TESTIMONIO, JUDGMENT AND PUNISHMENT:
JUSTICE AND THE POLITICS OF HISTORY IN CONTEMPORARY ARGENTINA

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Abstract

This thesis explores how survivors of Argentine state terrorism (1974-1983) deploy the Latin American testimonial genre as part of a wider phenomenon of alternative means of seeking justice at the margins of customary legal venues in contemporary Argentina. It investigates the modes in which survivors perform judicial authority to challenge the legal impunity imposed by the amnesty laws (1986-1987) and presidential pardons (1989-1990) enacted by constitutional governments to pardon state criminals and their civil accomplices. Examining a select group of testimonies contained in the Archivo Testimonial sobre el Operativo Independencia y la dictadura militar en Famaillá, Tucumán (1975-1983) (Testimonial Archive on Operation Independence and the Military Dictatorship in Famaillá, Tucumán, 1975-1983), it analyzes how the testimonial genre functions as a mechanism of truthtelling that unsilences the past. Famaillá survivors’ truthtelling practices reclaim the faculty to judge, to punish, and seek justice, formulating a sentence based on politicized uses of history. I argue that if human rights activists’ escraches (public shaming) were aimed at making the country a symbolic prison for the amnestied or unpunished criminals, the testimonio seeks to make time their perpetual site of penance. In this way, testimonio’s own radical dictum is ‘may memory be their prison.’ For the testimonial community, achieving justice means to ensure that the offense against humanity persists in the unquantifiable dimension of collective memory. This analytical enterprise has a double aim. Firstly, to discuss the politics of pursuing justice through the lens of truthtelling practices by aggregating missing voices of Argentina’s years of state terror. And, secondly, to propose an understanding of a politics of time, one from the perspective of survivors and their use of history to attain justice.
Preface

This thesis is entirely the original, unpublished, and independent work of the author, Carlos Gustavo Halaburda.
# Table of Contents

Abstract........................................................................................................................................ ii

Preface........................................................................................................................................... iii

Table of Contents.......................................................................................................................... iv

List of Figures................................................................................................................................... v

Acknowledgements....................................................................................................................... vi

Dedication....................................................................................................................................... ix

Introduction: Truth, Justice and Punishment.................................................................................. 1

Judgment in Famaillé: Performing Judicial Authority ................................................................. 11

May Memory Be Their Prison: A Sentence, Justice and The Uses of History.......................... 31

Conclusions: Testimonio and The Politics of Time.................................................................... 44

Bibliography.................................................................................................................................... 47
List of Figures

Figure 1 Diego de Rojas School. ‘Escuelita de Famaillá.’ Clandestine detention center. Tucumán, Argentina. (‘Famaillé Little School.’ CCD. Tucumán, Argentina.) ................................................................. 40
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Finally, I wish to thank my family in Argentina and in Canada. To my parents who fomented the love for reading and political discussion. To Brett and Coco Nash, my first readers, who enlighten my daily existence with love and joy.
Dedication

To the memory of Rodolfo Walsh. And to all those who spoke in difficult times.

March 24th, 2016.
Introduction: Truth, Justice and Punishment

During my research in Argentina, I was invited by CONICET\textsuperscript{1} archeologist Víctor Ataliva to visit a forensic laboratory. This research institution functions in a former extermination site in the province of Tucumán where the bodies of victims of Argentine state terrorism (1974-1983) had been thrown into a water pit known as Pozo de Vargas, located at a farm on the outskirts of the city of San Miguel de Tucumán. Currently, the Argentine Forensic Anthropology Team (EAAF) works inside the pit to identify human remains from the years of horror. I took a cab on a gray morning in April 2015 with a friend who kindly offered to join me in what I considered a fundamental part of my preliminary studies. While I was informing her of the intended purpose of my investigations, the cab driver interrupted. ‘Historians lie’, he said. He held that he was part of military intelligentsia during the 1970s. He assured us that stories of Pozo de Vargas were misleading as the army might have thrown ‘some bodies’ into the pit but not as many as historians claim. I thought, what kind of malicious energy gave birth to this terrifying event: There we were being taken to a site where the bodies of dozens of people were disappeared, by someone who probably tortured civilians,\textsuperscript{2} who never was taken to court and who remains unpunished.

\textsuperscript{1}CONICET (Science and Technology National Research Council) is the main organization dedicated to science and technology in Argentina. One of its research areas is the Humanities and Social Sciences. For an exploration of Ataliva’s work on the impact of forensic archaeology in post-dictatorship Argentina see Víctor Ataliva, Arqueología, memorias y procesos de marcación social (acerca de las prácticas sociales post-genocidas en San Miguel de Tucumán) (Tucumán, 2008).

\textsuperscript{2}Political scientist and survivor of the military juntas’ concentration camps Pilar Calveiro documents that “[…] the intelligentsia groups [consisted of those individuals who] handled existing data and [who] according to it oriented the ‘questioning’ (torture) […]”. This group received the prisoner, ‘the package’, already hit and defenseless,
Slavoj Žižek defines an event as a beast difficult to discern. It is something that cannot be created. It simply surprises us and its effect “seems to exceed its causes.” It emerges as something that asks us to change the paradigm through which we see the world by breaking the usual way to deal with our present anxieties. An event triggers the experience of the inexplicable and asks for an intervention, for what really matters is not the event per se but the fidelity and responsibility with which one decides to behave in regards to it. Thus the event of experiencing the taxi driver’s trivialization of the atrocious crimes of the Argentine military compelled me to respond to his gesture by fully assuming the consequences of his serious attempt to silence the past. Writing this piece of scholarship is my response to a desire of wide sectors of Argentine society to bury forever

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and proceeded to extract the necessary data to capture other people, weapons or any kind of element useful for the counterinsurgency tasks. [The intelligentsia group] justified its work with the argument that the armed, clandestine and compartmentalized operations made it impossible to fight the guerrillas efficiently through conventional methods of repression; it was necessary to ‘rip’ the information that would ‘save lives.’ See Pilar Calveiro, Poder y desaparición. Los campos de concentración en Argentina (Buenos Aires: Puñaladas, 2008), 35-36. (Translation mine. Unless otherwise indicated translations from Spanish into English are those of the author.)


4 Historian Michel-Rolph Trouillot argues that certain figures of discourse are instrumental in silencing the past. Trouillot argues that some figures of speech trivialize and “banalize the uniqueness of a situation” by shifting the focus of attention of a historical problem by emphasizing details that do not change the historical experience of oppression whatsoever. In this sense it does not matter how many dead bodies were thrown into Pozo de Vargas. What matters is the existence of this criminal practice undertook by the Argentine state itself. See Michel-Rolph Trouillot, Silencing the Past: Power and the Production of History (Boston: Beacon Press, 1995), 97.
an uncomfortable history. Through it, I invite you, dear reader, to bear witness to these symbolic trials not legitimized by the authority of law but by collective history making.\(^5\)

State terror in Argentina began to take shape in 1974 with the actions of paramilitary forces under the name of the Argentine Anti-Communist Alliance (The Triple A). This organization sought to eliminate political dissent by targeting civilians critical of the growing levels of state authoritarianism and social inequality. On February 9, 1975, the constitutional government of Isabel Martínez de Perón (1931-) initiated Operativo Independencia (Operation Independence) in the province of Tucumán. Wide sectors of the civil society committed to dismantling leftist political dissidence supported this military operation backed by the federal and provincial police.\(^6\) The Armed Forces of the Argentine Republic (FF. AA.) replaced the Triple A’s murders and horrific displays of dead bodies in the streets of Tucumán with a new and sinister form of extermination. Dissidents would now be executed directly by the state in clandestine detention centers (CCDs).\(^7\) The Diego de Rojas School, ‘La escuelita de Famaillá’ (the little school of

\(^5\) I owe the idea of inviting my readership to bear witness in this symbolic trial to my conversations on writing with historian William French. I express my deepest gratitude for his intellectual generosity and the extraordinary dialogues on cultural studies we held at The University of British Columbia.


\(^7\) The historiography of the responses of the Argentine military to radical dissidence takes in a wide historiographical spectrum. Historians who have adopted what I call ‘the provocation thesis’ have argued that the
Famaillá), became the first large CCD in the country. Hundreds of persons from the provinces of Tucumán, Santiago del Estero, Salta and Jujuy were tortured, killed or disappeared in this illegal prison. The main military leaders in charge of the operations were Generals Acdel Vilas (1925-2010) and Antonio Domingo Bussi (1926-2011). The hegemonic civil and military sectors built this regime of terror upon an antagonistic narrative of cultural differences that distinguished guerrillas are in part responsible for the viciousness with which the state reacted against the whole social body. See ‘the theory of the two demons’ in Argentina. Comisión Nacional Sobre la Desaparición de Personas. CONADEP. Nunca Más (Buenos Aires, 1984); Pablo Giussani, Montoneros. La soberbia armada (Buenos Aires, 1984); John Simpson and Jana Bennett, The Disappeared and The Mothers of the Plaza: The Story of the 11,000 Argentinians Who Vanished (New York, 1985). My work instead is part of the scholarship that contests ‘the provocation thesis’, which situates the actions of the guerrillas as a response to years of political censorship and repression imposed since the prohibition of the Peronist Party. Since 1955, the military persisted in prohibiting by law the participation of Juan Domingo Perón (1895-1974) in open and free elections. Such disintegration of the constitutional order generated unprecedented levels of popular protests. Peronism with all its leftist variations soon turned into a subversive mode of identity construction synthesized in collective action: violent strikes and the actions of armed groups contesting state repression indeed led Argentina by 1976 to social chaos. The state response was a systematic plan of extermination of groups identified with ideas of social justice and/or revolutionary praxis. During the period in question, the Argentine military and its civil allies established a quasi-fascist regime based on a messianic autocracy aimed at “saving” the nation from an ambiguous “internal enemy.” Anyone identified with the 1960s emancipatory ethos became an alien to be exterminated and later disappeared. This line of scholarship examines how the extermination destroyed collective modes to perform a self-identification with ideas of social justice through genocide, a technology of power aimed at reorganizing society through the annihilation of a perceived internal threat. For a discussion to counter arguments to the ‘provocation thesis’ see Pilar Calveiro, Política y/o violencia (Buenos Aires, 2013); Daniel Feierstein, Genocide as Social Practice: Reorganizing Society under the Nazis and Argentina’s Military Juntas (New Brunswick, 2014); José Pablo Feinmann, La sangre derramada (Buenos Aires, 1999).

between the ‘subversive’ Marxist enemy and those whom, according to the regime’s ideology, fit into the category of Western and civilized members of the Catholic nation. From 1976 to 1983, this antagonism reached its climax with the Process of National Reorganization, a military government known as *El Proceso*.

In 1983, after defeat in the Falklands War (1982) against Great Britain and a severe deterioration in the juntas’ leadership, the last Argentine military dictatorship ended, leaving a legacy of extensive human rights violations. Newly elected President Raúl Alfonsín promised the prosecution of those responsible for the atrocities. A commission to investigate crimes was put into place (1983-1984). In 1985, military leaders Jorge Rafael Videla (1925-2013) and Emilio Eduardo Massera (1925-2010) were convicted and handed down life sentences in the Trial of the Juntas. Other commanders of high rank were convicted and given lesser punishments. However,

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9 The denomination ‘subversive’ encompasses a long tradition in the history of Argentine elites’ political anxieties. The fear of the menacing Other of the white, conservative and Catholic nation emerges from the very moment of the country’s entry into modernity. Indians and gauchos in the 19th century, Anarchists, Peronists and Marxists in the 1900s were constructed as figures unable to assimilate to the national project imagined by the ruling classes, whose political and economic interests were historically protected by military power. As critic David Viñas notes, the 19th century systematic killings of the gauchos and the campaign of extermination against the Indians of the Pampas and of the Chaco region find echo with the mass killings of political dissidents who also sought to destabilize hierarchical modes of social relations during Argentina’s years of state terror in the 1970s and 1980s. See David Viñas, *Indios, ejército y frontera* (Buenos Aires: Siglo XXI, 1982), 12. This transhistorical range of the concept of subversion appears clearly in the words of General Videla, whose message sums up the inviolable values of the conservative nation: “A subversive terrorist is not only considered as such for killing with a weapon or for setting a bomb but also for activating opposing ideas to our Western and Christian civilization.” See Calveiro, *Poder y desaparición*, 90.

in the face of the still powerful army, which resisted the pending trials against perpetrators of lower rank, Alfonsín’s administration passed two amnesty laws indicating its willingness to placate the military, the *Ley de Punto Final* (Law of Full Stop) (1986) and the *Ley de Obediencia Debida* (Law of Due Obedience) (1987). These laws opened a long period of impunity and silence as they impeded judgment and prosecution by acquitting state criminals and their accomplices “on the basis that they were obeying orders.”\(^{11}\) Carlos Saúl Menem’s presidential pardons of 1989 and 1990 led to the release of convicts serving time in prison.\(^ {12}\) From a regime of terror that marked the period of 1974-1983, Argentina saw the emergence of “a culture of impunity that damaged the social body.”\(^ {13}\) In 2003, under the presidency of Néstor Kirchner (1950-2010), Congress annulled the pardons and reopened the trials in an attempt to build a legitimate democracy.\(^ {14}\) Nonetheless, in spite of the annulment of amnesties, numerous state criminals and civilian perpetrators remain unpunished as I write these lines (March 2016). As for survivors and relatives of missing people, justice seems to be a chimera.


This thesis examines popular responses to such a situation of legal impunity. It explores how survivors of Argentine state terrorism deploy the Latin American testimonial genre as part of a wider phenomenon of alternative means of seeking justice at the margins of customary legal venues in contemporary Argentina. The testimonial narrative “assumes the retrospective gesture of the victim who was stripped of a voice.” Through the fragility of language that pronounces as horror what is remembered, the victim performs testimonial agency thus turning into a survivor.

To investigate the modes in which survivors perform judicial authority I examine a select group of testimonies contained in the Testimonial Archive on Operation Independence and the Military Dictatorship in Famaillá, Tucumán, Argentina. Here, testimonio functions as a mechanism of...
truthtelling for the Famaillá community to unsilence the past and reclaim the faculty to judge, to punish, and seek justice by formulating a sentence based on politicized uses of history. If human rights activists’ escraches (public shaming) were aimed at making the country a symbolic prison for the amnestied or unpunished criminals, testimonio seeks to make time their perpetual site of penance. In this way, testimonio’s own radical dictum is ‘may memory be their prison.’ For the Famaillá survivors, achieving justice means to ensure that the offense against humanity persists in the unquantifiable dimension of collective memory.

The history of legalized impunity under civilian rule provoked a wide spectrum of historiographical approaches, all exploring public responses to the veil of silence imposed by Argentine liberal constitutionalism in the post-dictatorial period. Social scientists examined how human rights activists adopted multiple means to make their dissident voices heard. The weekly marches led by the Mothers of Plaza de Mayo since 1977 up to this day, and the escraches are

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History in Latin America.” In addition, it is worth noticing that this thesis complies with the terms of usage and accessibility criteria of the Archivo Testimonial sobre el Operativo Independencia y la dictadura militar en Famaillá, Tucumán (1975-1983) outlined in the Protocolo para el uso de los testimonios, Anexo I. 03/24/2011. Universidad Nacional de Tucumán.

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18 The Mothers of Plaza de Mayo is a civil association that emerged in response to the illegal detention of their children and its subsequent disappearance. Since 1977, they gather in the main square of Buenos Aires city to ask for the truth of the fate of their children and the juridical punishment against the perpetrators. For a thorough analysis of the Madres’ political legacy see Berber Bevernage, History, Memory, and State-sponsored Violence: Time and Justice (New York: Routledge, 2012), 23-46.
case studies widely discussed in diverse academic publications. In 1995, the group H.I.J.O.S (Sons and Daughters for Identity and Justice against Silence) along with the Mothers began to engage in this new and alternative path to justice. During the escraches, activists would march to the perpetrator’s residence, spray-paint the oppressor’s house and have a public reading detailing his crimes. Scholars studied how these performances were aimed at uncovering the criminals’ protected identity in order to condemn them in their own neighborhoods. This medium of social condemnation served to judge and punish by alternative means, since the legal road to attain justice had been canceled. The idea was to transform the country into their prison. As these scholars focused on the study of a symbolic space, the nation, as a site of penance for the unpunished, little attention was given to how time may also become such a site. Indeed, memory became a moral duty in post-dictatorship Argentina and in most Latin American countries ruled by unrepresentative regimes in the 20th century. Testimonio turned into a substitute mode of recollecting the past and a proxy for juridical tools due to the destruction of documents by those responsible for human rights violations. “Acts of memory” like the testimonio clearly have

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21 Critic Beatriz Sarlo notes how the testimonio became a substituting mode of recollection of the past as well as of juridical tools due to the destruction of documents by those responsible of the offenses. Looking at these narratives in first person, she explores as well the ways in which they initiated “a subjective turn,” which emphasizes “remembering over understanding”, sometimes obscuring a critical analysis of the violent past. Acknowledging the lack of primary sources that may offer a direct access to evidence of human rights violations, Sarlo holds that the
juridical and moral uses, and it has become an “icon of truth” about the past. Rather than interrogating how the testimonio creates historical knowledge, this essay aims to show how its producers use history to address legal impunity. It suggests an understanding of a politics of time by looking at the ways in which survivors use history to perform judicial authority and generate alternative sentences as part of an ongoing pursuit of justice in contemporary Argentina.

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testimonio is all that is left to assess the destruction of a generation moved by ideas of revolution and political reform. Nonetheless, the aim of her book is to underlie the necessity to study the 1960s intellectual tradition whose legacy is left in print, and which sometimes the testimonio minimizes in the pursuit of emotional density, sentimentalizing history while emptying it from its political element, a narrative model indeed preferred by the editorial industry. See Beatriz Sarlo, *Tiempo pasado. Cultura de la memoria y giro subjetivo. Una discusión* (Buenos Aires: Siglo Veintiuno, 2005), 23-24.

22 Ibid., 17.
Judgment in Famaillá: Performing Judicial Authority

Elda Saravia: We were sleeping. It was more or less, approximately, three in the morning. My father…the house where I lived when I was single had a garage. My father had a cab. 
Neighbor: A Siam Di Tella
Elda Sarabia: A Siam Di Tella. My father was a good man. Any person he saw [on the road] would get a lift. He was not a materialistic man. He never thought ‘would I be paid?’ Not at all. He belonged to a union. He would give people a lift. People… that people…
Neighbor: Backpackers travelling toward the hills. […]
Elda Saravia: He was told [in a note] that that was the reason why [we were attacked].
Neighbor: Threatening him.
Elda Saravia: Threatening him, yes.
GIGET: And the bombs, did they explode there, in front of your house? How did it happen?
Elda Saravia: The streets were being paved [in front of our house]. There was a man in charge. But he was not there [when the bomb exploded].
Neighbor: That man was ‘Cricket’ Orellana.
Elda Saravia: Correct, yes. That man used to protect the construction material from being stolen.
Neighbor: The watchman was not there, but nobody was in the police station either.
Elda Saravia: […] After that terrible event in my house, we were helped by the neighbors because we were trapped. Then, people were able to rescue us. My father was… poor man, so… nervous, crying. He could not imagine what could have happened to us. He went to the police station. It was closed.
GIGET: You saved your lives miraculously.
Elda Saravia: We saved our lives miraculously.23

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23 Elda Saravia, interviewed by GIGET, January 2006, folio 7, p 1-2, transcript and video recording available, Archivo Testimonial sobre el Operativo Independencia y la dictadura militar en Famaillá, Tucumán (1975-1983), Archivo Histórico de la Universidad Nacional de Tucumán, Tucumán, Argentina. A note on translation: GIGET noted the difficulty of transcribing interviews in order to adapt the oral to the written text. Such mechanism has “ethical,
GIGET: And did you declare [in the Trials of the Juntas] after that the dictatorship ended against the crimes of the Triple A?
Elda Saravia: No. My father was afraid.
GIGET: You did not dare to declare.
Elda Saravia: My father did not dare to declare.²⁴

Instances of collective truthtelling about the past, such as the one presented above, involve the formulation of a judicial scene. The internal mechanism of truthtelling is based on the external verification of historical truths. Judicial authority and historical knowledge are substantiated by the exemplary function of the survivor’s confession. Elda Saravia’s traumatic episode with the Triple A achieves its trustworthiness through the intervention of an Other, in this case a neighbor and the interviewer, who certify the procedure and the truths told. As Hannah Arendt argues, judgment “is not bound by standards and rules under which particular cases are simply subsumed, but on the contrary, it produces its own principles by virtue of the judging activity itself.”²⁵ It is not the law that provides judicial authority but judgment in itself. In this sense, Saravia and her testimonial community of survivors of Argentine state terrorism produced not just an

²⁴ Ibid., 7.
autobiographical chronicle but also a judicial one. History and memory converge to reveal a truth about the past that aspires to achieve justice, given that legal venues to attain it, as Saravia’s words suggest, could not be trusted or simply did not exist.

When dealing with state crimes, that is, war crimes, crimes against humanity and crimes of genocide, and being that the testimonio’s truth is a product resulting from memories tainted by violence in extremis, it is certain that historians have no guarantees of the accuracy of the story told. But certainly this does not render the report untrustworthy as to the nature of such events. As Slavoj Žižek puts it,

if the victim were able to report on her painful and humiliating experience in a clear manner, with all the data arranged in a consistent order, this very quality would make us

26 See the distinction between these criminal offenses in Daniel Feierstein, El genocidio como práctica social: entre el nazismo y la experiencia argentina. Hacia un análisis del aniquilamiento como reorganizador de las relaciones sociales, 1st ed. (Buenos Aires, 2007).

27 Nora Strejilevich, “El testimonio, modelo para re-armar la subjetividad: el caso de Tejas Verdes,” 204. In the context of Latin American Studies, the debate resulting from the 1999 publication of Menchú and the Story of All Poor Guatemalans by American Anthropologist David Stoll is already well known. Through formal mediums of scientific research, Stoll questioned the veracity of the story related by indigenous activist Rigoberta Menchú in her 1984 testimonio transcribed by Elisabeth Debray called I, Rigoberta Menchú. Being a testimonial chronicle of the genocide perpetrated against the indigenous peoples of Guatemala by the national army, Menchú’s testimonio became an icon of revolutionary literature. It is this ideological conflict between academic truth and the truth of subaltern that critic John Beverley studied in depth in an eagerness to explore two distinct regimes of truth-telling. Beverley notes that Stoll not only questions the legitimacy of Marxist guerrillas and of armed struggle as a medium to attain power but also the very authority of the subaltern to speak and push his or her own agenda without the mediation of academia: “academic knowledge is in fact not the truth but a form of truth, among many others, that has fed processes of emancipation and enlightenment, but that is also both engendered in the form by a tradition of service to the ruling classes into the institutional power.” See John Beverley, Testimonio: On the Politics of Truth (Minneapolis: University of Minnesota Press, 2007), 7.
suspicious of its truth. The problem here is part of the solution: the very factual deficiencies of the traumatized subject’s report on her experience bear truthfulness of her report, since they signal that the reported content ‘contaminated’ the manner of reporting it.\(^{28}\)

The testimonio privileges a truth of commitment about the pain inflicted in the past. The survivors’ truth implies that those who speak are “committed to be what they affirm to be.”\(^{29}\)

The testimonial enunciation is based on a series of rhetorical procedures that authorize the survivor to enact judgment. Critic Rita De Grandis notes that the Aristotelian argumentative-discursive domains, those of ethos, pathos and logos, reflect the logic of persuasion of historico-didactic confessional narratives. The aim is to create an audience that accepts as true the postulates that are presented.\(^{30}\) Such domains can be dominant or they can overlap in the story. While De Grandis uses these domains to study the novel of the Latin American revolutions, it should be stressed that testimonio is also a moralizing literary genre.\(^{31}\) Thus, exploring the rhetorical functioning of the Aristotelian domains enables those listening to understand how Famaillá survivors use them to perform judicial authority based on personal experience (ethos and pathos) and historical, rational knowledge (logos).


\(^{31}\) Beverley, *Testimonio*, 37.
The ethos is the appeal to the authority of the speaker, a discursive procedure by which the subject “offers himself or herself as the guarantor of the plausibility of the version exposed.”

In this sense, the grievances recorded by Famaillá survivors, such as harassment, home invasion, kidnappings, illegal imprisonment, torture and trauma, aspire to account for the actions of the terrorist state. The judgment of such offenses are substantiated in a personal observation that certifies the survivor to judge how military forces practiced diverse repressive strategies upon civilians. Rosario Romero, a sugar-cane worker, recalled public displays of military operations in proximity to her domicile, a daily practice of intimidation. Systematic bullying of members of her family was constant: “When my husband used to go out for work, [the military] would force him to drop the lunch I had prepared for him.” Juan Carlos Dip, a storekeeper, reported death threats from soldiers who blamed him for providing food to the guerrillas. Juan Sarmiento, a construction worker and a waiter on call in a local restaurant, suffered intimidation at the hands of the military, who interrogated him on a daily basis. After a night shift, he remembered being beaten and forced to lie down on the floor while the army dragged his body. Teresa Díaz, a

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33 Rosario Romero, interviewed by GIGET, July 2005, folio 1, p1, transcript and video recording available, Archivo Testimonial sobre el Operativo Independencia y la dictadura militar en Famaillá, Tucumán (1975-1983), Archivo Histórico de la Universidad Nacional de Tucumán, Tucumán, Argentina.


pseudonym adopted by a survivor of sexual assault, noted how her husband, a baker, used to be followed by army helicopters when he distributed bread in nearby towns. Terror-inducing measures like these would also affect the working days in the sugar plantations as the military controlled the land and aerial spaces. Carlos Santillán, a sugar-cane worker, reported how hard it was to perform his job under intimation. The army would throw incendiary bombs from helicopters onto the cane fields under the pretext of combating armed insurrectionaries. Harassment by intimidation, bullying and direct attacks were aimed at disciplining society as a whole, creating an asphyxiating atmosphere that restricted acts of collective resistance.

Aggravations were accompanied by restriction of movement, which happened throughout the occupied territory. Famaillá civilians avoided leaving town for fear of being detained at checkpoints. For women, sexual harassment was systematic on the roads: “They would make us place our hands against the bus while [the soldiers] touched us everywhere. If we did not carry personal documents, we would be detained in the police station until our family members provided them. We even had to carry birth certificates.” Rosario Ibarra, an elementary school teacher, remembers her detention in the street for not carrying identification: “They asked us for

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38 Rosario Romero, interviewed by GIGET, July 2005, folio 1, p1, transcript and video recording available, Archivo Testimonial sobre el Operativo Independencia y la dictadura militar en Famaillá, Tucumán (1975-1983), Archivo Histórico de la Universidad Nacional de Tucumán, Tucumán, Argentina.
documents wherever they found us. One time, just twenty days before my daughter was born, a soldier detained me in the street. I had to wait two hours standing across my mother’s house, while the military stormed the [neighbors’] homes looking for books, weapons, everything; they searched for everything.”

Restriction of movement diminished the chance to leave the city, seek refuge, or avoid detention, kidnappings and/or death in captivity. Those who could not leave into exile were subjected to social exclusion, fear, and bullying regardless of their level of political involvement. Survivors judged how home invasion became the highest expression of military persecution.

Robbery intensified the already existing social disenfranchisement. Ana María Díaz, a housewife, recalled the fear during dinnertime as homes were invaded and food confiscated. Harassment was so extreme that her family abandoned the house to move to her grandmother’s home after her father José Diaz was detained: “[My father] had a garden shop and used to go out to sell his produce. [The military] robbed everything. Everything was lost because we never returned home due to fear.” Storekeeper Juan Carlos Dip noted that the army forced him to sell everything at cost price: “I went bankrupt. […] Since then I was not able to come back to

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41 Ibíd., p 166.
business.” Confiscation of property was usually combined with humiliation, which aimed at debilitating individuals already in situations of vulnerability. In the overwhelming number of cases, home invasion was aggravated by sexual assault and kidnappings.

Rape became a common weapon of Argentine state terrorism. Survivors judged in their testimonies how such an event destroyed their coping mechanisms in relation to the outside and their loved ones, perpetuating the trauma. Teresa Díaz recalled being ashamed when years later she confessed to her child the torment she suffered the night her home was stormed. She was sexually assaulted by soldiers and then forced to feed them with a gun at her head. Acts of brutality like these destroyed the basic structures of herself as rape trauma led her to extreme disorientation and serious mental breakdowns. Usually, sexual assault was combined with the kidnapping of family members, who were never seen again as they became desaparecidos (missing people). Those who survived the clandestine detention centers of Isabel Martínez de Perón and of the military juntas gave testimony of their abduction.

Storekeeper Juan Carlos Dip was kidnapped with his brother while transporting their produce. Soldiers hit them, forced them to eat the sand from the river, and took them to a CCD in a military base established in the nearby town of Santa Lucía. The brothers were blindfolded and placed in a cesspit for three days before being moved to a pavilion where prisoners were tortured.

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and shot. They were liberated after three months in detention. The army continued harassing Juan Carlos Dip and his family.\(^{44}\) Sugar-cane worker Hipólito Aragón was abducted in diverse instances after reporting the police in 1975 that his brother Juan Alberto had been kidnapped. Hipólito Aragón would often be taken out of his domicile, beaten, and left out unconscious in the sugar plantations. Such disciplinary measures served to sustain a system of terror and impunity as very few people would file cases against military abuses. As for his brother, Juan Alberto, he remains desaparecido.\(^{45}\) A woman, whose identity is protected in the archive, remembered being kidnapped from her domicile and taken to a CCD in the military detachment of Baviera in Famaillá. She was liberated six months later with severe trauma resulting from systematic abuses to her body.\(^{46}\) In January 1976, two months before the coup, neighbors of Olga Morales, a worker in the local municipality, went to her domicile to urge her to escape as members of her union had been abducted. She could not leave. She lacked economic resources and was waiting to give birth to a child. That same night, she was kidnapped and taken by members of the military to a CCD. She


escaped three days later from the hospital with the newly born child with the help of neighbors. Abductions disrupted the silence imposed in the neighborhoods by the crying of families witnessing their loved ones being taken away.

All instances of harassment reported in these acts of truthtelling became public performances of terror. The collective evaluation of military persecution is based on an authorized judgment whose dominant discursive strategy is a collective ethos. Offering themselves as guarantors of the plausibility of the events recounted, the value judgments of these instances of persecution, home invasion, sexual assault and kidnappings are substantiated in a lived experience that certifies the stories as true. This manner of truthtelling involves the formulation of a judicial practice. The act of truthtelling is linked to the act of speaking justice as it is presented as a process that attempts to resolve a kind of litigation in which all the aforementioned human rights violations are presented to popular scrutiny, recorded in an oral archive as material suitable to become the subject of a lawsuit. Even if such declarations are not listened to by a judge, in the usual sense of this term, they are performed with judicial authority, legitimized by a collective ethos. The testimonial society approves the regularity of the procedure and the truths told.

The next phase of state terror was isolation and death in clandestine detention centers. In the particular case of Famaillá, numerous CCDs functioned during Operativo Independencia. Scholars report:

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The Tactical Army Command was based in the provincial department of Famaillá. According to information obtained so far, during 1975 four clandestine detention centers functioned in this region: The Diego de Rojas School (head of the provincial underground circuit [of illegal prisons), the tenements of Fronterita Sugar Mill, the Police Station of Famaillá and The Lavalle School. There were also transit camps where prisoners were illegally held: a military base known as The Laguna Command, one military base in Fronterita Sugar Mill and five military camps placed in open fields called Tres Almacenes, Caspinchango, San Gabriel, and Monte Grande. Moreover, checkpoints were set up in the four main gateways to the city.48

Hundreds of activists deemed ‘subversive delinquents’ were tortured, killed and/or disappeared in these detention centers.49 The nature of these stories asks the survivors to return to Hell as if it were a rite of passage to achieve a healing, a purification in the search of truth and justice. The pathos as a discursive device appeals to the audience’s emotions or “to the empathy of the Other.”50 Such a procedure encourages the audience to bear witness to the survivor’s truth, one


50 De Grandis, Polémica y estrategias narrativas en América Latina, 88.
based on sentiments of indignation, sorrow and fear. The pathos becomes the dominant discursive domain to articulate these narratives of mortification as the very condition of their extremity makes truthtelling not only a means that serves the social body as evidence of the inflicted wrongs. It also functions as a vehicle by which the torments of the body are liberated.

Hunger, cold, filth, rape and torture shape a complex frame of traumatic memories judged by CCDs survivors. Sugar-cane worker Francisco Heredia recalled how hunger and thirst deprived him from his human condition as he saw himself turning into an animal, “a dog” desperate for food.\(^{51}\) Josefa Cisterna, a worker at a printing company in the 1970s, described the humiliating aspect of sanitary conditions. Subjection to filth became a source of psychological torment. She was taken to perform her natural functions tied by a rope while falling on filth on the way: “I had no shame. Modesty is annulled since fear is bigger than shame itself.”\(^{52}\)

Excrement and dirt were part of daily existence in captivity. Storekeeper Juan Carlos Dip described “the infrahuman conditions” in the CCDs. He and his brother performed their natural necessities in the same bucket.\(^{53}\) These stories are expressed with caution and shame in the midst of the chaotic confession of the hate of the Other experienced upon their bodies. Indeed, excrement

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and hate constitute a profound metaphor of unlimited power.\textsuperscript{54} Survivors suggest that excremental assault in detention centers expressed hate without limits. The impossibility of taking care of the body’s cleanness led them to feel guilt and shame. This sort of exhibition of prisoners’ vulnerability had two purposes. On the one hand, these practices denied the prisoners their humanity. On the other, it facilitated the work of torturers, since the reduction of the person to an animal state made the perpetrators feel they were not dealing with persons. Moreover, blindfolding prisoners during interrogation, another method to break the spirit, impeded all human connection between executioner and victim. As Pilar Calveiro notes, the concentration camp is an institution that its sole purpose is to destroy the individual. It uses torture, terror and “a set of mechanisms of dehumanization and depersonalization that [...] has a dual function: to destroy the victim and facilitate the work of the victimizer. Covering their faces, giving them a number that denied the prisoner’s identity, [...] whisks away the person’s humanity.\textsuperscript{55}

Printing worker Josefa Cisterna recalled being blindfolded during captivity and tied by her hands and feet. She noted how torture functioned not only upon the body of the tortured but also on the body of those witnessing the atrocities. Remembering the sounds coming out from others being tormented afflict her to the present day: “There are no human words to describe the sounds that were coming out from their mouths, because it was not groaning, not crying. It was clamor,


horror screams.” She recalled that physical and psychological abuses were combined inside the CCD. Memories of threats of being thrown into snake pits along with the beatings and the electric shocks in her chest still affect her daily existence. The judgment of her own experience came years after her liberation. Her family was reluctant to listen to her story due to fear of retaliation from amnestied criminals living in proximity: “I did not want this to be known,” she concluded. When judging the actions of perpetrators, stories of liberation make visible the remnants of terror present in the body. In this sense, the body becomes a site where emotions take over the senses and trauma expresses itself to account for the individuals’ collapse of their realities and their sense of self.

Liberation became the ultimate military strategy to discipline society and isolate the survivor. Sociologist Daniel Feierstein explains this phenomenon:

Survivors of the Nazi camps did not find a receptive audience until many years after their “reappearance.” Bruno Bettelheim’s writings, which recounted his experiences in the Buchenwald concentration camp, were rejected for years because they were considered “exaggerated” or “not credible”—and because they were too sad. […] Perhaps it is not too surprising, then, that the Argentine “reappeared” were either suspected of collaboration—and shunned like the plague—or transformed into talking machines, endlessly reciting a litany of horror but required to remain silent about their previous political activity or about their feelings after “liberation.” In both cases, the dead were blameless, while the survivors had to bear the shame of reappearance . . . Why were they still alive when others were dead?

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57 Ibid., p11.
They had no right to speak, and their testimony was discredited.  

Famaillá CCDs survivors accounted for the multiple ways in which they experienced solitude throughout the subsequent years: “When you come back, you are not the same. Afterwards, although people try to hide, there are little marks that stay within you, and so years pass by. I have a son as a result of [illegal detention].” The survivor’s story accounts for her loss of autonomy and the destruction of her future projects, truncated by her concentrationary experience and the inability to cope emotionally. After liberation, she hardly left her house: “[My family] left me alone, since they thought I would die soon. All people [in the town] has suffered consequences, and experienced problems in one way or another.” Indeed, state violence severely affected the population. But in the particular case of the survivor in question, her experience as a mother of an unwanted child became a burden difficult to bear in the post-dictatorial period as she decided to protect the child from a hurtful truth. She abandoned her social circles by moving away. Her son eventually did find out about his origin, but his mother tried to find solace in the idea that at least he experienced the trauma as an adult “and not as an adolescent or a kid”, which, according to her, would have caused him a bigger harm. Silence became her defense mechanism to cope with a haunting past: “You try to find your own way in order to cope with the things you experienced [in

60 Ibid., 27.
61 Ibid.
the CCDs]. But you do not talk about them anymore.” Moreover, she notes, “community became enclosed. Each one of us tried to take care of our physical state.”

Fear made silence an expected response to deal with memories of horror as the specters of a recent past are today part of a present of open wounds. Unpunished criminals enjoy impunity and many have not left the city of Famaillá: “Fear continues. The majority here does not want to talk since it is compromising. They can come one day and attack you in your own house, they can harm you or kill you. To whom will you complain? To nobody.” A defenseless situation resulting from the non-existence of legal frameworks of civil protection perpetuates the trauma.

Fear, suspicion of the post-dictatorial judicial system, and alienation are dominant trends coming up to the textual surface. Sugar plantation worker Hipólito Aragón carries the marks of torture upon his body but restrained himself from reporting his grievances to legal authorities once constitutional rule returned: “I have a broken bone and a big scar with thirty-four stiches [from the beatings]. [After the fall of the juntas] I would not go to court to declare. I thought, ‘if I put a claim in CONADEP, then they will make me disappear.”

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62 Ibid., 28-29.
63 Ibid., 31.
64 The National Commission on the Disappearance of Persons (CONADEP) was created by the presidential decree N° 187 on December 15th, 1983 by president Raúl Alfonsín. Its aim was to investigate human rights violations committed by the Juntas during the last military dictatorship. It was published under the title Nunca Más. Informe de la Comisión Nacional sobre la Desaparición de Personas by EUDEBA (Editorial Universidad de Buenos Aires) in 1984.
as well as to the suspicion felt about the legal institutions of the post-dictatorial period as the state of impunity intensified fear in the city. He declared, “I am afraid to talk. Many years have gone by but I do not want to talk. Not even with lawyers. Lawyers came to my house three times but I didn’t want to deal with them.” José Vega, a sugar plantation worker, also noticed how fear stopped him from declaring his grievances to judicial officials. According to Vega, fright and impunity harmed people in town, which decided to hide in silence: “One lived with fear. Perhaps they could come back. So nobody commented anything. They have hurt people. They have left them ill.”

Fear not only intersected with an institutional crisis in the justice system but also with social relations in Famaillá. Liberation of prisoners had an immediately alienating effect during the years of state terrorism and in its aftermath. The pardon laws of 1986 and 1987, the 1989 and 1990 presidential pardons, and the return to public office in 1995 of General Antonio Domingo Bussi, who had run the terror machine in Tucumán in the mid-1970s, maintained the panic in the city. Indeed, as a result of the pardons, Bussi was elected governor of the province in 1995 as wide sectors of the middle class celebrated his dictatorial legacy. Those who had survived persecution and those who had been affected by the disappearance of a relative continued to suffer social alienation during constitutional rule.

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68 See Emilio Crenzel, Memorias enfrentadas: el voto a Bussi en Tucumán (Tucumán, 2015).
Olga Morales, the municipal worker, notes: “All ears were closed to me [in the aftermath of
terror]. I have commented on [my experience] to my sons. But not in the way I have done so [in
this interview] because I don’t want to frighten them.”\(^{69}\) Like Morales, sugar plantation worker
Francisco Heredia carried the burden of traumatic episodes of his life in solitude: “I never told my
experience. No one ever dared to say anything. Sometimes I would have liked to yell what
happened. But it was not possible, it was forbidden. [Perpetrators] would attack once more the
people telling the truth. Everyone here was a slave of fear.”\(^{70}\) In this sense, military strategies were
part of a more extensive plan of social engineering. Terror affected the ways in which a politicized
social group would defend their rights in the face of state and corporate violence for many decades
after the last Argentine dictatorial regime.

The slow overcoming of such disciplinary phenomenon makes possible this rite of
truthtelling and the formulation of an alternate judicial scene, which was indeed facilitated by a
political juncture in the early 2000s based on a progressive human rights agenda at the time of the
production of these testimonies. Famaillá survivors’ ethos indicates the very possibility to put into
words the history of a tragedy, implying that the pain has been liberated. The overcoming of fear
is therefore feasible through the performance of rhetorical strategies that make the stories a model

\(^{69}\) Olga Morales, interviewed by GIGET, January 2006, folio 11, p5, transcript and video recording available,  
Archivo Testimonial sobre el Operativo Independencia y la dictadura militar en Famaillá, Tucumán (1975-1983),  
Archivo Histórico de la Universidad Nacional de Tucumán, Tucumán, Argentina.

\(^{70}\) Francisco Heredia, interviewed by GIGET, July 2005, folio 13, p3, transcript and video recording available,  
Archivo Testimonial sobre el Operativo Independencia y la dictadura militar en Famaillá, Tucumán (1975-1983),  
Archivo Histórico de la Universidad Nacional de Tucumán, Tucumán, Argentina.
of absolution imprinted in an archive for posterity. As Michel Foucault suggests, there is something fundamental in the immemorial belief in the powers and effects of truthtelling about one’s self.⁷¹

The past, present and future overlapped in these stories in order to visualize current preoccupations combined with memories of abduction and of life and death in the CCDs of Famaillá. Survivors performed judicial authority by evaluating their experiences with harassment, isolation and trauma during Operativo Independencia and in its aftermath, thus reclaiming and making their own the reparatory faculty to judge. In regards to the deprivation of judgment, four years before the annulment of the amnesty laws, human rights lawyer Eduardo Luis Duhalde remarked:

the situation of impunity, turned already into a culture of impunity, has done a serious damage to the social body: by depriving [communities] of the reparatory [and] symbolic character that judgment and punishment against the guilty implies, the democratic system has eroded its credibility, and the skepticism in regards to the role of the state as the entity responsible for applying the law extended to all the [social] fields, not only to the repressive actions of the period 1976-1983. To the point that there is no discursive instance, today, able to generate a general legitimacy: The state cannot produce a discourse that generates legitimacy about itself.⁷²

Acts of memory as testimonio give communities a venue to overcome the feeling of being deprived of the reparatory acts of judging and punishing. They provide judicial authority to non-

⁷¹ Foucault, Obrar mal, decir la verdad, 23.
⁷² Duhalde, El Estado terrorista argentino. Quince años después. Una mirada crítica, 11.
juridical subjects, who resort to using history as a venue of legitimization. Even if the judgment is not carried out in a court and the punishment is not ordinary prison, acts of memory have the ability symbolically to replace juridical instruments in order to exercise the right of a profoundly human activity: to evaluate the past. Terror and alienation were dealt with with courage in Famaillá through the expression of a common story aimed at healing open wounds and seeking historical justice. How historical justice is understood by this testimonial community and the sort of sentences that can be produced in a judicial scene that takes place at the margins of customary courts are the questions to which I now turn.
May Memory Be Their Prison: A Sentence, Justice and The Uses of History

If, as suggested by Duhalde, the Argentine state, as the single entity in charge of administering justice through legal punitive measures, became a murderous institution in the 1970s and 1980s with the suspensions of all basic civil rights; and, if the state refused to evaluate its own crimes by enacting amnesty laws to protect its functionaries in the post-dictatorial period, the question that persists is what door toward achieving justice remains open for those who survived the killing machine.

In regards to such a dilemma, philosopher Jacques Derrida concludes that justice is an impossibility. Our will to judge emerges from our own understanding of what is just. But this human phenomenon is only possible as long as we empty the idea of justice “of any calculable content.”73 Certainly, in the case of the crimes committed during Operativo Independencia under Isabel Martínez de Perón’s presidency and later on during the juntas’ rule, justice for the majority of survivors and relatives of missing people in Famaillá is not to be found (yet) within the law.74 The law is “a system of regulated and coded prescriptions.”75 The charges imposed on perpetrators

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might have recently been made public in the media. But whatever sanctions the accused receive (if the Operativo Independencia trial finally takes place) will never capture the extent of the offense, as justice, as Derrida puts it, is “infinite, incalculable [and] rebellious to rule.”\textsuperscript{76} And, as philosopher Hannah Arendt argues, there are offenses whose very nature is so reprehensible that they can neither be punished nor forgiven as they go beyond human issues and “the potentialities of human power.”\textsuperscript{77}

Famaillá survivors expressed dissatisfaction with the law and the institutions responsible for the administration of justice, mainly the police and the courts. Memories of horror, in its purest dreadfulness, suggest that their experience with state terror went beyond all known moral categories and legal frameworks. The situation, as discussed above, was prolonged during liberal constitutionalism as the questions of the fate of their loved ones remain to this day unanswered. It is common to find Kafkaesque tones in the testimonial archive to refer to the secrecy of the fate of the missing people: “You could not ask anything; you could not ask anybody”, declared Hipólito Aragón.\textsuperscript{78} The rules and truths of the state existed but they were and, to a certain extent, still remain secret. The majority of repressors who were tried never reported what happened to the missing people.\textsuperscript{79} This ignominious situation annuls the legitimacy of the judicial system while it provides

\textsuperscript{76} Ibid.

\textsuperscript{77} Hannah Arendt, \textit{La condición humana}, 5\textsuperscript{th} ed. (Buenos Aires: Paidos, 2009), 260.

\textsuperscript{78} Hipólito Aragón, interviewed by GIGET, January 2006, folio 10, p12, transcript and video recording available, Archivo Testimonial sobre el Operativo Independencia y la dictadura militar en Famaillá, Tucumán (1975-1983), Archivo Histórico de la Universidad Nacional de Tucumán, Tucumán, Argentina.

\textsuperscript{79} In relation to the secrecy of this bureaucracy of death, Pilar Calvéiro noted: “due to the secrecy that surrounds [the repressors] there are not direct testimonies of people in charge of disappearing bodies but one can guess their
the testimonial community with a higher moral authority to sentence and punish.

Having the individuals who formed the state bureaucracy declare themselves exempt from all judgment, we face the dilemma exposed by Hannah Arendt, that is, dealing with the worst crimes that can ever exist: the ones committed by no one. In this sense, the testimonial practice overcomes that anonymity by making visible the names of the guilty. Such a judicial scene is substantiated in the domain of the logos, an appeal to reason by way of example. Logical appeals contained in the confessions made by Famaillá survivors complement the emotional density of lived experience. Rational claims approach the legal system as an entity unable to address the wrongs of the past thus exposing the corruption of courts, the presence of unpunished criminals in the city, the abuses of lawyers, and the cancellation of trials. These postulates are based on logical argumentation and a general awareness of the recent past, which authorizes the enactment of a popular verdict.

The story of police inspector Roberto “One Eye” Albornoz is particularly revealing. This repressor led the Comando Nacionalista del Norte (Nationalist Northern Commando), a criminal institution attached to the Third Army Corps. According to Orlando Santucho, a migrant worker and political activist, police inspector Albornoz lived in a village near Famaillá free of any charges. In 2005, Santucho noted, “One eye is living now near El Cadillal [a summer village]. I know the justifications and their sense of lack of responsibility. Ultimately, they just put an end to an irreversible process: they threw "packages" [bodies] into the sea.” See Calveiro, Poder y desaparición, 41.

80 De Grandis, Polémica y estrategias narrativas, 89.
81 Daniel Feierstein, Genocide as Social Practice: Reorganizing Society under the Nazis and Argentina’s Military Juntas (New Brunswick: Rutgers University Press, 2014), 166.
addresses [of repressors] because… one always needs to be informed.” An awareness of unpunished criminals’ domiciles functions here as a mean of exposing state complicity. Knowledge of the location of genocidaires suggests the endurance of active civilians performing the role of the judicial officials, implying that there is a pending case of human rights violations and that the offenses persist in the collective memory. But this sort of historical knowledge also functions as a device able to leave for posterity evidence of Albornoz’s long reign of legal impunity and Argentina’s shameful post-dictatorial justice system. Albornoz was finally sentenced in November 2011 to life imprisonment. However, the law did not capture the extent of his crimes nor did it satisfy the victims’ desire for justice as they waited for almost four decades to see the offender seated in court.83

The will to denounce those guilty of participating in the killing machine is extended to a desire to openly exposing Tucumán society in general for supporting one of the most notorious state criminals, Antonio Domingo Bussi, with the democratic vote in 1995. Bussi returned to public life as the governor of the province, in part, due to the amnesty laws. In an eagerness to condemn his murderous legacy, sugar plantation worker Hipólito Aragón declared how Bussi’s shooting squads functioned in the CCD located in the Sugar Mill Nueva Baviera:


A blue military van would circulate around 10pm or 11pm. The van would enter down the side of the chimneys. I swear to God; shootings could be heard. People would be shot. [The army] took people [in the van] to be shot [in this factory]. Even Bussi [engaged in the shootings]. That is why the rage, the indignation, the impotence [to know] that this genocidaire was voted by the people [twenty years later]. It is so true: that one who is not affected, that one who doesn’t know, that one cannot tell what it feels. Sadly, [in this country, the situation is]: ‘if something happens to you, you are on your own.’

Aragón’s account not only denounces the inability of the state to gain legitimacy in the face of its citizens. Aragón himself chooses a judicial resolution to fulfill his rite of truth-telling by finding Bussi guilty. But such resolution is acted upon in a scene where a conflict with the past, which it asks the law to expunge through punishment, is resolved through an act of public shaming, whose politics of time refuses closure due to a persistent state of impunity.

Hipólito Aragón’s reflections also highlight the inactivity of ordinary justice when dealing with state crimes. Aragón hired a lawyer to help him with judicial proceedings but, in spite of having paid the corresponding fees, he holds that none of the neighbors who reported human rights abuses suffered in 1970s and 1980s have seen their file number or are aware of the situation of their lawsuit. By exposing unscrupulous lawyers, the testimonio offers solace in the face of state abandonment. It provides Aragón with a venue to invoke a higher authority to judge the actions

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of unpunished functionaries of the dictatorship. Giving testimony of lived experiences makes
visible the scars of the past while exposing the frustration of dealing with a bureaucracy more
interested in profiting than in addressing grievances.\footnote{Ibid., p7.}

Migrant worker and political activist Orlando Santucho reflected upon the crisis of liberal
consitutionalism in the 1990s. His words suggest that representative governments were unable to
create a legitimate discourse: “People were really disappointed in [president Carlos Saúl] Menem.
They are still a bit disappointed in the democratic system.”\footnote{Orlando Santucho, interviewed by GIGET, July 2005, folio 6, p5, transcript and video recording available, Archivo Testimonial sobre el Operativo Independencia y la dictadura militar en Famaillá, Tucumán (1975-1983), Archivo Histórico de la Universidad Nacional de Tucumán, Tucumán, Argentina.}

And he added,

The government [in the 1990s] has not been a government that demonstrated firmness in
regards to the economic plan and it has always presented itself as conciliatory. All the
intendants, the municipal leaders and the ruling political parties [...] used to say, “we
shouldn’t do anything in case the military comes back.” [...] They did not make profound
decisions to change anything. They did not change any law. The [legal] system of the
municipalities, of the communes and of the [provincial] government is the one left by the
military. That is the reason why they didn’t change laws. Because all of them said ‘no I will
not sign this just in case the military comes back.’”\footnote{Ibid., p11.}

The \textit{exposé} of complicity and crisis politics during transitional democracy aims to create a higher
moral ground for Santucho, who presents himself as a judge who sanctions a symbolic sentence,
condemning the accomplices of military power.
Impunity led the sugar plantation worker Rosario Romero to suffer depression. Argentina’s dysfunctional juridical institutions perpetuated a sense of loss of autonomy over her body and mind. Her alienation was exacerbated by the lack of public recognition of what she and her people had gone through in the past: “This has taken us to a great depression. Up to today, it is like there is no justice. There has not been justice before, or now. We are in the same situation.” Rosario Romero diminishes the authority of the courts and of the government functionaries of the post-dictatorial period who protected the integrity of genocidaires while disregarding the vulnerability of survivors.

Remembering presents itself as a moral duty in order to attain justice. Oscar Córdoba, a newspaper carrier, expressed his desire to see the proliferation of sites of memory such as museums to teach future generations about state terror in Famaillá. Memory emerges here as a possibility to repudiate silence and make the past a part of the present. In addition, for Córdoba, a site of memory functions in two ways: as a space of personal catharsis but also as a warning as it reminds Argentine society that oblivion is unjust: “The only way to overcome all this for me is to see the museum project made true. In order to teach my sons. To tell them, ‘look, this is what I have been through.’ So in case this happens again they do not make the same mistakes. They should never stay silent.”

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89 Oscar Córdoba, interviewed by GIGET, January 2006, folio 8, p6, transcript and video recording available, Archivo Testimonial sobre el Operativo Independencia y la dictadura militar en Famaillá, Tucumán (1975-1983), Archivo Histórico de la Universidad Nacional de Tucumán, Tucumán, Argentina.
Printing worker Josefa Cisterna expressed, “I think schools are not educating people so they can commit to the construction of history. I feel that my present must be positive. I am committed to the construction of history.” History as restitution and the idea of memory as an act of justice become more tangible in the words of Mariela Romero, the daughter of a CCD survivor. Like Oscar Córdoba, she suggested that oblivion is unjust:

If we forget what happened I think that it would not be just. Because it is our memory. [What happened] tells us about our lives. If I had not had my mother who is the daughter of a man who remains disappeared, perhaps, I wouldn’t know this history. I guess that neither would I care. There are so many kids who are not interested about stories like these. But I do care because I am aware of them and I hurt for those who went through this. Because I see their suffering every day. So for me it is very important [to build a testimonial archive] and I would like to be part of all this so the youth, above all, remembers or listens or at least may be more interested in our history.

Mariela Romero’s words posit the question of post-memory. If memory transcends generations, repudiating the perpetrators’ legacy turns into an act of justice.

Eva Ortíz, the wife of a man who remains missing, finds justice in memory. Her husband was a worker at the Famaillá municipality. The military kidnapped him on September 13th, 1975.

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She was three months pregnant at the time. She never knew of his fate. She noted, “[His disappearance] is something that left a big wound. We were so young. It is very sad.”¹ When GIGET asked her, “what would you like to happen in response to this?’ Ortiz answered: “I hope this is never forgotten.”² Memory becomes a symbolic restitution given to oneself and for the common good. The truth of the survivor equals the sentence and hence the punishment, whose time measurement escapes the legal imaginary. The offense cannot be forbidden, cannot be forgiven. The authority to enact this sentence is based on an overlapping of discursive domains. The intersection of a lived experience (ethos), personal and collective suffering (pathos), and the rational awareness of legal impunity (logos) stress a singular phenomenon: those who suffer hold the authority to condemn.

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² Ibid.
Figure 1 Diego de Rojas School. ‘Escuelita de Famaillá.’ Clandestine detention center. Tucumán, Argentina. (‘Famaillá Little School.’ CCD. Tucumán, Argentina.) Personal photograph by author. 2 June 2016. The memorial columns include the legends “Memory, Truth, Justice.” In the base, it can be read: “Here operated the clandestine detention center known as the little school of Famaillá during Operation Independence from 1975 to 1977.” The memorial is part of the Argentine Federal Networks of Memory Sites since November 2015.

Truth telling holds the obligation to speak justice. The act of testifying can not only be understood as the need to heal the trauma, a psychoanalytic enterprise, or as the will to attain justice in a juridical sense. The act of speaking the truth is essentially an ethical position. The confession aims to attain the salvation of conscience. It is a rite of purification performed
collectively intending to delve into the past to reveal a historical truth, one that authorizes the community to judge and punish. Those who experienced terror and its consequences in Famaillá see the historical truth as replacing the juridical one as legal punishment reduces its content to a temporal formula that disregards wider aspects of the historical experience: the blasphemy of torture and the heinous crime of disappearing the bodies of loved ones, denying their relatives the possibility to mourn.

Survivors used historical knowledge to enact a sentence; they proposed an alternative punishment by exercising a politics of time antagonistic to the one inscribed in the law. Historical narrative opposes positive legal discourse, since the latter is subjected to a hermeneutic of history that reduces past actions contrary to the law to a punishment, the entire purpose of which is to deter crime. But a history that privileges memory embodies a politics of time that admits a wider hermeneutics, where the present looks critically at the past in the pursuit of social justice in the future.

Survivors’ claims suggest that memory condemns mass crimes of the past and, at the same time, warns that legal punishment against human rights violations can be a subterfuge as ‘never more’ is certainly a failed slogan of the 20th century. As historian Greg Grandin suggests, legal apparatuses present history “as parable rather than as politics, largely deny[ing] the conditions that brought [the trials and truth commissions] into being.”94 By using history as a moral lesson on the consequences of social conflict, liberal constitutionalism erased from public discourse the

neoliberal socioeconomic plan pushed by military terror and its civil allies. Underneath the politics of ‘never more’ lies a need “to forget acts of violence central to state formation [and the survival of capitalism] that can never be forgotten.” But Famaillá survivors’ judicial scene challenges such lack of historical judgment. Collective memory, in contrast to the state law, imagines time as the ultimate space of punishment and penance for offenders of humanity, turning it into a means to honor and continue the political struggles of missing people who fought for social equality.

Remembering creates a complex pedagogy. The process of transmitting memory from generation to generation, as Mariela Romero’s testimony suggests, creates a truth for the purpose of imparting historical justice. Bearing witness then transcends the spaces of juridical proceedings because it seeks socially to condemn the abuses of power and those who embodied it. Reflecting on crimes of genocide, Arendt reminds us that

a structural element in the realm of human affairs, [is] that men are unable to forgive what they cannot punish and that they are unable to punish what has turned out to be unforgivable. This is the true hallmark of those offenses which, since Kant, we call ‘radical evil’ and about whose nature so little is known, even to us who have been exposed to one of their rare outbursts on the public scene. All we know is that we can neither punish nor forgive such offenses […].

Arendt’s words find echo in the thoughts of the Famaillá survivors as neither legal punishment nor forgiveness seem to emerge as formulas of closure to a past of open wounds. Survivor Eva Ortiz’s desire for her tragedy never to be forgotten embodies an emblematic position

95 Ibid.

of human rights activism in Argentina. Social condemnation against perpetrators of ‘radical evil’ not only seeks publicly to shame oppressors but also to pursue a politics of time embedded in a rite of truhtelling that seeks to make time their perpetual site of penance.
Conclusions: Testimonio and The Politics of Time

The memory of societies affected by the killing regimes of the 20th century does not accept a fixed penance for the offenders of humanity. The very nature of these crimes does not permit forgiveness but a timeless ritual of condemnation, guaranteed by remembering. Testimonial practices of survivor communities are indeed not formal mechanisms of judicial punishment but ethical interventions that operate in a strictly moral sense through the production and accumulation of discourses of truth. No juridical model operates out of a paradigm that is not underpinned by an obligation to grant a penalty equal to the offense. But acts of memory as testimonio formulate judicial scenes where justice is substantiated in remembering the offenders’ evil deeds that made human life superfluous.

Famaillé survivors of Argentine state terror perform judicial authority and formulate an alternative sentence for unpunished and amnestied criminals. Deploying the testimonial genre, they perform judgment, apply punishment and seek justice in response to legal impunity in constitutional Argentina. Committed to remembering the offense against humanity, survivors made time a perpetual site of penance for the guilty. Their ultimate gesture was to express that historical memory praises “an ‘anamnestic solidarity’ between the living and the dead.”97 The quest for justice finds in historical time a dimension where recognition of the pain of others becomes

just as the living carry a “weak messianic power” to redress past injustices. Testimonio seeks historical justice for the dead and social justice for the living. Examining the ethical principles of this cultural practice of storytelling shows that the quintessential slogan *juicio y castigo* became a tool for Famaillé survivors to reclaim their faculty to judge the past, something of which the laws of amnesty had deprived them. Facing the impossibility of attaining legal punishment against those responsible for the horrors they experienced, survivors found in testimonio a medium to condemn socially the state and its functionaries’ self-assigned immunities.

Judgment allowed the Famaillé society to evaluate experiences that shaped the ways they related to political and social life as a result of the irruption of military terror in the city. Examining memories of harassment, isolation and trauma resulting from the genocidal practices carried out by the Armed Forces of the Argentine Republic opened the conceptual horizon to understand the disciplinary nature of fear and its ability to break communitarian social ties. Left by the state itself with no juridical tools to comprehend why Argentine society descended into barbarism to sort out its differences, the construction of a testimonial society allowed survivors to exercise their autonomy by engaging in the construction of their own judicial scene to redress the past.

Coming up with alternative punishments for the unforgivable became a means of discussing justice. Its unruly character, its incapacity to find in penal redress an adequate measure to capture the extent of the offense allowed the community to find absolution in remembering.

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Sites of memory, testimonial archives and, above all, social recognition of the legacy of those who survived and of those who remain missing synthetize the idea that collective history making is just. ‘May memory be their prison’ is then a slogan that underlies a desire to condemn the will to bury a past that remains so present in the bodies of those affected. As with other performances of condemnation aimed at making visible the actions of those who tortured, murdered and disappeared persons, the testimonio visualizes the offenders’ names, the failures of Argentine liberal constitutionalism and its incapacity to administer justice in post-dictatorial times. Here lies the crucial role that collective history making plays in the ongoing demand for accountability and justice.

Testimonio holds an aspect of defiance. It is a form of storytelling that conflicts with a concept of time that stresses temporal linearity. Its politics of truth challenge the idea of separation between the past and the present. The memory of the people of Famaillá will resist oblivion even if the law intervenes in the near future to punish the guilty in an attempt to conciliate the nation. Hoping that the horrors will never be forgotten is more than survivor Eva Ortíz’s longing for historical justice. It is also a way to express a clear politics of time in which the memory of her husband, a man of the people who dreamed about social equality, persists among the living as a specter whose political legacy refuses to fade away. Ortíz’s testimonio is a shared desire for emancipation. It is part of a living memory that insists in the spectral presence of those who remain missing. May this memory be the ultimate act of justice.
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