effect of this would continue to provide Perón significant power in Argentine society even in his exile (Marchak and Marchak 1999, 69).

Perón's approach to the Catholic Church, an institution that exercised significant power over Argentine society, has been considered pragmatic at best (P. Marchak 2003, 241). This pragmatic approach which resulted in Perón wanting to replace Peronism with the influence of Catholicism, as well as the judiciary which became politicized under Perón, caused unease among the military. Budgetary cuts among the military as well as the appointment of high-ranking military officials with the aim of increasing the ideological influence of Perónism among the lower strata of the army caused even more tension. With the added burden of economic turmoil, political tension and polarization, Perón was ousted in 1955 (Marchak and Marchak 1999, 63).

Marchak and Marchak (1999, 66) contend that the military which ousted Juan Perón was composed of two distinct fractions which were known as the *colorados* (which means the reds) and the *azules* (which means the blues). These two fractions were distinct in the sense that the *colorados* were proponents of the free-market and staunch anti-communists, while the *azules* claimed to be in favour a military that was politicized to a lesser degree, and ultimately favoured civilian rule but contended that military rule was necessary to cleanse the country of the nefarious influence of Perónism. In a similar vein, Lewis (2002, 10) defines the two groups as legalists and hardliners, the *azules* being legalists and the *colorados* being hardliners, in constant battle over ascendancy defining the possibilities of the political landscape.

While there were attempts for civilian rule by Arturo Frondizi and Arturoa Illia, which were defined as "restricted elections" above, these administrations carried out

their work under the shadow of the military. After being exiled in 1955, Perón continued to exercise significant influence on student groups and union leaders in Argentina. Perón's key spokesman in Argentina was John William Cooke, who was a proponent of armed resistance against the army. In exile, Perón issued two texts that caused significant backlash from the army, the first one was called "General Instructions to Leaders" which called Perónist army leaders to revolt, the second one was called "General Directives for All Peronists" which called for social revolution in Argentina. Marchak and Marchak (1999, 69-70) remark that the decade of Perón's exile was defined by the military attempting to subjugate Perónism, repress unions, and to attack Perón's supporters. Despite being in exile, Perón continued to exercise significant influence over Argentina (Lewis 2002, 10), and it is important to underline that the violence experienced in the 1960s leading to the coup of 1976 is marked by Perónist movements, which would later be divided into both left-wing Perónism and right-wing Perónism.

3.1 The Return of Perón

Hector Campora, who stood election in place of Perón, won the election of 1973. Perón, who was in exile, was planning to return in June that same year. Argentina was in economic and political turmoil when Hector Campora was elected, and public sentiment sought out the leadership of Juan Perón. It is important to mention that by 1973 Perónism had become significantly divided into different factions within itself. Perón's corporatism during the 1950's granted him excessive influence over trade unions through the General Confederation of Labour (CGT). The CGT was the central hierarchical structure that exercised influence over trade unions, this caused significant conflict in the 1960's even going far as union leaders murdering each other over disputes concerning access to benefits, or the distribution of said benefits (Marchak and Marchak 1999, 76).

Another group within the Perónist spectrum were the Montoneros. Far from being a homogenous group, the Montoneros sought revolution within Argentine society; yet did not have the theoretical maturity of other groups such as the People's Revolutionary Army (ERP), the armed group of the Revolutionary Workers' Party

(TRP). The Montoneros were ideologically based on the Peronist Youth (Juventud Peronista), which was a youth group that has been defined as an "outgrowth" of structures like Tacuara- which was marked by right-wing sympathy and anti-Semitism. According to Marchak and Marchak (1999, 98), the Montoneros became the armed group of the Catholic youth, some of which had socialist sympathies, but lacked the proper understanding of what Perónism entailed. Marchak and Marchak (1999, 98) contend the Montoneros believed in a very different version of Perón which was alien to previous generations, for which this was a group of young people violently crafting their version of utopia, a highly romantic understanding of Peronism that was anti-imperialist "whereas the parents remembered the actual Peron, their children listened avidly to the new Peron, who preached revolution and violence". Prior to returning from exile, Perón would send audio tapes to these young sympathizers, calling on them to "be as violent as necessary in order to seize power. He was also sending right-wing messages to union followers, but this was not known by the young Peronists until much later" (Marchak and Marchak 1999, 98).

The pinnacle event that would come to define these contrasting groups within Perónism would occur on the day Juan Perón returned from exile, on 20 June 1973. Juan Perón boarded a plane for Argentina and was accompanied by Isabel Perón, López Rega, Licio Gelli, and Cámpora. It is worth mentioning that López Rega was referred to as the "Warlock" who exercised significant influence over Isabel Perón (Feitlowitz 2011, 6), while Licio Gelli was the leader of Propaganda Due (P-2) a masonic lodge in Italy (Lewis 2002, 76). When Perón arrived at Ezeiza Airport, he was accompanied by "a private army of more than three thousand men was organized to provide security, and the podium was occupied by the right-wing GNU and ALN, armed with machine guns and other weapons" (Marchak and Marchak 1999, 103). As the Montoneros and members of the Revolutionary Armed Force (FAR) came on to the scene shots were fired, varying estimates exist on the death toll from twenty dead (Marchak and Marchak 1999, 103) but others claim it was as high as two hundred (Lewis 2002, 89). This event has been considered to be the rise of the Perónist right (Lewis 2002, 90), Perón would ruthlessly play his young followers against the unions, "calling them 'beardless ones' at a public rally of thousands of supporters. In their place, he embraced the unions, put forward a reactionary

program, and initiated the paramilitary forces against those he considered to be subversives" (P. Marchak 2003, 242).

In 1973, Héctor Cámpora, who acted as a surrogate for Perón, was elected. Cámpora was replaced by Perón in the ensuing months after elections were held, which also saw Isabel Perón being elected as vice president (Andersen 2009, 267). When president once again, Perón discharged many of the bureaucrats and provincial heads that had been appointed by Cámpora (Marchak and Marchak 1999, 104), this would give way for Perón to appoint several key figures such as Alberto Villar as the chief of the Federal Police, and Lopez-Rega as Minister of Social Welfare, marking the inception of the clandestine group Triple A which carried out many forced disappearances prior to the military junta in 1976 (Andersen 2009, 267).

Marchak and Marchak (1999, 104) also underline that Perón removed the head of the University of Buenos Aires who had been appointed by Cámpora with the aim of depoliticizing universities, asl well as directing the same attitude towards the left-wing youth group "Juventud" (Peronist Youth) as well as left-wing army officials. This purge would later reach provincial leaders who were sympathizers of the left, echoing the corporatism between 1945-1955.

Perón continued to exercise corporatist influence over state affairs, political polarization became increasingly stark between what has been termed as left-wing and right-wing Perónists, causing factions to compete for dominance within the movement (Andersen 2009, 267). Meanwhile, a failing economy was marked by decreasing oil prices and rising costs of imported goods; unions were not able to benefit from the privileges they once had, which resulted in strikes taking place once again in March 1974. The political and social climate among unions began to become increasingly hostile, "in fact, internal frictions in the labour movement were violent, widespread, and beyond centralized control" (Marchak and Marchak 1999, 105).

Perón's health began to decline in the last few months of his administration (although arguably his health was never good in his final term). On May 1, 1974,

Perón addressed a crowd from the Casa de Rosada, and was met with hostility from youth groups and the Montoneros who chanted "'Si Evita viviera, sería Montonera' ('If Evita were alive, she'd be a Montonera')" (Lewis 2002, 95)- much to the overt disapproval of orthodox Perónists who chased these groups out of the Plaza de Mayo. Perón would once again call these student groups "beardless types" even going as far as calling them "morons", underlining the immaturity of these groups in comprehending how to deal with the declining country. Faced with such a reaction, Perón would appear on television on 12 June, calling on the nation to come together, that solving the issues Argentina faces would take time. This resulted in the General Confederation of Labour (CGT), composed of state affiliated union leaders, to come together at the Plaza de Mayo to display their fervent support of Perón. Following his final public triumph, Perón succumbed to ill health, and died upon returning from Paraguay on 1 June, 1974 (Lewis 2002, 95).

3.2 The Dirty War

Perón's ill health during his rule and subsequent death marked an Argentina that witnessed a power vacuum in an already fragile state structure which functioned as a site for competition among groups within the army that strived for ascendancy. Violence carried out by groups across the political spectrum was a common theme in the early 1970s of Argentina, and forced disappearances appear to have existed prior to what is called the "Dirty War" period (Lewis 2002, 74). What marks this era distinct from other juntas in Argentina is the level of violence carried out by the state, especially violence carried out by clandestine groups operating within the state structure, and the extent of force disappearances.

The Dirty War has been used as contentious term by scholars (D. M. Sheinin 2012, 65), as it was coined by the military junta who took power in 1976 which claimed to be carrying out a "frank war" against guerrilla activity, under the guise of protecting the "Western" and "Christian" values of Argentina against international communism. This sub-chapter argues that the so-called "Dirty War" period is not limited to the military junta of the National Reorganization Process (NRP) of 1976-1983, and that

violence carried out by the Argentine state against political dissidence was an ongoing and overarching theme of state practice.

In view of this, it is also argued that the junta of the NRP couched its legitimacy on fighting subversive groups that did not exist to the degree the junta claimed existed, further discrediting any political opposition against the junta which served the military to justify its actions on grounds of establishing order in Argentina (D. M. Sheinin 2012, 64).

3.2.1 Isabel "Isabelita" Perón

After Perón's death his wife Isabel Perón took over having been his running partner in the elections, as defined in the constitution. There is a general consensus among scholars regarding the lack of political competence of Isabel Perón, which was in stark contrast to the profile drawn out by Eva Perón. Thus, the hostility of the environment Isabel Perón found herself in following the death of her husband Juan Perón would only increase, and her power was exercised by others. A central figure in the brief administration of Isabel Perón was José López Rega, nicknamed the warlock for his keen interest in esotericism, astrology, and the occult (Feitlowitz 2011, 6). José López Rega was very well connected within P-2 (Propaganda Due) and the Argentine Anti-Communist Alliance, also known as Triple A, or as AAA (Lewis 2002, 97). Both of these groups had different levels of influence and members within the army.

3.2.2 Triple A

The Triple A requires special attention and further elaboration as this group would come to be one of the main instigators of human rights abuses in Argentina, and one of the primary manifestations of covert use of state power (Feitlowitz 2011, 6). The organization is claimed to have been founded by a group in the Ministry of Social Welfare, acting almost as the private army of López Rega and Colonel Osinde. Triple A also had access to significant funds due to the Ministry receiving loans from

the U.S, as well as access to arms provided by the army. The police were also told not to meddle with the activities of Triple A (Lewis 2002, 90-91).

José López Rega exercised significant power through Triple A which he used against his political rivals on both sides of the political spectrum. The covert structure of the organization made it difficult to identify its actions, although it did have certain distinctive aspects to it. Triple A's death squads generally drove around in white Ford Falcons, and they would inform their targets prior to carrying out executions, mainly in ditches and other secluded areas. Some have claimed that López Rega and Triple A were behind the deaths at the Ezeiza Airport, where Perón was supposed to arrive on his return from exile. The violence carried out in this period was to such extent that even the Democratic Socialist Party, which had been in staunch opposition of guerrilla groups, issued a statement condemning the violence inflicted on the population of Córdoba by the police (Marchak and Marchak 1999, 112-113).

3.2.3 Tucumán and Decree:261

The ERP (the Revolutionary People's Party) based on Che Guevara's idea of "foci" wanted to establish liberated areas close to Tucumán province, where they believed the revolution would start and the eventually spread. Here, the ERP worked close with the Montoneros. "They [ERP] busied themselves in the factories, sugar mills, and schools, gradually extending ERP's mass support network to perhaps around 2,500 sympathizers and occasional collaborators" (Lewis 2002, 105). It was that year, 1975, under Isabel Perón, the army was decreed the elimination of subversive elements, which according to Feitlowitz "mobilized the armed forces for non-military, 'psychological' operations'" (Feitlowitz 2011, 6). Isabel Perón signed decree:261 due to increased pressure she faced as part of the violence that was escalating in Tucumán which placed the National Gendarmerie, the Federal Police, and the provincial police at the army's disposal (Lewis 2002, 105).

The army, under the rule of General Antonio Domingo Bussi, then initiated what was called "Operation Independence" against the ERP and the Montoneros in Tucumán, which resulted in their brutal defeat (Marchak and Marchak 1999, 193). What

happened in Tucumán was a high point in violence, both in terms of guerrilla activity as well as the military, and has been considered a key development that caused drifts in the army, while also giving it ground to carry out the coup in 1976.

3.2.4 Dirty War, Which Dirty War?

Before discussing the coup of 1976, and the ensuing National Reorganization Period (also known as *el Proceso*) it is important to discuss and define the Dirty War. The Dirty War is described as a distinct period in Argentine history following the coup of 1976, a brief overview of the political atmosphere in the 1960s and first half of the 1970s clearly shows that violent conflict never ceased to exist, especially regarding the war waged against "subversives". It could be argued that the Dirty War started much before the coup led by Videla and the NRP's clandestine activities against "subversive elements". Although the Dirty War was waged on the pretext of fighting subversives threatening the integrity of the state, it could be argued that the so-called Dirty War started much earlier than 1976. It could also be argued that it was the very identity of subversive, defined as left-wing or communist in sympathy, cultivated in the 1960s and early 1970s was utilized by the military to legitimize the National Reorganization Period (D. M. Sheinin 2019, 65).

Marchak and Marchak (1999, 95) cite Luis Mattini, someone with insider knowledge on ERP, who claims that it was the Trelew Massacre, where 16 Montoneros were executed in Rawson Prison in 1972, which was the actual beginning of the Dirty War against leftist "subversion". Despite this, Marchak and Marchak contend that the starting point of the "Dirty War" was actually in 1973, under the rule of Juan Perón, a war that was never officially declared but was defined by "an escalation of the violence that had marked the whole period since the late 1960s, with the added component of right-wing terrorist groups organized by an agency of the state" (Marchak and Marchak 1999, 109). In line with Marchak, Feitlowitz discusses in depth how army generals trained by the School of Americas, a school that provided ruthless practical knowledge (including such methods of torture) in dealing with communist subversion, claimed to be fighting "exotic ideologies" contaminating Argentina's government and public (Feitlowitz 2011, 10). Such rhetoric was

sustained throughout the ‘60s and ‘70s in Argentina, and was supported officially through the army. Based on the above, it is difficult to pinpoint as to when the Dirty War actually began, and perhaps even doing so would serve to obscure the power regime of the political machine -the army and its many factions- in Argentina[1].

3.3 The Gentlemen’s Coup of 1976

José López Rega continued to exercise significant influence over Isabel Perón and state affairs in 1975. López Rega wanted to further consolidate his power by getting Isabel Perón to appoint Celestino Rodrigo as minister of economy. This happened at a point where Argentine economy was in ruins, prices were on the rise and reached 35% of July that year. Unions demanded that the government control prices, and to also increase wages, while the CGT wanted to be actively involved in the economic policies of the government. Rodrigo would not concede, this resulted in major strikes to occur around Buenos Aires (Lewis 2002, 115). Isabel Perón would later compromise on boosting wages but this would never be ratified. Upon this, the CGT stormed the Ministry of Economy, Rodrigo narrowly escaped through a secret passage. The chaos caused by this in parliament would result in López Rega to resign from his official position yet he would still interfere in the new ministerial cabinet (Lewis 2002, 116). Much to the hostility, López Rega would then be allowed, upon the request of Isabel Perón, to leave the country on official duty via the presidential plane (Lewis 2002, 117).

Following López Rega’s departure, internal strife among the armed forces would perpetuate internal rifts and result in new alliances. Minister of Defence Adlfo Savino, considered to be a “*Lopezreguista*” (supporter of López Rega) would oppose the appointment of General Videla as the head of the First Army Cops resulting in shifts among army factions between those defined as “‘professionalist’ and the ‘anti-Peronist interventionist’ officers” (Lewis 2002, 117). Isabel Perón later appointed Colonel Vicente Damasco as the minister of interior, this caused much uproar from high-ranking military officials due to Damasco being an active officer, which should

[1] Author’s note: There is a scarcity of work on the “Dirty War” period. The scarcity of scholarship and competing narratives regarding the period makes it difficult temporally limit this era.

have prevented him from being involved in active politics. Increased tension resulted in Damasco to resign, yet tension would remain high among military factions, and interventionism was becoming more popular among formerly those opposed to it than ever (Lewis 2002, 117-120).

Videla removed General Vilas (a Peronist) and replaced him with Bussi who had experience in observing US troops in Vietnam. Isabel Perón was disgraced after a congressional investigation claimed that 3.1. billion pesos from a disaster fund was used by her and other Peronists for personal use. This was followed by other financial abuses such as money being "given" to important Perónists. "Though dismissed by a federal judge in January, the case stripped her of any remaining authority and rendered her useless even as a figurehead." (Lewis 2002, 123).

Lewis (2002) claims that the military experience in Tucumán made violent suppression of guerrilla activity seductive for the army, especially for Videla whose experience in the army was mostly based on teaching in the National Military College and was quite reserved when it came to voicing political opinions. During this time, a conference in Montevideo was held with the participation of army generals from many Latin American countries. Citing the army's experience in Tucumán, Videla would express his concerns of the Argentine government and the alarming need to intervene decisively against subversive forces (Lewis 2002, 120-125).

The conference in Montevideo echoed the spirit of its time, "Operation Condor" a regional military alliance was initiated by the generals who attended the conference very much in alignment with US foreign policy (Marchak and Marchak 1999, 149). Feitlowitz cites Robert McNamara, Secretary of Defence, under the Johnson administration, who once said:

> Our primary objective in Latin America is to aid, wherever necessary, the continual growth of the military and paramilitary. Forces, so that together with the police and other security forces, they may provide the necessary internal security. (Feitlowitz 2011, 9)

There is a consensus among scholars that foreign policy concerns during the Cold War and the knowledge gained through the School of Americas (attended by influential army personnel) played a key role in the suppression carried out by the army post-coup.

Riddled with accusations of corruption, a failing economy, deep distrust by the army's anti-Perónist camp, state affiliated clandestine organizations carrying out assassinations, Isabel Perón was granted a leave of absence by the military, and when she refused to extend it General Videla led the way to the military intervening on 24 March, 1976 (Marchak and Marchak 1999, 149). Lewis (2002, 124) claims that the decision for carry out the coup came at a time when guerrilla activity had diminished, yet there still was a tangible threat to the state; Feitlowitz (2011, 7) on the other hand claims that the left had been decimated by 1976 and no real threat remained but the army used an abstract enemy to legitimize its action and to consolidate public support.

3.4 *El Proceso* (the National Reorganization Period)

General Videla underlined the importance of a period where the nation would come together against a subversive enemy that was not clearly defined. What *was* defined about this enemy was that it was anti-Christian, anti-moral, and ultimately anti-Argentine. The enemy did not necessarily have to be wearing the official colours of the Montoneros, nor did they have to be carrying flyers with revolutionary slogans of the Workers' Revolutionary Party (TRP) and People's Revolutionary Party (ERP). The enemy could be anyone, anywhere and be doing anything against Argentina[2].

It is important to underline that the public favoured the army intervening and taking control of the government (D. M. Sheinin 2012, 2). The premise of the legitimacy of the Junta and its actions was based on the claim of democratic institutions having failed in 1973 (under Péron), the army claimed they were simply reinstalling what

[2] Author's note: It is important to take these historical events in the context of Cold War dynamics. In terms of international relations, the era has mostly been defined by the "Western Bloc" and "Eastern Bloc" binary.

had been lost under previous administrations. Further, under Videla the National Reorganization Period would serve to:

> Eradicate subversion and to promote economic development based on the equilibrium and responsible participation of the various sectors of society—[this] would be realized with "rationality", "resolve", "structure", and "sobriety". (Feitlowitz 2011, 25)

Marchak and Marchak (1999, 147), in line with Feitlowitz, also claim that the violence and chaos experienced in the first half of the 1970s which inflicted significant trauma on the public caused the people of Argentina to welcome Videla's coup. The National Reorganization Period promised the public law and order in face of violence and uncertainty, even going so far as claiming to restore Christian morals and values. These promises were even welcomed by severe critics, some of whom even had to flee the country.

What marked the National Reorganization Period, and the military coup that made it possible, from previous military regimes in Argentina was the extent of the systemic human rights violations that were carried out; the regime established clandestine, covert detention centres where "subversives" would be taken against their will, they would be degraded and tortured, and some would eventually disappear never to be found again. These detention centres appear to have been established before the coup was initiated, scholars remark that they were the result of careful planning. These centres were located in different areas across Argentina, distributed according to security zones which were under the command of different factions within the army-which were in significant competition with each other, their common denominator being a hatred for Perónism (Marchak and Marchak 1999, 149).

The junta's repression was at its peak in the first two years of *el Proceso*, and would subside to an extent in 1978 when Argentina would host the World Cup event, which was marked by international scrutiny. The army stated that its primary goal was to rid the country of subversion, the definition of "subversion" being very loose and mainly encompassing those who were against the junta, and were mainly made up of sympathizers of communist or Marxist ideology (Marchak and Marchak 1999, 150).

Feitlowitz (2011, 29) quotes General Massera from a speech he made regarding the "Dirty War" in 1978 he said at the Navy Mechanics School "[t]his is a war between dialectic materialism and idealistic humanism...", further stating that the country is at war "against nihilists, against agents of destruction whose only objective is destruction itself, although they disguise this with social crusades". The Navy Mechanics School, also known as ESMA, has been referred to as the "Argentine Auschwitz" over the years, people were being tortured there even as Massera was giving his speech (Feitlowitz 2011, 28). The National Reorganization Period was not only a fight against "subversives" manifest in physical confrontation and armed battle, it was also a fight against understandings of life external to the junta's own conception.

3.5 *Los Desaparecidos* (Forced Disappearances)

A key strategy employed by the junta was to arbitrarily capture people it deemed as subversives and to keep them in detention centres around Argentina. It is claimed that 340 detention centres were established where hundreds of thousands of people were subjected torture, lengthy incarcerations, and murder (Marchak and Marchak 1999, 149). According to CONADEP (National Commission on the Disappearance of Persons), around 30,000 people disappeared during the National Reorganization Period, of the identified cases of the disappeared more than 80% were between 16-30 years old (Marchak and Marchak 1999, 155).

Those who disappeared were taken to detention centres around Argentina without trial; there were no official charges pressed, no evidence was presented, due process was ignored in its entirety. Detention of subversive elements was not a judicial process, rather it was at the discretion of the executive which arbitrarily abused its power. The disappeared would leave no paper trail, relatives could not find out what happened to their loved ones, for they had simply disappeared (Marchak and Marchak 1999, 151).

Feitlowitz asserts (2011, 59) that these disappearances would be carried out akin to what occurred under the Nazi regime in Germany. Using Night and Fog as an

analogy, Feitlowitz (2011, 59) states that those who disappeared during the National Reorganization Period would simply vanish without a trace, the sequence of events being “disappearance, torture, death”. Those who disappeared would spend their days in confinement, under dire conditions and forced labour. Blindfolds, shackles, cuffs, and hoods were common practices (Feitlowitz 2011, 59). Disappearances would generally occur early in the morning by an ununiformed group of the armed forces (police or military) forcefully entering a domicile, demanding for a certain person; often the inhabitants of the house would be tied up and be subjected to punches and kicks by the intruders. Those who were taken away by the state’s armed groups would sometimes later end up in newspapers depicting the disappeared person as a terrorist who was terminated. Those who were not killed and ended up in the detention centres were often tortured with electricity, many were repeatedly raped. The detained were also further terrorized by officials telling them their loved one’s outside of the confines of the detention centres were also undergoing similar treatment (Marchak and Marchak 1999, 153-54).

What is particularly disconcerting is that these activities were carried out under a veil of anonymity, state officials that both ordered and carried out these disappearances were not held accountable until the National Reorganization Period came to an end in 1983, and even then, prosecution would be limited to high-ranking officials. “The raids against dissidents were carried out in secrecy, many were too afraid to speak of anything do to fear of something happening to themselves” (Bouvard 1994, 33). Since these actions were not based on judicial decisions, the only possible way for family members and loved ones of the disappeared were to file writs for habeas corpus. These were generally filed by human rights organizations, or lawyers of families whose loved on had disappeared. While these habeas corpus writs should have concluded in accessing some kind of information regarding the disappeared, they never did. Many judges had been assigned their positions by the military regime, and most lawyers providing assistance to relatives of the disappeared were threatened. “From the over five thousand submissions for habeas corpus in Buenos Aires area in the first three years of the junta’s rule, not one resulted in a serious investigation” (Bouvard 1994, 42). Legal recourse was denied to the disappeared and their relatices, this echoes Videla’s claim that “subversive activity” was not

Argentine, for anyone considered “subversive” was denied the fundamental rights of citizenship.

It was in this context of mass, systemic human rights abuses, politicized judiciary and violent climate the Mothers of the Plaza de Mayo emerged in 1977. They demanded knowledge about their disappeared loved ones, and would play an important role in public resistance against the junta, as well as in Argentina’s transition under the Alfonsín administration.

CHAPTER 4

THE MOTHERS OF THE PLAZA DE MAYO

This chapter focuses on the history of the Mothers of the Plaza de Mayo, a group of middle aged women who gathered, and still continue to gather until this day, in the public square of the Plaza de Mayo which looks across at the *Casa Rosada* the presidential office. The Mothers of the Plaza de Mayo are composed of mothers of persons disappeared by the junta during NRP. The Mothers took to the Plaza de Mayo as a means to force the military regime to give information about the circumstances of their disappeared sons and daughters, demanding knowledge about their whereabouts and wellbeing. Forced disappearances were strongly denied by the junta, and Argentine public was mostly left oblivious to these acts of violence as the media was heavily censored (Knudson 1997, 99). In view of the above, this chapter focuses on inception of the Mothers of the Plaza de Mayo, and the context of their demand for justice during the National Reorganization Process prior to the transitional justice process initiated by the Alfonsín administration. The overall aim of this chapter is to provide an historical understanding and context within which the Mothers of the Plaza de Mayo emerged, and how they carried out their activism.

4.1 Denial of Forced Disappearances: Obscurity

Forced disappearances and state oppression did not begin with the National Reorganization Period in Argentina, the clandestine state-affiliated Triple A carried out many murders and disappearances, and the junta followed suit, both in fashion and in brutality. What differed under the junta was the mass extent of these disappearances and murders. There are varying estimates of the number of people who disappeared, according to Guzman, Rámon Camps -head of police in Buenos

Aires- claimed there were as much as 45,000 people who were disappeared; the Mothers of the Plaza de Mayo on the other hand insisted on a minimum of 30,000 who were disappeared, this figure later became symbolic for the Mothers in terms of the extent and gravity of the violence carried out by the junta against who it considered as subversives (Bouvard 1994, 32).

The violence and murder carried out by the junta was most often carried out in secrecy, most kidnappings were done under the obscurity darkness cast during early morning. Some of those who were disappeared were drugged, put on planes which were referred to as "*Vuelo*" (noun for flight in Spanish) which would later be known as "Death flights" to the English-speaking world. The disappeared would be flown out and then thrown into sea from airplanes. This was by no means carried out by a select few army officers, on the contrary it was carried out by nearly all naval army officers (Feitlowitz 2011, 68-69). The public would remain largely oblivious to these developments, chose to ignore it, or considered it as part of the army's legitimate battle against terrorists.

The existence of people being disappeared was initially strongly denied by the military regime. In an interview in 1977, General Videla would deny any form disappearances, or that there were any kind of "concentration camps", and anyone detained would only remain so until investigations could be carried out, anyone found guilty would be later transferred to the appropriate penal institutions. In the same vein, a year later General Viola would claim that Argentina did not house any political prisoners, except for a select few who were detained under laws granted by the state of emergency, and this was not due to different political stances (Bouvard 1994, 34). The junta tried to sustain the myth that disappearances did not happen, anyone in prison was a terrorist, un-Argentine, and anyone who had "disappeared" most likely fled the country due to "subversive activity".

The military regime claimed it carried out its affairs constitutionally and legitimately in this atmosphere of state-sponsored violence. Citing article 14 and 18 of the constitution of 1853, the junta maintained that civil rights of citizens were constitutionally protected and thus respected. Similarly, the military regime claimed

that the coup d'état was in response to an international communist conspiracy, which happened to also be the source of internal subversion[3]. Therefore, the regime claimed that the government had the power to issue a state of emergency according to Article 86 of the constitution, as well as article 23 giving the president an extraordinary scope of power and discretion (D. M. Sheinin 2012, 41). Based on this, the military regime exercised "the power to arrest or transfer people under the state of siege was the exclusive prerogative of the president of the nation" (D. M. Sheinin 2012, 42). This did not exempt the judiciary of its responsibilities, but would create "two parallel systems of detention and punishment" under which any illegitimate activity would be denied, and would also grant the executive unaccountable discretion while also maintaining a semblance of official institutions that would only appear to function on the surface (D. M. Sheinin 2012, 42).

The media was also under significant pressure, which the military regime denied by citing Article 14 of the Constitution that protected freedom of the press, yet a communiqué issued by the generals ("*Communicado* 19") criminalized the promotion of terror, which of course was used to curtail and limit freedom of expression (D. M. Sheinin 2012, 44). International reaction regarding the human rights violations committed by the military regime was also denied by portraying those who were in fact incarcerated as terrorists subject to due process, while also claiming that organizations such as Amnesty International, that condemned the junta, were merely ignorant of the internal realities of Argentina (D. M. Sheinin 2012, 44). In 1977, the government made use of the Argentine Advertising Council to disseminate nationalist messages, calling for the public to have a positive attitude and to support the government. Seizing TV broadcasters such as Channel 13, the military government began broadcasting content that depicted an Argentina that was undergoing normalcy, not state funded terrorism. Appealing to middle class sentiments, that army was also waging a cultural war against subversion as well (D. M. Sheinin 2012, 11-12-13). The media was used to obscure violence and disappearances carried out by the regime, while also promoting a "clean" Argentina

[3] Author's note: Please see "Operation Condor" for the Cold War context of forced disappearances carried out by military institutions in coordination across Latin America: *McSherry, J. Patrice. "Tracking the Origins of a State Terror Network: Operation Condor." Latin American Perspectives 29, no. 1 (January 2002): 38–60. https://doi.org/10.1177/0094582X0202900103.*

that conveniently fit the narrative of the junta. Some scholars have claimed more than 400 journalists fled Argentina during this period (Knudson 1997, 94).

4.2 The Mothers of the Plaza de Mayo: Visibility

The junta used every means it had to obscure the violence it carried out targeting a specific enemy. The military sustained the depiction of a disproportionate evil force, the guerrilla, it was fighting under the guise of protecting the people of Argentina from leftist subversion. Forced disappearances became an open secret for Argentine society, those who were directly affected by kidnappings did everything in their power to find information of their loved ones. Some were even hopeful of recovering their loved ones alive.

The junta carried out these activities within two parallel legal systems: one subject to the arbitrary executive discretion of the junta, the other a judiciary that appeared to be functional but served the junta in practice, offered little room for due process and seeking legal remedies (D. M. Sheinin 2012, 42). A writ of habeas corpus was the only course of action that could be taken, and would be what brought the mothers of the Mothers of the Plaza de Mayo together.

Bouvard (Bouvard 1994, 66), who has carried out extensive field work and interviews with the Mothers of the Plaza de Mayo, underlines that a common feeling among the Mothers prior to mobilizing is a strict denial of agency, in other words the Mothers were rendered hopeless as they were unable to change the situation they found themselves in. The disappearances carried out in the middle of the night or early in the morning would be violent, leaving the relatives of the disappeared absolutely traumatized. Bouvard says that “the disappearance of a son or a daughter was a shocking personal tragedy that ultimately undermined the foundations of their [the Mothers’] social, political, and psychological wounds” (Bouvard 1994, 66). It is, therefore, important to mention that the Mothers of the Plaza de Mayo did not necessarily come from politically charged backgrounds, what politicized them was their misfortune, and what facilitated their agency was their demand for information and justice.

Pointing out Argentina's conservative, male-dominated culture where the father of the domicile would go out to work, Bouvard asserts that it was mothers who first sought out their disappeared children, who were frantic with sorrow and fear. Since the kidnappings would occur covertly, and were obscured by anonymity and no press coverage would expose these events, the mothers initially believed themselves to be alone and isolated. It was common experience that united them, the mothers slowly began to identify one another by recognizing each other on their way to or within police stations, military camps, where they would submit writs of habeas corpus (Bouvard 1994, 68). The Mothers would later play and important role in showing others they were not isolated victims of state-terrorism.

Initially the Mothers would submit writs of habeas corpus to find information about their lost sons and daughters, Bouvard points out (1994, 68), with a level of irony, that it was a policewoman who was taking down the names of the Mothers that would cause them to meet up in each other's house; the mothers became cautious that the policewoman was taking down their personal information to blacklist them, which would be dangerous under the junta as the army and police would use every means they could to distil fear against any potential resistance. The Mothers first met up at the house of Azucena Villaflor; Azucena would urge the Mothers to send letters to Amnesty International, Organization of American States' Inter-American Commission on Human Rights, which according to Bouvard (1994, 68) was strategically employed by the Mothers (upon Azucena Villaflor's suggestion) because certain weeks were selected in carrying out contact with these organizations. The Mothers would not only make disappearances visible in Argentina but would later also draw significant international attention to human rights abuses in Argentina during the National Reorganization Process.

4.3 Early Days of Mobilization

Following the meetings at each other's houses, the mothers would meet at the Plaza de Mayo for the first time on April 30 1977, a Saturday. This meeting would not be as successful as anticipated because all the shops were closed. Bouvard notes a

policeman telling the mothers the country was in a state of siege and that the Mothers, who were sitting by the pyramid in the Plaza de Mayo, would constitute holding a meeting, which would be illegal under the state of emergency conditions. These meetings then would be held on a Friday, but "one of the Mothers also believed that Friday was a day of bad Luck" so Thursday became the day to convene (Bouvard 1994, 70). The Mothers would start to meet on a Thursday in the Plaza de Mayo for years to come, it is worth pointing out the level of hostility the Mothers would face prior to issuing a declaration regarding the disappearances that occurred under the junta in 1977; such hostility also provides, perhaps, a better understanding of the level of oppression any form of non-violent resistance in Argentina would face, also setting the atmosphere the Mothers carried out their work in.

The Mothers came together as a result of common experiences, they were all the mothers of the disappeared and initially sought out information about their disappeared sons and daughters (and would later become the torchbearers of human rights both during the transitionary period of the Alfonsín administrations as well as after), yet the Mothers were not the only ones carrying out advocacy work against the military regime's rights violations. Bouvard points to this distinction the Mothers felt that made them different from human rights organizations (some of which they women [the Mothers] attended) such as the League of Human Rights, the Permanent Assembly on Human Rights, and the Centre for Legal and Social Studies. The Mothers thought "the other organizations did not understand them, that it would be better to work on their own", and thus acted accordingly (Bouvard 1994, 71). Further, Jelin states that these organizations differed in their approach to suppression exercised by the junta, for example the APDH (the Permanent Assembly for Human Rights) would address the junta on legalistic terms by stating habeas corpus requests submitted in courts did not receive positive results, meanwhile organizations representing relatives of disappeared persons were more aggressive in their stances against the junta, as they were "less bound by fear and strategic considerations" (Jelin 1994, 42-43).

The Mothers were often faced with police brutality in their public display of resistance and demands for information on their disappeared sons and daughters; the

police would use different methods to intimidate them and undercover police became commonplace in the meetings the Mothers held in the square (Bouvard 1994, 71-72). The Mothers would employ different strategic responses when the police would try to prevent their demonstrations, one example is when police demanded one of the mothers to hand in her identity card, all of them would come together saying that if one had to provide identification papers, all of them would need to do so as well- underlining solidarity that would break their sense of isolation. These strategic defences would overwhelm officers, but would be carried out in a non-violent way by the mothers. When questioned by police, who would accuse the Mothers of being communists, they would respond by saying they were at the Plaza de Mayo to look for their lost children. Bouvard notes that one of the Mothers would respond:

> My son is not a Communist. He is a young person who thinks and acts politically. I don't care what party he belongs to because I am not defending a political party. I am looking for my son who as the right to think. (Bouvard 1994, 72).

When the Mothers were taken into police custody from the Plaza de Mayo they would appeal their arrests each time, pay their fines and even leave extra money for their next arrival (Bouvard 1994, 72). It is important to note that the early days of the Mothers of the Plaza de Mayo were marked by a demand for truth and information about the disappeared, the movement would later take on the additional role of human rights advocacy post transition.

The Mothers would also meet in in churches -considered safe places- prior to their demonstrations on Thursday. Yet, after a police raid in one of the churches the Mothers met up in, Cardinal Aramburu would order the churches to not allow the mothers to convene on their premises. Since most churches would not allow the Mothers to enter the premises, the Mothers would search for churches that had benches and little courtyards to they could convene and to seem inconspicuous (Bouvard 1994, 72). Scholars have claimed that factions in the Catholic Church supported the junta's "holy war" against subversion, which could also be defined as the junta's war against communism (Marchak and Marchak 1999, 241 & 322). This claim could be grounded in Videla's conception of a Christian Argentina (Feitlowitz

2011, 25). Yet, there were important movements in the Church which opposed the violence carried out by the military regime, a prime example is the Third World Priests movement (Marchak and Marchak 1999, 235). Many of the disappeared (such as Jorge Bonafini, son of Hebe de Bonafini -a Mother) came from politically charged backgrounds such as the Third World Priests Movement, or simply sympathizing with the Montoneros, but who did not necessarily be affiliated with "subversive activity", and would be disappeared on these grounds (Bouvard 1994, 102).

The Mothers also developed informal networks of communication where they would gather information about the disappeared through those who were released from detention centres or from police custody. This enabled the Mothers to compile and document information, which was initially word of mouth, and were even able to discover who was responsible for the disappearance of a their sons and daughters (Bouvard 1994, 73). As the network grew, the Mothers also became a source of information to those whose relatives had disappeared but were not part of the movement, as well. Meanwhile, the increased activity of the Mothers would not go unnoticed, the police went as far as sending the Mothers pictures of their loved ones in detention in order to dissuade them from gathering (Bouvard 1994, 73). Bouvard (1994, 74) contends that such acts carried out by the police would frame the resistance of the mothers as they "began to understand what they were up against".

4.4 Opening up to Argentina, the Mothers and the Media

It is important to underline once again that the activities carried out by the Mothers first began as a quest to find information about the disappeared, also to make the disappeared visible. The Plaza de Mayo is a large square that is significant both historically and in terms of the collective memory of the Argentine public, as it has been home to many important events. The Plaza de Mayo is also surrounded by many important buildings, such as the Buenos Aires City Hall, Secretariat of Intelligence, and perhaps most importantly the Casa Rosada, also known as office of the President of Argentina. Holding their demonstrations on Thursdays at the Plaza de Mayo gave the mothers the opportunity to interact with the public, many who interacted with the Mothers in these public demonstrations would find out that they

were not the only ones who had a lost relative to forced disappearances (Bouvard 1994, 74).

Although the demonstrations were carried out in a public square, and the number of participants in these demonstrations would reach hundreds of people, the media would not cover or produce news on these events. Bouvard contends that the only newspaper that dared to make news of these gatherings was the Buenos Aires Herald, which was a newspaper written in English with a very limited audience. Disappearances were also not given any coverage. The only media coverage the Mothers of the Plaza de Mayo received, according to Bouvard, was in the newspaper *La Prensa*, which would depict the Mothers in a negative light. This prompted the Mothers "to place paid advertisements in the newspapers listing the names of the disappeared" (Bouvard 1994, 76).

The advertisement submitted to the newspapers carried the headline "We Do Not Ask for Anything More Than the Truth" contesting Videla's statements in the USA, where upon accusations of disproportionate state sponsored violence he said that "no one who told the truth would suffer reprisals" (Bouvard 1994, 76). It was through this action were the Mothers able to reach an audience further than those who would witness their demonstrations in the Plaza de Mayo, during "a time when neither radio, television, nor newspapers were reporting the disappearances" (Bouvard 1994, 76). The Mothers used every means they had to draw attention to the disappeared and their demand for accountability.

The Mothers' advertisement was marked by a very traumatic event, "On December 10, the day the advertisement appeared, Azucena Villaflor was abducted as she went to buy a copy of the newspaper" (Bouvard 1994, 78), she was accompanied by Sister Léonie Duquet, a French nun, and a young artist affiliated with the Mothers of the Plaza de Mayo. According to Bouvard, "Azucena Villaflor was last seen in ESMA, the Naval Mechanics School that served as a detention centre" (Bouvard 1994, 78). The disappearance of Azucena Villaflor deeply affected the Mothers, as well as others that were affiliated with them. Bouvard claims that this shattered the illusion

that the junta would not go as far as arresting the Mothers, it could also mean death to them, and anyone on their side (Bouvard 1994, 78).

The Mothers' public display of defiance of the junta as well as publicly holding them accountable was met with a declaration issued by the Junta in in 1977. The junta blamed the disappearances (made visible in the public sphere by the Mothers) on subversive activity. The Mothers responded to this by holding a press release in the Plaza de Mayo where they accused the government for carrying out the disappearances. Bouvard (1994, 78-79) underlines that only foreign members of the press would cover this event, they even provided the Mothers a kind of protective barrier as the police and military could not afford to be seen assaulting and arresting a group of middle-aged women protesting the disappearances of their sons and daughters. The junta would later go as far as carrying out a media campaign targeting the Mothers and labelling them as *Las Locas* (crazy women) to further antagonize them in the public's eye (Bouvard 1994, 79).

4.5 The Mothers and the International Community

The Mothers would persist under an atmosphere of violence and oppression, refusing silence and continued to draw attention to disappearances carried out by the junta. Bouvard contends that the Mothers' assertive approach "proclaimed their presence in a society where absence was enforced through disappearance on the one hand and fearful silence on the other, exposing […] the very premises of the system itself" (Bouvard 1994, 82). Yet this Argentina filled with violence, arbitrary arrests, disappearances and death flights were not experienced by everyone, or not to the same degree by everyone. 1978 was the year Argentina hosted the World Cup, while the junta tried to make everything seem appear to "normal", the Mothers of the Plaza de Mayo made use of the foreign press covering the event to spread their message further.

The Mothers made use of high-profile foreigners visiting Argentina (e.g. Cancer research doctors visited Argentina in '78, drew much media attention, some even joined the Mothers) (Bouvard 1994, 81), especially when the Organization of

American States (AOS) sent a Human Rights Commission in 1979, the Mothers mobilized hundreds of women to testify from around Argentina (Taylor 2001, 101). Such domestic and international advocacy actions would have tangible effects, Taylor claims that international scrutiny played a role in the Carter administration (which was known for paying special attention to human rights issues) to reduce US aid given to the Argentinian junta (Taylor 2001, 104)[4]. Bouvard (1994, 97), on the other hand, underlines that the Mothers felt let down when the passage of a resolution of the commission's inquiry was blocked a Mexican ambassador.

By 1978, the Mothers began travelling abroad to draw attention to disappearances and human rights violations in Argentina. They visited the United States and Western Europe and would travel to NYC, even Rome where they were welcomed by President Sandro Pertini, whose mother coincidentally had also suffered due to her political affiliation (Bouvard 1994, 88). The Mothers even initiated contact with the Pope (John Paul II) but to no avail (Bouvard 1994, 89). "They travelled to Sweden, North Korea, from Canada to Australia" with the aim of drawing international attention to the situation in Argentina. Bouvard (1994, 89) claims that these expeditions had an important result "It mean that even though they would continue […] to received death threats […] The junta was too concerned with its image to risk the adverse publicity an assassination would provoke".

In addition to the Mothers of the Plaza de Mayo, Bouvard identifies six other human rights groups active in Argentina during the late 70's: Families of the Disappeared for Political Reasons, the Communist League for Human Rights, the Christian Service for Peace and Justice (SERPAJ), the Ecumenical Group for Human Rights, the Permanent Assembly on Human Right, the Centre for Legal and Social Studies (CELS). CELS provided legal support to the relatives of those who disappeared. There was also the Grandmothers of Plaza de Mayo, who primarily sought out to find grandchildren "who either had been born in captivity or who were disappeared along with their parents" (Bouvard 1994, 94). While the Mothers would collaborate with other human rights groups, as mentioned in the text their struggle was more

[4] Taylor also states the Reagan administration would increase the amount of support it provided to the army.

specific. Registering officially in 1979 as the "Association of the Mothers of the Plaza de Mayo" their founding principles would deny any political affiliation, in line with this Bouvard quotes one of the Mothers who said:

> The Mothers insisted 'We don't judge our detained-disappeared children, nor do we ask for their freedom. We want to be told where they are, what they are accused of, and ask that they be judged according to legal norms with the legitimate right of defence if they have committed any crimes. We ask that they not be tortured or kept in inhumane conditions and that we can see them and assist them. (Bouvard 1994, 95)

The Mothers would appeal to universal human rights norms in their public demands for information on the disappeared while also distancing themselves from political affiliation. It is important to mention that the disappeared sons and daughters of the Mothers were not targeted and kidnapped without discrimination; the junta's aims were to eliminate a specific group who were designated as "subversives", in other words groups on mostly young people affiliated with the Montoneros, or the ERP but did not necessarily have to be involved in armed struggle. This will play an important role when the Mothers of the Plaza de Mayo divided into *Linea Fondadura*, and *Madres Asociación*, defining their activities, and how they memorialized what happened during the National Reorganization Process, and their quest for justice (F. J. Bosco 2004, 391). Further, Feitlowitz (2011, 11) claims that the Dirty War destroyed the highest educated generation in Argentina, as certain occupations became "categories of guilt".

4.6 Hebe de Bonafini

The Mothers of the Plaza de Mayo are composed of a diverse range of members, and most of the literature documenting the Mothers' activities rely heavily on testimonies. It is therefore warranted to provide the testimony of Hebe de Bonafini, leader of the Mothers of the Plaza de Mayo, and mother of three disappeared persons. Hebe de Bonafini's conception of the movement provides insights into the symbolism of the movement, such as why the Mothers chose to use pictures of their loved ones both in their protests as well as how they carry out memorialization. Hebe's testimony also underlines why some of the Mothers refused to accept the

deaths of their children during the transitional justice process of the Alfonsín administration, and why some of them later claimed to be the manifestation of their disappeared daughters and sons as form of continual demand for social change (F. J. Bosco 2004, 392).

There is a consensus among scholars that the violence inflicted by the military regime during the National Reorganization Process was disproportionate to the guerrilla activity being carried out by armed groups, and that this served to sustain a regime of impunity, arbitrary rule, and to the cultivation of an artificial "subversive" that did not correlate with Argentine society[5]. Bouvard (1994, 102) provides the testimony of Hebe de Bonafini (leader of the mothers- a first among equals) who lived a traditional life in Argentina, and was never involved in "subversive activities" -typically associated with the ERP or Montoneros. Her son Jorge was a student who attended night school, was interested in the Priests of the Third World, taught at Sunday school and would reach out to poor communities.

Bouvard (1994, 102) quotes Hebe on what the junta set out to accomplish through its violence "what they wanted was people with no access to education so they cannot reason, or fools that don't care about anything, and that's why a whole generation disappeared". Hebe's son Jorge was be kidnapped in broad daylight leaving his house to visit an uncle in hospital (Bouvard 1994, 103), they family would resort to the help of a relative who was a lawyer refused to help them submit a writ of habeas corpus (Bouvard 1994, 104). Another relative, who was an official, said that it was probably the army, the police, or some kind of other force that was behind the disappearance of Jorge and a writ of habeas corpus would do little (Bouvard 1994, 104). An outraged Hebe would go to a police station demanding information on her son Jorge, only to be met with hostility and be kicked out of the police station (Bouvard 1994, 104).

Jorge's brother Raul was also kidnapped and disappeared (Bouvard 1994, 106). Following her second son's disappearance, Maria-Elena, her daughter-in-law, was

[5] See in glossary: David M. Sheinin, Patricia & William Marchak, Marguerite Feitlowitz, Diana Taylor.

disappeared, as well (Bouvard 1994, 107). Bouvard claims the Hebe de Bonafini's reaction this time was different, as she was struck with woe, desperation and an overwhelming sense of helplessness, but would later channel this into public resistance. Bouvard (1994, 107) says that "by now she changed profoundly. She understood the enemy". Over the years Hebe de Bonafini "has grown in moral and political stature by virtue of her many confrontations with governmental institutions, including the police, and the security forces" (Bouvard 1994, 108). Hebe de Bonafini would later become a voice for human rights in both Argentina and the World.

Bouvard (1994, 112) provides a quote by Hebe de Bonafini which serves a good summary on the persistence of the activism carried out by the Mothers of the Plaza de Mayo during the National Reorganization Period: "The Mothers don't give up. They will never shut up, forget, or forgive, but will continue to struggle against injustice". This would prove true, as the Mothers, albeit in different factions, continued their activism and demand for justice for the crimes committed during the National Reorganization Process, some continue as of today.

Through the public displays of defiance against silence imposed by the military regime regarding the forced disappearances of their sons and daughters, by 1981 the Mothers of the Plaza de Mayo made visible the violence carried out by the junta. The activism and defiance bravely carried out by the Mothers was not met with silence by the junta; by 1981, four Mothers had died, three had been disappeared in Argentina; and Noemie Esther de Molfino, who had to flee the country, died under extremely suspicious circumstances (many claim she was murdered) in Spain (Bouvard 1994, 112). Again, by 1981 the Mothers were internationally renowned, and would be welcomed in the OAS, UN, and many other international organizations, which would but much pressure on the junta, leaving little room for denial of forced disappearances (Bouvard 1994, 112).

CHAPTER 5

THE REGIME FALLS

This chapter focuses on how the transitional justice process took place in Argentina, and how the Mothers of the Plaza de Mayo played an active role in contesting Alfonsín Administration's attempts at establishing an official account. The chapter problematizes how the transitional justice process was carried out with limited participation of civil society organizations, much of whom were active during the military regime. This chapter also discusses the structural elements of the transitional justice setting, and how the military played a coercive role with the aim of dissuading the civilian administration from seeking further litigation and trying the military as an institution.

The visible majority of the Argentina public had welcomed the coup in 1976, and one of the reasons Isabel Perón lost public appeal was the economic turmoil Argentina had found itself in, in addition to high level of violence the country faced (Marchak and Marchak 1999, 147). The National Reorganization Process that was launched in 1976 by the military junta in 1976 under General Videla, and the Holy War waged by the political machine was carried out under the guise of combatting "subversive" forces which the literature contends did not exist to the degree the army claimed it did[6]. It is important to underline that the army which intervened in 76 was not ideologically uniform, both in terms of the groups' involved approach to a probable intervention as well as their stance regarding Perónism. Scholars point to an alliance between high ranking "professionalist" and "anti-Perónist" officials that were the driving force behind the coup (Lewis 2002, 117). The National Reorganization Period would also change the economy of Argentina, Lewis states

[6] See in glossary: Bouvard, Feitlowitz, Lewis, Sheinin, Marchak, Lewis

that by 1980 General Videla had a fairly successful year, the GDP of Argentina grew by 10%, imported goods were accessible to the public, "It was the year of the *plata dulce*, when the man on the street suddenly felt rich and the phrase *deme dos* ('I'll buy two') became common (Lewis 2002, 179). This would add to the popularity of the junta in certain factions of society, but the unsustainable system would not last for long.

By 28 March 1980 the Banco de Intercambio (BIR) collapsed, while the Central Bank liquidised BIR the panic that was caused by this development resulted in over 40 banks to go bankrupt. There were different takes on the failing economy, some economist blamed the army for intervening in the free-market, while others argued that it was the free-market itself that had played a role in crushing Argentine industry. Videla announced in September of that year that General Viola would take over, as the military regime had appointed him as president (Lewis 2002, 180).

The administration that Viola assumed was burdened by a failing economy, Lewis claims that Viola would try to increase civil participation in rule, even going so far as removing the house arrest of Isabel Perón, and would also make moves to get unions behind him, which were all feeble attempts at increasing public appeal (Lewis 2002, 180). Viola's administration took up a policy of continuous devaluation of the peso with aims of facilitating increased exportation, while this was welcomed by industrialists (due to reduced import) the public was frantically selling its pesos (Lewis 2002, 180). The Central Bank would not be able to cope with these developments, and the death of the head of UCR (Radical Civic Union) Balbín -an old friend of Viola- further disrupted Viola's political strategy, particularly when Raúl Alfonsín took over the party. Viola suffered a heart attack that year, and was later ousted by General Leopoldo Galtieri (Lewis 2002, 181).

Viola's feeble attempt at increased civil participation in rule was backtracked by Galtieri, appeasing hardliners in the army against transitioning to civilian rule and making any upcoming election impossible (Lewis 2002, 183). The failing economy was marked by increased public unrest, the Mothers of the Plaza de Mayo continued to hold their demonstrations in the Plaza de Mayo each Thursday, not only drawing

public attention but the attention of the international community as well. The General Confederation of Labour (CGT), becoming increasingly effective, also held strikes in face of decreased wages, increased unemployment, and inflation. On 30 May 1982, "despite Galtieri's orders to cancel […] some 15,000 demonstrators battled with the Federal Police in the Plaza, only to be driven off at last by clubs and tear gas" (Lewis 2002, 191).

The junta was suffering, Galtieri needed something to increase his public approval and popularity, as well as consolidating his power over different factions of the army against a possible coup. The Malvinas Islands, known as the Falkland Islands in some parts of the world, had significant symbolic meaning to those with nationalist sentiments in Argentina. The islands were taken from the Spanish but were claimed by the British in 1833, and upon taking office, General Galtieri announced that 1982 was to be "the year of the Malvinas," meaning that he intended to take the island back (Lewis 2002, 190). Little did Galtieri know; this would mark the junta's self-destruction.

The invasion was ordered on 1 April 1982, Galtieri would call US President Ronald Reagan to convey the military was set to sail to the Falklands the following day. Reagan urged Galtieri to reverse the decision but to no avail. The invasion was met with public approval from certain factions of Argentina society, those who had initially been against the invasion even held demonstrations in the Plaza de Mayo. Lewis contends that Argentina was alone in its quest to reclaim the Falkland Islands; the invasion did not last long due to the deployed army personnel lacking proper experience, equipment and military strategy, they were no match for British commandos and surrendered on 14 June 1982 (Lewis 2002, 192).

Following the defeat, Galtieri's public address from the Casa Rosada was met with public hostility. Crowds gathered at the Plaza de Mayo who began clashing with the police, the protests could not be contained within the public square and resulted in a rampage. Lewis (2002, 192) contends that this was "the final break between state and society, although the *proceso* would die a lingering death that would last another year and a half". Galtieri, who was hopeful that he could overcome the crisis, was

ordered to step down by the junta, and was replaced by Reynaldo Bignone. This marked the end of the junta, yet several attempts at securing amnesty for high-ranking generals involved in the so-called dirty war were initiated in this period (Lewis 2002, 192). These acts came to define the transitional justice setting of the Alfonsín Administration.

5.1 Towards Transition

Lewis (2002, 192) claims that Bignone was faced with three challenges, he had to somehow stabilize the economy; he had to facilitate the transition between military rule to civilian rule without repercussions for the army; and finally, he had to schedule elections. In regard to the first challenge, fixed prices were introduced to curtail inflation but little headway was made without dealing with the military's expenditure which had increased following the loss in the Falkland Islands (Lewis 2002, 192). As for curtailing possible retribution sought out by a civilian regime, the junta issued a document called "the Final Document on the War against Subversion and Terrorism", which conceded to foul play being carried out by the junta during the National Reorganization Process.

Lewis states that this document was issued along with "an Institutional Act that declared no one could be punished for acts carried out under military orders during the 'war against subversion and terrorism'" (Lewis 2002, 193). This was met with significant outcry by the public, more than 30,000 human rights activists held demonstrations, during which Raúl Alfonsín leader of the UCR (*Radical Civic Union*) stated "'unlawful acts committed during the repression ought to be judged in the courts, and not just by history'" (Lewis 2002, 193). This meant that if elected Alfonsín would initiate legal proceedings against those involved in crimes against humanity during the junta.

Another move made by the military regime to cover itself from retribution sought out by a future civilian regime was Decree Law 22, 924/83, which was issued on 22 September. The decree's first article was designed to provide protection to those who were active during the "Dirty War", in other words the decree would provide

amnesty to those who committed any crimes during the conflict, whether they were military officials or guerrillas. Lewis states that the amnesty did not only cover those who actively carried out the crimes, "but also those who ordered them, assisted in them, or covered them up. They were to be exempt from both criminal prosecution and civil damages" (Lewis 2002, 193). Despite there being public backlash in opposition of the decree, which granted amnesty to those who actively took part in forced disappearances, the junta pressed forward and ratified it.

While some scholars have argued that it was that Falklands War that undermined that military's power (Engstorm and Pereira 2012, 100), others contend that it was intra military conflict and personal political aspirations that stemmed two years prior (Pion-Berlin 1985, 56). In this vein, it has been argued that the military retained influence over the upcoming, yet tentative, transitionary process which granted them withdrawal on their own terms (Lessa 2013, 159).

Argentina's first civil election after the coup would take place on 30 October, 1983. The UCR (*Radical Civic Union*) was headed by Raúl Alfonsín, a human rights lawyer that was an outspoken critic of the junta, while Ítalo Lúder was the leader of the Peronist Justicialist Party (Lewis 2002, 194). General Massera also attempted to run in the election but was prevented by a federal judge, Oscar Marío Salvi, who prosecuted Massera for Fernando Branca's murder (Lewis 2002, 194). Alfonsín won the elections with 52% of the votes, the UCR won six governorships, yet this was not a total defeat for the Peronists who were able to prevent the UCR from forming a majority in the upper house. Alfonsín was given the chair of the presidency on 10 December as General Bignone stood down (Lewis 2002, 195).

5.2 The Transitional Justice Setting of the Alfonsín Administration

Alfonsín had promised that if elected president, Argentina would recon with what occurred under the military junta of the National Reorganization Process, and those culpable would be prosecuted. Alfonsín held true to his promise but was initially presented with two challenges. The first challenge was rescinding the Self-Amnesty Law decreed by the junta upon its exit, the second was ensuring the Supreme

Military Council initiated proceedings against those who committed crimes during the National Reorganization Process (Lewis 2002, 199). Alfonsín also ordered civil courts to initiate proceedings against the leaders of the Montoneros and ERP "for crimes committed after 25 May 1973. […] The country had been flagellated by 'two demons' […] and both must be exorcised" (Lewis 2002, 199). The Mothers of the Plaza de Mayo opposed the "two demons" depiction put forth by Alfonsín, claiming that such rhetoric sustained how the junta justified its actions in carrying out its clandestine activities and mass human rights violations under the guise of combatting anti-Argentine "subversives".

In December 1983 by issuing Decree 158 the government rescinded the Self-Amnesty Law that was enacted by the junta, this paved the way for the Supreme Military Council room to press forward with prosecutions against the heads of the junta. "It also stipulated that those who had obeyed orders would not be liable to prosecution. The government, thereby, hoped to limit trials to the commanders of repression" (de Brito, González Enríquez and Aguilar 2001, 121). The Supreme Military Council would not issue charges and press forward with prosecution, therefore in quick succession an amendment was made to the law that imposed a time cap allowing civilian courts to take action "in the case of delay or negligence after six months" (de Brito, González Enríquez and Aguilar 2001, 121). Engstorm and Pereira remark that during this period the influence of human rights organizations were very limited in parliament despite holding frequent public demonstrations (Engstorm and Pereira 2012, 105-106).

Engstorm and Pereira (2012, 103) state that the deposition of the Self-Amnesty law was significant also in terms of it positioning the junta as a de facto force that imposed this law unconstitutionally. Accordingly, since Argentine law prohibited retroactive abrogation, the bill that would annul the Self-Amnesty law had to be based on three premises: the Self-Amnesty law was in violation of Articles 29 & 16 of the constitution; the act was issued by a government with limited legitimacy. What is especially noteworthy is that "The Self-Amnesty was treated as a 'de facto imposed norm' that 'did not carry the presumption of validity enjoyed by norms of democratic origin'" (Engstorm and Pereira 2012, 103). While obscured, perhaps due

to legalistic parlance, it is possible to argue that this was one of the initial moves of the Alfonsín administration against the junta by asserting the preceding regime had acted on an illegitimate basis, and the actions it carried out were outside the scope of law, and would therefore be held accountable.

Alfonsín's government also established the National Commission on the Disappearance of People (CONADEP) to uncover the truth about what occurred during the junta of the National Reorganization Period. In a period of nine months, CONADEP published a report that would later be known throughout the world as "*Nunca Más*" (*Never Again*, or *Argentina Never Again*). According to de Brito, the report was based on more than 50,000 pages of testimonies, it documented the disappearance of 8,963 people, uncovering 340 torture centres that were hidden from the public, and provided the names of 1,351 people complicit in the actions of the junta (de Brito, González Enríquez and Aguilar 2001, 121). Another important development occurred in 1984, the government passed a law that provided civilian courts the jurisdiction to deny charges pressed by military courts against civilians, resulting in the release of almost all political prisoners (de Brito, González Enríquez and Aguilar 2001, 121).

The Supreme Military Council did not make use of the opportunity to try its own, following the lapse of the allotted time cap the Federal Court of Appeals initiated prosecution in 1985. Wilke claims that all the judges serving in the court of appeals were "newly appointed by the President Alfonsín in anticipation of the trial", who acted quickly and initiated the first trial on 22 April 1985 (Wilke 2010, 132). By December of that year, nine leading figures of the junta were convicted of "709 human rights crimes. The Tribunal heard the testimony of 833 people and produced 3 tonnes of documents and 900 hours of tapes. The sentence of the court was transmitted over radio and television" (de Brito, González Enríquez and Aguilar 2001, 122). The media, which under the junta was heavily censored resulting in obscuring the acts of violence carried out during *el Proceso*, reported on the trial extensively. A newspaper called *El Diario del Judicio*, covering the hearings, sold 200,000 copies per week (Wilke 2010, 132-133). In conclusion of the trial, General Videla, first leader of the junta, and Admiral Massera were sentenced to life

sentences; General Viola was sentenced to seventeen years, while General Galtieri and other affiliated names were acquitted (de Brito, González Enríquez and Aguilar 2001, 122).

As mentioned above, the junta trials were highly publicized and covered extensively by the media. Findings in the CONADEP report shocked certain factions amongst Argentine society, while crimes such as forced disappearances, kidnappings, murders, and death flights were long known open secrets to those who either suffered at the hands of the junta, or those who lost a relative or loved one. The junta trials were successful in terms of sentencing the leaders of the National Reorganization Process and consolidating public appeal, yet human rights organizations -especially the Mothers of the Plaza de Mayo- demanded that not only the leaders of the junta be sentenced, so should lower ranking military officials actively involved in the violence be held accountable for their crimes.

5.2.1 Aims of the Junta Trails & Limitations of the Transitional Justice Mechanism

There is a consensus among scholars[7] that the trials were envisaged to initiate a moral break with the military regime, in other words the trials were expected to expose a past that was denied, and that should never occur again. The trials were also anticipated to underline that the military dictatorship was a deviation from the intended course of Argentina history, and also expose forced disappearances and other human rights violations to the general public among many of whom were either not aware of these crimes or chose to ignore them (Wilke 2010, 133).

The junta trials and the National Commission on the Disappearance of People (CONADEP) have become synonymous as the commission's report titled "*Nunca Más"* (Never Again) documented pervasive, systemic injustices carried out by the regime which were used in the trials. The "*Nunca Más"* report also resonated among Argentine public as it demonstrated the extent of the violence carried out by the

[7] See in glossary: de Brito, Wilke, Bouvard.

junta. According to the CONADEP report, an estimated 8,960 were disappeared by the military regime, while Amnesty International claims this figure is over 15,000, and many human rights organizations -especially the Mothers of the Plaza de Mayo- state that the disappeared exceed the symbolic figure 30,000 people (Acuña and Smulovitz 2019, 14) CONADEP's findings included information documenting pervasive complicity among military officials, despite this following the transitional justice setting Alfonsín conceded that his administration never took on the role of trying the army as an institution, and having done so would have posed significant risk to the transitional justice setting (Wright 2006, 147).

Alfonsín strategically wanted to limited trials of the transitional justice process to the higher echelons of the junta trial and curtail the involvement of human rights organizations. Despite this the Court of Appeals pushed forward and recommended that other military officials should also be investigated, thus "widening the universe of 'prosecutables'. By the end of August 1984, HROs had handed a total of 2,000 cases to the courts" (de Brito, González Enríquez and Aguilar 2001, 122). Engstorm and Pereira (2012, 107) comment that the army was alarmed by human rights organizations seeking further litigation, and its reaction was violent as it was later discovered that a coup was being plotted against Alfonsín, as well as several bombs exploding in Buenos Aires. Military officials rejecting orders issued by civilian courts, not abiding reaction would go as far as officers rejecting orders of civilian judges and holding the court in contempt.

Engstorm and Pereira (2012, 107) assert that it was this tension that caused the Alfonsín administration to issue the "Full Stop Law" (*Ley de Punto Final*) which would but temporal limitation on the prosecution carried out by civilian courts, in other words legal remedies could only be sought within a time limit. Meanwhile de Brito maintains that this law was enacted due to the government facing a process of "calling to account that it could not control or limit, so in April 1986 it tried to restrict prosecutions" (de Brito, González Enríquez and Aguilar 2001, 122). The Full Stop Law would not have the impact the government intended, and would also cause a drift between the Alfonsín administration and human rights organizations,

especially the Mothers of the Plaza de Mayo who refused the "two demons" analogy of Alfonsín.

The Full Stop law enacted on 23 December 1986 gave 60 days for people to go to court, more than 60,000 people took to the streets in protest of the law, and an "avalanche of new cases" were submitted to courts with the hard work of human rights organizations, the courts even refused to take their judicial holiday to process court documents and submissions (de Brito, González Enríquez and Aguilar 2001, 123). Critics have asserted that the Full Stop Law, as mentioned above, was produced to quell and increasingly aggressive military, yet rather than achieving such a feat it would agitate the army even more. De Brito (2001, 123) states that on 16 March 1987, growing discontent among military officials, especially lower ranking officials who were active during the so-called Dirty War, carried out "rebellions" by a group called the "*carapintadas*" (the painted faces).

The lower ranking officers' rebellions were initiated by Colonel Aldo Rico and was called "Operation Dignity" -which would be ominous of the rhetoric later employed by the army-, and were carried in reaction to the growing number of human rights trials prosecuting lower ranking military officials, The army also viewed the prosecution of a larger framework which aimed to increasingly depose the military of its power, yet some scholars remark that the *carapintadas* movement was mostly related to intra-military conflict. Despite this, the rebellions caused the Alfonsín administration to make several concessions, as well as increasing the rift between the army and factions within civil society (Norden 1996, 77-78). The rebellion carried out by the *carapintadas* forced the Alfonsín administration to enact the "Law of Due Obedience" in June 1987, which would protect lower ranking military officials who had been active during the junta from prosecution (de Brito, González Enríquez and Aguilar 2001, 123). Based on the circumstances surrounding the two laws, it is safe to argue that the Alfonsín administration faced significant structural challenges which were mainly imposed by an army that was not willing to abide by civilian law, or civilian rule. The administration was also facing mid-term elections as well and had to carry out a careful balancing act of political manoeuvres.

5.2.2 Alfonsín's Pragmatism and Conception of Human Rights

The National Commission on the Disappearance of People (CONADEP) was one of the of the key mechanisms that was established to investigate disappearances carried out by the junta which would be a key tenet that the Radical Civic Union couched its rhetoric on. Human rights groups initially requested parliament to carry out these investigations as it had the power to summon testimonies and recover documents. Alfonsín had to compromise, the Senate did not appoint representatives, therefore the commission had to carry out its activities without the power of ordering summons, and was given 180 days to conclude its work (Wright 2006, 143).

CONADEP has generally been defined as a model example of a truth commission and has been claimed to have influenced up to thirty other countries to establish truth commissions in their transitionary periods (South Africa being a prime example) (Wright 2006, 145). The seminal work "*Nunca Más*" documented the atrocities of the military junta of *el Proceso*, CONADEP also uncovered information about the burial locations of those who were lost to forced disappearances. Most human rights organizations cooperated with CONADEP seeing it as an integral structure in uncovering the truth of forced disappearances of the brutal regime, CELS being a prime example.

The Mothers of the Plaza de Mayo refused to cooperate with CONADEP, the Mothers wanted prosecution of those who were responsible for the enforced disappearances, not just the higher echelons of the army that ordered them (Wright 2006, 146). The Mothers were also staunch opponents of the "two demons" analogy put forth by Alfonsín, as the Mothers claimed that the junta carried out forced disappearances, kidnappings, and murders under the guise of combatting subversive activity which in reality did not exist to the extent the junta claimed it did.

Again, it is important to underline the transitional justice efforts carried out by the Alfonsín administration were done so under the shadow of an ever increasingly agitated military force. Scholars remark that the political moves of the administration sought balance, both in terms of appeasing the military and also trying to consolidate

public support while also adding the demand for justice into the equation. Some scholars have argued that there was a consensus between Alfonsín and the human rights movement regarding the discovery of truth as a precondition for establishing justice and facilitate reconciliation (Wright 2006, 143). Others contend that this was not so simple, and have argued that human rights increasingly became a domain for exercising political pragmatism for the Radical Civic Union (D. M. Sheinin 2012, 107).

The work carried out by CONADEP cannot be underplayed, and it would not be fair to do so. The commission did provide tangible evidence that was needed to indict higher ranking military officers, yet according to Sheinin (2012, 100) these findings often did not exceed what was long known by human rights organizations both within and outside of Argentina. Further, it has been claimed that CONADEP was inadequate when it came to uncovering new evidence related to the thousands of cases of forced disappearances. Sheinin (D. M. Sheinin 2012, 100) also argues that CONADEP was used to promote the new democratic government's image abroad, meanwhile in face of public demand for the prosecution Alfonsín tried to deny the responsibility of the democratic regime for identifying those who had disappeared under the junta citing reasons such as the military having destroyed much of the documentation that provided proof of such activities.

Alfonsín focused on human rights as a form of legitimizing his government in face of an antagonizing military, positioning the UCR as the bastion of human rights and democracy. This was arguably strategically employed as a means for the Alfonsín administration to legitimize its stance against the threat of a coup, or to curtail the influence of the army over democratic institutions that were only just recently recovered from the junta. It has been argued that (D. M. Sheinin 2012, 97) Alfonsín tried to transform the bureaucracy of the former regime, and attempted to increasingly cooperate with international human rights organizations with the aims of establishing "policy standards". There is tangible evidence of this human-rights based approach and its transformation within the state, Sheinin (2012, 97) points to the Argentine state intelligence organization "SIDE" which at the time included commentary regarding human rights violations in Chile in the memos it prepared.

While this could be an indicator of regional shifts and the changing notion of state legitimacy (and perhaps sovereignty), it does provide tangible evidence of some kind of change.

Human rights were used as a strategic tool by the Alfonsín administration in cultivating an official account that did not further antagonize the army by paving the way for additional prosecution. A prime example was when in 1984, Minister of Foreign Affairs Dante Caputo made a speech at the UN Commission on Human rights in Geneva. In his opening remarks Caputo pointed out systemic and continuous human rights abuses that occurred before the coup of 1976, Sheinin contends that Dante Caputo aimed to link Perónism to military rule which created fertile atmosphere for rights violations, and it was within this atmosphere that the youth hysterically resorted to violent acts against authoritarian rule under the illusions of liberation that were supposedly imported or supplied from abroad (D. M. Sheinin 2012, 98). With the aims of countering such a past, the Alfonsín administration placed human rights at the centre of its nation-building project, and positioned itself as the only option against military rule that had the a very real possibility of rising again.

In practical terms, the Alfonsín Administration claimed that it was solving human rights issues pertaining both to the past and present. While doing so Alfonsín insisted that the number of people who were disappeared by the junta was 8,960. This would mean that "the new government, which was now responsible for locating corpses and accounting for prisoners, claimed that data from the dictatorship years was accurate" (D. M. Sheinin 2012, 102). This figure is in stark contrast to figures provided by Amnesty International, and other human rights organizations operating in Argentina. The number of 30,000 disappeared persons held symbolic value, especially for the Mothers of the Plaza de Mayo who actively contested official figures of the junta. The willingness to publicly accept 8,960 disappeared persons meant that Alfonsín was not ready to face Argentina's past on the terms of victims of authoritarian rule. On the contrary, through the Final Stop Law and the Law of Due Obedience, Alfonsín's transitional justice process facilitated legitimating the new civilian state

rather than focus on establishing justice of those who were affected by the atrocities of the National Reorganization Process.

5.2.3 State Sponsored Human Rights

The Alfonsin Administration also established a structure called the Subcommittee for Human Rights (SDH) under the Ministry of Interior, this structure came into effect after CONADEP's mandate ended. The premise of the SDH was to continue CONADEP's work on forced disappearances, and the commission established a contract with "the Editorial Universitaria de Buenos Aires" (EUDEBA) in order the publish the CONADEP report at an affordable price, this also resulted in Alfonsín's feat of human rights to become more visible to the international human rights community (D. M. Sheinin 2012, 103).

This was not the only success of the SDH, in 1985 it established an agreement with Center of Legal and Social Studies (CELS) with the aim of setting up an archive composed of photographs of disappeared persons. Sheinin (2012, 104) contends that while the work aimed to both preserve and disseminate information about what occurred during the National Reorganization Period regarding forced disappearances, the government also had other motives. These motives manifested in the SDH becoming the arbiter of who could access the archive, and in turn becoming the arbiter of the definition of what constitutes a human right. Furthermore, a protocol developed by the SDH in 1985 resulted in only officially-recognized nine human rights organizations being able to access the archive, the organizations also had to designate representatives as a condition for access.

Again, according to Sheinin this resulted in the Alfonsín administration to become the arbiter of the "legitimacy of human rights organizations" as well as positioning human rights as specifically a "dictatorship-era" problem and "thus a function of the political fortunes of the Radical Party" (D. M. Sheinin 2012, 104). All the 9 human rights organizations, except the Mothers of the Plaza de Mayo, accepted these conditions. The SDH later increased its control over human rights data as the sub-commission was granted the sole right of preserving the data collected by

CONADEP, which resulted in only those who were given “explicit permission” by the SDH to access “official records of the military-era human rights abuses” (D. M. Sheinin 2012, 105).

Further criticism has been pointed at the propaganda campaign carried out by the UCR promoting human rights and portraying human rights to be synonymous with the UCR. Sheinin (2012, 107) argues that as part of this human rights campaign, universities were once again open to public access free of charge, and student organizations were once again granted legality, which had been illegal under the junta. While undoubtably a positive development, this has been viewed as part of a larger project linking human rights the with the UCR, especially in terms of how it exercised “considerable power over curriculums and the choice of university administrators” (D. M. Sheinin 2012, 107).

Sheinin’s critical take on the Alfonsín administration’s human rights campaign is in contrast to more mainstream scholars, who have claimed (Sikkink 2008, 7) that the transitional justice process was the result of a “Justice Cascade”, a phenomenon which emphasizes the role of human rights in litigation pursued against totalitarian regimes. Scholars have also asserted that Alfonsín did not want to pursue legal action against the army as an institution, and it was the federal judges which “widened the scope of lengthened duration of trials well beyond that desired by the Argentine President” (Pion-Berlin 1996, 119).

In addition to domestic concerns, the Alfonsín administration also had many foreign policy goals in terms of establishing a good human rights record, and also demonstrate its break with the junta of the National Reorganization Process. Despite this, “throughout the 1980s, the UN Commission on Human Rights Working Group on Enforced or Involuntary Disappearances pressed the Argentine government for information it could not provide” (D. M. Sheinin 2012, 115) As mentioned above, both organizations within and outside of Argentina knew well of the crimes that had occurred during the NRP, the Alfonsín administration at many times could only make do with confirming that it had received petitions demanding further information about the disappeared (D. M. Sheinin 2012, 115-116-117).

5.2.4 Demonizing the past: Between the Two "Demons" of Subversion and Military Presence

The Alfonsín Administration couched its legitimacy on being the bastion of human rights in Argentina, emphasizing that it did so in face of an ever increasingly agitated army that was disgraced by the Falklands War and which faced budgetary cuts during economic turmoil. While political prisoners of the National Reorganization Period were released, and prison conditions were somewhat improved, Alfonsín underlined that its administration aimed to push forward for reconciliation in Argentina which had been subjected to the violence of "two demons": the leftist guerrillas and the junta. While CONADEP was instrumental in pushing forward with prosecutions this was limited to the higher echelons of the junta, prosecution of lower ranking military officers was blocked by the Full Stop Law, and the Law on Due Obedience, which were mainly enacted due to rebellions carried out by factions within the army. Furthermore, trying only the leaders of the junta meant that the military as an institution would remain safe from being associated with human rights abuses, which meant both preserving the integrity of the military as well as safeguarding lower ranking officers.

Alfonsín initially enjoyed the support of many human rights organizations which hoped that justice would be done both in terms of those who ordered the atrocities during *el Proceso*, as well as those who carried them out. The initial measures of the Alfonsín Administration were implemented in quick succession, laws were either drafted or amended to ensure civil litigation was carried out if the military court refused to try its own. Alfonsín also initially expected that the military would try its own, providing it a chance to "clean its own house" (Wright 2006, 147). De Brito contends that there are several factors that limited the success of the transitional justice process under Alfonsín, the primary being the administration mistakenly believing that limiting prosecution to the leaders of the junta regime would quell potential threats from the military. Further, the balancing act of Alfonsín which aimed to appease the army would also result in antagonizing human rights organizations that had provided the UCR with significant public support. It was also

"the Full Stop Law" and "the Law of Due Obedience" which rendered the Mothers of the Plaza de Mayo and the Alfonsín Administration to be on adversarial terms.

A major incident that hindered the human rights process of the Alfonsín Administration was an attack carried out an army barracks in 1989. The incident which his referred to as "La Tablada" (name of the base that was attacked) was carried out by a leftist organization called "*Movimiento Todos por la Patria*" (All for the Fatherland Movement) that had not been heard of prior to the attack. The attack, which resulted in more than 40 people to die, eerily reminded the Argentine public of the guerrilla violence of the 1970s. Wright contends that the group's leader being a lawyer working for CELS would provide strong arguments for the army as well as the political right which had always been suspicious of human rights organizations and accused them of collaborating with terrorist organizations (Wright 2006, 156). This also resulted in the public distancing itself from human rights organizations such as the Mothers of the Plaza de Mayo, in turn limiting their influence on the public and parliament (Wright 2006, 156). The suspicion surrounding human rights organizations echoed the sentiments and rhetoric of the National Reorganization Process, especially when one of the "two demons" suddenly reared its head in the *La Tablada* attack.

It would also be false to assert that the transitional justice process in Argentina was backed by unlimited public support. The Alfonsín Administration quest to curtail military rule, and to push forward with prosecution has mostly been defined as a balancing act. The National Reorganization Process was welcomed by a significant portion of the public which had suffered under the violence of the early 1970s, which had rendered life unpredictable both in terms of undergoing active conflict and economic turmoil. It is true that CONADEP provided the public with tangible evidence of what had occurred during *el Proceso*, demonstrating to the public the extent of the atrocities committed by the junta. Yet, it is important to underline that this was the same public which had welcomed the junta as the harbinger of order. Sheinin (2012, 3) contends that this has caused various political actors to downplay their links with state terror, employing multiple political identities to legitimize their participation in the pro-democracy era of the Alfonsín regime. This also resulted in

victims of the atrocities committed by the junta to be portrayed in a way that was acceptable to Argentine society during the transitionary process.

Wilke provides the example of a pamphlet published by the Permanent Assembly for Human Rights (APDH) in 1982 regarding the relatives of "*desaparecidos*" who were portrayed as being innocent victims united by the misfortune of having lost a relative to forced disappearances. Wilke contends that the pamphlet maintained the innocence of family members of disappeared activists (the prime targets of the junta) exempting them of the politically charged identities of the disappeared. In other words, Wilke claims that the misfortunes of the relatives were depicted in the pamphlet in such a way that it absolved them from the politically charged identities of the disappeared, of whom many were political and social activists who were considered as "subversives" or "terrorists" by the junta. By doing so, Wilke argues human rights organizations sidestepped the issue of contesting identities imposed by the junta which was used to legitimize its own actions in fighting "subversive" activity (Wilke 2010, 135).

Wilke also argues that the human rights discourse employed by human rights organizations had an additional function when it came to discussing the disappeared. Wilke underlines that human rights framework consider "persons as abstract human beings, not primarily as members of organic family units" which provides certain advantages such as enabling universal definitions of what constitutes human dignity and rights, "and that it considers the suffering, rights, and responsibility of each person individually" (Wilke 2010, 135). According to Wilke (2010, 136), this had a depoliticizing effect which obscured the politically charged identities of the disappeared, and served to prevent the contestation of the definition of "subversion" that was imposed by the junta. This enabled an intersection of a wide network of value systems to facilitate advocacy on behalf of the disappeared. This also provided "politically safe" rhetoric for family members of the disappeared despite it "did not make it possible (yet) to speak of experiences and identities that had fuelled the political violence of the 1907s" (Wilke 2010, 136).

Wilke also indicates that the obfuscation caused by downplaying of the politically charged identities of victims was also sustained during the trials of the juntas. This portrayed the disappeared as individuals whose rights had been violated by a military regime which did not discriminate against its enemy. Wilke says "the military's violence appeared not as targeting persons and groups that the state labelled as 'subversive', but rather as fanatical and overreacting and ultimately randomly targeting innocent citizens" (Wilke 2010, 136). Based on this, the trials served to address the violation of individual rights of the disappeared, and the limited "politically safe" testimonies of victims and relatives of victims resulted in the portrayal of the disappeared to be mostly devoid of political affiliation (Wilke 2010, 137). It wasn't until the 90s that more complex portrayal emerged.

Here, it is imperative to underline the vital function of trials under transitional justice: trials do not only serve to ascribe responsibility to individuals in terms of criminal law, trials in transitional settings also serve to establish official accounts. Trials are established forms of collective history making, and they are a fundamental method of bringing forth controversial and contested accounts (Teitel 2000, 72). Based on Wilke's assertion and the premise Teitel provides, it can be argued that by portraying victims of the military regime as being devoid of politically charged identities the official account established by the Alfonsín regime obscured the ideological elements that fuelled the junta's violence against its enemy, since the military regime's enemy was anyone who took part in "subversive" politics whether it be left-wing Perónism, or Marxist sympathy.

It is also possible to argue that the controversial account that was being contested during the transitional justice process of the Alfonsín Administration was focused on acknowledging the existence of forced disappearances carried out by the junta which was strongly denied by its leaders, more particularly by General Videla. Moreover, while the trials *did* provide recognition of forced disappearances and other human rights violations committed by the junta, it did so by whitewashing the reasons behind why they were targeted in the first place. Therefore, by sidestepping the issue of the politically charged identities of the victims of forced disappearances, illegal detentions and murders, the Alfonsín Administration pushed forward to legitimize its

new civilian regime without addressing the root causes of the political violence of the 1970s.

Based on the above, and taking into account Teitel's definition of the paradigmatic restorative model of transitional justice that seeks to "construct an alternative history of past abuses" (Teitel 2003, 78), it could be argued that the alternative history that emerged from the trials did not reflect the accounts of the victims, rather it served to establish an account that fit the narrative of the UCR under the Alfonsín Administration which aimed to refrain from discussing left wing affiliation of the victims (EPR, Montoneros) and pushing for its own account as a precondition of a legitimate form of democratic governance in face of the looming danger of military intervention. Alfonsín strategically restricting the participation of human rights organizations in the transitional justice process to limit prosecution against the army is testament to the above (Wright 2006, 147).

It is also important to employ Teitel's constructivist conception of transitional justice, which considers justice to be contingent and informed by prior injustice that is linked to reflexive relation between how a state facilitates justice in its transition, and in return how a state is affected by the transition. Teitel asserts that this is dependent on historicity, how a society views its past, and what is deemed acceptable to be legitimized in defining a common future (Teitel 2000, 4). The "la Tablada" attacks created a rift between human rights organizations and the public at large, who were suspicious of the HROs to begin with, making it even more difficult to establish a broader definition of truth that better reflected the accounts of victims. The Alfonsín administration was unable to, or perhaps unwilling to go against mainstream public opinion in face of mid-term elections; at this point, the transitional justice process of Argentina was more characterized by facilitating state legitimization than establishing justice for victims of the National Reorganization Process.

5.2.5 Discussion: Contested Truth and Selective Memory

The junta faced significant drawbacks due to the economic decline of Argentina; what caused it to lose legitimacy in the eyes of the wider public was its defeat in the Falklands War. Led by Raul Alfonsín the UCR (Radical Civic Union) made use of public support, especially by human rights organizations, in contesting the junta which was forced to hold elections, the first since 1973 when Juan Perón was elected for the final time upon returning from exile. Upon its exit from rule, the military regime issued self-amnesty laws in hopes of avoiding prosecution. The Alfonsín Administration took on the difficult tasks of facilitating civilian rule, as well as dealing with the crimes of the National Reorganization Process.

Alfonsín provided the army with the opportunity to try itself, an opportunity that was never taken up by the Supreme Military Council. The administration acted quickly to ensure litigation could be pursued in civilian courts, yet scholars agree that Alfonsín never truly aimed to try the military as an institution due to fears of rebellions and possible coups. Critical historians[8] contend that factions of Argentine society would not have provided public support for the UCR to fully reckon with the human rights abuses of the army, as it did view the army as a legitimate actor that had fought a just war against subversion.

Prosecution focused on the leaders of the military regime, namely General Videla, Admiral Massera, and General Viola who were handed lengthy sentences. These trials were based on the findings of the truth commission called the National Commission on the Disappearance of People (CONADEP) which provided prosecutors with tangible evidence of forced disappearances, secret detention centres, death flights, and murders all of which had been denied throughout the NRP. While welcomed at first, CONADEP was later criticised by the Mothers of the Plaza de Mayo who did not want to take part in exhumations due demanding their children back alive, and fears that cooperation would enable the courts to block the possibility

[8] See glossary: Sheinin, Feitlowitz, Wright

of further litigation against lower ranking army officials complicit in the crimes of the junta.

The Alfonsín Administration wanted to initiate a moral break with the bloody past of the NRP, this was anticipated to be achieved by limiting trials to the leaders of the junta. The Mothers of the Plaza de Mayo and other human rights organizations initiated extensive litigation against not only the leaders of the junta but also others who were complicit in forced disappearances, torture, death flights, murders, rapes, and other crimes in an extensive list of human rights abuses. In face of an onslaught of prosecutions, the Alfonsín Administration issued "the Full Stop Law" putting a time cap on seeking litigation against crimes committed during the NRP, this law was complemented by "the Due Obedience Law" which protected lower ranking army officials from prosecution. There is a consensus that Alfonsín enacted these laws due to fears of a possible coup against civilian rule.

Human rights organizations welcomed the Alfonsín Administration's attempts at facilitating civilian rule, the Mothers of the Plaza de Mayo on the other hand were critical of the political pragmatism exercised by the CRU and Alfonsín. This was especially the case when Alfonsín formally accepted the number of disappeared persons to be 8,960 based on the findings of the CONADEP report, which was much lower than 30,000 disappeared persons, which was claimed by the Mothers of the Plaza de Mayo and other human rights organizations in Argentina. Similarly, the Mothers of the Plaza de Mayo were critical of the human rights culture promoted by the UCR, particularly due to "the Full Stop Law" and "the Law of Due Obedience" that later resulted in extensive impunity after pardons issued by Carlos Menem, Alfonsín's successor.

The transitional justice process of the Alfonsín Administration proved effective in restoring rule-of-law, especially in terms of a civilian administration pursuing litigation against a former authoritarian military regime. Establishing rule-of-law has been closely associated with paradigmatic transitional justice processes at the state level, yet more contemporary theory has pointed to facilitating participation of victims underlining the importance of granting them agency (Lundy and McGovern

2008, 270-271). A key argument for bottom-up inclusion of victims in the transitional justice process is to ensure social justice is granted, and is done so with the aim of ensuring societal change to prevent the initial causes of dispute that gave rise to conflict to reoccur. Some scholars have called this "transformative justice" and have focused on incorporating those whose rights have been violated the most, or those who are the most vulnerable and have the least power to exercise within the system (Gready and Robins 2014, 342-343). In this sense, the Alfonsín Administration failed to be "transformative" as it never pursued to try the military as an institution, although this was primarily caused by structural challenges and the ever-present possibility of a military coup. Further, the testimonies of victims were obscured by human rights language that portrayed them as individuals whose individual rights had been violated, rather than being collectively targeted due to being actively involved in politics.

Accountability was another issue that was not fully resolved during Argentina's transitional justice process. It was the higher echelons of the army that were held accountable, and were given prison sentences. While General Videla, General Viola and Admiral Massera were held accountable to demonstrate to the public at large Argentina's moral break with its dark past of human rights abuses, many army officials involved in so-called Dirty War were granted amnesty through blocking litigation. Furthermore, the generals sentenced to prison were given pardons of Carlos Menem in the 1990s, and reparations were used as means to block appeals to the Inter-American Court of Human rights (Wright 2006, 157-158). This resulted in justice becoming a secondary concern, once again.

The Alfonsín Administration based its own legitimacy as the sole proprietor human rights in Argentina, which it used to legitimize its existence as the only viable form of democratic governance in face of an increasingly agitated and antagonized military which could possibly initiate a coup. While the Alfonsín Administration did promote human rights, it also used this to exercise power over human rights as a political tool, and becoming the arbiter of legitimate struggle for human rights. Further, scholars have remarked that there has been a continuance in human rights abuses and impunity in Argentina post-transition such as arbitrary police force,

tampering with evidence, cliques within the police force, and torture (Lessa 2011, 44). It is therefore safe to assert that human rights abuses did not cease following the transitional justice process in Argentina.

Perhaps one of the most important issues that could not be resolved was establishing the truth. The transitional justice process of Argentina give rise to multiple claims for truth, thus becoming a site for contestation. The Mothers of the Plaza de Mayo continued to profess their own version of what occurred during the National Reorganization Process, claiming that their children were disappeared, tortured, raped, and murdered due to their political beliefs. The official account of the Alfonsín Administration preferred to depict itself as resolving a past of violence that was caused by two demons, leftist guerrilla subversion, and an army that believed itself to be above the law. The army on the other hand attempted to justify its actions based on a legitimate "Holy War" against subversion, underlining that their actions were done so to protect the people and state of Argentina from foreign forces, or those who acted under the influence of foreign forces.

The continued activism carried out by the Mothers of the Plaza de Mayo after the transitional justice process of the Alfonsín Administration provides a good example of how transitional justice theory fails to uncover how groups involved in the transitionary period compete over establishing alternative accounts regarding "the truth" based on their own experiences. In view of the above, transitional justice theory provides sufficient tools in terms of understanding tangible changes at the state level, while these tools cannot provide deeper understanding on how the transitional justice process has affected victims, and to what degree justice has been established for those affected by a predecessor authoritarian regime. As eloquently put by Jeline transitional justice processes, especially those concerning forced disappearances, produce moments in which "memory, truth, and justice blend into each other, because the meaning of the past that is being fought about is, in fact, part and parcel of the demand for justice in the present" (Jeline 2003, 47). Based on the trials where the testimonies of victims, and the relatives of victims, were portrayed in "politically safe" ways thus expose that the intersection of memory, truth and justice was not carried out in terms of those most affected, rather it facilitated state

legitimization and resulted in a culture of impunity that sustained itself until the 2000s.

The politics of memory, especially in terms of why the Mothers of the Plaza de Mayo continued their activism and public display of resistance for decades to come after the Alfonsín administration's attempts at establishing justice, provides a better understanding on to what degree justice was facilitated for the victims of the atrocities of the National Reorganization Process. Further, according to de Brito's conception of the politics of memory which also acts as a "meaning-making" apparatus' and also a "membership-making apparatus" provides ample theoretical ground to complement transitional justice mechanisms facilitate "societal inclusion" of groups that were targeted for being "the societal" other. Making visible the narratives of those most affected by human rights violations can also facilitate what de Brito (2010, 365) calls *disjuncture*, which marks a qualitative shift in memory making cycles, or a break with past memory making cycles through facilitating new patterns of inclusion and exclusion, thus establishing new "founding values" crafting possible common futures for societies.

Therefore, the final chapter of this thesis will focus on the politics of memory of the Mothers of the Plaza de Mayo in terms of how their accounts of what occurred during the National Reorganization Process were obscured, how the Mothers became the collective conscience of Argentina, and how this has proven crucial in the quest for establishing social justice in Argentina.

CHAPTER 6

WHY MEMORY MATTERS IN TRANSITIONAL JUSTICE PROCESSES: CONCLUSION

This chapter explores the politics of memory in Argentina and the Mothers of the Plaza de Mayo's quest for establishing an alternative account to what was produced by the successor regime of Alfonsín administration. This chapter also investigates internal cleavages within the Mothers of the Plaza de Mayo, how the movement has shifted post transitional justice, and how memory studies may provide a wider theoretical understanding in identifying human rights abuses echoing predecessor regimes.

The previous chapter discussed how transitional justice took place in Argentina. It was argued that the transitional justice process that took place in Argentina was defined by the Alfonsín Administration's attempts to re-establish state legitimacy, more so than seeking to facilitate justice for those who suffered at the hands of the junta the most. The Full Stop Law, and the Law of Due Obedience were enacted mostly in response to increasing pressure from the military. This caused outcry in certain factions of Argentine society, especially those affiliated with the human rights movement. The Mothers of the Plaza de Mayo were vocal in their objection against the Alfonsín Administration's unwillingness to try those who were responsible for crimes committed by the junta, accusing the administration of political pragmatism that acted to sustain the injustices of the military regime.

Human rights organizations that were active both during and after the military regime in Argentina have varied in approach in interpreting the past. Jeline argues the initial motivations for carrying out advocacy work during the National Reorganization Process provide better understanding to the differences between

human rights organizations in terms of approach, “and the way human rights organizations aligned themselves in the transition to democracy” (Jelin 1994, 41). Jeline (1994, 48) also argues that some human rights organizations were wary of the Alfonsín Administration’s timid approach from the beginning of the transitional justice process, which prioritized compromise with the military over justice.

It has also been argued that human rights organizations faced a binary opposition regarding the interpretation of the past: one side aimed to justify the military regime’s crimes as “excesses” that were necessary in a war waged against subversion, the other side wanted to forgive and forget, in other words this side were proponents of “reconciliation” on the condition that the past was buried (Jelin 1994, 50). In view of this, it is possible to define the Mothers of the Plaza de Mayo as having acted as an active repository bringing forth their own accounts of the past, constantly challenging the state’s official account of forced disappearances.

Jeline points out internal cleavages within human rights organizations as well, referring to organizations such as the Permanent Assembly of Human Rights (APHD) – (of which Raul Alfonsín was a member) which confined their actions strictly to legal procedures on behalf of victims of the junta (Jelin 1994, 42). The Mothers’ more provocative approach marks a rupture with other human rights organizations, underlining unwillingness to cooperate with a state mechanism they viewed as being illegitimate, as well as being the source of their sorrow.

In view of this, it is important to underline that it was the inability to obtain results through legal remedies (mostly habeas corpus writs to find information about disappeared relatives) that facilitated collective action taken by the Mothers. These “internal cleavages” could also be interpreted in terms of social class, such as the APHD being mainly composed of professionals familiar with legal parlance and state affairs, while the Mothers of the Plaza de Mayo were composed of working class, middle-aged women. Further, it could also be argued that these internal cleavages could be the result of the nature of the crime committed against these groups; the APHD were mainly human rights advocates, while the Mothers of the Plaza de Mayo

were the mothers of *desaparecidos* in frantic search for their sons and daughters. Peluffo notes class difference within the Mothers (Peluffo 2007, 1), as well.

Such cleavages also underline differences in of interpretation of the what occurred during the "Dirty War", the APHD mainly sought results through legalistic means, implying a degree of legitimacy of the state institution, and continued to do so by cooperating with CONADEP as a means to uncover the violence of the junta. The Mothers of the Plaza de Mayo on the other hand publicly demanded answers to their ignored writs of habeas corpus, and viewed CONADEP as a continuation of obfuscating the degree of violence carried out by the junta.

6.1 The Politics of Memory in Argentina: Contesting Accounts

Truth is not only the subject of official documentation that function as archives and repositories; truth is also subject to recollection of individuals who have experienced a series of events, or in other words truth is subject to the recollection of those who have experienced what is broadly defined as "life". Truth takes on special meanings in transitional justice settings, and can be the primary site of political contestation, or even a goal within and of itself. As a tenet of memory, truth does not function as an objective fact socially, for truth is part and parcel of active interpretation carried out by a value laden process of individuals, who in turn are constituents of the society they form. In this regard, the Mothers of the Plaza de Mayo denied to cooperate with the truth commission CONADEP due to concerns of limiting litigation; such concerns were not unfounded as the Alfonsín Administration used CONADEP as a means to assert and establish its own account of past events under the guise of an ethical break with the military regime.

Trials in transitional justice settings also function as a process of collective history making, trials serve as platforms to bring forth controversial and contested accounts (Teitel 2000, 72). The controversial account brought forth via the junta trials was in line with the human rights project of the Alfonsín Administration that sought to establish a balance between appeasing an increasingly antagonized and agitated military, and pressure from human rights organizations. In other words, the trials

were restricted to the "two demons" analogy articulated by Alfonsín, which asserted that the violence Argentina experienced in the 1970s was the product of two violent forces: the guerrillas and the junta.

Critical studies have underlined that the guerrilla violence was much less than what the junta had claimed to be, which has resulted in some scholars to maintain that the junta cultivated an exaggerated enemy in order to legitimize its control of the state under the guise of a state of emergency (Feitlowitz 2011, 7). In this vein, it is important to raise how defence lawyers acted during the junta trials. Wilke contends that lawyers of the junta leaders attempted to prove that "a substantial number of the disappeared were in fact subversives" (Wilke 2010, 136). Based on this, it is safe to state that the defence of the junta leaders was couched on the premise of a just war waged against an internal enemy.

The junta's defence was not a strategy coined out of desperation, or due to lack of legal argument. It is vital to underline that the NRP was welcomed by a significant portion of Argentine society; it is also imperative to take into account that public sentiment that supported the junta was the product of a society that had been subjected to countless military interventions. *El Proceso* was not an isolated incident of military reaction that justified its actions on combatting "subversives", its precedent is quite clear in a speech given by General Ónganía in 1964 who said "It is clear that this duty to obey -referring to the authority of the government- will no longer be absolutely sovereign if, under the influence of exotic ideologies" further warning that if the government were to "exceed" its powers the military was ready to intervene on behalf of a powerless public, which allegedly bestowed the army with the right to do so (Feitlowitz 2011, 10).

In line with the above, Feitlowitz asks the following question: "The Dirty War happened because, in some measure, every part of Argentina society allowed it to. How does a country confront -let alone- punish that?" (Feitlowitz 2011, 17). Indeed, it is not difficult to understand that the junta's defence during the trials rested on the presumption that a significant portion of Argentine society viewed the army as the legitimate force that kept the country safe from both internal and external

subversives. Wilke's answer to Feitlowtiz's question would be that Argentina did not confront what happened during "the Dirty War" in the transitional justice process, at least not in a political sense at the state level.

Taking into consideration the concept of *collective memory* that was theorized by Halbwachs (1992), and eloquently polemicized by Apfelbaum (2010), *collective memory* provides important intellectual tools in understanding the sociological tenets of transitional justice in of the Alfonsín administration. Collective memory forms the structure within which (or against which) individuals try to understand their own experiences. Thus, in the domain of collective memory there cannot be too much of a conceptual difference between the narrator and the listener (Apfelbaum 2010, 86). In this vein, states can facilitate establishing "common ground" in transitional justice processes where narratives of victims emerge and are conveyed to the public. In view of this, public acknowledgement of events that occurred under an oppressive regime can facilitate active recognition of victims. Yet, in the case of the Mothers of the Plaza de Mayo it appears quite clear that rather than facilitating active recognition of victims of the junta, the Alfonsín Administration pushed for a politically safe conception of victimhood as means to secure its administrative tenure. Further, Bouvard (1994, 141) contends that the Mothers' continuous call for justice would bridge a gap between themselves and the more politically "safe" human rights organizations such as the Permanent Assembly for Human Rights, and the Ecumenical Movement for Human rights, who did not want to be side to side with the Mothers during public demonstrations.

It is also possible to argue that Argentine society at large was not as concerned as interest groups regarding the human rights abuses of the junta. Bouvard (1994, 138) contends that the findings of CONADEP shocked Argentine society, despite this the general public was more concerned with acknowledging and then burying the dead. The Mothers of the Plaza de Mayo coined the slogan "*Aparición con vida*" (Bring them back alive) as a means to counter the Alfonsín administrations attempts to bury the past by acknowledging the deaths of the disappeared. This slogan was met with significant criticism both by human rights organizations and the public at large in Argentina, it is both ironic and testament to how Apfelbaum's (2010, 86) conception

of the politics of memory rings true that this slogan was taken literally by these groups. It could thus be contended that the victims' narratives and conception of events were only rendered visible as long as it was in line with the Alfonsín Administration's political project of human rights.

Further, it can be argued that the performative utterance "*Aparición con vida*" (Bring them Back Alive) used by the Mothers of the Plaza de Mayo was perceived by the public as a form of agitation rather than a politically charged message demanding social change. This not only sustained the depiction of the Mothers as "*Las Locas*" (the crazy women) (Bouvard 1994, 74) but was strategically used to deny legitimacy to claims for further investigation into forced disappearances, positioning the Mothers of having unfeasible demands.

This stance by the Mothers also caused a rift within the Mothers and produced two branches of the Mothers of the Plaza de Mayo. One of these groups was called *Madres de Plaza de Mayo Línea Fundadora* and believed in cooperating with the political system. The other branch *Asociación Madres de Plaza de Mayo,* led by Hebe de Bonafini, took a more radical approach that denied the deaths of their children, refused exhumations, and would later incorporate demands for social change (F. J. Bosco 2004, 388). In reference to the internal cleavages of human rights organizations pointed out by Jeline (1994, 42), the rift within the Mothers is not apparent at first. Peluffo points out to class differences and quotes Hebe de Bonafini who states that some of the Mothers accepted reparations of the Alfonsín administration, while others "chose to accept Alfonsín's desire to turn the 'mothers of the missing' into 'the mothers of the dead' by collaborating with him on the exhumations, the posthumous memorials and the CONADEP report" (Peluffo 2007, 85). Bosco on the other hand contends that the difference lies within how these two groups conceive the past and their "competing visions of commemorations" (F. J. Bosco 2004, 387). Regardless, while the two factions are difficult to discern in superficial terms, it is apparent that *Asociación Madres de Plaza de Mayo* increasingly became concerned with social justice issues, and incorporated these demands in their activism.

It is possible to argue based on the Argentine case of the Mothers of the Plaza de Mayo, that transitional justice mechanisms fall short when it comes to establishing justice as a means for a polity to sustain harmony and peace, especially in terms of establishing alternative accounts of past events. In Argentina, the fact that forced disappearances were carried out was forcefully denied, only to be accepted reluctantly as "excesses" by the junta towards its demise. This idea was sustained socially by denying human rights organizations, especially the Mothers of the Plaza de Mayo from participating in producing an alternative account. The politics of memory provide better insight into how such transitional justice processes fail to establish justice for victims, and how these processes are carried out at the state level with limited participation of those affected by injustices the most. This is especially true when dealing with human rights abuses such as forced disappearances.

The literature review argued that how a polity viewed its past can act to instigate ruptures with past "regimes of truth". The regime of truth propagated by the junta was based on a supposed just war waged against enemies both within and outside of Argentina. On a social level, a large segment of the Argentine public did not contest the role assumed by the military as the country's saviour. If memory does serve to preserve and also reproduce truth regimes, then it could be argued that memory is both a "meaning-making apparatus" and a "membership-making apparatus" that acts to define acceptable narratives within a polity. In line with this, de Brito (2010, 365) says that transitional justice processes provide ground for contesting official accounts, or establishing *disjuncture* as marking a qualitative shift in memory making cycles. Disjuncture in memory making cycles is tied to crafting possible futures for a society that has undergone conflict, as conflict mostly rests on disputes over "founding values". De Brito (2010, 365) contends that re-establishing founding values in post transitional justice processes can facilitate the inclusion of the societal other. This does not appear to be the case in Argentina, as the Mothers of the Plaza de Mayo, especially in terms of *Asociación Madres de Plaza de Mayo* who were more adamant in their public demand for justice, were not incorporated in the Alfonsín Administration's process of establishing an official account.

In this vein, the junta had based its legitimacy as the sole power that could protect the people of Argentina from subversion, Argentina has had a long-standing tradition of military interventions that have hindered public participation. It can be argued that by positioning the junta of the National Reorganization Process as an anomaly in terms of the extent of the atrocities it committed, the Alfonsín Administration sustained militarist "founding values". It appears the regime of truth that granted tacit consent to junta was never confronted, and the Mothers of the Plaza de Mayo expose this through their activism.

In line with de Brito's theoretical conception of *disjuncture*, the Mothers of the Plaza de Mayo became increasingly future-oriented in their public displays of resistance. Bouvard (1994, 154) contends there was a "tug of war" between the Mothers of the Plaza de Mayo and Alfonsín regarding the "substance of democracy" that was "more tolerant and socially concerned". Bouvard (1994, 154) further argues that this was contrary to the political culture of Argentina, and that Alfonsín "spoke of the necessity for national unity and the need to pursue the national interest". Again, the political project of the Alfonsín Administration focused on state legitimation rather than enabling public participation in democratizing Argentina. Such outputs of transitional justice experiences have caused scholars to underline transitional justice facilitating social transformation, as well (Gready and Robins 2014).

Regarding de Brito's theoretical conception of "memory cycles" discussed above, is it possible to argue that Argentine society and the Alfonsín Administration established ruptures with past memory making cycles? Further, in terms of social inclusion, did memory facilitate a member making process that included victims of the junta? It appears that the Alfonsín Administration did its best to outcast the Mothers of the Plaza De Mayo and curtail more radical democratic demands, and was content with being in government while the military continued to exercise significant power over the administration. While Alfonsin was wary of possible coups, it appears that the transitional justice process only took place at the state level with the ultimate aim of legitimizing the transitionary state as the sole protector of human Rights in Argentina.

6.2 Conflicted Democracy, Continued Impunity, and the Mothers of the Plaza de Mayo as an Ethical Force

Impunity was a central issue in the transitional justice process in Argentina, which became even more an issue after Alfonsín was succeeded by Carlos Menem. Upon assuming office Menem asserted that he would pardon imprisoned military officers, he held true to his promise in 1989 when he released 213 military officers who were indicted but had not yet been convicted, and in 1990 he pardoned all imprisoned officers (Wright 2006, 157). It would not be until 1995 when former Naval Officer Adolfo Scilingo confessed to taking part in weekly death flights which caused the deaths of 1,500-2,000 persons (Wright 2006, 160). Scholars have referred to the ensuing events of the revival of the quest for justice as the "Scilingo Effect"[9]. Menem's pardons have been tied to political pragmatism that enabled him to issue budgetary cuts from the military budget, and his tenure in office has been criticized for its staunch neoliberal policies that resulted in the privatization of most state institutions (Teubal 2004).

Human rights violations and limited democratic participation did not disappear in Argentina after Alfonsín or Menem's Administrations. Lessa contends that impunity in Argentina has sustained well into the 2000s. Lessa (2011, 28) argues that human rights violations in Argentina have persisted according to three main trajectories: Impunity, criminal behaviour of the police, and acceptance of derogation by the public in exchange for increased protection by the state. While it is difficult to define "impunity" as impunity is a multi-dimensional issue that cannot be limited to the legal sphere, the absence of punishment in face of a crime does provide a substantial, yet broad definition. In view of this, the continuity of human rights abuses has been claimed to be based on: "'Denial of truth' as crimes are not investigated, and 'absence of justice' as those responsible are not brought to account for their deeds" (Lessa 2011, 30). Further, Lessa (2011, 30) underlines that impunity is also sustained by moral frameworks that serve to legitimize violence against certain groups through dehumanization, rendering these groups as "outside the scope of justice".

[9] See in glossary: Feitlowitz, Wright.

It appears that the human rights violations in Argentina in the 2010s eerily resemble those carried out by the junta during the National Reorganization Process, and access to justice continues to be an issue. Such violations include lethal violence carried out by security forces, torture, and even cases of disappeared persons. Lessa claims that over 2,753 people died in the Buenos Aires metropolitan area alone in the decade preceding 2010, and that tampering with evidence in crime scenes are common (Lessa 2011, 35-36). What is strikingly reminiscent of the so-called Dirty War is the existence of death squads, Lessa states (2011, 36) there are death squads composed of police officers in the north zone of Buenos Aires, that "sold protection to businesses and shops, carrying out 'social cleansing' through the killing of 'criminals', especially young boys. […] Lastly, instances of torture and ill-treatment are routine both in prisons and police stations".

These continuities in human rights abuses have been subject to different interpretations. CELS contends that human rights abuses have persisted due to a continuing trend of "authoritarian practices at the level of federal security institutions" (Lessa 2011, 37). Yet Lessa asserts that in societies with such stark class differences, violence and repressive forces in an integral tenet of establishing order, which is carried out at the expense of "the poorest and most marginalized sectors that have considerable reason to wish to change the existing system" (Lessa 2011, 37). Based on this, it could be claimed that the victims of human rights violations in Argentina continue to be those who are fall outside of the scope of its "regime of truth", who are denied legal recourse, which sustains a system that does not provide justice for all, and is not expected to. Further, public tacit consent regarding arbitrary use of power by a militarized police force appears to be the most tangible continuity of Argentine state practices.

Such political systems that have limited public participation in rule and are mostly procedural and have been defined as "conflicted democracies" (Aoláin and Campbell 2005, 176). While these political systems do have elections, they mostly rest of majoritarian principles that obscure the needs and identities of minorities, or underrepresented class structures. Arbitrary use of derogation is a clear marker for

such political systems, Lessa (2011) clearly documents that this has continued to be the case in Argentina, particularly in terms of the police. In view of this, it is possible to argue that increased inclusivity, consolidating legally protected citizenship to further participation both in the public sphere, as well as in the political, continues to be hindered.

It would be difficult to argue that there has been an ongoing process of transitional justice post-Alfonsín, yet it is important to underline that Nestor Kirchner pressed forward with prosecution upon assuming office in 2003, which resulted in 267 officers being sentenced (Engstorm and Pereira 2012, 117). Engstorm and Pereira also remark that this feat would not have been possible without the arduous work human rights organizations (Engstorm and Pereira 2012, 122).

In the context of "conflicted democracy", it is important to underline that the Mothers of the Plaza de Mayo did not stop their public display of resistance at the Plaza de Mayo each Thursday. Following the transitional justice period of the Alfonsín Administration, the Mothers of the Plaza de Mayo became increasingly concerned for the future of Argentina. This caused the Mothers of the *Asociación* branch to claim that they are "perpetually pregnant", according to Bosco "These *Madres* see themselves as *embodying* the activism that their 'revolutionary' sons and daughters had started" (F. J. Bosco 2004, 393). The Mothers continue to assert that the system that forcefully disappeared their sons and daughters must change for future generations of Argentina to never experience such things, further legitimizing their offspring's struggle for social change. In other words, the Mothers assumed the identities of their children as a means for demanding social change in Argentina.

In line with this Bouvard (1994, 170) underlines that the Mothers were never a "single issue" organization, further contending that the slogan "Bring Them Back Alive" could not be understood by the public at large which took this slogan literally, and not part of a broader political message that opposed the government. There is a consensus among scholars that the Mothers of the Plaza de Mayo continued their activism as part of a broader project demanding social transformation of Argentine

state and society, asserting that this would be the only way to facilitate "*Nunca más*" for future generations.

What sustains the Mothers of the Plaza de Mayo today is their quest for justice, not only for their children who were disappeared, but also against the culture of impunity in Argentina that sustain human rights abuses. The Mothers continue their activism as part of a sense of responsibility they feel towards future generations of Argentina (Burchianti 2004, 144). Further, the Mothers of the Plaza de Mayo not only have become hegemonic figures in contesting the official account produced by the Argentina state, their activism also sheds light on the continuity of human rights violations which makes them an ethical force both within and outside Argentina.

The Mothers of the Plaza de Mayo's continue their demand for justice for their children. The Mothers bring the past into the present, making sure that current and future generations do not forget the atrocities of the military regime that carried out mass human rights violations. The Mothers' demand for justice continues as part of a broader project that functions as a collective demand for increased public participation in rule, and social transformation (Burchianti 2004, 146). It is through the courage and relentless hard work that Mothers of the Plaza de Mayo continue to be an ethical driving force of Argentine society in the demand for justice not just for some, but for all.

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APPENDICES

A. TURKISH SUMMARY / TÜRKÇE ÖZET

En geniş tanımıyla geçiş dönemi adaleti, selef rejimlerin uyguladığı şiddet ve hak ihlallerini çözmek amacıyla halef rejimlerin uyguladığı ve üstlendiği sosyo-hukuki bir süreç olarak tanımlanır (Teitel 2000, 11) "Geçiş dönemi adaleti" terimi, genellikle geleneksel adalet mekanizmalarının bu tür karmaşık durumlardan doğan ihtiyaçları karşılayamaması nedeniyle kullanılmaktadır. Geçiş dönemi adaleti süreçleri, esas olarak vahşet işleyenlerin hesap vermesini sağlamaya odaklanır ve nihayetinde vahşet mağdurlarına adalet sağlamayı amaçlar. Geçiş dönemi adaleti süreçlerinin çetrefil süreçler olmalarından ötürü, mağdurlar için adaletin ne ölçüde tesis edildiği ve ortaya çıkan yeni devlet düzeninin bu tür eylemleri tekrar edip etmediği, bir önceki rejimden başarılı bir şekilde kopup kopamadığını kavramayı zorlaştırmaktadır. Bu bağlamda geçiş dönemi adaleti kuramı daha çok devlet düzeyinde yürütülen faaliyetlere odaklanmış, kilit devlet kurumlarının yeniden işlevsel hale gelmesi ve bu kurumların meşruiyetinin yeniden tesis edilmesinin öneminin altını çizmiştir. Bu devlet merkezli yaklaşım, geçiş dönemi adaleti süreçlerinin toplumsal yönlerinin büyük ölçüde göz ardı edilmesine neden olmuş, geçiş dönemi adaleti süreçlerini yürüten devletlerin önceki otoriter rejimlerin uygulamalarını başarılı bir şekilde durdurup durdurmadığını kavramayı zorlaştırmıştır.

Geçiş dönemi adaleti süreçleri, devletlerin belirli bağlamları, kısıtlamaları ve olasılıkları içinde gerçekleşir; bu doğrultuda bu süreçler hem geçiş dönemi öncesi hem de geçiş dönemi adaleti sürecinde yer alan aktörlerin değerleri ve çıkarları etrafında şekillenir. Geçiş dönemi adaleti süreçlerinde, söz konusu devletin tarihselliğini, kurucu değerler üzerindeki çekişmenin nasıl çatışmalara yol açtığını, otoriter rejimlerin uyguladıkları şiddeti nasıl meşrulaştırdıklarını anlamak hayati

önem taşımaktadır. Bu bağlamda, geçiş dönemi adaleti üzerine yapılan çağdaş araştırmalar, devlet kurumlarının selef otoriter rejimler altında kaybolan devlet kurumlarının meşruiyetini yeniden tesis etmeyi önceliklendirmekten ziyade, mağdur grupların toplumsal katılımını ve refahı sağlamanın bir aracı olarak mağdurlar için sosyal adaleti tesis etmenin öneminin altını çizmektedir (Gready ve Robins 2014, 342). Bu bağlamda, geçiş dönemi adaleti süreçlerinin hayati bir ilkesi, önceki otoriter rejim altında neler olup bittiğine ilişkin gerçeği ortaya çıkarmak amacıyla alternatif tarihi yorumların üretilmesidir. Çağdaş araştırmacılar bu tarihsel yorumların halef devletler tarafından nasıl üretildiğini ve bunun mağdurların yorumlarını nasıl gizleyebileceğini ve siyasi pragmatizm ile şekillenen daha geniş bir ulus inşasının siyasi gündeminin parçası olarak nasıl hizmet edebileceğini eleştirmektedir (Wilke). 2010, 136). Bunu göz önünde bulundurarak, bu çalışma, hafıza çalışmalarının, bu ortamlardaki aktörlerin geçmişlerini nasıl gördüklerini, geçmiş olayların yorumlanmasının ve bunların birleşmesi ya da çözülmesinin, aralarındaki sürekliliği ve kopuşları tanımlamaya yardım eden ve geçiş dönemi adaleti kuramını tamamlayan önemli araçlar sağladığını savunuyor.

Bu tez, bir vaka çalışması olarak 1976-1983 yılları arasında Arjantin'deki Ulusal Yeniden Yapılanma Süreci'ni (UYYS) başlatan askeri cunta rejiminde binlerce kişinin öldürüldüğü, kaçırıldığı ve zorla kaybedildiği dönem sonrası halef rejim tarafından başlatılan geçiş dönemi adaleti sürecine odaklanmaktadır. UYYS, 1970'lerde Arjantin'de artan siyasi şiddet döneminin ardından askeri cunta tarafından başlatılan süreç aynı zamanda "Kirli Savaş" olarak da tanımlanmıştır. Tartışmalı "Kirli Savaş" terimi, tarihsel olarak Arjantin'de önemli siyasi çatışma ve çalkantıların yaşandığı 1974-1983 arasındaki dönemi tanımlamak için kullanılmıştır. Eleştirel akademisyenler, "Kirli Savaş"ın, Arjantin'e müdahale etme ve iktidarı ele geçirme aracı olarak ordu tarafından abartıldığını savunmaktadır (Feitlowitz 2011, 7). NRP, İspanyolca'da "desaparecidos" olarak da bilinen ve askeri rejim tarafından "yıkıcı" olarak kabul edilen kişileri hedef alan, rejimin şiddetle reddettiği bir suçlama olan zorla kaybetmelere sahne oldu. Bu zorla kaybetmeler, yargısız ve açık bir şekilde gerçekleştirilmiş ve kaybedilen kişilerin yakınlarını tamamen travmatize edilmesine neden olmuştur.

Cunta tarafından gerçekleştirilen bu zorla kaybetme faaliyetlerini ilk defa ifşa eden yapı bir grup orta yaşlı kadından oluşan Plaza de Mayo Anneleridir ve yürüttükleri direniş gösterileriyle uluslararası dikkatin bu gerçeğe çekilmesinde etkili oldular. Plaza de Mayo Anneleri her Perşembe Buenos Aires'in Mayıs Meydanı'nda toplanıp askeri rejimin gerçekleştirdiği zorla kaybetmeleri kamu huzuruna taşımış ve taşımaya devam etmektedir (Bouvard 1994, 70). Askeri rejim tarafından inkâr edilen zorla kaybetmeler, cuntanın çökmesi ve Kişilerin Kaybolmasına Dair Ulusal Komisyon (CONADEP) kurulana kadar belgelenememiştir.

Bu tez, Ulusal Yeniden Yapılanma Süreci ve sözde "Kirli Savaş"ın, askeri şiddetin tarihsel bir anomalisi olmadığı, daha ziyade cuntanın, nihai hedefi olan solcu "yıkıcıları" hedef alan yargısız bir faaliyetin sürekliliği olarak işlev gördüğü önermesini kabul etmektedir. Bu doğrultuda, bu tez Arjantin'deki cuntanın kendi anlayışında bir Arjantinli kimliği inşa etme çabasında bu faaliyetleri gerçekleştirdiğini kabul etmektedir. Buz tez Arjantin'in geçiş dönemi adaleti sürecinde, sonraki Alfonsín rejimi tarafından üretilen resmi anlatımı sorunsallaştırmakta ve yeni yönetimin, askeri cuntanın icra ettiği şiddeti meşru bir savaşın unsuru olarak addettiğini öne sürüyor. Bu tez aynı zamanda, askeri rejim tarafından gerçekleştirilen zorla kaybetmeler sonucu çocuklarını kaybetmiş annelerden oluşan bir toplumsal grup olarak Plaza de Mayo Anneleri'ne de odaklanmaktadır. Askeri rejim sırasında sevdikleri hakkında aktif olarak bilgi talep eden Plaza de Mayo Anneleri, Alfonsín yönetiminin geçiş dönemi adaleti sürecini dikkatle inceleyerek hakikat taleplerini sürdürmüş, geçiş dönemi adaleti sürecinde üretilen resmi anlatıma karşı alternatif anlatımlar öne sürerek önemli bir rol oynamıştır.

Bu tez, Alfonsín rejiminin mağdurlar ve toplumsal değişim için adalet aramak yerine devlet meşruiyetine öncelik verdiğini iddia ediyor, bu doğrultuda Plaza de Mayo Anneleri tarafından sürdürülen kamusal direnişin ve üretilen alternatif tarihsel yorumların öne sürülmesiyle Alfonsín rejiminin siyasi pragmatizmi görünür hale geliyor. Bu bağlamda, bu tez, hafıza çalışmalarının, mağdurların sınırlı katılımıyla devlet düzeyinde gerçekleşen geçiş dönemi adaleti süreçlerinin adaletsizlikleri nasıl sürdürdüğünü, bunun gerçeği nasıl gizleyebileceği ve mağdurların yaşananlar

hakkında ortaya koydukları resmi anlatıdan farklı olan iddialarının nasıl engelleyebileceği konusunda daha kapsamlı bir anlayış sağlayacağını öne sürmektedir. Son olarak, bu tez Arjantin'de geçiş dönemi adaleti sonrası insan hakları ihlallerinin sürekliliğini tartışıyor ve bunun, bellek çalışmaları kapsamında görünür kılınan süregelen bir cezasızlık kültürüyle bağlantılı olduğunu savunuyor.

Yapısal olarak bu tez altı bölüme ayrılmıştır. Tezin ikinci bölümü geçiş dönemi adaletinin geleneksel ve çağdaş anlayışları hakkında kuramsal bir çerçeve sunmaktadır. Bu bölüm ayrıca, hafıza çalışmalarının geçiş dönemi adaleti süreçlerinde nasıl aktif bir mücadele alanı olduğunun altını çizerek, hafıza çalışmalarının geçiş dönemi adaletinin kapsamını artırmaya nasıl hizmet edebileceğine ve geçmiş olayların yorumlanmasının ve bunların dahil edilmesi veya çözülmesinin önceki rejimler ile geçiş sonrası devletler arasındaki süreklilikler ve kopuşları tanımlamak anlamında araştırmacılara nasıl yardımcı olabileceğine dair kuramsal zemin sağlamaktadır.

Üçüncü bölüm, Arjantin'deki askeri rejimlere tarihsel bir genel bakış sunarak, halkın yönetime katılımını kısıtlamada bir sürekliliğin ve geçmiş askeri rejimlerin siyasi muhalifleri kısıtlamak için bir araç olarak nasıl aşırı derecede şiddet kullandığının altını çiziyor. Bu bölüm ayrıca, sözde "Kirli Savaş"ın 1974-1983 ile sınırlı olmadığını ve yaygın insan hakları ihlallerinin – özellikle zorla kaybetmelerin – yalnızca Ulusal Yeniden Yapılanma Süreci (NRP) sırasında meydana gelmediğini, ancak UYYS'den önceki devlet mekanizması içindeki gizli gruplar tarafından icra edildiğini vurgulamaktadır.

Dördüncü bölüm, Plaza de Mayo Annelerinin hakikat ve adalet arayışlarına başladıkları bağlamı ortaya koyarak, Plaza de Mayo Anneleri tarafından yürütülen faaliyetlere tarihsel bir genel bakış sunar. Bu bölüm, Plaza de Mayo Annelerinin Ulusal Yeniden Yapılanma Süreci sırasında zorla kaybetmeleri nasıl görünür hale getirdiğini ve aynı zamanda Arjantin'de askeri rejim sırasında aktif olan diğer insan hakları örgütleriyle ilgili olarak Plaza de Mayo Anneleri'ni neyin farklı kıldığını tartışmaktadır.

Beşinci bölüm, Alfonsín yönetimi sırasında geçiş dönemi adaleti ortamını derinlemesine tartışıyor ve geçiş dönemi adaleti sürecinin, çoğu askeri rejim sırasında aktif olan sivil toplum örgütlerinin sınırlı katılımıyla nasıl yürütüldüğünü sorunsallaştırmaktadır. Bu bölüm ayrıca geçiş dönemi adaleti ortamının yapısal unsurlarını ve sivil yönetimin hukuk yollarını tıkayarak orduyu bir kurum olarak yargılamayı engellediğini, ordunun da bu süreç içinde cebri ve tehdit edici bir rol oynadığını tartışmaktadır.

Altıncı bölüm, Arjantin'deki hafıza siyasetini ve Plaza de Mayo Anneleri'nin Alfonsín yönetimi tarafından üretilen resmi anlatıya alternatif üretme arayışını araştırmaktadır. Bu bölüm aynı zamanda Plaza de Mayo Anneleri içindeki iç bölünmeleri, hareketin geçiş dönemi sonrası adaleti nasıl değiştirdiğini ve hafıza çalışmalarının önceki rejimlere benzer insan hakları ihlallerini belirlemede nasıl daha geniş bir teorik anlayış sağlayabileceğini araştırmaktadır.

Geçiş dönemi adaleti kuramı en geniş anlamda halef rejimlerin barışı kolaylaştırmak, çatışmayı sona erdirmek ve/veya kendini meşrulaştırmak amacıyla selefinin vahşetleriyle nasıl yüzleştiği olarak tanımlanmıştır (Teitel 2000, 3). Geçiş dönemi adalet, halef rejimlerin sebep olduğu yıkım ve hak ihlalleriyle yüzleşerek yeni rejim için ortak bir gelecek kurmak amacıyla kullanılır (Teitel 2000, 4). Bu tanımlama dikkate alındığında, geçiş dönemi adaletinin, meşruiyetini kaybetmiş bir devletin veya rejimin yıkılması sonucunda her toplumun geçmişiyle başa çıkma yolu olarak çağlar boyunca uygulandığını varsaymak yanlış olur. Tam tersine, geçiş dönemi adaleti, 20. yüzyılda değişen meşruiyet anlayışımızdan doğan siyasi değişime bağlam temelli bir yanıttır (Arthur 2009, 326). Bu nedenle, yukarıdakiler gözetilerek, geçiş dönemi adaletinin, 20. ve 21. yüzyılda devlet meşruiyetini tesis etmenin temel taşı olarak özünde insan haklarıyla bağlantılı olduğunu söylemek mümkündür (Barkin 1998, 250).

“Geçiş dönemi adaleti” terimi ilk olarak 1980'lerin sonlarında ve 1990'ların başında kullanılmaya başlamıştır (Arthur 2009, 324). Teitel tarafından kullanılan bir soykütüksel bakış açısı bize birbirini takip eden üç aşama sunuyor: Faz I, Nürnberg davalarıyla bağlantılıdır ve uluslararası hukukun iç hukuku ikame etmesi olarak ele

alınmıştır. Bu faz, Nazi rejiminin üst kademelerine odaklanmış ve cezalandırıcı adaleti tesis etmeyi amaçlamıştır. Faz II, hukuk devletini tesis etmeyi, etkilenenlere yaygın adalet sağlamayı ve liberalleşmeyi kolaylaştırmayı amaçlayan, işlediği vahşet nedeniyle meşruiyetini yitiren otoriter devletlerden liberal demokrasilere geçiş sağlamaya odaklanmıştır. Aşama III, mevcut aşama olarak kabul edilir ve çatışma sonrası durumlarla başa çıkmada geçiş dönemi adaletinin bir norm haline gelmesi olarak kabul edilir (Teitel 2003, 70-71).

Teitel'ın soykütüksel yaklaşımı geçiş dönemi adaleti hakkında makro bir anlayış sağlamakla birlikte değişen normlar hakkında da fikir verir. Bu kuramda Faz II, söz konusu olan kendi hukuk sistemi üzerinden kendi geçişini gerçekleştiren bir devlet olduğu için, kendisini Faz I'den bu bağlamda ayırır. Faz II olarak tanımlanan geçiş dönemi adaleti dönemi "onarıcı model" olarak da bilinir. Bu aşamada, geçiş dönemi adaletinin temel amacı, geçmişteki ihlallerin alternatif bir tarihini inşa etmektir" (Teitel 2003, 78). Yine bu doğrultuda:

> Bu fazdaki öncü model, en geniş tanımıyla, önceki bir rejim tarafından reddedilen veya gizlenen ve çoğunlukla üçüncü demokratikleşme dalgasıyla ilişkilendirilen, tazminatlara ve tarihsel bir gerçeğin oluşturulmasına odaklanmıştır (Hansen 2017, 34).

Faz II, sosyal bilimlerde çok tartışmaya konu olmuştur, çünkü geçiş dönemi adaleti, adaleti teşvik etmekten ziyade devlet inşasını önceliklendirmekle suçlanmıştır (McAuliffe 2017, 75). Teitel, Nürnberg Mahkemeleri ile bağlantılı olan Aşama I'i tanımlayan uluslararası evrenselci yaklaşımın aksine, Aşama II'de geçmişteki vahşetlerle mücadelede yerel hukuk sistemlerinin kullanılmasının altını çizer ve temel bir fark olarak ortaya koyar (Teitel 2015, 54).

Yine Teitel'in geçiş dönemi adaletine yönelik soykütüksel yaklaşımına göre, Aşama III, Teitel'in hukukun üstünlüğündeki tavizlerle ilgili sorunlar nedeniyle sorunlu olduğunu iddia ettiği evrensel insan hakları söylemini benimseyerek kendisini Faz I ve II'den bu bağlamda ayırır. Bu "istikrarlı durum" aşaması, küreselleşme süreçleri etrafında şekillenmiş ve "savaş hukukunun genişlemesine dayandığı görülmektedir"

(Teitel 2015, 64). Meşruiyet ve barışı kolaylaştırmak amacıyla devlet içi çatışmalara odaklanmak yerine:

> İnsani hukuk, bireyler ve devlet arasındaki karmaşık ilişkiyi, uluslararası toplumun bir rejimin liderliğini sorumlu tutmasını ve sistematik bir zulmü kınamasını sağlayan bir yasal şema olarak birleştirir. Bu süreç, söz konusu devletin dışında işleyebilir. (Teitel 2015, 64)

Geçiş dönemi adaleti, geçişin çözmeyi amaçladığı unsurlar anlamında da kategorize edilmiştir. Başka bir deyişle, geçiş dönemi adaleti süreci, sadece geçmişle hesaplaşmak ve demokrasi tesis etmek amacıyla geriye dönük yargılamalar ile sınırlı değildir. Hansen (2011, 1) bize dört farklı geçiş dönemi adaleti tipolojisi sunar: liberal geçişlerde geçiş dönemi adaleti, liberal olmayan geçişlerde geçiş dönemi adaleti, derinden çatışan toplumlarda geçiş dönemi adaleti ve konsolide demokrasilerde geçiş dönemi adaleti. Bununla birlikte, alanla geleneksel olarak ilişkilendirilen geçiş liberal sistemlere geçişi sağlayan geçiş dönemi adaletidir. Bir başka değişle, geçiş dönemi adaleti ağır hak ihlalleri ve şiddet icra ederek meşruluğunu yitirmiş bir rejim yerine hukukun üstünlüğünü tesis eden, demokrasi odaklı bir rejimin geçmesini konu alır. Bu tanım, alanla en çok ilişkilendirilen "paradigmatik" geçiş dönemi adaletinin tanımıdır (Aoláin ve Campbell 2005, 174).

Bu bağlamda bu tez geçiş döneme adaletinde şu unsurları tespit etmiştir: Tazminat, af, cezalandırma ve hesap verilebilirlik, hakikat ve hakikat arayışı. Geçiş dönemi adaletinin çetrefil süreçlerdir, selef rejimlerdeki insan hakları ihlalleri zorla kaybetmeler içerdiği zaman ise bu süreçlerde yaşananlara dair hakikatin tesis etmesi daha zorlaşmaktadır. Hakikatin epistemolojik olarak çok boyutlu olması da bu süreçleri zorlaştırmaktadır. Geçiş dönemi süreçlerinde geçmişin farklı yorumların çarpıştığı bir alan oluşturmaktadır, geçmiş bu süreçlerde adaletin tesis edilmesinde aktif rol oynayan aktörlerin adalet arayışında önemli bir rol de oynamaktadır. Bunu göz önünde bulundurarak, bu tez hafıza çalışmalarının geçiş dönemi adaleti kuramına önemli katkılar sağlayabileceğini önermektedir.

Hafıza çalışmalarının önemli ve ilk kuramcılarından bir tanesi olan Maurice Halbwachs (1992) tarih ve hafıza arasında önemli farklar ortaya koymaktadır. Halbwachs'ın tanımına göre tarih:

> Olayların nedenlerini ve sonuçlarını değerlendirmek için nesnel bir bakış açısı arar. […] 'tarih grupların dışında ve üzerinde yer alır' ve geçmişi çağdaş görüş ve koşullardan bağımsız olarak tanımlar. Halbwachs, tarihsel bilginin tesis edilmesinden sonra sabit kaldığını öne sürmektedir çünkü gerçekler ve sınırlar 1nihai olarak sabitlendirilmiştir". (Schwartz 2015, 10)

Halbwachs'a göre "geçmiş deneyimlerimizi hafızamızda tutarız [bu deneyimler] sadece basit izler değildir; onlar bu geçmişin gerçekten aktif seçimleri ve yeniden inşalarıdır" (Apfelbaum 2010, 85). Halbwachs'ın hafıza konusundaki kuramsal yaklaşımı hafızayı canlı ve sürekli yeniden yorumlanmaya açık olarak ele alır. Geçiş dönemi adaleti süreçlerinde hafızanın bu bağlamda önemli bir rolü vardır çünkü bu süreçlerde selef rejimlerin icra ettiği şiddete maruz kalan aktörler geçiş süreçlerinde yaşanılan olayların ne olduğuna dair yorumlarda bulunurlar ve bu yorumlar da geçiş dönemi adaleti süreçlerini doğrudan etkiler. Jeline'e göre "aktörler ve aktivistler geçmişi 'kullanırlar', onun hakkındaki anlayışlarını ve yorumlarını kamusal tartışma alanına getirirler, başkalarının kabul etmesi için anlatılarını iletmektir" (2003, 44).

Jeline (2003, 47), siyasi değişimlerin ve geçişlerin, geçmiş olayların bu alternatif kamusal yorumlarının ortaya çıkması için bir platform sağlayabileceğini ve bunun da karanlıkta kalmış ve bastırılmış grupların ve onların anlatılarının görünürlüğünü kolaylaştırabileceğini iddia eder. Hafıza siyaseti olarak tanımlanabilecek bu alan için de Brito'da önemli katkılar sağlamıştır. De Brito'ya göre (2010, 360) hafıza siyaseti "siyasi elitlerin, sosyal grupların ve kurumların geçmişi ve düzenin çöküşünü yeniden yorumladığı ve yeni yorumlayıcı anlatıları yaydığı çeşitli yollara atıfta bulunur". Bu bağlamda hafıza siyaseti sadece geçmişe dönük yorumlayıcı unsurlardan oluşmamaktadır, tam aksine aktörlerin geçmişi nasıl yorumladıkları o toplum için ortak bir gelecek inşası için tanımlayıcı bir etkiye sahip olduğu öne sürülmüştür (de Brito 2010, 360). Bu doğrultuda, hafıza siyaseti kuramı, geçiş dönemi adaleti süreçlerinde selef rejimlerin icra ettiği şiddetin nasıl yorumlandığını

anlamak ve şiddete maruz kalmış toplumların geçmişle yüzleşerek ortak gelecek inşa süreçlerini anlamak için önemli araçlar sağlamaktadır.

Arjantin'de 1983 sonrası sivil yönetime geçişte icra edilen "geçiş dönemi" adaletinden önce istikrarlı bir şekilde ülkeyi askeri rejimler yönetmiştir. Ülke 1930'lardan beri birçok askeri müdahaleye maruz kaldığı ve halkın çok sınırlı bir şekilde iradesini icra ettiği göz önünde bulundurulduğunda 1970'lerde Arjantin için askeri yönetim ve siyasi kargaşa yeni olaylar değildi. Marchak'a göre, 1946 ve 1973 arasında sadece iki seçim yapılmıştır, bunlar Juan Perón'un galip geldiği 1946-52 ve yine Perón tarafından kazanılan ancak bir darbeyle kısa kesilen 1952-55 dönemleri için geçerlidir. Yine, Marchak'a göre 1958'de yapılan seçim, Arturo Frondizi'nin yükselişini gören sınırlı bir seçimdi. 1962'de ordu Jose Maria Guido'yu iktidara getirdi. Bunu, 1966-1970 yılları arasında General Juan C. Ongania'nın bir darbesiyle aniden sona erdirilen Aturo Illia'nın yükselişine tanık olan 1963'te yapılan kısıtlı seçimler izledi. Bunu 1970-1971 yılları arasında General Roberto Livingstone ve 1971-1973 yılları arasında General Alejandro Lanusse izledi, ta ki Juan Perón 1973'te sürgünden döndükten sonra son dönemi için göreve başlayana kadar (Marchak ve Marchak 1999, 67).

Ulusal Yeniden Yapılanma Süreci'nden önceki son Arjantin başkanı Juan Perón idi. Sürgünden dönen Perón'un sağlığı yerinde olmamakla beraber bu dönemde devletin imkanlarından istifade eden grupların zorla kaybetmeler icra ettiği görülmektedir. Perón'un yönetimi sırasındaki kötü sağlığı ve müteakip ölümü, ordu içinde üstünlük için çabalayan gruplar arasında bir rekabet alanı olarak işlev gören zaten kırılgan bir devlet yapısında bir güç boşluğuna tanık olan bir Arjantin'i göstermektedir. Arjantin'in 1970'lerin başlarındaki siyasi atmosfer kutuplaşma ve şiddet tanımlamak mümkündür, zorla kaybetmelerin yaşandığı "Kirli Savaş" olarak adlandırılan dönemden önce de var olduğu görülmektedir (Lewis 2002, 74). Bu dönemi Arjantin'deki diğer cuntalardan ayıran temel husus, devletin uyguladığı şiddetin, özellikle de devlet yapısı içinde faaliyet gösteren gizli gruplar tarafından yürütülen şiddetin düzeyi ve zorla kaybetmelerin boyutudur.

Cuntanın uyguladığı kilit strateji, “bölücü” olarak nitelendirdiği kişileri keyfi olarak tutuklamak ve Arjantin çevresindeki gözaltı merkezlerinde tutmaktı. Yüzbinlerce insanın işkenceye, uzun tutukluluklara ve cinayetlere maruz kaldığı 340 gözaltı merkezinin kurulduğu iddia edilmektedir (Marchak ve Marchak 1999, 149). CONADEP'e (Ulusal Kişilerin Kaybolması Komisyonu) göre, Ulusal Yeniden Yapılanma Döneminde yaklaşık 30.000 kişi kayboldu, tespit edilen kayıp vakalarının %80'inden fazlası 16-30 yaşları arasındaydı (Marchak ve Marchak 1999, 155). Zorla kaybetmeler rejim tarafından inkâr edilmiştir. Zorla kaybetmeleri ifşa eden ilk grup Plaza de Mayo Anneleri olmuştur.

Plaza de Mayo Anneleri, isimlerinden de anlaşılacağı üzere, çocukları askeri rejim tarafından zorla kaybettirilmiş kişilerin annelerinden oluşmaktadır. Bouvard, Arjantin'in erkek egemen kültürüne işaret ederek, kayıp çocuklarını ilk arayanların, üzüntü ve korkudan çıldırmış olan anneler olduğunu öne sürüyor. Kaçırma olayları gizlice gerçekleştiğinden, sır perdesiyle gizlenmesinden ve hiçbir basın açıklaması bu olayları ifşa etmemesinden ötürü Plaza de Mayo Anneleri başlangıçta kendilerini yalnız ve izole olduklarını düşünmüşlerdir. Plaza de Mayo Annelerini birleştiren ortak bir deneyimdi. Zorla kaybedilen çocukları hakkında bilgi edinmek için karakollara ihzar emri sunan anneler zamanla askeri kamplara gitmek zorunda kalmışlar, bilgi arayışında olanlar yavaş yavaş birbirlerini tanımaya başlamıştır (Bouvard 1994, 68).

Plaza de Mayo Anneleri, kaybolan çocukları hakkında haber alabilmek adına her türlü yolu denemiş hukuk yolları kendileri için tıkanmıştır. Tek çareleri ihzar emri ibraz etmek olan Plaza de Mayo Anneleri çocukları hakkında bilgi alabilmek için askeri cunta üzerinde baskı kurmak üzere, Arjantin’in başkenti olan Buenos Aires’in “Mayıs Meydanı” (Plaza de Mayo) içinde ilk defa 1977 yılında toplanarak direniş gösterileri düzenlemiştir (Bouvard 1994, 70). Plaza de Mayo Annelerinin temel amacı zorla kaybolan çocuklarının akıbetini öğrenmekti, cunta ise zorla kaybetmeleri sürekli inkar etmiştir. Plaza de Mayo Anneleri kamusal direnişlerini küresel ölçekte duyurabilmiş, Arjantin’in geçiş dönemi adaleti sürecinde önemli bir rol oynamıştır.

Arjantin'deki Ulusal Yeniden Yapılandırma Dönemi, Falkland Adaları savaşındaki kayıptan sonra halk gözünden iyice meşruluğunu yitirerek sivil rejime geçiş yapmak için hazırlanmak durumunda kalmıştır (Lewis 2002, 192). Lewis (Lewis 2002, 193) cunta liderlerinin kaçınılmaz sivil yönetime geçiş sürecinde kendilerini korumak için çeşitli kanun hükmünde kararname çıkarmıştır. Lewis, affın sadece suçları aktif olarak işleyenleri değil, aynı zamanda onları emreden, yardım eden veya örtbas edenleri de kapsadığını belirtiyor. "Hem cezai kovuşturmadan hem de hukuki zararlardan muaf olacaklardı" (Lewis 2002, 193).

1983 yılında başa geçen ve cuntadan sonra ilk sivil yönetim olan Alfonsín hükümeti Arjantin'in geçiş dönemi adaletini başlatmıştır, burada altı çizilmesi gereken en önemli husus adalet sürecinin askeriye tarafından baskı altında icra edilmiş olmasıdır. Yargılamaların askeri rejimle ahlaki bir kopuş başlatması öngörüldüğü, başka bir deyişle yargılamaların inkâr edilen ve bir daha asla yaşanmaması gereken bir geçmişi ortaya çıkarması beklendiği konusunda akademisyenler arasında bir fikir birliği vardır. (Wilke 2010, 133).

İlk başta büyük vaatlerle gelen Alfonsín hükümetinin kısa sürede farklı planları olduğu ortaya çıkmıştır, kamu ve mağdurlar için adalet tesis etmektense siyasi pragmatizm ile tanımlanabilecek bir süreç ortaya çıktığı iddia edilmektedir. Bunun en iyi iki örneği "Emire İtaat Yasası" ve "Son Nokta Yasası"dır. Bu iki yasa askeriyeyi bir kurum olarak yargılamaktan korumuş, sadece cunta liderlerini tüm vahşetten sorumlu tutarak yargı yollarını tıkamış ve zaman sınırı koymuştur. Plaza de Mayo Anneleri bu hamlelerin yargı yolunu tıkayacağını anlayarak Alfonsín hükümeti ile iş birliği yapmamaya karar vermiş, Mayıs Meydanı'nda gerçekleştirdikleri direniş gösterilini devam etmelerine vesile olmuştur (Wright 2006, 146).

Buna ek olarak, Alfonsín hükümeti tarafından ortaya atılan geçmişe dair resmi söylem "iki şeytan" analojisine dayanmaktaydı. Bir başka değişle, Alfonsín hükümeti selef rejim olarak askeri cuntayı bir yandan kötülerken, aynı zamanda dönemin sivil siyasi aktörlerini de şiddetten sorumlu tutmuştur. Alfonsín rejimi bunu yaparak kendini askeri rejim karşısında tek alternatif olarak konumlandırmıştır. Plaza

de Mayo Anneleri ise Alfonsín hükümetinin geçmişe dair oluşturmaya çalıştığı resmi söyleme karşı çıkarak kendi yorumlarını öne sürmüştür. Plaza de Mayo Annelerinin bu tutumu geçiş dönemi adaleti sürecinden sonra da devam etmiş ve daha kapsamlı bir demokrasi ve sosyal adalet projesine hizmet etmiştir.

Arjantin'deki Plaza de Mayo Anneleri örneğinden hareketle, geçiş dönemi adaleti mekanizmalarının, bir devletin uyum ve barışı sürdürmesi için bir araç olarak adaleti tesis etme konusunda, özellikle zorla kaybetmelere konu olmuş selef rejimler pratiklerinden gerçek bir kopuş olup olmadığını anlamak için yetersizdir. Bu bağlamda, hafıza çalışmaları geçiş dönemi adaleti süreçlerine dahil olmuş aktörlerin geçmişi nasıl yorumladıklarını inceleyerek bu adalet sürecinin yüzleşmesi gerektiği unsuları tanımlamakta işlevsel olduğu ve geçiş dönemi adaleti kuramını tamamladığı önerilmektedir. Plaza de Mayo Anneleri örneğindeki gibi hafıza çalışmaları geçmişle yüzleşmenin toplumlar için ortak bir gelecek inşa etme sürecine önemli katkı sunabileceği, bu doğrultuda da geçiş dönemi adaleti kuramını tamamladığı önerilmektedir.

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