

1

TRANSITIONAL JUSTICE AND THE VISUAL POLITICS OF MEMORY

In one of the seven shorts included in *Huellas, a 40 años del golpe* (Traces, forty years after the coup; a coproduction of TV Ciudad and Montevideo Capital Interamericana de la Cultura [2013]), produced as part of the commemorative events that took place in 2013, Gonzalo Arijón's "Dos niños y un casco azul" (Two children and a blue helmet) exposes the paradoxes of the Uruguayan model of transitional justice. The paradox presented by Arijón is as follows: In 1988 the United Nations peacekeeping forces, the so-called blue helmets, were awarded the Nobel Peace Prize. Among them, representing Uruguay, was Glauco Yannone, who once had been an agent of the dictatorship and had tortured Lilian Celiberti, who is interviewed in the documentary. "How is it possible that a military officer known to be a torturer could be a member of the United Nations peacekeeping forces?"

The images captured by the camera and identifying the former repressor point to the evidentiary claim of the archive. The voice-over drives the narrative of the short, which presents itself as exposé and evidence. The interviews



FIGURE 1.1. Still image from “Dos niños y un casco azul” (Uruguay, directed by Gonzalo Arijón, 2013)

add additional voices and viewpoints, but do not dilute the voice-over as it narrates and reveals not just the crimes themselves but also the consequences of the impunity associated with them. One moment of intersecting looks arises because the people observing and commenting in this accusatory video are Camilo and Francesca, Lilian Celiberti’s son and daughter, who were kidnapped with her in 1978 and later freed. An intersection of looking relations—the camera, Camilo and Francesca, and the viewer—invites us to see both the archival footage and the perception of two victims. The short they see as adults includes a reference to their own story and serves as a frame for discussing the video they are watching along with us, as spectators, as well as for depicting their lives. The evidentiary mode gives way to the aesthetics of the short, in which images, whether captured by the cameras or not, are in dialogue with the victims, who become both spectators and witnesses. The video framed here portrays the effects of impunity and silence not just on the awarding of the Nobel Peace Prize but also on the daily lives of two survivors who were children during the dictatorship. Through an interplay of cameras (the one filming the awards ceremony, the one used in the framed video, and the one used for the short), Arijón demonstrates the impact of the moving image on human rights activism and thus on the struggle against (and exposure of) impunity. In this way, the film engages in a variety of different uses of images: those shown to family members, to the members of the Nobel committee,

and to Uruguayans in the Teatro Solís in the city of Montevideo, as part of the 2013 commemoration of the forty years of the coup.

I have chosen this short as the starting point for this chapter because it speaks clearly about one of the paths of cultural production related to human rights violations: the evidentiary path. This short film shows the effects that the lack of information about the Uruguayan recent past has had internationally, with the understanding that documentary intervention can expose pieces of evidence both to the family and the public. I will end the chapter with a reference to another short that belongs to the same collection of shorts, *Huellas*, to point to the reworking of meaning as another path of cultural practices that do not rely on evidence, but on poetic gestures. Both shorts frame this chapter, which will discuss the legal and judicial process of transitional justice in dialogue with official commemorative cultural production, in order to rethink what becomes visible and invisible in the official cultural politics of memory (whether via monuments, museums, memorials, or images that are an intricate part of commemorative phenomena).

DICTATORSHIP AND *ORIENTALIDAD* (ORIENTALNESS)

One of the central aspects of the cultural politics of the dictatorship is embodied in the commemorative discourse of “Orientalness” (a noun that attempts to point to the characteristic of being Uruguayan, that is, from the Oriental Republic of Uruguay) as a form of self-legitimization. The “civic-military” nature of the Uruguayan dictatorship is one of its most salient characteristics, and it is also rooted in the gradual but persistent emphasis on a dubious yet not entirely absent legality through which the terrorist state was legitimized.¹ Through the Doctrine of National Security, the armed forces expressed their aim of eliminating subversive elements through widespread repression and imprisonment. February 1973 saw the issuance of a constitutional decree announced in comunicués 4 and 7, and the process culminated on June 27, with the formation of the de facto government and the dissolution of the legislature. This also ushered in the key feature of the Uruguayan dictatorship, the constitutional decree.² That same president, Juan María Bordaberry, who rode to victory with the Partido Colorado in 1971, in 1973 kicked off the civic-military dictatorship, becoming an integral part of it.³ A distorting effect of dictatorship is its eagerness to legitimize itself and its emphasis on legality: According to historian Gerardo Caetano, since 1976, when Bordaberry’s administration was ousted, “the Uruguayan armed forces attempted to put a judicial face to their actions” (125).

These legitimizations not only function on the military and legal jurisdic-

tions, but are also bolstered by discursive practices and cultural politics. In her study of the images and narratives of the authoritarianism of the Uruguayan regime during the civic-military dictatorship, Mabel Moraña suggests, for example, the use of symbols and narratives to explain the function of military participation and the suspension of democracy under the state of exception. One of the examples Moraña analyzes is the upper echelons' "explanation" of the transition to dictatorship, especially Bordaberry's address to the nation via radio and TV in which he spoke of a "dramatic dilemma" and, through analogy with the sea ("you could say it's like the sea when the tide goes out and the rocks appear: it's not the rocks that are rising but the sea that's going down"), attempted to justify the imposition of military force and the ebbing of political power (Moraña 84).⁴ This simile plays several roles simultaneously for Moraña: first, it naturalizes the state of exception. Second, it makes politicians responsible for the shattering of democracy. Third, it affirms the presence of an immovable vigilance (94).⁵

For the period that has been referred to as the "Uruguayan cultural blackout" (which lasted from 1973 to 1978), the cultural politics of the dictatorship regarding "Orientalness" can help illuminate the dictatorship's visual regime and its use of monuments in order to project the image of national cohesion through the legitimization of repression and state violence via heroic symbols. In a study of the commemorative emphasis on the year 1975 in Uruguay, Isabela Cosse and Vania Markarian reflect on a series of patriotic and historic portrayals by the dictatorship that promote new social bonds that came to replace the bonds that existed prior to the military regime (8). Coinciding with what some historians consider to be the moment of the most acute violence of state terrorism (1975–76), the dictatorship organized a program of ceremonies, discussions, and debates regarding the foundational national dates, patriotic narratives, and constructions of monuments to military heroes, thereby monumentalizing the military presence that had been superimposed on the repressive practices both in Uruguay and within the activities associated with Plan Cóndor (Operation Condor—an intelligence and military operation involving Chile, Argentina, Bolivia, Brazil, Uruguay, and Paraguay). This program was known as the *Año de la Orientalidad* (The year of orientalness, or the year that would speak to the "essence" of being Uruguayan).

Within this narrative, acts of state terrorism are characterized as a "mission" comparable to the struggle for independence. The construction of Artigas's underground mausoleum beneath a plaza that already commemorated Uruguay's national hero with a monument implies a symbolic and visual transformation: by appropriating the figure of Artigas, the state strove to



FIGURES 1.2 & 1.3. Artigas's mausoleum

“make a memory” of Uruguayan national identity and its constitution through an imaginary of heroism and independence that the dictatorship would now ascribe to. It attempted to turn its hidden and explicit practices of violence into heroic actions related to emancipation. The mausoleum, as a space whose purpose was to affirm patriotic continuity with Artigas’s project, is a projection that through fantasy or hallucination presents itself as a space linked to the discourse of Orientalidad, with explicit references to the sovereign right of the people, the authority that emanates from it and to the protection of citizens’ freedom—that is, a paradoxical appropriation of Artigas’s figure and the values of independence within the discourses of an authoritarian regime). In the meantime, the detention facilities for political prisoners were the dictatorship’s most concrete spaces—and those most closely linked to historical trauma. I am referring here to the most widely known penitentiaries: Punta de Rieles and Libertad, where the model was not heroism but repression.⁶ Given the human rights violations that took place in these two prisons, the construction of Artigas’s mausoleum in the very center of the city and the ideology of “Orientalness” used to justify it, evince this attempt at cultural legitimization as the flip-side of the state’s repressive violence, where torture and crimes against humanity are transformed, through the figure of the national hero, into actions linked to independence and heroism.

AMNESTY AND EXPIRATION: MONUMENT TO THE FRACTURING OF MEMORY

One of the indisputable milestones in the history of impunity that began in the aftermath of the civic-military dictatorship was the Ley de Caducidad de la Pretensión Punitiva del Estado (Law 15848, the Law on the Expiration of the Punitive Claims of the State, commonly known as the Expiry Law) in 1986. The Expiry Law was not just a milestone; it establishes the very core of the transitional justice process. Even today, impunity, but expressed in the law with regard to expiration time, remains the paradigm of democratization in Uruguay and gives rise to a number of paradoxes related to transition models. The Expiry Law defined the relationship between democratization and justice from the very beginning; the distinction between them was established in the so-called Naval Club Pact, signed on August 23, 1984, by representatives from the political parties and the armed forces.⁷ On the one hand, “expiration” is a central aspect of the Uruguayan transition in both the legal and judicial fields. Yet the political arena is dominated by another key concept: amnesty for political prisoners. Central issues to both the Naval Club Pact and the debates that preceded the return to democracy (December 1984, January and February 1985) were amnesty and the conditions under which political prisoners

would be freed. Thus, amnesty was a key element of the transitional political debate.⁸ The fifth article of the Law of National Pacification, or Amnesty Law (Law 15737), passed during Julio María Sanguinetti's administration, excludes all political or military officials who were serving during the dictatorship period (Caetano 109). Yet it soon became evident that the transition government wanted to halt any prosecution related to human rights violations.

Shortly after becoming the new democratic president, Sanguinetti made it clear that Uruguay's democratization process was conceptualized as a pacification process marked by impunity and silence. This silence was enforced, as it did not come out of an ignorance of the human rights situation in the country, where it is estimated that 60,000 people were arrested after the military coup, 6,000 of whom were held as political prisoners (Amnesty International 1976; Lutz and Sikkink 642; Burt, Fried Amilivia, and Lessa 312); somewhere between 160 and 300 were disappeared or murdered; and some 250,000 were exiled (Servicio de Paz y Justicia, [SERPAJ]; Delgado 53; Burt, Fried Amilivia, and Lessa 312). Caetano notes that despite the Sanguinetti administration's emphasis on pacification, parliamentary commissions were formed in 1985 to investigate the situation of the disappeared (Caetano 109). This effort was brought to a halt by executive power as a precursor to the development of the amnesty law (109). In 1986 there had been 734 cases under investigation, which had been reported by family members and victims (Burt, Fried Amilivia, and Lessa 311).⁹ The passage of the Expiry Law led to a shift of direction away from the push for open investigations and prosecutions during the first year of democratization. And this shift defined the decades that followed.

The slogan used in Sanguinetti's campaign ("El cambio en paz" [Change in peace]) clearly evokes a "pacted democracy" that privileged agreement and reconciliation above justice regarding human rights violations from the recent past. "Change in peace" alludes not just to the possibility of a violence-free transformation of the armed organizations but to a transformation in which peace would be maintained through the expiration of the state's punitive claims (the law says: "Regarding the crimes committed prior to March 1, 1985, by military and political officials" and "in the case of actions ordered by authorities who were in place during the period in question" [El referendium uruguayo 62]). That peace was not associated with the denial of the existence of crimes against humanity, nor was it posited as being in opposition to human rights, at least not explicitly. What the expiration of crimes against humanity did achieve was to undermine the imprescriptibility of said crimes, even though Uruguay had signed and ratified international treaties affirming that imprescriptibility.¹⁰

In response to that law, a coalition of human rights organizations and some political alliances came together and argued that the law promulgated by the executive branch should be put to a popular referendum (Caetano 97).¹¹ The commission collected 634,702 signatures in support of the referendum (Delgado 37). In the end, though, this initiative resulted in the ratification of the Expiry Law on April 16, 1989, with 57 percent of the vote. On the one hand, interpretations of the results of this referendum (which differed between Montevideo, where the law was roundly rejected, and the rest of the country, where it was upheld) point to a failure to maintain human rights as a focal point during the transition to democracy and even the persistence of a mind-set characteristic of a society under totalitarian rule (as in the case of Delgado, who recalls the intimidations and threats used by the government and the military). The ratification of the Expiry Law, which provided a shortcut for decoupling the state from the imposition of a law that had now become representative, functioned, Caetano claims, as the “full stop” (*punto final*) in Uruguay. Yet it left the conflict between Uruguayan law and the constitutionality of the law unresolved. Caetano’s critique points in that direction, with regard not just to the expiration of crimes against humanity but to the very possibility of ratifying the law through a referendum. Caetano doubts that a law or plebiscitary arbitration could decide about crimes against humanity. And even beyond the question of ethics, he asks, “Can a political procedure annul a right that is prior to it and on which that political right rests?” (99).

This framework of impunity has an important impact on the official visual regime of the first decade after 1985. The transformation of the Punta Carretas penitentiary into a shopping center in 1994 embodies key aspects of this period of forgetting, silence, and expiration and of what remains hidden under Sanguinetti’s slogan (“El cambio en paz”), namely, the erasure of the recent history and the celebration of the neoliberal market. Because of the Tupamaros’ escape in 1971, the Punta Carretas penitentiary is a space associated with both imprisonment and resistance/disobedience. The construction of the Punta Carretas mall signals the beginning of a period of “expiration” of the past, embodied in a space that exhibits the logic of the neoliberal market. Hugo Achugar (2000) considers the project of repurposing Punta Carretas to be in direct dialogue with the Expiry Law and the referendum. Construction began around the time of the referendum and reflected a shift from “Orientalness” (as in Artigas’s mausoleum) to Caducidad (the Expiry Law) and from a model of projection of heroism during the dictatorship to a model of suppression of punitive claims made against the state during the democratic transition. It is the official nature of the monument that Achugar sees as the

key to memory and its ghosts: a monument that (drawing on Pierre Nora's concept of "realms of memory") comes to position itself right at the edge of forgetting, bordering it, containing it, and retaining what must not be forgotten. The monument becomes a key, for Achugar, to understand what is considered worth remembering in the present and what will be "shown" to future generations. Thus, there is an objectification of memory that seeks to "reaffirm an origin."

The shopping center's preservation of many architectural elements and the transformation or elimination of others lead Achugar to reflect on this architectural superposition that, he claims, should be read as erasing historical time and replacing it with "a view shaped by the temporality of the market" (*Planetas* 223). Achugar reminds us that those erasures and transformations point to the normalization of violence and social exclusion, and to the privilege of the neoliberal market. In her study about the "afterlives of confinement," Susana Draper takes the Punta Carretas mall as a point of departure for her analysis of the "opening" of former spaces of detention that are a symbol of an "invisible system of inclusion and exclusion in the surveilled freedom of the free market" (58). For Draper the transformation of the Punta Carretas penitentiary into the Punta Carretas mall serve as evidence of the continuities of the logic of dictatorships in neoliberal democracies, arguing against the concept of postdictatorship, that by placing the dictatorship in the past conceals its ongoing (buried) permanence in the present.

Understanding the mall as a contemporary prison (specifically characterized by social exclusion and the imposition of forgetting), Achugar suggests that Punta Carretas becomes a metaphor for a partially demolished memory. And it is precisely because of this incomplete quality of the fracturing of memory that the image of the palimpsest is able to resignify the loss noted by Achugar, as architecture inevitably leaves its own mark (227). This architectural transformation implies what Marcelo and Maren Viñar call the "fracturing of memory" and not the "indispensable forgetting" "that comes, according to them, after the work of grieving and must be "normal and fecund, and not fall into perverse complicity with impunity" (16). The Viñars make no attempt to place memory and forgetting in opposition, instead positing many instances of forgetting as an integral part (and necessary selection) of memory. The fracturing of memory, by contrast, leads to violence. And the Punta Carretas shopping center seems to reflect not so much a forgetting as a fracturing of memory: a memory that remains there, in the walls and signs that "make history" within the space of the mall, but chopped up into



FIGURES 1.4 & 1.5. Punta Carretas shopping center (top: outside; bottom: inside)

those convenient fragments that the architecture frequently uses to refer to historyless history.

Both the official politics of memory and the visual regime are during this time associated with the law of the market and with the law on the expiration of the punitive claims of the state, and reorganize the “ways of seeing” as well as the “looking relations”: from a space of confinement to one of consumption, surveillance continues to serve an ordering/repressive function within the reformulated space, producing forms of citizenship that are built around the possibilities of consumption. This reordering of space implies regulation of acceptable and unacceptable forms of citizenship, that now is reformulated within a context of depoliticized consumerism. And though the mark of the past is present, as Achugar suggests, we might also think that it has become invisible, buried among these other dynamics of looking that are completely alien to those that inhabited the prison thirty years before its inauguration as a shopping center. And nevertheless, the traces of that past and the layers of memories and erasures function, paradoxically, as a site of memory that points to this particular moment of the process of transitional justice, leaving a mark in the urban landscape that goes beyond the transitional justice mechanisms.

The fractures of memory are also visible within the impunity law. Though the Expiry Law had eliminated the state’s “punitive capabilities” in terms of the military dictatorship’s crimes, Article 4 obliged the executive branch to investigate what had happened to the detained and disappeared. Article 4 was one of the points of discussion that arose again and again in the debates over expiration. The article makes explicit reference to the investigations that the state would have to initiate.¹² Thus, the ratification of the Expiry Law bolstered the legitimation of silence, a silence that so many movements struggled against, while it simultaneously opened the door for the validity of truth.

MEMORY AND PACIFICATION

The administration of Jorge Batlle (2000–2005) initiated a shift in direction that ended with the establishment of the Peace Commission, created by presidential decree 858/2000 on August 9, 2000. Three years later, the commission released its 2003 report. This shift was also noticeable in the cultural politics of memory, as public debates regarding impunity began to become more visible, and was also noticeable in the visual regime.¹³

The period between the ratification of the Expiry Law and the creation of the Peace Commission is mediated by a number of events that began to galvanize and transform the discussions about the violations perpetrated. In

1990, for example, the Supreme Court declared itself incompetent to pursue charges against former chancellor Juan Carlos Blanco over the disappearance of Elena Quinteros (Caetano 105). Two years later, in 1992, the Inter-American Commission on Human Rights issued a report in which it discussed the Expiry Law's incompatibility with international norms (SERPAJ, Informe 1992). Both the Archives of Terror found in Paraguay in 1992 (and the resulting increased visibility of Plan Cóndor) and the fallout from the publication of Horacio Verbitsky's *El vuelo* (The flight) in 1995 (with its revelation of the death flights in Argentina) produced a disruption in the cultural politics of silence and concealment that accompanied the Expiry Law. Starting during the mid-1990s, in commemoration of the twentieth anniversary of the assassinations of Héctor Gutiérrez Ruiz, Zelmar Michelini, William Whitelaw, and Rosario Barredo and continuing up to the present day, the Marches of Silence (Marchas de silencio) have publicly demanded truth, memory, and the end of impunity.¹⁴

The debate that broke out, also in 1996, over the words of navy captain Jorge Tróccoli, who published his confession, “Yo asumo, yo acuso” (I admit, I accuse), in the newspaper *El país*, revealed that the persistent presence of the past in the present was not merely a ghostly presence, but was instead bolstered by an impunity that made this kind of confession possible. In his “confession,” Tróccoli admits to having supported the use of violence, suppressed demonstrations, supported the coup, and participated in the repression, but he then justifies all his actions. Structured around the binary of I admit/I accuse, Tróccoli's argument in defense of the dictatorship and himself is that of temporal discrepancy—that the interpretive keys of the present are of no use for interpreting the past—and, in addition, the well-worn theory that these extreme actions should be understood as being justified, not criminal. And it is based on this point that he sets up his “accusation.”¹⁵ The debates that followed the publication of this text served to repoliticize the discussions about memory, to make clear that these considerations were still rooted in the theory of the “two demons,” and to address the need to bring mechanisms of justice to the fore.¹⁶ Tróccoli's confession and accusation served as a testimony that impunity had reached a tipping point.

Another important landmark was the 1999 open letter written by Argentine poet Juan Gelman to President Sanguinetti, in which he describes the search for his granddaughter and asks the president to intervene to help identify her whereabouts. Yet even when Sanguinetti repeatedly refused the petition for investigation, on March 31, 2000 (now under Batlle's administration), Juan Gelman's granddaughter, Macarena, was located.¹⁷ Two years later, on

March 19, 2002, Sara Méndez managed to track down her son, Simón Riquelo, after twenty-six years of searching. These were two of the most emblematic cases of disappeared children during the Uruguayan dictatorship.¹⁸

Though the Peace Commission came to function as an official body for carrying out investigations, it did so within the framework of President Batlle's model, which underscored the link between "clarification" and peace. The rearticulation of peace now gave rise to the truth. The commission's objective was to investigate disappearances and detentions. In 2003 it produced a report detailing the denunciations and investigations, and the state officially recognized the human rights violations committed. This report contained the suggestion for the creation of the category of "absence by enforced disappearance" (*ausencia por desaparición forzada*) and recommended that the prevailing legal norms regarding crimes such as torture and genocide be updated.¹⁹

It is not surprising that in a moment focused on "clarifying the truth"—with the creation of the peace commission, tasked with investigating forced disappearances—the Memorial de los Detenidos Desaparecidos (Memorial to the Disappeared), which was declared a project in the national interest in 2000, was inaugurated on December 10, 2001. The emphasis on truth (although detached from justice) determines now a new visual regime of the process of transitional justice, and the Memorial de los Detenidos Desaparecidos exhibits the official visibility of the desaparecidos, a visibility that is also marked by its marginality. The project began in the late 1990s and was the initiative of the city government and family members of the disappeared. The monument consists of a glass wall with 174 names, designed by the architects Martha Kohen and Rubén Otero. The official website of Montevideo refers to the "numerous examples of trampling people's rights" and suggests viewing the memorial as another symbol "reminding us of those events." Furthermore, within the official narrative, the Memorial to the Disappeared "invokes the need to 'ensure the peace' and to reassert, in concrete terms, a commitment to 'NEVER AGAIN,'" and therefore to one of the pillars of the transitional justice process: nonrecurrence (Memorial en Recordación de los Detenidos Desaparecidos).

This desire to ensure "never again" implies a new understanding of peace (or pacification), now with the truth and with the names of the disappeared, by officially recognizing the use of enforced disappearance in Uruguay. Yet it is a "never again" detached from the idea of justice (at least in its judicial sense). Sixteen years after the Naval Club Pact, the official politics of pacification remained apparent. Unlike the Artigas mausoleum and even the Punta Carretas shopping center, which are in the center of Montevideo, the memorial is literally on the city's margins. Though this recognition of victims is



FIGURE 1.6. Memorial to the Disappeared

significant, the urban design continues to point out their marginalization and isolation. Nevertheless, it is important not to underestimate, as Cara Levey has suggested, the impact that these sites of memory might have in future generations, in particular, in relation to the construction of meaning about the past and the commemoration of the past (*Fragile Memory* 260–61).

Under this project, the pursuit of justice was postponed and remained incomplete. As debate raged about the expiration of human rights violations after the beginning of the “clarification” in 2000 and before the first trials, the Expiry Law once more became a central topic of discussion. One of these debates took place over the course of several conferences organized by the Universidad de la República in Montevideo. In 1995, in ratifying the Inter-American Convention on Forced Disappearance of Persons, Uruguay had legitimized the convention and thus accepted a crime that was not set out in its own internal law: the crime of forced disappearance. In addition, it had accepted the characteristics that the convention attributed to the crime of disappearance and the fact that it “shall not be subject to the statute of limitations” (Article 7). This legitimization of international law made the conflict with Uruguay’s domestic Expiry Law apparent. It was precisely this conflict that became public after the conferences at the Universidad de la República. Professor Gros Espiell, former president of the Inter-American Court of Human Rights, sparked the public debate by revealing this discrepancy. Gros Espiell claimed that “the entry of international treaties into the Uruguay’s domestic law (as law, neither superior nor inferior to the law), requires us to consider the relationship between the two from a chronological perspective: the one that was passed most recently is in effect” (*Brecha*, June 1, 2001, 3). This state-

ment implies that at the time the Inter-American Convention was ratified, the crimes that did not exist in the Uruguayan penal code but were spelled out in the convention became part of Uruguayan law.

This debate, which appeared in the media in late May 2001, points out that temporality (in relation to memory and human rights), might be understood as the irreconcilability between *expiration* and the *permanence* of imprescriptible crimes. In the public debate that followed, emphasis was placed on the serious conflicts that emerged after the ratification of international treaties because they put an end to domestic practices, thereby opening the possibility—indeed, the necessity—of transforming internal law.

In 2002, seventeen years after the return to democracy, the first trial of a member of the Uruguayan dictatorship was held. On October 18, 2002, Uruguay saw its first prosecution of one of the members of the dictatorship for human rights abuses, when Juan Carlos Blanco, former foreign relations minister, was charged with the disappearance of schoolteacher Elena Quinteros (Olivera and Méndez 7).

MEMORY TOWARD JUSTICE

During Tabaré Vázquez's first presidential term, there was a series of important events: first, the remains of Fernando Miranda (disappeared in 1975) and Ubagesner Chavez Sosa (disappeared in 1976) were found in 2005. Second, Juan María Bordaberry was arrested in 2006. Third, also in 2006 Juan Carlos Blanco was tried for a second time. In addition, in 2009 José Gavazzo, Jorge Silveira, Gilberto Vázquez, and Gilberto Fernández were sentenced to twenty-five years (Allier Montaño, *Batallas* 255).²⁰ And finally, in 2010 Gregorio Álvarez (last president of the dictatorship from 1981 to 1985; in custody since 2007) was also sentenced to prison.²¹

The year 2006 was also crucial because of a directional shift in the politics of memory that went in concert with all the changes that had taken place over the previous few years. That year saw the creation of the Centro Cultural y Museo de la Memoria (MUME; Cultural Center and Museum of Memory) in Montevideo's Prado Norte neighborhood, "in what was once the country house of the dictator Máximo Santos [1847–89], one of the major figures of nineteenth-century Uruguayan militarism" (Uruguay, City of Montevideo, Museo de la Memoria. Edificio).

The main area of the museum serves as a map via which to explore a narrative about the recent past: the dictatorship and the labors of memory, anticipated many times in the temporary exhibits outside the space. On display in the outside area from which the visitor enters the museum are hints, traces,



FIGURE 1.7. Centro Cultural y Museo de la Memoria (Sala la instauración de la dictadura [The establishment of the dictatorship hall])

and extensions of the visual effects of memory. The permanent exhibit is organized in different rooms that present a narrative of the past: (1) The Installation of the Dictatorship; (2) Popular Resistance; (3) Prisons; (4) Exile; (5) The Disappeared; (6) The Restoration of Democracy and the Struggle for Truth and Justice; and (7) Unfinished Stories and New Challenges (Uruguay, City of Montevideo, Museo de la Memoria. Exposición Permanente).

In addition, the museum's temporary exhibits and its yearly calls for exhibition projects create the possibility of inscribing new visions of memory and proposing new artistic and cultural practices (theater and dance performances, film series, art classes, literature). The museum also has an archive containing collections of objects, an oral archive, and a media library. Its mission is to "create a space in the city of Montevideo for the promotion of Human Rights and Memory of the struggle for Freedom, Democracy, and Social Justice, understanding these as cultural concepts, unfinished and perpetually under construction" (Uruguay, City of Montevideo, Anteproyecto, October 2005, Museo de la Memoria. Institucional).

The Centro Cultural y Museo de la Memoria represents a shift in the understanding of the truth, from the emphasis on peace and reconciliation to



FIGURES 1.8 & 1.9. Centro Cultural y Museo de la Memoria (Sala la resistencia popular [Popular Resistance hall; (Sala las cárceles [Prisons hall]))

the emphasis on the promotion of human rights, and therefore linking them to struggle, cultural transformation, and, most important, to justice. Yet it is located far from the city center. Removed from the cultural life of the city of Montevideo, the museum's location still exposes the fractures of memory, now visualized as a quarantine of memory, almost as a confinement. An important part of the museum activities is directed to bridge this gap: and it is in this context that the emphasis on the transition of memory to younger generations becomes crucial, whether through education programs, visits, and the most recent attempts to facilitate communication between the community and the museum through the digital platform *Memoria en red*.

Even when the creation of the museum represents the shift that takes place in the cultural politics of memory with the victory of Frente Amplio, its location also makes visible that it is still marginal. The paradox, however, is that from this position of marginality within official memory, the museum embodies a space for exhibits and cultural practices that seek to transform the relationship between memory and justice by delinking it from pacification and impunity and to welcome the transformations in the construction of memory through the emergence of new subjects. As I will discuss in the final chapter, a crucial part of this transformation takes place with the new generations of memory. During the first years, the main focus was on the generation of the militants, political prisoners, and disappeared. But recently the Museo de la Memoria has functioned as a legitimizing force of the memories, the demands and the testimonial and artistic practices of the generation of the sons and daughters of the *desaparecidos*. In 2009, for the second time, a plebiscite to repeal the Expiry Law failed (this time with 48 percent of the votes) (Castillo, "Ningún plebiscito"; "No a la anulación" 12).²² However, only days before, the Supreme Court of Justice had declared the Expiry Law unconstitutional, even when such decisions would be made on a case-by-case basis.²³ Despite these ups and downs, this new decade saw the Expiry Law put in check. The commission's complaint to the Inter-American Court in 2009 and the court's ruling in favor of the *Gelmans* in 2010 marked another important milestone ("Sentencia de la CIDH" 5). The court commanded the state to investigate, determine criminal and administrative responsibility, and continue the search for María Claudia. In addition, it instructed that the state ensure that the Expiry Law not continue to be an obstacle. For the first time, there was an official recognition of state terrorism. In a speech on March 21, 2012, President José Mujica (himself a former detainee and *rehén* [hostage] of the dictatorship) referred to a systematic policy of repression: "The Uruguayan state recognizes that acts that violated human rights were committed in the country in the

past. As asserted in the case currently under consideration, under the cover of the so-called Doctrine of National Security, there was a systematic policy of repressing social justice, labor, and political organizations as well as persecuting their members and controlling civil society as a whole, all of which were manifestations of what is known as state terrorism.”²⁴

This was a response to the ruling by the Inter-American Court of Human Rights on February 24, 2011, in the Gelman case. Another important recognition was Uruguay’s participation in Plan Cóndor (“Sentencia de la CIDH”). Because of this international sentence, Uruguay was required to comply with the American Convention on Human Rights. Furthermore, the ruling held that the state was obligated to investigate the crimes and asserted the nonapplicability of statutory limitations to the crimes committed under the dictatorship.

In October 2011, under pressure from the Inter-American Court, the Uruguayan Senate voted to overturn the Expiry Law. The Senate passed law 18831, reinstating the punitive powers to the state for the crimes that were committed during the dictatorship, and eliminating the need to consult the executive in a case-by-case basis before prosecuting a crime (Fried 2016 175) and declared these crimes as “crimes against humanity.” Yet in February 2013 the Supreme Court ruled that two of the articles of law 18831 (passed in 2011) were unconstitutional. These two crucial articles (Articles 2 and 3) were precisely about the nonapplicability of the statutory limitations and about the declaration of these crimes as crimes against humanity (Allier Montaño and Ovalle 47). The Supreme Court’s ruling implied a step back in the path to justice and accountability, since even when the first article stayed in place (and with that, the restitution of the state punitive capacity), impunity was reformulated with the ruling of 2013, because the crimes committed during the dictatorship could no longer be considered crimes against humanity and because those same crimes were subject to the statute of limitations.²⁵ In February 2013 Judge Mariana Mota was removed from the Juzgado de Primera Instancia en lo Penal (Criminal Trial Court), where she had filed dozens of prosecutions over human rights violations committed during the dictatorship, and appointed to the civil court. This move was seen by many as a return to the military-political agreement that would ultimately lead to the reemergence of the logic of impunity (Garcé 2013; Pernas 2013).

I will return now to my discussion of the collection *Huellas, a 40 años del golpe*, which premiered at the end of June 2013 at the Teatro Solís and was simultaneously broadcast on television and projected on screens set up in a number of places in Montevideo and Maldonado (Trujillo) as part of Uru-



FIGURES 1.10 & 1.11. Still images from “Sin Palabras” (Uruguay, directed by Walter Tournier, 2013)

guay’s commemoration of the fortieth anniversary of the 1973 coup d’état, and on the initiative of the municipality’s TV channel.

In contrast to the marked emphasis on evidence presented in Gonzalo Arjón’s “Dos niños y un casco azul,” another of the shorts in *Huellas*, Walter Tournier’s “Sin palabras” (Wordless), explores the effects of dictatorship, re-

pression, and resistance through moving images that are wordless, as the title suggests, but in which silence or the lack of a voice-over to give meaning to the images does not imply the absence of a narrative progression. The short functions as a metaphor for different moments and struggles during the dictatorship itself and, simultaneously, as a metaphor for the silence that characterized the postdictatorship period. The entrance of a group of uniformed men dressed in black in the first scene is not an irruption but occurs gradually. It is preceded, though, by an image that shows shadows, but then slowly and persistently, this new uniformed group starts to appear and weave through the crowd (children playing, adults cooking, reading, writing, knitting, sewing, hammering), as if they were examining all of them. After a while, and without people reacting to the presence of these men, we see them tying people up, although they are loose enough to be able to perform the activities and jobs they were performing before, only more uncomfortably. Some of them have already started to free themselves when the group of uniformed men brings a white fabric and covers the people with it. And at that moment, we start seeing the first close-ups of the military, both of the hands holding the fabric and of their faces—or part of them. The screen becomes almost white, although we can perceive the movement underneath. They are all tied up, confined, in a sequence that emphasizes the moment of realizing that they are all prisoners in what seems to be the streets of a city. Then they slowly start to pull their hands free, rip the fabric, as if in a process of unburying, and without saying a single word, they gradually free themselves. They stand silent before the people in uniform ranged in front of them. Now it is clear that there are two groups facing off and looking at each other. There is a shift now from the body shot to a close-up of the boots, and from now on, we will no longer see their faces. The remaining narrative only shows calves and feet: the military take off their boots and leave. The others sweep the boots, the uniforms, the rope, and the fabric aside and walk free.

“Sin palabras” places the emphasis on the slow process of unveiling the effects of the dictatorship and on the role played by citizen participation in this undoing, since even though they remain silent, they manage to free themselves. Far from emphasizing evidence, this short serves as a metaphor for those “traces” that the collection of short films is pointing to in the title: the silent and long march of the struggles against the military dictatorship and its irruption in the citizens’ everyday life. Yet in contrast to the decision of the Supreme Court in February 2013, which represents the return to the impunity model, Tournier stresses the effectiveness of the struggles of the citizens. Images and sound point to silence and wordlessness, to coercion, to fear, to

immobility, and then, to the struggle and the movement that unveils and frees the citizens. The accent is placed on the people and their actions because these actions finally stop the presence of the military. It does not focus on the atrocities committed in the prisons, but on the effects of repression in the daily life of those who were not imprisoned and on their struggles and their effective and silent defeat of the military presence.

Both the evidentiary and the poetic model used by Arijón and Tournier (as well as the other shorts in *Huellas*) point to the urgencies of 2013, a year that is characterized by the unsettlement triggered by the return to the impunity model, and by the organization of the activities to commemorate the forty years. The urgency of justice is renewed in the cultural practices around the commemoration (and the protests that take place after February 2013) and both the evidentiary and poetic memory play an important role: the evidence associated with the human rights struggles and the role that the film has in creating alternative spaces of justice, and the emphasis on the poetics of memory and the role that images have in capturing new angles in order to explore the meanings and interpretations of the present, as the point of departure for the remembrance of the past.

The first examples of the chapter dealing with the years of the dictatorship and the cultural politics that surrounds the Expiry Law expose the tension between memory and forgetting, entailing a foundational construction of a national discourse anchored in the tensions of legality/illegality and also in the display or disguise of violence: Artigas's mausoleum presents an imaginary of the dictatorship as a revolutionary institution, while the shopping center can be seen as a neoliberal monument based on the model that began in 1986 and was legitimized in 1989 with the Expiry Law and the referendum. Standing in contrast to these first two moments is the tension between truth and silence and justice/impunity after 2001, with the memorial to the disappeared and a model of "clarification" embodied in the creation of the Truth Commission, a clear step toward truth, albeit a model of truth without justice. Later, in 2005, when the discussions about incompatibility of domestic laws and the ratification of the human rights treaties were already transforming the landscape of the transition with the first trials, the founding of the MUME established a space that facilitated the emphasis of both memory and justice, providing a place for other artistic practices and debates.

The victories of Tabaré Vázquez in 2005 and José Mujica in 2010 and the transformations that culminated with the 2011 repeal and the shift from impunity to accountability, along with the decision of the Supreme Court, offered a new watershed moment with the reinstatement of the applicability of

the statute of limitations and, therefore, the impunity model. And this new gesture toward impunity came in conjunction with the commemoration of the fortieth anniversary of the military coup, with a panoply of academic and artistic activities that also included a screening of *Huellas* that clearly marked a profound tension between cultural meaning (with an emphasis on accountability) and the legal/judiciary system (with a return to the impunity model).²⁶

More recently, in June 2017, a new monument was inaugurated in the city of Montevideo, near the Station Tres Cruces. Two figures, blindfolded and tied by their wrists, represent the memory of a recent past and of an ongoing struggle for justice. The bronze sculpture is entitled “Nunca más” and it was created in 1986 by Rubens Fernández Tudurí (1920–93). The year in which it was created points to the Expiry Law and the consolidation of the impunity model. Yet the inauguration of the piece in June 2017 pointed, officially, via the words of the mayor of Montevideo, to the unfinished task of investigation of the crimes and the path to justice (“Fue inaugurado el monumento Nunca Más”).

All the interruptions of the impunity model discussed in this chapter indicate both the presence of human rights movements and organizations, victims and families on the originally agreed-upon path of impunity-as-pacification, and the presence, as I will discuss in the chapters that follow, of a *poetics of the visible*, which, through a variety of cultural practices and by creating intersections between testimonio and art, threatens impunity as a fixed and inalterable model, while creating different scenarios (and scenes) in which to imagine (and perform) alternative forms of justice, which although they do not claim to replace judicial justice, play an important role in the understanding of the crimes and their effects in the present.