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Edited by Alexander Laban Hinton, Stephen Eric Bronner, and Nela Navarro

Transitional Justice

Global Mechanisms and Local Realities
after Genocide and Mass Violence

EDITED BY
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Testimonies, Truths, and Transitions of Justice in Argentina and Chile

ANTONIUS C.G.M. ROBBER

After General Reynaldo Bignone passed the sash and baton of authority to Raúl Alfonsín on December 10, 1983, and left the presidential palace at the Plaza de Mayo in Buenos Aires through the rear exit, he found himself face to face with Argentina's most vexed question: "Cain, where is thy brother?" This chilling message was left on a scrap of paper stuck under the windshield wiper of the car that sped the ex-dictator away from the crowd celebrating the return to democracy after seven years of military rule (CISEA 1984: 534). The message referred of course to the 10,000-30,000 Argentines who had disappeared between 1976 and 1983, but alluded as well to the fratricide within the nation and the many lives sacrificed for a more just Argentina.¹ The note had been written by the Mothers of the Plaza de Mayo, who had courageously protested the disappearances during the dictatorship, and we can safely assume that the message hinted as well at the military's oath to uphold the constitution and be the nation's keepers instead of grabbing power through a coup d'état and slaughtering the political opponents.

Did the note's biblical connotations also foreshadow the predicament of General Bignone and the Argentine military? Would Bignone, like Cain who received God's protection from vengeance, not be held accountable for his deeds? Or did the message contain the warning that the military would be pursued relentlessly, despite their self-decreed immunity from prosecution and, as Cain, would never find rest in this world? What forms of justice, other than bringing perpetrators to court, could the Argentine people expect?

The fate of Argentina's disappeared was foremost in Alfonsín's mind when he assumed the presidency in December 1983 because there were persistent rumors that many disappeared continued to be held captive by the military. Furthermore, several abducted children had been found alive, and this raised the hope of other searching grandparents. One of Alfonsín's

first acts in power was therefore to create the National Commission on Disappeared Persons or CONADEP (*Comisión Nacional sobre la Desaparición de Personas*). The truth commission's findings were anxiously awaited by a nation held hostage by the disappearances.

Nothing of this urgency surrounded the Chilean National Commission on Truth and Reconciliation (*Comisión Nacional de Verdad y Reconciliación*) installed in March 1990 by Patricio Aylwin, Chile's first president after seventeen years of dictatorial rule by General Augusto Pinochet. Chileans were more informed about military repression in 1990 than Argentines were in 1983. The Chilean truth and reconciliation commission, generally known as the Rettig commission after its president Raúl Rettig Guissen, put truth-finding in the service of national reconciliation. Instead, the Argentine CONADEP focused on the past to uncover the truth, while national reconciliation only became an issue after justice had been served.

The pursuit of either truth or reconciliation provides different kinds of justice, as has been the case in Chile and Argentina, but the two may also be aspired together, as was the goal of the South African Truth and Reconciliation Commission. Reconciliation departs from the premise that the harm inflicted on individuals, groups, and societies has to be healed, and that victims and perpetrators need to be reintegrated into society by "building or rebuilding relationships today that are not haunted by the conflicts and hatreds of yesterday" (Hayner 2001, 161). Such restorative justice is "constructive and transformative rather than punitive and retributive" (Daly and Sarkin 2007, 15).

The Chilean state and broad layers of society have dealt in circumspect ways with the dictatorial past, afraid to rock the boat of reconciliation. Instead, the incessant search for truth in Argentina by the human rights movement, vocal political leaders, and critical lawyers and judges, as well as the public dissemination of survivor narratives, have postponed reconciliation because the revelation of so many horrendous truths made criminal prosecution almost inevitable and led to the repeated failure of amnesty legislation to turn the page on the past. A focus on the testimonial voices and narratives of victims and survivors in Chilean and Argentine commissions and trials investigating human rights violations, and their manifestation in local discourses, practices, and sites of memory will bring these different types of justice to light.

Testimonies and local forms of justice played other roles in Chile and Argentina because of the different objectives, political contexts, and discursive politics of the various contesting groups and adversarial public players in each country. As Hinton argues in this volume's introduction: "this intersection of justice and locality . . . is concerned with the ways in which justice is experienced, perceived, conceptualized, transacted, and

produced in various localities." The continued influence of the Chilean military on national politics, the divided public opinion about the dictatorship, and the desire of the military and many Chileans to silence the past resulted in the Chilean government's reluctance to prosecute perpetrators and pursue restorative justice instead. Even though Chile and Argentina suffered a similar state repression with disappearances, massive torture, assassinations, and an overall culture of fear, the Argentine approach to human rights violations has differed considerably from that of Chile. The defeat of the Argentine military, the abhorrence at the state terror inflicted on the Argentine people, the military's denial of the disappearances, and the public call for accountability made the Argentine authorities bring the military to court, and made many Argentines demand retributive justice. The different Chilean and Argentine responses to similar gross human rights violations, and the respectively restorative and retributive justice pursued, have influenced the function, rendition, and meaning of the testimonies given and have resulted in irreconcilable positions among victims, perpetrators, survivors, and special interest groups about how justice has to be served.

Truth, Denial, and Accountability in Argentina

Western cultures entrust the judiciary with the administering of justice even though it can never entirely satisfy people's sense of justice. People's sense of justice is larger than the courtroom, not only in its different appraisal of reparative, restorative, retributive, or punitive justice, but especially in terms of a notion of personal fairness based on a cultural understanding of society's social contract, as Rawls (1973) has argued persuasively. This feeling of fairness is all the more strongly felt when a society has survived grave human rights violations. Here, tensions can easily arise between what people consider fair and which types and degrees of justice are feasible in a transitional democracy. "By the principle of fairness it is not possible to be bound to unjust institutions, or at least to institutions which exceed the limits of tolerable injustice" (Rawls 1973, 112). If people, including opposed interest groups, believe that the judiciary is not dispensing justice, then they might pursue other routes to satisfy their sense of justice.

Not surprisingly, the Argentine military felt they were being treated unfairly when the Alfonsín government ordered the military supreme court on December 13, 1983, to try the nine former junta commanders, and on top instituted the CONADEP commission two days later, as if distrusting the truth investigated by the defendants' peers. The military's sense of injustice was founded on the following master narrative: (1) the Argentine military fought an antirevolutionary war against a tenacious guerrilla insurgency.

supported by Cuba and the Soviet Union, at the cost of hundreds of lives; (2) the military government prevented the political disintegration of Argentina, jumpstarted the economy, and abolished corruption and nepotism; (3) the antirevolutionary war was fought within the letter of the law, while torture and disappearances were the inevitable excesses of war; and (4) the Argentine armed forces had a historical bond with Argentine society, from the independence wars against the Spanish colonizers in the 1810s to the war against the unpatriotic guerrilla insurgents of the 1970s (Robben 2005b, 130–131). This master narrative implied that the Argentine military troops sacrificed their lives in a just war, saved the country from ruin and revolution, and therefore should be praised for its victory instead of prosecuted and questioned about its successful military strategy. The accusations about disappearing 30,000 Argentines were unfounded, according to the military, and the rumors about torture centers were false.

Facing this master narrative and the dismissal of systematic disappearances, the CONADEP truth commission immediately solicited oral and written testimonies in Argentina and abroad; visited military bases, police stations, prisons, psychiatric hospitals and former secret detention centers; examined the records of morgues and cemeteries; and carried out forensic exhumations. There was much trepidation about the commission's findings. A mass grave found in October 1982 with four hundred unidentified bodies foreshadowed a fate that might have befallen other disappeared.

When the material proof of the disappearances became overwhelming through exhumations and the analysis of cemetery records, the military began to discredit the forensic methodology and the quality of the evidence. Exhumations seldom revealed the identity of the manslaughter, even though the bullets from Itaka submarine guns found amidst the skeletal remains pointed at the Argentine military. The military maintained, however, that these dead had been killed in internal disputes of the guerrilla organizations. Testimony became therefore the primary source to interpret forensic evidence. Furthermore, these testimonies became important because in April 1983 Bignone had ordered the armed forces to destroy incriminatory documents (*Ejército Argentino* 1984, 4524–673). The testimonies and their rendition in the CONADEP's final report became influenced by the military's denial that they had carried out the disappearances.

Oral testimony was given by survivors of secret detention centers, relatives of the disappeared, and eyewitnesses. They sensed the impact of their words through the reactions of CONADEP's civil servants. Many early staff members could not stand listening to the stories of torture and humiliation and resigned (CONADEP 1986, 430). These understandable reactions, when little was known about the brutal torture regime, had a profound effect on the witnesses and their testimonies. A clerk's emotional collapse could

make witnesses doubt whether the truth commission could really help them in having their stories believed by their countrymen. The testimonies were thus constructed in a context of denial and disbelief.

How to convince the truth commission and Argentine society that the horrible experiences had really taken place? As declarations, these testimonies have a stream of consciousness narrative and visual quality that maximized the empathy of the listener and produced a shared emotional truth in the interlocutors. Much attention was paid to describing the excruciating pain endured and the length of the suffering. Take, for example, the description by César Casalli Urrutia of his abduction by a task group:

On 10 June I was kidnapped from my house in Marlin Coronado.

About ten men broke in and, pressing a revolver to my head, began to wreck the house looking for arms. At one point, they threw me to the floor and began to torture me with the cable from an electrical appliance. My wife was also being badly treated and beaten in another room. After an hour and a half in my house, they took me out and made me lie on the floor of a car while they went to look for a friend of mine. (CONADEP 1986, 18)

Testimonies by torture victims may satisfy at least two aspects of personal justice: reconstructing the voice shattered during torture and recovering the truth concealed or distorted by a repressive state (Phelps 2004, 44–45). The recovery of language and the retelling of the experiences are forms of restoration and retribution that are emotionally and politically rewarding. However, as I have pointed out earlier, such narratives are often influenced by competing narratives in the public domain. Here, the acknowledgment of the testimonial voice as official truth becomes important to personal justice. The branding of survivors of torture and disappearance as subversives is unmade, and the perpetrators are denounced before society for their aberrant acts. The circumstances under which testimonies are taken, which truths are acknowledged, how these are used by truth commissions, and how they appear in final reports are thus important in satisfying people's sense of fairness and personal justice, as an examination of the Argentine and Chilean truth commission reports will reveal.

"Many of the events described in this report will be hard to believe. This is because the men and women of our nation have only heard of such horror in reports from distant places," so read the opening sentences of the Argentine CONADEP report (CONADEP 1986, 9). The report is constructed in such a way as to disprove the denial by the military that they were responsible for the disappearances and that widespread torture took place. The report was to turn the unbelievable into the credible through a narrative organized around the dynamic of denial versus testimony.

The 482-page text consists of three main chapters followed by three small chapters that take up only forty pages, or 8 percent, of the volume.² The three large chapters ("The Repressive Action," "Victims," and "The Judiciary during the Period in Which the Forced Disappearance of Persons Occurred") are based on empirical evidence acquired through firsthand observations, depositions, public statements, and documents. Chapter 1 comprises the book's largest part, 278 pages, or 58 percent. It takes the reader step by step through the disappearance process, from abduction to torture to disappearance into the secret detention centers, which are described one by one and occasionally visualized by photographs and hand-drawn illustrations. Chapter 1 ends with a description of how the military junta tried to cover up the disappearances and reaped the material benefits through theft. Chapter 2 describes the victims by social category (infants, adolescents, families, handicapped individuals, the clergy, conscripts, journalists, unionists), while chapter 3 shows how this repression was carried out with impunity because the judicial process became inoperative and the right of habeas corpus was trampled. The last three small chapters ("Creation and Organization of the National Commission on the Disappeared," "The Doctrine behind the Repression," and "Recommendations and Conclusions") contextualize the previous chapters respectively: the present, the past, and the future. In sum, the report's organization emphasizes the harrowing personal testimonies of the victims in the first three chapters and then treats the ideological and political context in three short, matter-of-fact chapters.

Never Again (Nunca Más), the first published report by a truth commission worldwide, set the standard and style for other countries.³ The literary hand of the commission's president, the prominent Argentine novelist Ernesto Sabato, can be seen in the way the testimonies are woven through a master narrative emphasizing the agency and purpose of military repression. Teresa Phelps (2004, 90) characterizes its style as a sustained tension between, on the one hand, testimonies "which are stories of disorder and chaos, of a world in which nothing was predictable," and on the other, a master narrative that imposes order on the survivor accounts to reveal a premeditated plan of state terrorism.

According to the commissioners, the quotations were used "solely in order to substantiate and illustrate our main arguments" (CONADEP 1986, 71). This reason undervalues their impact in eliciting the readers' empathy for the survivors. Indented from the main text, the report's rhetorical weight rests on the testimonies and therefore turns the victims into the report's main focus. The testimonies also deconstructed the military master narrative by demonstrating that many disappeared were not the feared subversive enemies trying to install a communist regime. One of the most shocking revelations of the testimonies was that the interrogators were not after pressing

intelligence to detect bombs or prevent assassination attempts but that many captives were women and children tortured without apparent reason and without being asked a single question for hours on end.

The CONADEP's reconstruction of the dirty war revolved around the moral question of innocence. The innocence of the victims is contrasted starkly with the willful abuse by the state authorities, as if the commission feared that the testimonies would be discredited by mentioning the victims' political affiliation. The argument that the absence of due process made such information unbecoming ignored that now the Argentine people were dumbfounded about the rationale of all this suffering and that the Argentine military apparently were insane killers. This picture was reinforced by the Mothers of the Plaza de Mayo, who maintained that their disappeared sons and daughters had not been involved in politics at all.

CONADEP's master narrative stood diametrically opposite from the military's narrative: the *Never Again* report portrayed the dirty war as the systematic persecution of an idealistic younger generation by an evil military apparatus, whereas the military had always described their counterinsurgency war as the legitimate defense of Argentina's sovereignty against revolutionary subversives. The Manichaeism of both narratives was criticized by president Alfonsín's party. According to congressman Leopoldo Moreau, there "has been an armed struggle between two sectors to take power in which both equally demolished ethical values and were not fighting for democracy" (Areas 1984, II). This so-called two-demon theory made the Argentine government pursue the prosecution of military officers and guerrilla commanders alike. The transitional justice of turning a dictatorship into a stable democracy consisted of bringing both violent parties to court and thus cleaning the slate of collective guilt (Robben 2005a, 321). The CONADEP report left an indelible image on a considerable segment of Argentine society and made a majority favor the culprits' prosecution. The CONADEP recommended "that the courts process with the utmost urgency the investigation and verification of the depositions received by this Commission" (CONADEP 1986, 446).

The CONADEP report was of course not accepted by the military, and its dismissal has persisted to this day. They regard its use in educational programs as a Gramscian strategy to indoctrinate Argentina's youth against the military with a distorted version of Argentine history. They produce books and documentaries denying the testimonies about disappearance and torture and praise the Argentine armed forces for destroying the guerrilla insurgency (e.g., AUNAR 1999; Etchecolatz 1988; Foro de Generales Retirados 2004; Márquez 2004). One such group consists of the youth organization Argentines for a Complete Memory (Argentinos por la Memoria Completa), which dedicates itself "to the men and women who wore a uniform during

the 1970s to defend the Fatherland. Because we have collected the blood of our martyrs to raise the Argentine flag and because we are committed to our prisoners of war" (<http://www.memoriacompleta.com.ar>). Pro-dictatorship interest groups condemn the political trials carried out by a partisan judiciary. They contest the testimonies accepted by the courts and dismiss forensic evidence as manipulated, forged, and misinterpreted.

Although the CONADEP commission did not have the mandate to prosecute perpetrators, its findings did provide enough information to indict the nine junta members who reigned between 1976 and 1982. The justice done by the CONADEP truth commission did not preempt the possibility of other forms of justice, be they trials, amnesties, and presidential pardons, because justice does not have one form and is not a discrete event that culminates in the pronouncement of a verdict; instead, it is "an ongoing, dynamic process, of which storytelling is a vital part" (PHELPS 2004, 9). The horrendous tales of torture and suffering in the commission's report, the appearance of survivors in the media, and the denial of the Argentine military that these human rights violations had taken place, prepared a public platform for the 1985 trial against the commanders.

Given the persistent denial of human rights violations by the retired military, Argentine society had no position to fall back on other than retributive justice if testimony after testimony was dismissed as false. Victims and witnesses know that testimonies are constructions that can be easily dismissed as fabrications by political opponents. Public truths carry less weight than judicial truths in people's perception because of a belief in the judicial verification process. The Argentine truth commission gave recognition to the testimony of lived experiences but had limited means to establish their veracity. Subsequent court room testimonies have made credible incursions into the continued denials of the human rights violations.

Most witnesses for the prosecution were survivors of secret detention centers and mothers searching for their disappeared children. Many of them had already made depositions to the truth commission but now faced defense lawyers who questioned the veracity of their testimonies and judges who wanted factual accounts, as is clear in the following exchange on April 29, 1985, between judge Guillermo Ledesma and Adriana Calvo de Laborde. Adriana Calvo de Laborde is telling about a man brutally tortured for hours to make him say that his mother was "a bitch's daughter" (*una hija de puta*). She apologizes to the judge for saying these words and then adds:

(CALVO DE LABORDE) But I believe that this is important because here [in this court room] they're talking about excesses and supposedly these are excesses. The rest, the cold and cruel torture was an act of service, was due obedience.

LEDESMA: I ask you, madam, that you tell facts without qualifications. CALVO DE LABORDE: Sir, this was a fact.

LEDESMA: I take your emotion into account. There is no doubt that the fact was real, but we are talking about your qualification afterwards.

CALVO DE LABORDE: I apologize, your honor. ("Testimonia" 1985, 31)

The following rendition of what must have been emotionally the most conflictive and indelible day in her life illustrates the difference between a testimony before a truth commission and a tribunal. Adriana Calvo de Laborde was abducted by policemen on the morning of February 4, 1977, in the town of Tolosa. Seven months pregnant with her third child, she was taken to a police station in La Plata, where her husband was also being held. On April 15, as she was taken by police car to another location by two policemen and a collaborating disappeared captive called Lucrecia, Adriana went into labor. She pleaded with them to take her to a hospital because the baby was about to be born. The policemen just laughed and told her that it did not matter because they were going to kill her and her child anyway. Blindfolded and handcuffed, she succeeded in removing her underpants and gave birth:

Thanks to the forces of nature, the birth was normal. The only assistance I received was when "Lucrecia" tied the umbilical cord which was still linking me with the child as there was nothing to cut it with. No more than five minutes later we drove on, supposedly in the direction of a hospital. I was still blindfolded and my child was on the seat. (CONADEP 1986, 291)

In the trial against the commanders, she gave the following rendition of her ordeal:

My baby was born well, she was very tiny, she was hanging from the umbilical cord because she had fallen from the seat. She was on the floor. I asked them to, please, hand her to me so that I could have her with me, but they didn't give her to me. Lucrecia asked for a rag to tie the one sitting in front, who cut a dirty rag and with that they tied the umbilical cord, and continued on their way. Three minutes had passed. My baby was crying, I continued with my hands behind my back, with my eyes covered. ("Testimonia" 1985, 32)

The differences in tone and detail are remarkable, especially when we take into consideration that the first testimony was relayed in a personal encounter with a staff member of the benign truth commission, whereas the second testimony was given in an adversarial environment of inquisitive judges and hostile defense lawyers. The first testimony was given in 1984,

When much was unknown about the abuse, and survivors seemed incredulous. The second testimony was given one year later in a court of law in the awareness of the persistent denial by the military. The trial testimony's minute description of the birth is given with the utmost attention to details to enhance its truth value by trying to stay as close as possible to the facts. Many court testimonies were very precise about date, time, and location and, whenever possible, the (nick)names of the torturers and the military unit that held them captive.

The conviction of five of the nine junta members on trial in 1985 raised hopes that the more than 2,000 complaints filed against more than 650 defendants would also result in many convictions. Trying to appease the growing discontent among the Argentine military, president Alfonsín passed two amnesty laws in 1986 and 1987 that greatly reduced the number of defendants. Intent on bringing about a national reconciliation, Alfonsín's successor president, Menem, pardoned hundreds of indicted officers and guerrillas in 1989 and released the five convicted junta members in 1990.

Menem's strategy seemed to work initially, as the first half of the 1990s was relatively calm in terms of human rights protests, but the unresolved issue of the disappeared remained present in Argentine society. Exhumations exposed new mass graves, grandmothers searched for their abducted grandchildren, memorials were inaugurated, retired military officers continued to justify the dirty war, and former captives published personal accounts of their hardships. The 1995 confession of a naval officer about his role in throwing sedated captives from planes flying across the South Atlantic stirred up calls for punitive justice that remained unanswered because of the amnesty laws.

Frustrated about the impunity, an organization called Children for Identity and Justice, against Oblivion and Silence or HIJOS (Hijos por la Identidad y la Justicia, contra el Olvido y el Silencio) organized in December 1996 its first of many *escraches*. These street happenings were intended to shame perpetrators of the dirty war publicly. Justice was brought literally to the door step of amnestied torturers and pardoned repressors. Their homes were spray-painted with slogans, their pasts were revealed by indictments read by megaphone, and street signs were posted with texts such as "Here lives a murderer." The accusations were raised beyond the confines of the courtroom, where justice could not be found according to the protesters. These young adult children of the disappeared said that "without justice, there will be *escraches*" (De Mano en Mano 2002, 35). They developed a form of local justice that aimed at ostracizing the perpetrators from Argentine society until the day when all of them would be in prison. As they declared during the *escrache* of a torturer, they wanted the neighborhood to shut him out so that "tomorrow, the newsstand decides not to attend to him, the taxi

driver decides not to take him, the baker chooses not to serve him, and the newsboy refuses him a paper" (De Mano en Mano 2002, 47). The *escrache* tried to involve the community in the process of denouncement, sentencing, and stigmatization, turning perpetrators into social outcasts and meting out punishment beyond the judiciary. The mobilization of the community in exacting this popular justice was done through public denunciations that escaped judicial sanctioning, and whose truth was moral and historical rather than juridical.

Impunity took a radical turn in 1998 when army commander General Balza declared that the armed forces had a standard operating procedure of separating captives from their children. Within days, former dictator General Jorge Videla was taken in preventive custody on baby theft charges. Admiral Massera, like Videla, who was pardoned in 1990 while serving a life sentence, was detained six months later. As congressional and judicial steps were undertaken to abrogate the amnesty legislations and apply punitive justice, another legal route to truth finding was developed within the judiciary. This new approach had its origins in the witness testimony of Admiral Massera in a case before a federal court in 1996.

Massera's appearance in court emboldened human rights organizations in La Plata, the capital of Buenos Aires Province, to initiate in 1998 a "historical truth trial" (*juicio por la verdad histórica*). The trial's objective was not accountability but truth finding, not punitive but restorative justice. Protected from criminal prosecution by amnesty laws, alleged perpetrators were summoned to give testimony under oath about the cause of death and the destination of the remains of disappeared captives. The La Plata initiative encouraged truth trials in a half dozen major Argentine cities. Several officers decided not to appear in court because they were afraid of being accused of perjury and thus risking a four-year sentence. They were subsequently arrested, charged with the obstruction of justice, given a forty-eight-hour arrest to reconsider their refusal, and then convicted to thirty days in prison if they continued to remain silent. Some officers appealed these convictions successfully. Higher courts argued that suspects had the constitutional right to refrain from self-incriminatory testimonies. Even though many truth trials were inconclusive because most military officers and civilian collaborators denied any knowledge of the disappearances, the trials kept the issue of the disappeared on the public agenda and maintained the pressure on Congress to undo the amnesty legislation (Boschi 2000; Comisión de Educación 2004, 38–39).

The truth trials were an important means of local justice in which different testimonial voices were heard than those in the national CONADEP truth commission and the federal trial against the junta commanders. First, justice was localized by taking place in the cities and provinces where the

disappearances had taken place. Argentina was subdivided into 117 areas to repress the insurgency and political opposition. Each area was the operational territory of a task group that hunted after their targets and often ran its own secret detention centers (Robben 2005a, 193–197). Truth trials allowed searching relatives to come face to face with the alleged perpetrators and led to acts of popular justice. For instance, the widow of Pablo Balustro, who had been executed in October 1976, spat in the face of Corporal Miguel Angel Pérez, and one person insulted and tried to hit Major Gustavo Adolfo Alsina, who was suspected of spiking a naked captive to the ground in the courtyard of a prison in Córdoba (García 2000). Second, amnestied perpetrators and former disappeared shared a different relation than in a criminal trial. Ostensibly, they were equal witnesses before a court that was only interested in truth finding, but their testimonies occurred during pending appeals of the amnesty laws and thus discouraged most perpetrators from speaking openly. The pitting against one another of two opposed truths verbalized by interlocutors equal before the court, but at opposite ends before the crime, became a contest of credibility in which voice and silence meant the same to the audience of mostly searching relatives and former disappeared.

The growing unrest among the Argentine military raised by the truth trials made army commander Lieutenant General Ricardo Brinzoni in mid-2000 suggest a round-table dialogue (*mesa de diálogo*) shaped after a similar initiative begun the previous year in Chile. These meetings were to be composed of members of the armed forces and human rights organizations, under the chairmanship of the Roman Catholic Church, to resolve the issue of the disappeared and bring about reconciliation. Nora de Cortiñas, a leading member of the Mothers of the Plaza de Mayo Founding Line association, declared that “in no way whatsoever, we are going to sit with the military, with *genocidas* and repressors,” and she added that the military should go to court if they have information to offer, because “we believe that truth and justice always go together” (“Para los familiares” 2000; “La Corte” 2000). One congressional representative proposed a truth commission instead in which priests would take the confession of perpetrators to guarantee the anonymity of their information. The two proposals amounted to nothing because the derogation of the amnesty legislation was imminent.

A federal judge declared in March 2001 that the 1986 and 1987 amnesty legislation were unconstitutional, and Congress followed suit in 2003. The Supreme Court overturned the amnesty laws in June 2005, and the 1989 and 1990 presidential pardons were ruled unconstitutional in April 2007. By December 2008, there were 385 suspects in protective custody and 46 fugitives from justice. Many of the 44 convicts received sentences from twenty-five years to life (CELS 2009, 71).

Testimonies contributed in Argentina to the realization of different kinds of justice—namely, national and local, as well as transitional, punitive, restorative, and personal. Witnesses made their voices heard in the different contexts and settings where justice was at stake. These different kinds of justice overlapped partially but still required different narratives. Argentina’s emphasis on truth, guilt, accountability, and punishment contrasts with Chile’s search for reparation, reconciliation, and atonement after the dictatorship ended in 1990.

Reparation and Reconciliation in Chile

The CONADEP report became a bestseller, with over 300,000 copies sold in Argentina. In stark contrast, the report of the Chilean National Commission on Truth and Reconciliation was printed in a limited edition and was only available to the general public through inserts in *La Nación* newspaper (Hayner 2001, 34–37), while there was a fifty-year embargo on the confidential testimonies. The two commissions were of course operating in different political contexts. Whereas the CONADEP commission faced a defeated military and was supported by a strong popular mandate, the Rettig commission had to navigate among a confident military that had given itself amnesty and voluntarily handed over power. Furthermore, the Chilean president was concerned about the viability of Chile’s transitional democracy, and Chilean society was more deeply divided over its past than Argentina. From a discursive perspective, the Argentine CONADEP commission was steered by the public contest of testimony versus denial, between survivors and perpetrators of state terror, while the Chilean Rettig commission was influenced by a tension between testimony and silence.

In July 1985, at a time when Argentina was in the midst of public hearings during the trial against the junta commanders, Chilean politicians formulated a national accord to initiate a return to democracy and demand the prosecution of human rights violators within the letter of the law and the spirit of national reconciliation (Ensaiaco 2000, 170). Accountability and reconciliation were thus of central concern in imagining a post-Pinochet Chile. Therefore, it came as no surprise when president Patricio Aylwin created on April 25, 1990, the National Commission on Truth and Reconciliation based on the idea that “only upon a foundation of truth will it be possible to meet the basic demands of justice and create the necessary conditions for achieving true national reconciliation” (Chilean National Commission 1993, 1:5).

To preempt the accusation that the commission was biased against the military, as occurred in Argentina, Aylwin appointed four Pinochet supporters and four members of the political opposition, of whom former senator Raúl Rettig Guissen was appointed as the commission’s president (Hayner

2001, 35). For reasons of expediency, the Chilean investigation was limited to the investigation of disappearances and deaths inflicted by both the Chilean military and the guerrillas (Chilean National Commission 1993, 1:6). They were thus defined as equitable suspects, even though the first were state representatives, while the second were private citizens, a distinction made by Argentina's CONADEP commission.

The political reality of 1990 made it appear that everybody was responsible for the military dictatorship. Allende's electoral victory, the expropriation of large estates, the radicalization toward socialism, the deteriorating economy, and the growing political polarization within Chilean society had been the responsibility of all Chileans, who were therefore as much to blame for the coup d'état of September 1973 as Pinochet and his coconspirators. According to the Rettig report, the political climate preceding the coup could never justify human rights violations, but it "enabled such violations to take root" (Chilean Commission 1993, 1:23). Another indication of the collective responsibility for the dictatorship was the premise that officials and civilians, either as state employees or guerrilla combatants, could be held responsible for human rights violations (Chilean National Commission 1993, 1:30), while the CONADEP held to the more common position that only states could be charged with human rights violations. Implicitly, there was a collective responsibility for the Chilean state terror, even though individual perpetrators were largely found among the Chilean military and police.

Given the restriction to examine only disappearances and violent deaths during the dictatorship, the commission drew primarily on the testimony of relatives, eyewitnesses, and government agents, even though some site visits were made, and documents, court records, and autopsy and human rights reports were also examined. The names of victims were requested from a large number of organizations, including the armed and guerrilla forces, after which around 3,400 cases were selected for further examination. All testimonies were cross-checked with earlier testimonies submitted elsewhere, notably with the Vicariate of Solidarity, established by Chile's Roman Catholic Church. The commission had to walk a political tightrope because the presidential decree forbade it from mentioning suspected perpetrators by name, as that would be an encroachment on the judiciary. Only the military unit, police precinct, or guerrilla organization involved, and not individuals, were mentioned in the Chilean report (Chilean National Commission 1993, 1:43). By contrast, the Argentine CONADEP report identified perpetrators by name in its testimonial excerpts.

In February 1991, the Rettig commission presented its report to president Aylwin. Heaping case upon case, the report painted a dictatorship in which the armed and security forces, the intelligence services, and the

courts cooperated in the systematic violation of the human rights of Chilean civilians through torture, summary executions, disappearances, and arbitrary imprisonment. The report concluded that the detained-disappeared were dead. Their bodies had been thrown into the sea, were secretly buried, or had been disposed of in other ways (Chilean National Commission 1993, 1:44). The Rettig commission arrived at 2,298 confirmed dead and disappeared and 2,188 unresolved cases. Its unfinished work was completed by a follow-up commission, presided by Alejandro González Poblete, which raised the total number of dead and disappeared to 3,197 (Corporación Nacional 1996, 1:535). The 1996 Poblete report used the same narrative rendition of testimonies as the Rettig report: the testimonies were decontextualized, written in third person, and did not identify repressors.

The Rettig commission's master narrative was that Chilean society had become enwrapped in a process of political polarization instigated in the late 1950s by a global movement propagating new societal models and a growing belief in armed struggle, especially after the 1959 Cuban revolution, the violence of the guerrilla organization MIR (Revolutionary Left Movement), the armed response from right-wing organizations, and the 1970 electoral victory of Allende and the Popular Unity (Unidad Popular). The political climate of strikes, kidnappings, assassinations, illegal land seizures and the violent recovery of their properties by landowners, the nationalization of businesses, and the failure of the national government to curb the armed violence "led to a climate that by 1973 was objectively favorable to civil war" (Chilean National Commission 1993, 1:53). The Rettig report attributed the military coup to this threat of a civil war, for which the civilian government and polarized civilian groups were responsible. The truth and reconciliation commission did not attribute the political violence to identifiable groups in Chilean society, as did the CONADEP commission for Argentina, but dissipated the responsibility among a worldwide zeitgeist and national political developments. The human rights violations by military and police during the dictatorship were directed by the intelligence community and supported by the highest military ranks.

The Chilean military reacted immediately to the report. The Chilean army stated that the report distorted historical truth by selectively using testimonial sources, ignored the political violence and human rights violations preceding the September 1973 coup, and disregarded that Chile had been in a state of war and that the armed forces had the legitimate right to protect the nation by force from a communist takeover. Furthermore, the Rettig report failed to mention that peace and democracy had returned to Chile thanks to the military. Worse even, the Rettig commission incited animosities within the nation and destabilized the internal order. Silence about the past would be the best way to achieve reconciliation in Chile: "History and

personal and social experience prove that situations of great turmoil are not overcome by reconstructing the events that caused the conflict. It interrupts the pacifying passage of time which tempers animosities and leaves behind affronts" (Ejército de Chile 1991, 7; Marchesi 2005).

One month after the Rettig report appeared, President Aylwin asked, "in his capacity as president, speaking on behalf of the entire nation, and in the name of the nation, to request pardon from the families of the victims" (Ensalaco 2000, 213). Thus, Chile's president adopted the commission's rendition of the political violence and state terrorism, assumed the state's guilt for the suffering of its citizens, and accepted responsibility for repairing the damage done.⁴ Although this gesture seemed magnanimous, it was troubling for the victims because the democratic state assumed guilt without authorial agency and offered reparation without retribution.

Human rights organizations saw this injustice also reflected in the disturbing omission of verbatim testimonies, often given under great emotional duress, from the Rettig report, which consists of three volumes. The first two volumes contain four parts, each subdivided into a handful of chapters. The third volume is a 400-page alphabetical list of the victims of human rights violations, each with a short biography and an account of the circumstances of their death or disappearance. Preceded by Presidential Decree 355, which installed the commission, part 1 describes the investigative methodology and defines the principal legal concepts. Part 2 analyzes the political context at the time of the September 11, 1973, coup; the legal and institutional frameworks in place; the war tribunals; and the conduct of the courts toward human rights violations. Part 3 documents the human rights violations between September 11, 1973, and March 11, 1990; describes their impact on family relations; and lists unresolved cases. Part 4 contains proposals for the reparation of the suffering endured by the relatives of the disappeared and assassinated; makes legislative, institutional, and educational recommendations for the prevention of human rights violations; and draws a general conclusion about truth and reconciliation.

For this chapter's purposes, the report's treatment of testimony is particularly relevant. Which place are victim and survivor testimonies accorded in the Rettig report as compared to the *Sábato* report? The substantive volumes 1 and 2 are 1,030 pages long. The cases of executed or disappeared victims in part 3 take up 86 percent of the text. Although percentage-wise larger than the 58 percent of the CONADEP report, the narrative structure of the Rettig report is substantially different. The CONADEP's narrative is interspersed with heart-wrenching testimonies that illustrate the state repression vividly, while the Rettig report describes cases chronologically, intermingling victims of the military, the police, and guerrilla organizations in legalistic language. For example:

On September 19, 1973, Julio Esteban HENRIQUEZ BRAVO, 37, a merchant, was arrested along with another person by members of the investigative police in the Plaza de Armas [town's main square] and taken to the regiment, according to what the family was told. Witnesses say that he was seen at that installation until the end of September and that he had been beaten and tortured. Since that time he remains disappeared; he did not return home, has not conducted official business, nor is he registered as having left the country. Since it is sufficiently established that he was arrested, this Commission holds the conviction that Julio Esteban Henriquez suffered a human rights violation at the hands of government agents who after arresting him caused him to disappear. (Chilean National Commission 1993, 1:371)

There are no testimonial narratives in the report that define the place, time, and personal circumstances of the events, but only cases that read like a dispassionate legal record. This narrative rendition undermines the testimony's credibility by reducing the lived experience to a decontextualized legal case stripped of the particular time, location, and emotional state conveyed in the self-referential witness testimony.

The only two exceptions are a five-page description of torture and execution methods interspersed with anonymous quotations, and the twenty-page chapter "Impact of the Most Serious Human Rights Violations on Families and Social Relations," which contains statements from relatives about their suffering.⁵ Still, these statements are not testimonial narratives but brief decontextualized quotations; for instance, "I had to explain to my five-year-old son that, just like animals and flowers, human beings sometimes kill human beings" or "They brought my son to my cell, unconscious and all bruised from torture" (Chilean National Commission 1993, 2:779, 782). Much pain hides behind these anonymous quotations, which comprise only 2.5 percent of the report and thus fail to have the rhetorical impact so striking in the Argentine CONADEP report. Even though the Rettig report acknowledges the suffering of the Chilean people as a whole, the surviving relatives are done little justice because the report fails to restore their lives shattered and voices muted by state terror.⁶

As Phelps (2004, 96) has observed, the quotations about the sequels of human rights violations are arranged from despair to hope, ending with the quotation, "I don't want revenge. I only want peace. I want to rest and so I have to know the truth. We don't want to get revenge, and we don't want others to suffer what we've suffered" (Chilean National Commission 1993, 2:800). Rhetorically, the report mutes survivor narratives and works toward the national reconciliation desired by the state. Historical and legal truths are emphasized at the expense of experiential truth to achieve that goal.

justice for the people most directly affected by state terror—namely, the relatives of the disappeared and assassinated—is restricted to restorative justice, made subservient to the greater good of national reconciliation, and narrowly defined as personal and symbolic reparation.

Reparation became the preferred way “to bring society together and move toward creating conditions for true reconciliation” (Chilean National Commission 1993, 2:837). The same even-handedness that characterized the appointment of commission members from opposed political sides, and the equitability of the Chilean armed forces and the guerrillas as violators of human rights, was also dispensed in the reparation measures. Victims and perpetrators were equally awarded assistance in a spirit of forgiveness: “we want to point to the need to serve the health needs of those persons who have been involved in practicing torture in detention sites and to those who have acknowledged their participation in actions whose grave results we have investigated” (Chilean National Commission 1993, 2:846). The state preempted the active participation of perpetrators and victims in the reconciliation process and turned it into an administrative procedure, unlike the South African TRC, which required a public confession to allow forgiveness and truthfulness to receive amnesty, and made reparations in full awareness of their inadequacy in repairing the harm done (Minow 2002, 23–24; Sarkin 2008).

The Chilean commission recommended the restoration of the victims’ good name and dignity, symbolic reparation (monuments, memory parks, and cultural events), solutions to legal issues for relatives of deceased victims, special legislation about the presumption of death of the disappeared, and social welfare (pensions, health care, housing, debt cancellation, exemption from military service, and scholarships) (Chilean National Commission 1993, 2:837–851). Medical and psychological assistance occupied a central place in the commission’s 1991 recommendations. Since 1997, nearly 5,000 Chileans have received monthly checks of \$345–\$482 (Hayner 2001, 172–173), while by 2001 more than 32,000 persons have received psychotherapeutic assistance (Lira and Gómez 1996, 135; Lira and Loveman 2005, 388). Social suffering became individualized, and healing Chilean society was pursued through personal reparation, albeit with mixed results. People were treated for their mental demons, but such care medicalized and individualized their suffering instead of politicizing and socializing their plight.

Restorative justice was more important for the Chilean state than retribution. It would be the tenacious pursuit of Latin American dictators by Spanish judge Baltazar Garzón that would place accountability on the national agenda. In October 1998, Augusto Pinochet was arrested in Great Britain on genocide and terrorism charges (Roht-Arriaza 2005, 34–36). As supporters and opponents of Pinochet were battling each other in the media and through public demonstrations in Santiago and London, the Chilean government reacted

with a reconciliatory initiative. Between August 1999 and May 2000, meetings were held between representatives of the armed forces, human rights organizations, the church, universities, and political parties. This round-table dialogue addressed major sores in Chilean society, notably the predicament of the disappeared, and revealed the potential benefits for the interlocutors. Relatives and human rights organizations wanted to know the truth about loved ones. The military tried to prevent criminal prosecution, and the government hoped for a renewed step toward national reconciliation. These gains were sufficiently promising to create a common ground for dialogue. This common ground did not exist in Argentina because of moral objections and was also rejected in Chile by a critical younger generation.

In October 1999, young activists organized the first *funus*, or street protests of public shaming, modeled after the Argentine *esrachas*, as “acts of social justice that try to unmask before society those who participated in human rights violations during the dictatorship.”⁷ The protesters were inspired by Pinochet’s arrest in London and bemoaned the reigning impunity, the amnesty legislation, and the complacency of the human rights movement. They regarded their protests as an alternative to institutional justice because the *funus* “do not delegate the power of the desire for justice but transform it in the construction and creation of an alternative way of experiencing justice” (Sandoval and Ortolani 2002, 50). The Chilean authorities were less tolerant of the *funus* than the Argentine. *Funus* were repressed in 2001 by the police with tear gas and mass arrests, but they have continued into the present (De Mano en Mano 2002, 57).

The general clamor for the truth had its effects. In January 2001, the armed forces clarified 200 disappearances and revealed that 130 disappeared had been thrown into the Pacific Ocean and Chile’s open waters (Aguilar 2002). This admission was interpreted by the Chilean Roman Catholic authorities as a reconciliatory gesture, and Cardinal Errázuriz suggested that the military should only be prosecuted for the most notorious forced disappearances, while the rest would be pardoned (Aguilar 2002, 423). Meanwhile, after having been medically declared unfit to stand trial, Pinochet returned to Chile in March 2000 but was eventually held accountable in August 2004.

Pinochet’s arrest in London led to many accusations against Chilean officers and policemen. Only a dozen of the most notorious perpetrators were convicted by 2004, while more than 300 cases remained pending in court (Lira and Loveman 2002, 387–393; Roht-Arriaza 2005, 94–96). The Chilean government lacked the will to press forward on the accountability issue and instead broadened its reparation measures to bring about the desired national reconciliation.

A new truth commission was the government’s answer to the call for truth and justice for all victims of state terrorism. President Ricardo Lagos

created in November 2003 the eight-member National Commission about Political Imprisonment and Torture (Comisión Nacional sobre Prisión Política y Tortura), under the chairmanship of Sergio Valech Aldunate. This commission was to investigate the interrogation and incarceration regime under the Pinochet dictatorship. The tens of thousands of Chileans who had survived torture and captivity in police stations, prisons, and military bases had not fallen within the investigative mandate of the 1991 Rettig commission. Survivors felt a great injustice about not having been able to tell their story and hoped that the Valech commission was to make good.

The political composition and premises of the Rettig and Valech commissions were different. Whereas the National Commission on Truth and Reconciliation went out of its way to emphasize its neutrality by appointing an equal number of members pro- and contra-Pinochet, and treated human rights violations by the Chilean military and the guerrillas equally, the Valech commission included two persons who had been tortured and stated from the outset that government agents had violated the dignity of their victims (Comisión Nacional 2004, 9). The 1998 arrest of Pinochet, the 1999–2000 round-table dialogue, the 2001 admission of disappearances by the military, and several convictions of perpetrators resulted in the general opinion that the dictatorship was responsible for the human rights violations and that the principled even-handedness of the Rettig commission could now be abandoned.

The Valech commission took more than 35,000 testimonies, of which nearly 28,000 were accepted as having sufficient ground. The interviews lasted on average one hour and were held throughout Chile and abroad. In a clear breach with the narrative of the Rettig report, the Valech report reproduced lengthy quotations from the testimonies of anonymous victims of torture, including the month of detention, detention center, and state branch involved.

Woman, detained in May 1975. Account of her internment at the DINA quarters in Villa Grimaldi, Metropolitan Region: *when we arrived at the place, they threw me from the pick-up truck on the ground and immediately subjected me to interrogations by [name omitted] who humiliated me verbally. Then they took me to the "Corvi houses" (boxes in which one could only remain standing). They always kept me blindfolded, hands tied and naked. They applied electric shocks. I was a victim of fondling and dishonest abuses, many blows and a mock execution at the edge of the swimming pool.* (Comisión Nacional 2004, 277)

The 660-page report, presented to president Lagos in 2003, consists of ten chapters, of which the forty-three-page chapter 5 ("Torture Methods, Definitions and Testimonies") and the twenty-eight-page chapter 8

("Consequences of Political Imprisonment and Torture") contain lengthy contextualized testimonies of torture, suffering, trauma, and mourning.

Still, the Chilean government was careful not to polarize (Chilean society with the Valech report. Its findings were not to lead to the systematic prosecution of perpetrators, but to "create the conditions to restore our collective memory . . . dignify the victims" by acknowledging their suffering, and "heal the wounds of our national soul" (prologue by president Ricardo Lagos, Comisión Nacional 2004). As a telling sign of the state's resolve to achieve reconciliation, victims were awarded state pensions and health services. Aside from excerpts reproduced in the report, their testimonies were to remain confidential for fifty years. Testimony thus served mainly to verify the claims for reparation payments. Victims and perpetrators remained anonymous for society, and both the acknowledgment of their suffering and the accountability of their deeds were prevented. The Chilean government was thus actively shaping a counter master narrative of the military narrative through two truth commissions that only partially satisfied the victim's sense of justice: "To replace one oppressive master narrative with a different one does not empower the victims and, worse, it threatens to perpetuate the oppression, only in another, perhaps more benign, form" (Phelps 2005, 50).

As if he knew the intentions of president Lagos, the Chilean army commander General Cheyre accepted the institutional responsibility for the dictatorship's human rights violations just weeks before the Valech report appeared (Agüero and Hershberg 2005, 8). The report did not lead to an acceleration of the court cases pending against suspected perpetrators, let alone against their commander Augusto Pinochet. Pinochet died on December 10, 2006. His death seemed to open the way for truth and retribution. Human rights organizations became more determined to press charges against perpetrators, and Chilean president Michelle Bachelet promised, after an emotional visit in October 2006 to the former torture center Villa Grimaldi, where she and her mother had been held in 1975, to respect the ruling by the Interamerican Court of Human Rights that Chile's 1978 amnesty law was in violation of international legislation. The law has remained in place till the present, but individual courts have prosecuted perpetrators nevertheless on the argument that the amnesty does not apply to gross human rights violations.

In February 2009, 257 officers and national policemen were convicted (FASIC 2009, 15). Still, the mild sentences for violations comparable to those in Argentina revealed Chile's continued desire for restorative justice. Sentences were lowered upon the Supreme Court's call for "justice with clemency" because of the passage of time since the violations had taken place (FASIC 2009, 2–3). The Chilean state, with its military and judicial institutions in front, continued on the path of reconciliation despite the persistent

author for truth, remembrance, and accountability by survivors, relatives, and human rights organizations.

The court cases and the Valech commission have provided a greater openness to the voices of the survivors of state terror, but these national efforts have been unable to fully satisfy the need for personal and local justice. These victim-survivors have therefore produced testimonial literature and pursued the construction of memorial museums to preserve the memory of their predicament. Voices materialize in sites of memory whose reconstruction is made on the basis of survivor testimonies. Furthermore, local justice is achieved by representing suffering in a specific place set in a guilty landscape. The Villa Grimaldi Peace Park is the most developed memory site in Chile. This former torture and detention center in Peñalolén, an Andean foothill outskirts of Santiago, caught the attention of a survivors organization in 1991, was opened to the public in 1994, and became an official memory site in 1997.

Villa Grimaldi was the most important interrogation center of the Chilean National Intelligence Directorate (DINA). It consisted of office buildings, torture rooms, and three different facilities to hold captives, of which the water tower was the most feared. The Rettig report states: "Inside it there were ten tight spaces for holding prisoners, about 70 by 70 centimeters [two square feet] and two meters high with a tiny door at the bottom which one had to enter on one's knees. . . . Apparently those who were taken to the tower were prisoners of some importance whose period of intensive interrogation was over. Many of those held in the tower were never seen again" (Chilean National Commission 1993, 2:486).

The wooden tower is the most prominent structure at the Villa Grimaldi Peace Park. There is considerable personal justice for the survivors in rebuilding Villa Grimaldi, which the military sold to a project developer who leveled the place to build condominiums. The testimonies of the few captives who survived the tower cannot be read in the 1991 Rettig and 1996 Pöhlte reports because they are restricted to the dead and the disappeared. Even the 2003 Valech report gives scant information, as in the case of a female prisoner who in February 1975 "was subjected to . . . total isolation in the tower of Villa Grimaldi, in a small cell, without ventilation, without light, without a door and with a small opening through which one entered and left, crawling" (Comisión Nacional 2004, 285). Detailed accounts can only be found in Chilean testimonial literature, as in the following excerpt from *The Inferno* by Luz Arce, who was forced to spend twelve days penned up in the tower and survived with the help of several guards:

I didn't feel my legs. The truth is I didn't feel anything, except the inner edge of my foot and my right leg where I suffered from

hypersensitivity. . . . Days and hours didn't exist for me, only a permanent stupor. The few conscious moments were strange too. I felt like the guards did what they could, but I was incapable of anything. I just looked at them and said, "Thanks." . . .

The pain was different too. I could feel its constant presence, but I wasn't suffering. It was as if the pain had crossed the threshold that a human being can endure, as if it had vanished, disappeared. I was beyond pain. One day I asked myself, is it possible to die from pain? I felt that more than anything I wanted to die, that a haze had taken over everything. (Arce 2004, 86)

The difference between the quotations from the Valech report and Luz Arce's autobiography demonstrates that testimonies occupy the narrative spaces accorded by their contexts and that these different voices address different kinds of justice. Luz Arce exploits this freedom to the fullest in a carefully constructed story of redemption. She tells about her journey from Allende's inner circle, via her torture by, collaboration with, and resignation from Chile's secret service, to her conversion to Catholicism. Arce symbolizes the many Chileans who were forced to collaborate, and she found personal justice in the public confession about her dark past. Her confessional account "emblemizes and echoes the utopian discourse of reconciliation that has been the hallmark of Chile's transition" (Lazzara 2006, 71).

Reconciliatory discourse has also found its way into the Villa Grimaldi Peace Park, whose name projects into the future the interrogation center's meaning and contrasts with Argentina's Memory Park, whose name points to the past (for a related discussion, see Dwyer, this volume). The spatial outlays of both parks reflect nationally dominant discourses. The Chilean Peace Park was designed in the shape of a cross made by two diagonal paths. "With its double meaning, death and resurrection, the cross with two axes at the center of the park encompasses a fountain that is a place of encounter and orientation where it is possible to enter into contact with the water" (Lazzara 2006, 138). The Argentine Memory Park, along the riverbank of the Río de la Plata in Buenos Aires, has a striking monument to the victims of state terrorism in the shape of a sinuous fissure that traverses part of the fourteen-hectare park "designed as a cut, an open wound, in a lawn hill, stripped of all other elements. The landscape and the layout recreate the effort required to build a fairer society and the wound caused by the violent acts perpetrated by the State" (Comisión Pro Monumento 2005, 62). These two parks demonstrate how testimony and politics meet in the symbolism of the cross and the open wound, and manifest the types of justice desired in Chile and Argentina when they were designed.

Conclusion: Restorative versus Retributive Justice

This chapter has indicated that Argentine society has been pursuing truth finding and retributive justice, despite occasional attempts at turning the page of history, whereas Chile has been trying to achieve restorative justice and national reconciliation, even though perpetrators have been eventually prosecuted. Testimonies by survivors of abduction, torture, and disappearance, as well as by perpetrators, have time and again been crucial in changing the legal and political parameters of justice in Chile and Argentina, because justice is not confined to the judiciary and because "transitional justice mechanisms almost always have unexpected outcomes that emerge out of the 'frictions' between these global mechanisms and local realities" (Hinton, this volume).

Truth commissions and courts have different relations to justice. Both use testimony to discover human rights violations, but the first centers on doing justice to survivors while the second focuses on prosecuting perpetrators. Truth commissions in Chile and Argentina showed compassion for the victims of state terrorism and morally condemned the perpetrators, while courts sought to redress legal grievances by putting the accused on trial as a demonstration of people's equality before the law. The types of justice have multiplied in the Southern Cone of Latin America, next to those provided by courts and truth commissions, through autobiographies, documentaries, street protests, forensic investigations, museums, and memory sites. Justice became an increasingly layered phenomenon as the decades passed. Each country bore its own stamp. The different post-dictatorial trajectories of Chile and Argentina demonstrate that atonement and accountability, as well as reconciliation and retribution, evoke different types of justice, yield different forms of testimony, and give different legitimacies to survivors and perpetrators.

Chilean society has largely supported the state's pursuit of restorative justice and national reconciliation, despite the protests of the human rights movement and the political opposition. Successive governments have not proactively tried to annul the amnesty legislation but have placed much effort on reparations, while the courts have produced many convictions but given mild sentences. Argentina has been on a roller coaster of prosecution and amnesty. The persistent political mobilization by the human rights movement, critical lawyers, judges, and politicians has resulted in lengthy prison terms for perpetrators.

Former president General Bignone was one of the perpetrators who never found rest after he handed power to president Raúl Alfonsín in December 1983. He was arrested in January 1984 in relation to two disappearances in 1976 at the Military College when he was its director. Bignone was imprisoned

for six months, and the case dismissed in July 1987. In 1999 he was charged with the abduction of nine babies, for which he was sentenced house arrest rather than imprisonment because of his advanced age. In 2004, on the twenty-eighth anniversary of the March 1976 military coup, Argentine president Kirchner ordered the removal of Bignone's portrait from the Military College. In October 2005, Bignone's house arrest was lifted because the court was taking too much time to formally accuse him. In late 2007, Bignone faced a new charge. He was accused of the illegal detention of fifteen persons and sentenced to house arrest. In January 2009 the seventy-nine-year-old Bignone was formally accused of the abduction and torture of thirty-six physicians and nurses at the Posadas Hospital in the town of Haedo.

NOTES

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1. The Argentine Forensic Anthropology Team (EAAF) holds that 9,000–10,000 Argentines disappeared during the military regime, whereas most Argentine human rights organizations maintain that 30,000 people disappeared (Argentine Forensic Anthropology Team 2007: 21).
2. These figures and comments refer to the original Argentine edition of the CONADEP report (CONADEP 1984).
3. The 1974 Ugandan and the 1982–1984 Bolivian truth commissions investigated disappearances in Uganda and Bolivia, but the findings were never published (Hayner 2001: 52–53).
4. The Rettig report could please neither the Chilean military and chief justices nor the human rights organizations. The Chilean military were upset by the conclusion that they had not been engaged in a war but had been attacking unarmed people (Chilean National Commission 1993: 133); the Supreme Court dismissed the report's accusation of collaboration with the dictatorship and unwillingness to honor habeas corpus requests and prosecute members of the armed and security forces. Finally, human rights organizations deplored Aylwin's appeal to forgiveness on behalf of the nation and declared that they were unwilling to forgive the military (Ensaiaco 2000, 213–224).
5. I disagree with Phelps (2004, 97) that "the stories of the victims . . . dominate the report." They do so in terms of the space allotted to the case descriptions, but these fail to stand out above the general text because of their legalistic, third-person rendition of the victims' predicament.
6. This calculation is based on the 1996 edition of the 1991 Rettig report, available on the Web site of the Chilean government's Human Rights Program (<http://www.ddhh.gov.cl>). The 1996 edition was supervised by Alejandro González Poblete and involves some minor corrections to the original report.
7. http://funachile.cl/index.php?option=com_content&task=view&id=800&Itemid=32

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