

## ◆ 4

### **The Citizens' Testament and the Necessary Risks of Truth: Accounts Pending in Contemporary Uruguay<sup>1</sup>**

*Gerardo Caetano*

(Translated by Kristin Beamish-Brown)

#### **Introduction**

The years of the transition process, especially the final years, tend to be loaded with a sense of the epic, an explosion of expectations and demands, renewed hope, and gazing toward the future on the horizon. Although it is sometimes difficult to admit, those years are not the most suitable time to take inventory, to rigorously evaluate what is to be destroyed and what is to survive after the dark times of a dictatorship. Discourses on victory are abundant and the new, open social dynamics make us see above all what we want to see. Without pseudo-psychological pretensions, it is a cathartic game that is even logical and perhaps unpostponable, after multiple experiences of terror, the trauma of forced privatization of politics and life, self-censorship, and the repression of dreams and projects. When dictatorships end we live through the small “revolution” of returns, the return of faith and debate, the vivid recuperation of things thought to be lost, all of which certainly do not cancel out the pain nor diminish the weight of the absences, but invite views that are more optimistic, less rigorous and frequently, more self-indulgent.

Of course these considerations do not work *urbi et orbi*, nor do they form a universal law. However, in the case of Uruguayan history, they have the force of a consistent interpretative matrix, at least for the purposes of discussing and revisiting decisive stretches of the country's collective journey in the twentieth century. The country came out of both the Terra dictatorship (1933–1942) and the last military dictatorship (1973–1985) through gradualist transitions, organized through “orderly” pacts with figures from the *ancien régime*, with the preference (never completely accepted but indisputable) for the certainties of “restoration” over the uncertainties of “democratic ruptures.”<sup>2</sup> Those were times in which the values of prudence and aiming for what is possible were promoted (with a persuasive success in which the performance of the majority of political leaders and parties was decisive) as intrinsic and inseparable from the task of making a “return” to democratic life viable.

Carlos Quijano, who opposed both dictatorships but also both transitions with a democratic firmness, labeled Uruguay “the country of shortcuts” based on that repeated experience (Caetano and Rilla 8).<sup>3</sup> In that way he alluded to the outlines of a collective attitude (to him, not just characteristic of the political system but of the sum of the whole society) that tended to see consensus as sacred, defending above all else the security of what is known and predictable, and showing an exaggerated fear of more fully facing the conflicts in play and the moral dilemmas within.

Among all the stories about contemporary Uruguay’s political peripeteia, those which have clearly prevailed are the ones that present both transitions as successful and even exemplary, paradigmatic of a solid democracy and a “hyper-integrated” society.<sup>4</sup> However, this majority self-satisfaction regarding the resolution of these transitional periods of Uruguayan political history, especially the last one, cover up, in my judgment, an ever more visible shortsightedness in facing the problem of the persistence of dictatorial legacies that are unwanted in our present. In particular, the absence of a more critical, documented, and rigorous reflection on the events of the last transition process in the 80s and the negotiation of accounts pending in the period that followed, has resulted in a decrease in the ability to accept alterity and thus ease the tension of the democratic dialogue (Viñar).

The following text proposes a historical telling of the difficult trajectory of human rights in Uruguay after the end of the dictatorship, by looking at the collective approach Uruguayan society used to treat the issues of clarification and judgment of the crimes against humanity committed during the military regime. I will emphasize the role played by the organization *Madres y Familiares de Detenidos Desaparecidos* (Mothers and Family Members of the Detained and Disappeared, henceforth *Familiares*) as a fundamental actor (although not the only actor) in the entire process of fighting for justice and truth throughout the previous decades.<sup>5</sup> At the same time, I will tell the history of the multiple alternative viewpoints that framed this question from the end of the dictatorship and approval of the “Ley de la Caducidad de la pretensión punitiva del Estado” (*Expiry Law of the Punitive Powers of the State*), until the more recent creation of the “Comisión para la Paz” (Commission for Peace) in August 2000. In the narration of that long process and in the traces offered and interpreted throughout, I propose the following hypothesis: that the self-indulgence in the way the majority viewed the results of the process of the last transition prevents us from noticing the continued presence of relevant legacies of the dictatorship, some of which challenge the central foundations of our democratic community.

### **Some Conceptual Premises: Professional Perspectives and the Conditions of Good Citizenship and Humanism<sup>6</sup>**

It is necessary to begin this essay by establishing some premises in order to understand certain conceptual and theoretical nuclei that provide the foundations for the following pages. This analysis is based on the conviction that the depth and cruciality of the topic debated here transcends any closed debate between specialists. In this context, a statement from the occupation or discipline that each of us belongs to is not enough; also required is a kind of discourse that only can come from the full assumption of the condition of citizen.

The imperative of reviewing in depth the terrible violations of human rights committed during the dictatorship and reflecting on their persisting consequences in our social fabric and in our interactions, as has been said more than once, has to do much more with our children than with our parents, and therefore is much more linked with the future than with the past. Nevertheless, that which so many French historians referred to as “mental tools,” that toolbox and instruments with which we conceive of and interpret the past and see the world, often end up being closer to our parents than to our children. And that, in these times that fly (and the allusion to temporal speed is literally accurate), truly results in an important problem we must face in the study of these problems.

In theory, humanity should not bequeath forms for thinking about horror, especially in societies that are apparently peaceful and subdued. We do not really have much practice reflecting on such excessive realities, either in the professions or in our civic condition or even from our earliest origins as human beings. This last condition is imperative because in addition to a civic cause is the human cause that should connect us, especially facing these extreme topics, beyond borders and conditions. If each crime against humanity (and there were plenty in the “century of barbarism”) were a real part of our repertoire (as historians and citizens, but above all as human beings), perhaps we would have more concepts, more representations and aptitudes, as well as a greater professional practice.<sup>7</sup>

In response to those who suppose that this type of reflection entrenches us in the past, in response to the obvious will to turn the page that has yet to be created (I am referring specifically to Uruguay), the following considerations take as their analytical premise the same starting point as the aforementioned book by Viñar: there is an inevitable centrality in the question about which are the paths toward “psychically metabolizing—individually and collectively—that experience of horror that for some is an indelible mark and for others is a detail in history” (14).

Finally, the demand to return to this issue equally interpolates the historian, the citizen, and the human being. The tasks of the historian include the need to accept the challenge of rethinking his categories and methods, no longer cognitively sufficient because of the experiences of terror; he must reorder the tension between his registers of personal and

collective histories, between the particular and the general, private and public; once more he is shown the necessity of rigorously telling the history of the recent past; a greater consciousness is demanded of him with respect to the uselessness of attempting to monopolize “the tribal tale” or the reconstruction of collective memory; he is stimulated to take on—from the intransferable rules of his discipline—a task that is more plural and that requires other kinds of knowledge. As the Argentine historian Hilda Sabato has pointed out that the experience of repression and torture of the past forces us to rethink history in such a way that it will acknowledge diverse, as opposed to singular, meanings.<sup>8</sup>

The demands upon the citizen are neither lesser nor less exacting. Before the terrible gravity of a world that continues as if nothing had happened, before the temptation of the rejection of memory and the shortcut of forgetting, emerges the obligation to resist leveling out or normalizing the vision of that rupturous past; to assume in all its radicalness the meaning of the usurpation of identity and of history achieved by the horrors of these traumatic pasts and to resignify them civically in a healthy and responsible (although difficult and incomplete) reelaboration of our sorrow and pride. Also imposed is the demand to revitalize the importance of the construction of an “us,” in solidarity with the victims but also committed to the journey of a society that must also, in relationship to these difficult questions, recreate its deepest reasons “for going forward together,”<sup>9</sup> in absolute respect for its basic rules of trust, loyalty, and reciprocity.

As we know too well, the twentieth century has sadly been the “century of Never Again.” Time and time again this civilizing slogan has been raised after the trauma of the genocides, wars, and dictatorships and time and time again we have observed the most inconceivable recurrence of crimes against humanity. Without a doubt, the echoes of the Jewish Holocaust call us in a special way in that direction. On the occasion of the famous “Debate of the Historians,” regarding the controversy raised several decades ago in Germany over an attempted revision of the Nazi past, some issues were brought up that regain relevance in many of the contemporary debates after experiences of State terrorism. Let us take up again some of those ideas and project them towards the present.

In that instance, just like today, the debate quickly became more political than historiographic, focusing on the public uses of memory and on how the understanding of history gives form to contemporary popular discourse. Going up against the revisionist visions that sought leveling and normalizing interpretations, Jürgen Habermas was correct then in bringing up the topic of “uncomfortable traditions” and the necessity of a language that is demanding and radical in the face of such traditions. “What can it mean,” the philosopher asked himself then, “to be German after Auschwitz?” Only “constitutional patriotism” should be possible, as Habermas himself took it upon himself to show. Starting with the critical appropriation of ambiguous traditions, Habermas proposed developing orientations toward more universal values as

responsible paths toward the production of identity: "Here identifications," he concluded, "with ones own forms of life and traditions are overlaid with a patriotism that has become more abstract, that now relates not to the concrete totality of a nation but rather to abstract procedures and principles" (Habermas 261).<sup>10</sup>

While the interrogation of these traumatic experiences necessarily transcends the limits of nation and indicates references and belongings that are prior to the "civic cause," it is to the labyrinths of human nature to which we finally and inevitably arrive. This is seen very clearly by Hanna Arendt who, working with the behaviors and sayings of Adolf Eichmann, discovers "the banality of evil."<sup>11</sup> In an interview with Gonzalo Garcés, Tzvetan Todorov proposed a problematization of the facile (and calming) boundaries between good and evil as we investigate acts of terrorism, in particular those committed by the State :

normally, one talks about the 'temptation of evil.' It is a Christian formula, an Evangelical one. [ . . . ] However, upon reflection I realize that the temptation of evil (once we stop believing that, for example, sexuality is evil), the temptation to do something that one knows to be evil, is really quite exceptional. And in the end the worst criminals in history [ . . . ] were not tempted by evil, they were tempted by good; they thought they possessed the key to goodness, they knew what it was, they wanted to impose it by any means on their compatriots, sometimes even on the entire world. In exactly these cases is when violence is the most dangerous: because in the name of good one can, with impunity in relation to one's own conscience, commit the worst of evil (Garcés 22).<sup>12</sup>

This type of reflection, in addition to inviting us to escape the shortcuts of predictable and trivial moralistic pontifications, allows us to deepen the investigation and reach the radicalness of its challenges, for example, in the field of civics and the construction of democracy. In the fullness of its meaning, although obviously with totally distinct results, Todorov's reasoning does not only work for murderers, but it also could interpolate, for example, the attitudes of those who are willing to pay any price to obtain governability, of those who proclaim the sensibility and the wisdom of forgetting because it is therapeutic and good for the health of society. As we will see later, democracy does not prevent us from having conflicts and moral dilemmas; it only provides us with the procedures and values to deal with them with more responsibility, legitimacy, and without violence. Taking the "shortcuts" in the face of this type of dilemma and issue, arguing in favor of prudence and only what seems possible, often does no more than get us lost along very imprudent paths that restrict the true possibilities of the tasks necessary for the resignification of personal as well as collective identities.

## Fractures of Memory and the Challenges of Building Democracy

Returning then to the more strictly civic field that frames this problematic in the Uruguayan case, how do we resignify our identities, our “we,” after forced disappearances, torture, thousands of unjust detainments and destitutions, oppressive dictatorships, the return to violence as an instrument of political life, the emergence of terrorism (from the left or the right, wherever they come from, but keeping in mind that the most illegitimate of all is and will always be State terrorism)? How do we recreate a “community of values” after all of that, with the immense weight of impunity and imposed forgetting upon civic coexistence?

Certainly most of us know Borges’ famous and beautiful story “Funes, the Memorious.” Among many other pieces of wisdom contained therein, this story masterfully examines what we could call the “anti-utopia” of memory and of the historian: for one who remembers everything and cannot forget, who cannot select and critically create a foundation for his examination, it is radically impossible to remember, to really know his past. The exercise of memory demands as much of memory as it does of forgetting, always requires a selection, a repertoire from which one draws and discards. Without that, there is no possible memory, either individual or collective.

Memory is, then, necessarily selective. But in a democracy it also must be free, plural, and open to debate. There is no place for the memory or forgetting that is imposed from a position of power: as Nora Rabotnikof has shown, the memory of the Republic distinguishes itself from that of the Regime in that while the latter is fed by imposed and reiterated customs, the former can only be constituted from the space of “a testament that selects and names,” from a discourse that preserves the meaning of events and submits them to critical revision (143–50).

In these times of the so-called culture of instant gratification (Ignatieff 45–47), it is especially important to remember that democracy is not compatible with a politics that is merely adaptive and concerned with the present, one that renounces the past and the future. Democracies are founded on another relationship with time; they require the inscription of civic actions between traditions and utopias; by definition they need to debate the past and the future and not be trapped within this “reheated past” (Caetano, “Historicidad y temporalidad” 81).

It is not by accident that the renewed controversies over the events that occurred during the dictatorial processes point to one of the central issues of our democracies’ consolidation in more recent times. The fractures of memory and the attempts to securely close off the paths to search for truth and justice, in relation to what happened during the national security dictatorships in Latin America, have affected the foundations of our political systems and the everyday practices of citizenship. Those politics of forgetting, those attempts to sustain

impunity in visions and proposals that exhort us over and over to “look to the future” and “definitively leave behind the bad times,” that invoke the “theory of the two devils” or that often resort to the implicit threat “not to stir the troubled waters of the past” in order to “not wake the sleeping monster,” have resulted in impoverishing the necessary tension in our democratic dialogue and the moral commitments that provide the foundation for our civic identities.

But in reality, the struggle that arose there is not between memory and forgetting, as is often claimed. It is a dispute between two types of memory, between two accounts of the past and their consequences for the present and the future of our societies. As many Latin American authors interested in these issues have learned, the fight over memory is always the unconcealable and intransferrable stage of a political and social conflict; it is the battleground of a fight for power.<sup>13</sup> How do we win that future for democracy and non-violence, for a true “Never Again?” It is precisely, as Benjamin would say, a matter of telling history against the grain, diving into the dizziness of forgetting and remembering in search of a brave and vigorous approach toward the maximum truth about the terrible events we lived. That is what will permit us to recover for the citizens’ “testament” those memories that some have tried to hide or make invisible to public knowledge, reflection, and debate.

In a democratic coexistence, certainly the value “truth” cannot be totalitarian or absolute (Devoto 50). In terms of procedure, the defense of that value requires pluralism, tolerance, acceptance of open debate, free confrontation of different versions and opinions, requiring persuasive argumentation at all times. From that perspective, the refusal to investigate the facts and the restriction of the distribution and transfer of the results to exclusively private terrain create obstacles that are unacceptable in a civic orientation toward truth.<sup>14</sup> In a democratic construct, the truth about processes and events like those lived during a dictatorship should be public and open for debate.

Of course the truth alone is not enough and justice is also an indispensable foundation for democratic reconstruction after the dictatorships. This is true from a civic standpoint, a human standpoint, and an ethical standpoint. Modern democracy *strictu sensu* was constructed, among other things, upon the basis of the defense of individual rights. To defend those rights, thinkers like Locke and so many others reflected deeply on the necessary requirement of limiting the absolute power over life. The practices of State terrorism radically undermined that principle and the subsequent impunity for its crimes severely restricts the ultimate trustworthiness of the very roots of the Rule of Law.

International experience and regional experience in particular—with some honorable and at times ephemeral exceptions—demonstrate the clear difficulties that States have had in avoiding impunity for crimes committed during dictatorships.<sup>15</sup> As will be analyzed later, the Uruguayan case is typical in this sense. But the fact that it is frequently

not possible under certain political conditions to achieve justice, even in a restricted sense for the purpose of merely providing an example, should not blind us, skew our perspective, or keep us from thinking—as citizens and also as historians—about the problem of justice as well as truth.

However, and although it may be debatable and controversial, I think that the lack of truth is even more serious than the absence of justice. Forced forgetting and the kind of resulting (non)memory can be more cruel and have more permanent negative consequences than impunity, although that does not imply the slightest diminishing of the condemnation and rejection of such impunity. In the introduction to a fantastic compilation entitled *Usos del olvido* it is shown very precisely that “la posibilidad de olvidar supone el ejercicio pleno de la memoria” (PAGE) (the possibility of forgetting presupposes the full use of memory). From a democratic and non-violent view, the imposition of the edited and restricted version of any event is not acceptable, much less that of an event that involves the violation of the most elemental human rights of thousands of people and that so profoundly damages the basis of any concept of humanity.

The Jewish community has been and is especially wise in their reflections about memory. In their sacred books the terror of forgetting is invoked repeatedly and there is even the construction of the figure of the Jabneh Vineyard, which is nothing other than a fortress built against forgetting. It is the Israeli historian Josef Yerushalmi who poses one of the most urgent dilemmas that challenge the reelaboration of the traumatic past of the dictatorships and their atrocities: “Nuestro verdadero problema es que ya no disponemos de una ‘halakhah,’ esa comunidad de valores que nos permite transformar la historia en memoria, que plantea qué debe apropiarse y qué debe dejarse de lado, en suma, qué debe recordarse y qué debe olvidarse” (24) (Our real problem is that we no longer have a ‘halakhah,’ that community of values that allows us to transform history into memory, that determines what should be appropriated and what should be left out, in short, what should be remembered and what should be forgotten).

Even with the severe restrictions implied by the absence of justice, the debate over the extent of our civic investigations into the truth about the events that occurred during the dictatorships relates directly to the vitality of our values as a society, to the wholeness of our moral convictions, to the solidity of our democratic commitment. And just as democracy is by definition an unfinished and unfinishable political construction, the task of approaching the truth about the collective past and permanently reelaborating our sorrow or pride as a society is also a labor that does not allow for “full stops” nor “due obedience.”

## **Dictatorship, Transition and Afterwards . . . Transitional Dictatorship and Democratic Transition**

In a book I wrote in collaboration with José Rilla several years ago, to determine the distinct periods of the trajectory of the Uruguayan dictatorship, we took the criteria established in a previous text by the political scientist Luis Eduardo González.<sup>16</sup> That book reviewed the sequence of the Uruguayan military regime in terms of a police state (1973–1976), a guided democracy (1976–1980), and a democratic transition (1980–1985). However, in relation to this last period we made a distinction in meaning that was not insignificant: we established that, to our judgment, what transpired between 1980 and 1985 was a transitional dictatorship and that in reality the period of the democratic transition strictly speaking began with the formal inauguration of democratic authorities in 1985, a process that would occupy much of the first administration of Dr. Sanguinetti until the referendum against the *Expiry Law* of April 1989.

From the perspective of giving logic to the narrative sequence of the Uruguayan dictatorship and transition, this distinction was truly significant. It implied, for example, a critical vision—or at least a problematizing one—of the Uruguayan model for ending the dictatorship, symbolized by the solidification of what is called the *Club del Pacto Naval* (Naval Club Pact) agreed upon on August 23, 1984, by the representatives of all the political parties (with the exception of the *Partido Nacional* [National Party], whose leader at the time, Wilson Ferreira Aldunate, was in prison and banned) and the Armed Forces.<sup>17</sup> The central elements of this pact were included in the *Acto Institucional N° 19*,<sup>18</sup> which put into place a set of transitional constitutional regulations (targeting conflictive issues like the National Security Council, the Insurrectionary State, military jurisdiction, promotions of officials and appointment of chief commanders, requests for protection, etc.) to be voted on in 1985, at the same time that the convocation of elections (with some parties and candidates prohibited) was confirmed for November 25, 1984. The concept of a transitional dictatorship also emphasized that during the government of Retired Lieutenant General Gregorio Álvarez (1981–1985), in the final years of the dictatorship, far from facilitating a full recuperation of rights and freedoms, the military regime and its representatives had tried to maintain control over the outcome and even solidify the conditions that would continue into the democratic period. The real deactivation of the military structure and its influence and institutional power was a task that had to be assumed by public powers after 1985, in the period in which the true democratic transition was formed.

Much has been said about the *Naval Club Pact* and its results. In the opinion of some, with varying degrees of enthusiasm in their assertions, that event was what made the electoral process and the end of the dictatorship viable. For others, again with different shades of opinion and emphasis, the end of the dictatorship was already inexorable in 1984 and a consequence of the agreement was to rupture the unity of the

opposition to the regime and the weakening of political parties in their capacity to negotiate the details of how the military officials would leave their positions in government. Certainly both interpretations recognize a strong political-partisan influence. This conflict between pact supporters and opponents first played out with the benefit of citizens' elucidation during the elections of November 1984, in which those who had, in one way or another, supported the agreement with the military were clearly the winners.

Beyond the multiplicity of axes of debate that charged the last part of the electoral process, the controversy about the ways to end the dictatorship constituted one of the central themes in the citizens' decision. The National Party, which sought with determination to center the debate on the opposition between pact supporters and opponents, did not get the results it had hoped for. On the other side, the Partido Colorado (Colorado Party) and its main candidate, Julio María Sanguinetti (whose campaign slogan was "Peaceful Change"), the main supporters and promoters within the political arena of the format for ending the dictatorship that eventually won out, ended up winning the election. Another party, the Frente Amplio (Broad Front), for whom the debate over participation in the pact had reached a very high decibel level, received a proportion of the vote that was more than acceptable, while internally those groups that had supported the negotiation strategy promoted by the Retired General Líber Seregni were the ones to prevail.<sup>19</sup>

In terms of whether during this negotiation between politicians and the military a pact was made for impunity and against clarifying the human rights violations committed during the military dictatorship, this has been an interminable polemic ever since. Many of the direct participants in the negotiation of the *Naval Club Pact* have indicated that the topic was tacitly left aside (it was "above" or "underlying" the discussions as shown by the text), with the conviction that on that point there was no possible consensus and that it would impede other viable agreements. Others, however, affirm or believe that there was much more than that, despite the lack of documental proof or testimony that would convincingly support that hypothesis.

What seems most plausible is that, more than impunity for the military officials who had committed crimes, the pact proposed a correlation of forces and, above all, a space to go to for confirmation or modification. That perspective was best expressed by the Retired Lieutenant General Hugo Medina himself (the last commander in chief of the dictatorship, future Defense Minister under President Sanguinetti, and a crucial figure in the negotiations), who, when asked the same day the pact was signed about the possibilities of revisionism in the issue of human rights, responded: "Let's let the facts answer for themselves." And the facts did answer—even from the counterfactual distrust of the historian it does not seem unreasonable to examine the hypothesis that it could very well have gone the other way—to the detriment of civility. Corresponding to the military advance in this matter during 1985 and

1986 was the clear retreat of the civilian camp. Those who were threatened in 1984 became threatening, while those who had not entered into the circle of pact makers (specifically, the National Party), more than made up for it later, reconciling with the military, many of whose members presented themselves as the custodians of democracy.<sup>20</sup>

### **La “Ley de caducidad” (The Expiry Law)**

In general and according to the distinctions made above regarding the stages of dictatorship and transition to democracy, the Uruguayan military proved to be very efficient police, very bad “guardians,” and very efficient negotiators of the conditions of transition.<sup>21</sup> After a process in which pressure from the military, as well as advances and retreats in the various parties’ actions were in abundance, on December 22, 1986, the day before the court appearance of well-known military officials implicated in human rights violations, the Uruguayan Parliament finally approved what was called the “Ley de Caducidad de la Pretensión Punitiva del Estado” (Expiry Law of the Punitive Powers of the State), a curious and elusive title for a law that sought to prevent the prosecution of military officials accused of crimes against humanity.

The first article of this law, which was passed by both houses of Parliament by approximately two thirds of the legislators, recognized that:

como consecuencia de la lógica de los hechos originados por el acuerdo celebrado entre partidos políticos y las Fuerzas Armadas en agosto de 1984 y a efectos de concluir la plena vigencia del orden constitucional, ha caducado el ejercicio de la pretensión punitiva del Estado respecto de los delitos cometidos hasta el 1º de marzo de 1985, por funcionarios militares y policiales, equiparados y asimilados, por móviles políticos o en ocasión del cumplimiento de sus funciones y en [ . . . ] acciones ordenadas por los mandos que actuaron durante *el período de facto*.<sup>22</sup>

(as a consequence of the logic of the events resulting from the agreement between political parties and the Armed Forces in August 1984 and for the purpose of fully adhering to the Constitution, the exercise of punitive pretension of the State with respect to crimes committed before March 1, 1985, by officers strictly pertaining to the military and the police force, for political reasons or for the purpose of carrying out their duties and in [ . . . ] actions ordered by superior officers acting during the period of *de facto* government, has expired.)

In the second article, an exception to this declaration was made for those cases in which there was an indictment and those crimes that had

been committed for the purpose of obtaining economic advantage. In the third article, the Executive Power was assigned the task of informing within a peremptory period of thirty days whether the acts referred to in existing accusations should be considered or should fall under the first article. In this way the suspension of all pre-indictment proceedings was established.

It is fitting to include here a transcription of the text of the fourth article, being that it was later the motive of intense controversy:

Sin perjuicio de lo dispuesto en los artículos precedentes, el Juez de la causa remitirá al Poder Ejecutivo testimonio de las denuncias presentadas hasta la fecha de promulgación de la presente ley y actuaciones relativas a personas presuntamente detenidas en operaciones militares o policiales y desaparecidas, así como de menores presuntamente secuestrados en similares condiciones. El Poder Ejecutivo dispondrá de inmediato las investigaciones destinadas al esclarecimiento de estos hechos. El Poder Ejecutivo, dentro del plazo de ciento veinte días a contar de la promulgación de esta ley, dará cuenta a los denunciantes del resultado de estas investigaciones y pondrá en su conocimiento la información recabada.

(Without negating the contents of the previous articles, the Judge of the case will remit the testimony of the charges brought up until the date this law goes into effect and all proceedings related to persons presumed detained in military or police operations and then disappeared, as well as those related to minors presumed abducted under similar conditions, to the Executive Power. The Executive Power will immediately have access to information on the investigations meant to clarify these events. The Executive Power, within a period of one hundred twenty days from the promulgation of this law, will give an account of the results of these investigations to those who reported the crimes and will inform them of the information obtained.)

It is worth pointing out that the law gave the key to any possibility of investigation and search to the Executive Power, who would also be the one to decide which cases would be investigated and who would continue the investigations. In the very implementation of what the approved regulation ordered, then President Julio María Sanguinetti again affirmed his conviction that the *Expiry Law* must signify a “final stop” and that for that reason it was not a good idea to take any risky steps in the direction of the investigation of what happened, even in the search for solutions to traumatic issues like that of disappeared children. The Children’s Council was given the task of investigating the whereabouts of these children (which goes completely beyond the possibilities and resources of this organization) and the investigation into the disappearances was entrusted to a military prosecutor, no less. The

political will to end all debate over the issue, for many going beyond even the extremes of what was ordered in the *Expiry Law*, was more than obvious.

In the face of this situation, the families of the disappeared refused to appear before the designated military official. As the organization of *Madres y Familiares de Detenidos Desaparecidos* (Mothers and Family Members of the Detained and Disappeared) charged, “se llegó a la absurda contradicción de que [aun en los casos que el Poder Ejecutivo] declaró comprendidos en la ley [que solo ampara a militares y policíes] [. . .] el fiscal dictaminó que no existían pruebas de la participación de unos y otros” (it went as far as the absurd contradiction that [even in the cases that the Executive Power] declared falling under the law [that only protects the military and the police] [. . .] the prosecutor dictated that there was no proof of the participation of either). Even in the case of charges of “las desapariciones producidas antes del *período de facto* y por tanto no comprendidas en la ley” (disappearances produced before the *de facto* period and therefore not falling under the law), the judges refused to act and diverted the cases to the Executive Power to determine if these acts may also be protected by the “*expiration*,” which had the results everyone expected (*Madres y Familiares* 55, 79).

### Toward Plebiscitary Arbitration

The immediate response of organizations of family members and human rights groups was to immediately appeal the approved law through the path (provided for in the Uruguayan Constitution) of referendum. The same day the law was approved, the association of *Familiars* publicly called for the organization of a national referendum. In that first convocation they argued “El futuro lo exige. Si no hacemos hoy este esfuerzo para reconquistar los derechos y las garantías constitucionales, mañana veremos repetidos el horror y la ignominia” (*Madres y Familiares* 10) (The future requires it. If we do not make this effort today to reconquer the rights and the guarantees of the Constitution, tomorrow we will see the horror and the injustice repeated).

The following day a new public convocation was made, this time signed not only by *Familiars*, but also by Matilde Rodríguez de Gutiérrez and Elisa Dellepiane de Michélini, the widows of Héctor Gutiérrez Ruiz and Zelmar Michélini, emblematic figures of the anti-dictatorial resistance who were murdered in Argentina on May 20, 1976.<sup>23</sup> The new convocation stated:

Ayer se legalizó la impunidad, se entregó el principio republicano de la independencia de los poderes y se avasalló la Constitución. Pretextando la amenaza de un golpe de Estado se cometió el error de someter la democracia a la tutela de los mismos que hasta hace muy poco se dedicaron a deshacerla. No sabemos en qué plazos y a qué

velocidad vamos a ir padeciendo las consecuencias de este error. [...] El Parlamento dio por tierra con tanto esfuerzo y con la esperanza de todo un pueblo, que no dejó de exigir por estos objetivos, el mismo pueblo gracias al cual -es necesario no olvidarlo- hoy existe el Parlamento. [...] Frente al mundo, Uruguay acaba de incumplir con los compromisos internacionales signados, ratificados y tantas veces aludidos. Para América Latina significa que una democracia que concitó tanta solidaridad y tantas esperanzas falló. Para nosotros significa seguir por los caminos que prevé la Constitución, para obtener la verdad, la justicia y la prevención. (*Madres y Familiares* 10–11)

(Yesterday, impunity was legalized, the republican principle of separation of powers was given up, and the Constitution was defeated. Alleging the threat of a coup d'état, an error was committed, that of submitting democracy to the guardianship of the very people who until recently dedicated themselves to dismantling it. We do not know for how long and at what rate we will go on suffering the consequences of this error. [...] The Parliament dashed enormous effort as well as the hope of an entire community, who never stopped demanding these objectives, the same community to whom thanks are due—it is necessary to not forget this—for the existence of that Parliament today. [...] Facing the world, Uruguay has just failed to fulfill the international commitments it has agreed to, affirmed, and talked about so many times. For Latin America, this means that a democracy that attracted so much solidarity and so much hope has failed. For us, this means continuing along the paths created by the Constitution, to reach truth, justice, and prevention.)

Multiple social and academic organizations, as well as the parties and groups of all of those legislators that had voted against the law in Parliament, immediately joined in the call for referendum. On January 12, 1987, the Electoral Court was formally notified of the initiation of the process of collecting signatures and on January 28, the formation of the National Commission for Referendum was finalized.<sup>24</sup> This Commission was made up of figures that came from many diverse areas and ideological affiliations, who in their first official communication reaffirmed the ideas previously emphasized in legal and institutionalist arguments by opponents of the law. In their first “Call,” the organizers affirmed that they were “inspirados en los principios básicos de (la) nacionalidad (uruguaya) (tales como) la libertad, la democracia, la justicia y la convivencia pacífica” (*Madres y Familiares* 31–32) (inspired by the basic principles of [Uruguayan] nationality [such as] liberty, democracy, justice, and peaceful coexistence). They went on to express their belief in the need to express the “inmediata y espontánea reacción en todos los sectores de la ciudadanía y un clamor popular [...] para hacer posible que todo el pueblo, por encima de partidismos,

pronuncie la última palabra sobre este tema de vital importancia para la República [...]” (*Madres y Familiares* 31–32) (immediate and spontaneous reaction in all sectors of the citizenry and a popular call [...] to make it possible for the entire community, above partisanship, to pronounce the last word on this issue of vital importance for the Republic [...]).

It makes sense to pause at this point in the story and explore a bit the strong implications derived from the use of plebiscitary arbitration as an instrument for confronting the legal sanction of impunity. As we have seen, the convocation for referendum came immediately after the sanction of the law and the supporters of the referendum never showed any doubt about the appropriateness of appealing to that political instrument nor about the diverse types of consequences that could arise from an eventual popular pronouncement that differed from the one desired. In that initial context, no one seems to have considered very carefully the necessary and inevitable uncertainties of recurring to a popular pronouncement as “the last word” to resolve an issue of this nature. Also perceptible was an obvious willingness to view the use of the referendum as an initiative inherent to the liberal democratic tradition of the country, something that became very present in the communications and even in the public gestures of the promoters of the referendum. However, from not only a theoretical point of view but also a practical one, the question was not so pristine or simple.

It seems legitimate to ask about the limits of the referendum as a suitable form for settling issues of such significance. We could certainly problematize just as much if not more about the law as legitimate means for declaring, in the name of the State, the “expiry of the punitive powers.” Although in a very different way and with especially antagonistic content, during the crossroads of the Uruguayan transition the actors seem to have been spoken to by a set of traditions that have served and continue to serve to channel and resolve demands and conflicts within the heart of society and between society and the State, but those traditions do not appear as effective in negotiating the challenges imposed by a situation that was both unknown and extreme. Beyond the strictly juridical dimension, can a law or voter arbitration, in the end, resolve crimes against humanity? Beyond even the ethical question, can a political procedure annul a right that is prior to it and on which that political right rests? Certainly there are libraries full of discussions about the issue and many disciplines are interpolated by the debate. Regardless of one’s position, what I want to emphasize is the political signification and the historical consequences of the type of instruments to which the Uruguayan society appealed in order to negotiate the issue of human rights during the transition.

What is certain is that with great optimism and rather far from these reflections and questions, on Sunday, February 22, 1987, the National Commission for Referendum initiated the campaign to collect signatures in order to put the *Expiry Law* to referendum. According to the constitutional decree, it was required to gather the clear support of 25%

of all eligible registered voters, which at that time meant gathering 557,072 signatures.<sup>25</sup> After a very arduous process that did not advance steadily until the political parties and groups that supported the initiative galvanized their respective activist machinery in the task of collecting signatures, finally, in December 1987, the Commission was able to present their documentation of a number of signatures (630,000, according to their calculations, before the conflictive stage of verification by the Electoral Court) superior to that required.

But the most difficult and conflictive part was still to come. The process of verification of signatures was much slower and more controversial than expected, generating charges of irregularities that ended up provoking the withdrawal on October 19, 1988, of the delegates of the National Commission for Referendum from the space created in the Electoral Court for the signature verification. The conflictive context brought about situations of extreme tension when it became known that thousands of signatures were being contested and that those procedures—according to the proponents of the referendum—were fraudulent, due to pressure from the representatives to the Court of the parties and sectors that had passed the law in Parliament. Added to this were other serious events, like the arrest of Naval Captain Gastón Silbermann ordered by the Minister of Defense (retired Lieutenant General Hugo Medina) for having signed the call for referendum.<sup>26</sup>

After new disputes, the Electoral Court eventually approved the resolution, determining the date of the referendum for April 16, 1989 (almost 28 months after the impugned law was passed, and by then in the middle of an election year). It was established that those who voted to annul the law should do so on a green ballot and those who voted to ratify it should use a yellow ballot. The campaign was intense and conflictive. As was foreseeable, the debate in the media reached high levels of harshness and the accusations exchanged acquired a fierce tone. In the last portion of the campaign, the Commission denounced the government's prohibition of the exhibition of a video in which Sara Méndez demanded her missing son, Simón Riquelo, who had been snatched from her hands when he was only twenty days old.<sup>27</sup>

**Results of the April 16, 1989 Referendum against Articles 1-4 of the Law 15848 of December 22, 1986 (*Expiry Law of the Punitive Powers of the State*)**

<b>District</b>	<i>Yellow</i>	<b>percentage</b>	<i>Green</i>	<b>percentage</b>
Montevideo	381,430	42.6%	492,390	55.0%
Canelones	120,999	59.6%	74,612	36.8%
Maldonado	38,079	61.6%	21,701	35.1%
Rocha	30,106	67.5%	13,019	29.2%
Treinta y Tres	22,408	72.2%	7,948	25.6%
Cerro Largo	38,854	75.1%	11,494	22.2%
Rivera	47,136	78.8%	11,126	18.6%
Artigas	30,725	73.1%	10,126	24.1%

Salto	46,441	69.1%	18,841	28.0%
Paysandú	38,517	59.9%	23,912	37.2%
Río Negro	20,669	70.3%	7,936	27.0%
Soriano	35,533	65.1%	17,729	32.5%
Colonia	53,605	69.0%	22,198	28.6%
San José	37,447	67.5%	16,411	29.6%
Flores	12,301	71.6%	4,343	25.3%
Florida	29,781	67.1%	12,959	29.2%
Durazno	26,139	73.9%	7,930	22.4%
Lavalleja	33,496	74.8%	10,024	22.4%
Tacuarembó	38,788	70.1%	14,410	26.0%
Interior	662,236	63.7%	306,719	29.5%
<b>Total</b>	<b>1,082,454</b>	<b>55.9%</b>	<b>799,109</b>	<b>41.3%</b>

Source: Database for the Area of Politics and International Relations in the Department of Social Sciences, University of the Republic of Uruguay

A brief review of the results of the referendum brings up various elements for analysis. The final percentages showed a firm difference in favor of the yellow (ratification) vote, surprisingly similar to the figures that in 1980 had sealed the voters' rejection of the project of constitutional reform promoted by the military regime in order to institutionalize their bases of political control for the future (in that instance 57.9% voted against the reform, against 42% that voted in favor). Taking as a reference the percentage of legislator votes at the time the law was passed (approximately two-thirds and one-third, as seen above), the opposition expressed in the citizens' direct pronouncement was higher than that of their parliamentary representation in 1986. However, as would be seen in the elections in November of the same year, what that difference indicated above all was that what had changed was the correlation of electoral forces at the level of the partisan spectrum: in the national elections a few months later, the calculated total of the electoral base of the sectors in favor of and against the law reproduced in practically identical form the general percentages of the referendum, which affirmed once more the strength of partisan loyalties in the country, as well as the degree of relevance of the issue in question to the citizens' political alignment.<sup>28</sup> The only district in which the green (repeal) vote won was the capital, Montevideo (electoral bastion of the left, which in November would win the District Intendancy for the first time, with a member of the National Commission for Referendum, Dr. Tabaré Vázquez, as its candidate). In the interior part of the country, the average was less than 30%, surpassing this limit only in districts with strong urban concentrations like Canelones, Paysandú, and Maldonado, along with Soriano, whose result was closer to the mean of the rest of the districts. A marked regionalization with respect to this sensitive issue also was consolidated

in the electoral behaviors that would be repeated in the following two national elections of 1989 and 1994.

In their evaluation after the referendum, *Madres y Familiares* affirmed the strategy implemented and brought in diverse elements of analysis:

No dudamos [ . . . ] que los valores que defendíamos son aceptados por la gran mayoría de los uruguayos, aun cuando los resultados no lo reflejen. [ . . . ] (Mantenemos) la convicción [ . . . ] de que la impunidad perjudicará seriamente el futuro del país. Delitos de una gravedad nunca conocida en la historia uruguaya no serán sancionados, no sólo por imposición legislativa sino por decisión de la mayoría ciudadana. [ . . . ] Tememos también que esta ‘salida a la uruguaya’ que ya se está mencionando en otros países de América constituya un triste ejemplo en el continente, así como aspirábamos a que nuestro país fuera un comienzo de faro de justicia si la ley era anulada. Sin embargo, pensamos que los resultados adversos no invalidan la decisión tomada, pues la campaña nos deja enseñanzas invalorable que ciertamente también incidirán en el futuro. [ . . . ] No escapaba a la consideración de nadie que dada la realidad nacional [ . . . ] y la realidad internacional [ . . . ] el juicio y castigo a los culpables era sumamente difícil. ¿Se trataba de una respuesta hipócrita? No, era una respuesta principista. [ . . . ] Nuestra lucha por la verdad sobre todos los desaparecidos, particularmente los niños, por la restitución de su identidad y la vuelta a su familia, seguirá como hasta ahora [ . . . ]. Deben buscarse medios para mantener viva la memoria de lo ocurrido [ . . . ]. Más allá de logros y fracasos respecto de la justicia de hoy, es de vital importancia que todos luchemos por un NUNCA MÁS . . . (*Madres y Familiares* 75)

(We do not doubt [ . . . ] that the values we defended are accepted by the great majority of Uruguayans, even when the results do not reflect that. [ . . . ] [We maintain] the conviction [ . . . ] that the impunity will seriously damage the future of the country. Crimes of a gravity never known in the history of Uruguay will not be sanctioned, neither by legislative imposition nor by the decision of the majority of citizens. [ . . . ] We also fear that this ‘Uruguayan model’ for ending the dictatorship that is now being mentioned in other countries in America constitutes a sad example in the continent, since we hoped that our country would be the beginning of a beacon of justice if the law were annulled. However, we think that the adverse results do not invalidate the decision we made, because the campaign brought us invaluable knowledge that will certainly affect the future. [ . . . ] It has not escaped the attention of anyone that given the national reality [ . . . ] and the international reality [ . . . ] the decision about the prosecution and punishment of the guilty parties was incredibly difficult. Was that a hypocritical

response? No, it was a principled response. [ . . . ] Our fight for the truth about all of the disappeared, particularly the children, for the restitution of their identities and the return to their families, will continue as we have done until now [ . . . ]. We must search for the means to keep the memory of what happened alive [ . . . ]. Beyond the achievements and failures regarding today's justice, it is of vital importance that we all fight for a NEVER AGAIN . . . . )

Certainly, the fear that the "Uruguayan model" for ending the dictatorship would be held up as an example was not unfounded, not only abroad but also within Uruguay, with the result of the self-satisfied interpretation of a historical process that included fierce conflicts in its development. From then on, the agenda for the future seemed to concentrate on truth and memory. The path ahead would not be any less arduous.

### **Post-1989 and the Five Long Years of Obstruction**

With the voters' approval of the *Expiry Law*, the country began a long period of silence and lack of progress on the issue. Those who contested the law, in an attitude that undoubtedly shows their integrity as citizens, immediately showed their democratic respect for the results of the plebiscitary pronouncement. That, however, did not imply that they abandoned the search for truth or the demand for concrete action on the part of the State, in order to, for example, support the investigation into the whereabouts of the disappeared detainees, especially in the cases of children. The approval and later voter ratification of the *Expiry Law*, its juridical and political consolidation, did not conclude the issue of truth and did not mean considering the issue sufficiently debated and resolved. In particular, the real failure to carry out the actions defined in the fourth article of the law left a glaring account pending for the future.

However, in the middle of the expansion of an excessively self-satisfied view of the Uruguayan transition and its achievements, which began to be shared by a good part of the public as well as political actors, there were those who continued to discuss human rights. From that moment on and for more than five years, the issue was more and more restricted to the work of activists in *Familiares* and similar groups, human rights organizations, and the studies of a group of intellectuals who, from different disciplines, agreed upon the necessity of exploring and deepening the discussion around the multiple implications of the issue.<sup>29</sup>

It is necessary to reiterate that this type of action was not inspired by any spirit of vengeance or violence. Nor was there disregard for the legal validity of the citizens' pronouncement of approval of the *Expiry Law*. Despite many provocations that could be referred to, there was not any kind of private revenge (which, to my judgment, constitutes the greatest

moral victory of the victims and their families over the dark legacy of the dictatorship). The law was not disregarded; on the contrary, its strict implementation was demanded (especially in relation to the aforementioned fourth article that obligated the investigation of the disappeared detainees' fate), paths of negotiation were sought in order to obtain with maximum consensus a dignified and acceptable resolution to the demands not met by the legal system.

There were so many initiatives by quite a diverse range of institutions and citizens that during the decade of the 90s there was a struggle to find widely agreed upon formulas for giving a necessary response to the victims' families, for supporting mothers like Sara Méndez and grandmothers like Esther Gatti de Islas in the concrete (and possible, as events would prove) search for children and grandchildren that had disappeared, for uncovering as much of the truth as possible about what had happened and presenting it for the public consideration of the Uruguayan society as a whole. All of these attempts, as we will see, unfortunately ended in failure, coming up against the lack of political will of the national authorities of those years to seriously face a civic challenge of this importance. Preferred was the rhetoric of a "reconciliation" empty of truth and therefore inconsistent; the choice was made to continue using euphemisms, calling the dictatorship a process or *de facto* government (in another instance of what we could call semantic impunity); the provocative practice of demanding and approving the promotion of military officials charged with crimes against humanity continued; the path of deafness and indifference to legitimate and responsible demands coming from within and outside Uruguayan borders was reaffirmed. Much time was lost, perhaps with the expectation of a gradual forgetting on the part of the citizens or the aging and death of the principal accusers.

It is necessary to include here a brief summary of what happened with respect to this topic during that long decade of the 90s. After the referendum of April 1989, the issue was barely present in the electoral campaign of that year, which ended with the triumph of the National Party and the ascent to the Nation's presidency of Dr. Luis Alberto Lacalle. Following that, in the first half of the 90s there was clearly a blurring of the issue. Of course, that circumstance did not signify an attitude of resignation on the part of families' and human rights organizations. As an expression of the ceaseless continuity of their work, a national session of the "Permanent Tribunal of the People" was held in Montevideo on April 20–22, 1990. The authorities of that international organization put the responsibility for coordinating this event in the hands of SERPAJ Uruguay (Service, Peace, & Justice, Uruguay), which invited the collaboration of IELSUR (the Uruguayan Institute of Legal and Social Studies) and Mothers and Family Members of the Detained and Disappeared (*Tribunal Permanente*).

But what is certain is that in the following years the work toward the clarification of the events would be difficult. As has been shown by Javier Miranda, "a very consistent vision of peace was installed,

systematically and persuasively, by the political actors who promoted the *Expiry Law*, equating peace and the consolidation of democracy with the need for impunity. This focus on impunity as a condition *sine qua non* of peace profoundly affected the public opinion and won support. Even among many of those who had opposed impunity during the previous years” (71–2).

The issue was, in effect, left off the public agenda. This general tendency did not vary even in the face of statements like the Report 29/92 of the Interamerican Commission of Human Rights of the Organization of American States, which in October of 1992 concluded that the *Expiry Law* was incompatible with the continental and international norm in terms of human rights. It also recommended to the Uruguayan government that they grant compensation to the victims and take real measures to clarify the events and identify the responsible parties.<sup>30</sup>

During those years, there was no lack of episodes that could have revived the public from its apathy regarding the issue: in October 1990, the Supreme Court of Justice declared itself unable to carry out the charges brought by the seven senators of the Frente Amplio Party against Senator Juan Carlos Blanco for his presumed participation in the case of the disappearance of Elena Quinteros.<sup>31</sup> In March 1991, the Retired Lieutenant General Hugo Medina admitted and justified in a newspaper report the use of torture by the military during the dictatorship. In August 1991, the association of Mothers and Family Members solicited the express classification of crimes against humanity in the text of the Constitution. In June 1992, authorities in Buenos Aires detained Miguel and Adriana Furci, “adoptive” parents of Mariana Zaffaroni, one of the most emblematic disappeared Uruguayan children, whose identity was confirmed within days; in declarations to the Argentine Judicial System, Furci recognized the involvement of well-known Uruguayan military officials, protected by impunity, in the Orletti abductions. In early 1993 files were discovered about the terrorism in Paraguay and Brazil, with direct documentation about the unfolding of the so-called Operation Condor. In June 1993, in Uruguay, Eugenio Berríos, a secret agent of the Chilean dictatorship, disappeared; the Uruguayan Justice System began investigating Casella, Radaelli, and other well-known Uruguayan military officials involved in State terrorist practices. In March 1994, the Uruguayan Parliament voted for the promotion, supported by the Executive Power, of the aforementioned Casella and three other charged military officials.<sup>32</sup> None of these or other events were able to make a lasting impact, and were rapidly absorbed by that political climate of apathy.<sup>33</sup>

In this context, it was not surprising that the issue also did not figure in the agenda among the main points of contention between candidates during the electoral campaign of 1994. In the elections of that year, in a close finish between the three main parties, Dr. Julio María Sanguinetti again won the presidency. As a key figure in the entire transition process, Sanguinetti had always expressed conviction in defending the

*Expiry Law* and the virtues of the “Uruguayan model” for ending the dictatorship, in whose design and implementation he had had an important role. In that sense, no changes were expected in the government’s policy toward human rights.

However, the issue was unexpectedly stirred up by the impact of external events. In that sense, 1996 was a crucial year. In the previous year, the Argentine military official Adolfo Scilingo’s declarations about the “death flights” had already provoked a distinct echo in Uruguay.<sup>34</sup> In the early months of 1996, the public declaration of the Argentine General Martín Balza, asking for forgiveness for the crimes committed during the dictatorship, promoted the issue’s real return to the center of the public agenda. Balza’s attitude seemed too contrasting to those of his counterparts on this side of the Río de la Plata, which could not go unnoticed. These echoes were able to gain force and project themselves in a renewed manner as these circumstances of international origin coincided with various locally occurring events.

### **1996 and the Revitalization of the Issue**

On the night of May 20, 1996, while commemorating twenty years since the murders of Héctor Gutiérrez Ruiz, Zelmar Michelini, Rosario Barredo, and William Whitelaw, under the slogan “Truth, Memory, and Never Again,” tens of thousands of Uruguayans marched in silence, in a collective gesture that forcefully renewed the citizens’ conviction about the need to reincorporate into the public agenda the demand for truth about the fate of the disappeared detainees and the clarification of human rights violations committed during the dictatorship. Also on May 10, 1996, *Brecha* published an open letter written by the Retired Naval Captain Jorge Trócoli entitled “Yo asumo, yo acuso” (I Confess, I Accuse) in which he confessed his direct participation in the practice of torture and elaborated a series of considerations regarding the causes of the State terrorism and the revisionism about the crimes committed during the dictatorship.<sup>35</sup> Trócoli’s public outing was directly related to a report in the magazine *Posdata* that in its April 25 issue had involved him as coordinator in the incursions of Argentine officials into Uruguay in 1977 (Blixen 3). This letter provoked a very intense public controversy in the country, generating reactions from across the social and political spectrum.

Added to this renewed debate and public sensitivity about the issue, provoked by international and domestic causes, was the beginning of concrete measures and initiatives to make a renegotiation with the military and the government viable, centering on the points of clarification of the events and the necessity for the Armed Forces and the State to assume institutional responsibility for what happened during the dictatorship. This would be the focus of attention and the core of the negotiation for the following five years.

By way of summary, the following is a review of the main initiatives regarding clarification and responsibility that unfolded between 1995 and 2000. In October and November 1995, the leader and senator of the New Space Party, Rafael Michelini (son of Zelmar Michelini) had begun a discreet round of contacts with several retired military officials (including the Retired General Ballestrino) and with the Secretary of the Presidency, Dr. Elías Bluth, in search of common cause. Despite progress in these measures, leading even to the discussion of the possibility of creating a Truth Commission, the proposal was ultimately rejected by the military and President Sanguinetti. The response of the superior officials to these measures was as unanimous as it was steadfast: in April 1997 the generals signed a “commitment” in which they affirmed the maintenance of a common stance against the formation of commissions that would investigate the past and enter in revisionisms that do not lead to any good end. The then Chief Commander of the Army, Raúl Risso, replied for his part that “[there was no place for] revisionism of the past” and that the proposal of the commission “is an example from another country, from another social context” (*Búsqueda* April 2 1997).

In October 1996, the writer Mauricio Rosencof, former leader of the Tupamaro National Liberation Movement and hostage during the years of the dictatorship, declared that he was willing to talk with military officials about the fate of the disappeared and the children. In April 1997, the association of *Familiares* presented a Petition to the Executive Power, requesting the regular implementation of the fourth article of the *Expiry Law*. In their petition, *Familiares* demanded “the realization of an exhaustive investigation aimed to clarify the fate of the disappeared detainees and to determine their whereabouts,” the assignment of that investigation “to a person or group of people that would guarantee their competence, independence, and impartiality,” and that the information obtained would be made known to the families. In October of that year, representatives from *Familiares* were welcomed by the Interamerican Committee for Human Rights of the Organization of American States, in which—with the presence of leaders of the Uruguayan government, including the Secretary of the Presidency, Elías Bluth—they denounced the failure to fulfill the recommendations in the aforementioned Report 29/92 of the same Committee. In this context, the government of Dr. Sanguinetti responded to the—expired—petition filed in April, again rejecting the demands: “the government,” Javier Miranda has remarked, “that at the end of 1996 seemed to be willing to consider new solutions to the problem, at the end of 1997 proved to be absolutely decided against attending to either the demands of the families or the recommendations of the ICHR of the OAS” (71). In the face of this refusal and in an affirmation of their express will to follow all legal paths beyond the foreseeability of immediate results, *Familiares* filed a motion of nullification with the Tribunal of Administrative Litigation against the decision of the government not to address their claims.

## Actors, Logic, and Actions

It makes sense here to pause again in the story in order to make an analytical reference to the evolution of the disagreement between the positions of two of the most central actors in this dispute: the organization of Mothers and Family Members of the Detained and Disappeared and the figure of then President Julio María Sanguinetti. It is necessary to make two clarifications. This aside does not include a specific analysis of the Uruguayan Armed Forces as an actor simply to avoid repetition, because this is developed throughout the paper, as a decisive and inevitable nucleus in the interpretation of the entire process. At the same time, as indicated at the beginning of the paper, the analytical focus on the actions of the group *Familiares* does not imply a disregard for the involvement of other groups in the promotion of human rights nor a lack of awareness of the polemics and differences between such groups throughout the process studied. The preference, as it surges from the text, is not meant to be exclusive and responds to the identification of this organization as the most representative and influential as well as the one that the State and the political system recognized as main interlocutors.

From the end of the dictatorship and in response to the events that occurred—blockades in the courts, the *Expiry Law*, the referendum initiative, the citizens' pronouncement of April 1989, the subsequent blurring of the issue, the issue's renewed centrality in 1995 and 1996—*Familiares* continually adjusted its strategy and even its slogans. “They Took Them Away Alive, We Want Them Back Alive” was the slogan at the end of the dictatorship; “Judgment and Punishment for the Guilty” was the dominant slogan between the beginning of the democratic government and the referendum of 1989; in the early years of the 90s the demand concentrated on the generic invocation of “Truth and Justice.” Finally, beginning with the renewal of 1996, the slogans began to orient themselves toward the objectives of “Truth, Memory, and Never Again,” a slogan that, not accidentally, as we have seen, was the one that presided over the first march of silence on May 20, 1996.

This agenda, affirmed and intensified by the more specific contents of the Petition to the Executive Power of April 1997, clearly reveals the trajectory of an actor that continues adapting demands to correspond to the avatars of the political process of its claims. It is not a testimonial organization or one that merely promotes its own identity, one that reaffirms its original demands, beyond the probability of achieving concrete goals. From the beginning *Familiares* assumes another form: that of an actor committed to seeking specific and viable results for its demands, that accepts the restrictions of the political field in which it carries out an important part of the negotiation of its objectives as an organization, that for that very same reason is willing to be flexible and negotiate (without settling for only what is deemed possible). That

political logic is what allows it to maintain its coherent activism and its strategy for almost two decades. Perhaps it is also that same fluidity of form that explains certain polemics in the field of human rights organizations and in the heart of some leftist groups generated by its strategy.

For his part, Dr. Sanguinetti and the body of leaders most in tune with his thinking also showed resilient coherence regarding the issue, at least from 1985 on. Before assuming the presidency, Sanguinetti always made his conviction known about the necessity of including the military in the negotiation of the terms of their withdrawal from power, distancing himself from any position implying rupture or intransigence. However, even when his model for thinking about the transition always presupposed reciprocal transaction and concession, his thought did not initially show a tendency to affirm the inevitability of impunity and forgetting as necessary conditions for peace in the country. Shortly before assuming his first administration, in his capacity as President-elect, in February 1985, Sanguinetti declared frankly: "The military officials that had been in violation of human rights during the *de facto* government will be judged by the ordinary Justice system" (*Madres y Familiares* 23). As a presidential candidate, on the other hand, he had guaranteed the CONAPRO (National Programming Council) agreements, which showed a preoccupation with the "serious risk for the real validity of human rights in the future" implied by the fact of "keeping Uruguayan society in ignorance of the truth about charges filed and allowing impunity for those acts that constitute punishable crimes" (19). In the same document, signed by representatives of every party, it was also deemed necessary "that all of the bodies of the State, according to their respective competencies, seek clarification of the events" (19).

Once in his position as president, Sanguinetti sent Parliament the *Proyecto de Ley de Pacificación Nacional* (National Pacification Bill) better known as the *Ley de amnistía* (Law of Amnesty), which in its fifth article expressly excluded from its benefits all police and military officials responsible for crimes against humanity during the period of the dictatorship. Once in government, President Sanguinetti and almost the entire Colorado Party gradually assume an attitude of being more and more inclined to systematically impede the trials of military officials accused of crimes during the dictatorship, directly coinciding with demands made by the Armed Forces. When the parliamentary commissions were created in 1985 to investigate the situation of the disappearances or murders of Michelini, Gutiérrez Ruiz, and Cecilia Fontana de Heber,<sup>36</sup> the Executive Power consistently vetoed all initiatives that broadened their investigative faculties. As a corollary to the process of increasingly close alignment between the demands for non-judgment on the part of the military and the political position of the Colorado Party, in 1986 Sanguinetti sent Parliament a general amnesty bill that included all crimes committed by military and police officials, related directly or indirectly to the fight against subversive activity, during the previous twenty years. This project was not approved by

Parliament. Eventually, it was Sanguinetti himself who was successful in persuading Wilson Ferreira Aldunate, the leader of the National Party, of the inevitability of a preventive “legal solution” that would stop the trials already in process and satisfy the demands of the Armed Forces for non-judgment of its accused members, given the danger of contempt by the military and eventual attempts at a coup or destabilizing national institutions.

Later, Sanguinetti maintained a monolithic position regarding the issue that, nevertheless, seemed to have a moment of change or at least of doubt toward the end of 1995 and in 1996, with the previously mentioned secret measures promoted by Senator Michelini. As we have seen, there were acknowledgments and statements—not documented or agreed upon by those involved—that indicated that at that time Sanguinetti himself, along with very closely involved and well-known generals who had been active during the dictatorship, began to discuss the possibility of creating a *Comisión de la Verdad* (Truth Commission). What is certain is that beyond the conflicting versions of the incident, the proposal eventually received a sound rejection from the military hierarchy and caused Sanguinetti to return to the monolithism of his previous position, which has not varied since then.<sup>37</sup>

The radical divergence of these two positions branded the public debate around the issue during the years of the second administration of the leader of the Batllist Forum, even forcing the hardening of his position, as we will see later, regarding the so-called Gelman Case. In any case, despite being one of the central figures of the transition process and presiding on two occasions (within a decade) over the fate of the government, at no time did Dr. Sanguinetti officially welcome the representatives of *Familiares* nor did he give a personal interview to any of the group’s main leaders.

## Time for Proposals

The return of the issue to the center of the public agenda and the activities carried out by *Familiares*, with the amplifying impact of events related to the issue of human rights that continued to occur abroad, caused many to present concrete proposals for finding an agreed upon way out of the situation. The evolution of *Familiares*’ declarations, synthesized programmatically in their April 1997 Petition to the Executive Power, established the parameters of an entirely defined strategy for how navigate the issue.

In May 1997, the Bishop of San José, Monsignor Pablo Galimberti, announced a mediation initiative in the weekly periodical *Búsqueda*, which confirmed that the Catholic Church was leaning toward a position of support for the demands of clarification. In an informal manner, the initiative went as far as suggesting the sacramental discretion of the practice of confession as a suitable mechanism for assuring the

“confidencialidad [requerida para no desbordar] los márgenes previstos por la Ley de Caducidad y para no alentar ningún tipo de escalada de odios o de sentimientos de confrontación” (confidentiality [required in order to not go beyond] the parameters set by the *Expiry Law* and to discourage any escalation of hatred or feelings of confrontation).<sup>38</sup> This proposal received the support of political leaders (in this case not only on the left but also from the National Party by Dr. Alberto Volonté and Dr. Juan Andrés Ramírez), as well as from religious entities such as the Episcopal Conference, the Judeo Christian Confraternity, and Protestant Churches, among others. Also that month was the May 20 march, which again had a multitude of participants, brought together this time under the slogan “We Want the Truth.” Note that the demand once again centered on the issue of truth, which came to affirm once again the line of negotiation developed by *Familiares* in this new stage.

In June of the same year, the Retired Colonel Luis Agosto publicly announced his support for Galimberti’s proposal of mediation, arguing that it was necessary to “elaborar nuestros duelos, incorporando a todos nuestros muertos de un lado y del otro a la historia colectiva uruguaya” (elaborate our sorrows, incorporating all of our dead from both sides into the collective history of Uruguay). The fear that this pronouncement by a retired high official could mean the beginning of the cracking of the closed monolithism of the military front brought harsh responses to such declarations from military ranks and even the clubs of retired military officials sanctioned Agosto. In December, on the occasion of their annual reception for the press, the Central Israeli Committee, represented by its president, Pedro Scofsky, joined Galimberti’s proposal, emphasizing the “inalienable right of the families to know the location of the graves of the disappeared.”<sup>39</sup>

Before this offensive of support, President Sanguinetti and high ranking figures of the coalition government came out to respond. The head of state, very self-limiting in his public expositions, said in January 1998 that he could not remember “ninguna guerra sin desaparecidos” (any war without disappearances), affirming “la profunda convicción del Poder Ejecutivo de que ningún acto de autoridad de ese poder del Estado podrá contribuir efectivamente a satisfacer la aspiración personal de los peticionantes y servir para alcanzar el resultado buscado” (the profound conviction of the Executive Power that no act of authority of that State power will be able to contribute effectively to satisfy the personal aspiration of the petitioners and serve to reach the results sought).<sup>40</sup> For his part, then Senator Jorge Batlle proposed erecting a memorial in memory of the dead from both sides in what he called the “last civil war.” He argued that that was an adequate path to “expiar penas, reconocer errores, [ . . . ] identificar un punto de encuentro” (atone for crimes, recognizing errors, [ . . . ] identify a point of convergence). In response, Senator Michelini publicly insisted on his conviction that “si Sanguinetti da la orden, la verdad aparece” (if Sanguinetti gives the order, the truth will appear) adding that “lo que no haga este gobierno lo hará el próximo” (what this administration does not do, the next one

will). Meanwhile, the secret measures continued and every so often encouraged public gestures. Among them it is worth mentioning the action of the priest Luis Pérez Aguirre, founder of SERPAJ Uruguay and very well-known defender of human rights since the time of the dictatorship, who, with the approval of *Familiares* established ample contacts seeking to work out the situation. In an article that appeared April 9, 1998, in the weekly *Brecha*, Montevideo, under the title “A la escucha del silencio de los desaparecidos” (Listening for the Silence of the Disappeared), Pérez Aguirre pointed out the basic conditions for the success of the negotiations: “La propuesta debe ser vista con buenos ojos por los familiares; tener el aval del Presidente; y ser viable para las Fuerzas Armadas” (The proposal must be well received by the families, have the approval of the President, and be viable for the Armed Forces).

In May of the same year, the deputy of the Frente Amplio Party, Victor Semproni, formally launched a new proposal to unify the propositions of Michelini and Galimberti. He proposed the creation of reserved space and time limit (90 days of operation), made up of the President, representatives of the Catholic Church, military, and families of disappeared detainees. The objective would be to return the remains of the disappeared and obtain information about the date of death of each one. The government was to assume the responsibility of investigating, the Armed Forces were to assume their institutional responsibility for the events and the families were to accept a kind of “final stop” to the demands of clarification. During the same month the traditional May 20 march was held, this time under the slogan “The Truth Will Set Us Free,” in a context of radicalization and solidification of the positions of the government and the military on one side and the human rights organizations on the other. In addition, the commemoration of the 25th anniversary of the *coup d'état* on June 27 was the occasion of various journalistic reports and academic activities about the issue.

In August, the Retired Rear Admiral Eladio Moll launched a similar public proposal to the one made some time before by the former Tupamaro leader and writer Mauricio Rosencof, to make contact between the combatants of each side possible in order to bring about a viable conclusion: “Es necesario conocer el pasado para fortalecer un proceso democrático [ . . . ]. Creo que los combatientes, los militares y los exguerrilleros, tienen que juntarse para buscar una solución a la uruguaya. ¡Júntense señores!” (It is necessary to know the past in order to strengthen the democratic process [ . . . ]. I believe that the combatants, military and former guerrilla fighters, have to come together to seek a solution appropriate to Uruguay. Come together, men!). In his declarations, Moll also indicated that during the years of the dictatorship the U.S. had recommended killing the prisoners after getting information from them, noting that the Uruguayan military decided at that time not to follow that recommendation. The U.S. ambassador to Uruguay, Christopher Ashbi, labeled those allegations ridiculous, while President Sanguinetti indicated that it was a topic for historians. Finally, 1998 ended with the enormous impact produced by the arrest of the former

dictator of Chile, Augusto Pinochet, in London, which shook the political environment and bolstered discussion about the issue. The controversy began to slide from then on outside the parameters of the most local terms of how to negotiate the issue, extending the discussion to topics that would come up throughout the judicial process of the Chilean ex-dictator (extraterritoriality of judicial competencies, extent and limits of international justice, capacities of the Chilean justice system to judge independently, etc.).

Unexpectedly, given the agitation and renewed controversy of the issue we have narrated, the topic of human rights was not among the central issues of the electoral campaign of 1999. Due to the constitutional reform of 1996, the new electoral timeline set three elections for the year (internal party elections in April, first round in October, second round in November), added to which were the municipal elections in May of the following year. Various reasons can be invoked to explain this lack of discussion. First, the coalition between the Encuentro Progresista (Progressive Encounter) and the Frente Amplio parties, presumably the actor most likely to place the issue on the agenda, had motive to not do so: all predictions showed their candidate, Tabaré Vázquez, competing in the second round of voting and to have any real chance he had to win an important part of the “silent majority” that traditionally had supported the official positions in terms of human rights. This expectation of victory also recommend proposing an agenda that would irritate the Armed Forces, a State institution with which the left had a strong reciprocal suspicion and with which it would have to establish a difficult institutional relationship. It was not in the interests of *Familiares* to renew a partisan division regarding the debate over human rights, either: with their strategy of the previous years, their demands had gained important support within the ranks of leaders and citizens of different political affiliations, at the same time that their negotiation strategy had begun counting on a proposal whose viability depended on multipartisan support. An electoralization of the debate could effectively dissolve the achievements made since 1996, at the same time that, barred any expectation of a solution during the administration of Sanguinetti, the sights must be oriented on what the next administration, whoever that may be, would do.

In any case, the issue stayed latent during 1999 through the May 20 march (realized that year under the slogan “What is Our Democracy Missing? Truth!”), through specific actions of the associations of families and human rights activists,<sup>41</sup> new criminal charges,<sup>42</sup> the reappearance of Carmen Gallo Sanz, who had disappeared as a child,<sup>43</sup> the publication of books and academic debates, but above all the pressure of actions and events that reinforced more and more the context of increasing internationalization of the issue and its struggles. Regarding this last point in particular it is worth mentioning the following events: the echoes of the continued judicial process of Pinochet, the new causes opened in Europe oriented above all toward judging the actions of the so-called Operation Condor, the

announcement of the declassification of secret North American files referring to the period of the dictatorship, and especially the charges brought by the Argentine poet Juan Gelman before the Uruguayan government in the search for his disappeared grandson, which provoked an intense campaign of international solidarity as well as a harsh interdiction with President Sanguinetti.<sup>44</sup>

As is well-known, the 1999 electoral tour ended with the consolidation of the Encuentro Progresista Party as the leading political force in the country (with 40% of the votes of the first round against 33% for the Colorado Party and 22% for the National Party), but the triumph of Dr. Jorge Batlle over Dr. Tabaré Vázquez, in a second round of voting that counted on the previously arranged support of the National Party. In that context, starting March 1, 2000, the new president would head a coalition government as his predecessor had, but with narrower majorities in the houses of Parliament: 55 out of 99 deputies and 18 out of 31 senators.<sup>45</sup> The political equation created a previously unknown situation in terms of the representation of public powers: the government was shaped by the alliance between the second and third parties (according to electoral base), while the primary force was made up of a strong and—beyond the internal divisions at the heart of the left—unified opposition. Despite the fact that it seemed clear that it would no longer be easy to remove the issue from the public agenda and that Jorge Batlle had shown a slightly greater degree of flexibility than his predecessor Julio Sanguinetti, there was no indication of new elements that would produce any truly significant turnaround in the attitude of the future government.

### **The Path toward the Commission for Peace**

On March 1, 2000, Dr. Jorge Batlle assumed the Presidency of the Republic of Uruguay and showed unexpected signs of a new willingness of the State to face concrete initiatives toward the resolution of the issue. In a passage of his inaugural speech, the new leader indicated, in a rather elusive and indirect tone but sending a signal that did not go unnoticed by anyone:

Como lo hemos hecho hasta ahora, en los próximos cinco años llegaremos a todos los sectores de nuestra nación para escuchar, para informar, para dialogar y sostener con la firmeza y claridad como lo hemos hecho siempre con nuestras ideas y puntos de vista, en procura de los entendimientos y los acuerdos que aseguren la armonía de los uruguayos y sellen para siempre -sellen para siempre- la paz entre los uruguayos. Y esa es nuestra obligación. Si tantas cosas hemos pasado y tanto hemos sufrido, y nadie de nosotros puede decir que alguien es culpable o que alguien es inocente, y por tanto este no es el resultado de un mundo maniqueo de malos contra buenos, sino que todos

estamos adentro de la misma historia, es a todos nosotros que nos corresponde como responsabilidad primera sellar para siempre la paz entre los uruguayos. (El primer discurso 18–19)

(As we have done up until now, in the next five years we will come to all sectors of our nation to listen, inform, dialogue, and assert with the firmness and clarity that we have always used in our ideas and points of view, in search of the understandings and the agreements that will assure the harmony of the Uruguayans and seal forever—seal forever—the peace between Uruguayans. And this is our obligation. If we have gone through so many things and we have suffered so much, and none of us can say that someone is guilty or that someone is innocent, and so this is not the result of a black-and-white world of bad against good but we are all within the same history, it falls to all of us the primary responsibility to seal forever the peace between Uruguayans.)

This passage of the new president's inaugural speech was one of the most applauded in the area of Parliament by legislators of all parties and at the same time was one of the fragments most emphasized by all of the national and international press in the coverage over the days that followed. At the same time, what gave the most significance to Batlle's words was the publication that same day in the press of an open letter addressed to the president by *Madres y Familiares*. In this letter, they specified the bases for making viable a process of clarification of the crimes that occurred during the dictatorship, at the same time that they asked the new president for “una audiencia para comenzar a explorar, franca y directamente, una solución a este tema [. . .] que sólo será posible si se ajusta a los parámetros de la verdad, el derecho y la dignidad, si a ella convergen los aportes honestos de toda la sociedad y se procesan con transparencia.” (a meeting to begin to explore, frankly and directly, a solution to this issue [. . .] that will only be possible if it fits the parameters of truth, rights, and dignity, if within it the honest contributions of all of society come together and these contributions are processed with transparency).<sup>46</sup>

This open letter, as we shall see, took up again and systematized the program of demands and postulations designed by *Familiares* in the Petition to the Executive Power of April 1997, which definitively marked the general tone of the great majority of the proposals and initiatives that unfolded during the following years. In this new document, *Familiares* again pointed out the necessity of an official and public pronouncement by State authorities, assuming the responsibility for human rights violations that occurred during the dictatorship. They also insisted upon a serious investigation, with sufficient guarantees of independence, impartiality, and competence, in order to give a concrete response to four basic questions about each of the disappeared detainees: when?, where?, how?, why? At the same time a special mention was made of the particular situation of the detained disappeared children.

The letter concluded by saying “[n]o es posible que se siga afirmando que este es un tema ‘laudado.’ El NUNCA MÁS al que todos aspiramos sólo puede cimentarse en la verdad, y esa verdad es posible” (It is not possible to keep affirming that this is a ‘closed’ issue. The NEVER AGAIN that we all aspire to can only be founded on truth and that truth is possible).

The historical significance of this document was increased by the context in which it was made public, as well as by the impact it was able to generate as a political act, amplified even more by the echo it found in the expressions of President Batlle during his first speech before the General Assembly.<sup>47</sup> A renewed interest in the issue was immediate. The next day, as we have indicated, it was the central issue covered by almost all of the newspapers. Information even came out that for months President Batlle had already been seeking an agreement with the Encuentro Progresista Party and that even before the beginning of the new government, Dr. Carlos Ramela and Dr. Gonzalo Fernández had worked on that objective in representation of the new president and Tabaré Vázquez, respectively.

Many leftist leaders and human rights activists praised what happened, at the same time that some very representative figures of the new government took responsibility for affirming the plans of Batlle on the issue. There was no lack of controversy, however: in the heart of the left and of the human rights organizations the polemic over the limitations and extent of the upcoming investigation resurged, focusing the controversy on the removal from the *Familiares* platform of the question “who?”<sup>48</sup>

With much more vigor than expected, the issue quickly made its way to the center of public attention. In the flood of declarations and proposals in those days, at the same time that Batlle began to speak about a new “state of the soul” and the Encuentro Progresista Party began to function like an authentic intermediary between the government and the organization of *Familiares*, the authorities of the latter sent a communication on March 22 with some clarifications. In this communication, after pointing out the failure of the strategy of proclaiming [the issue] closed and leaving it in the past, *Familiares* expressed with great firmness its rejection of the project to pronounce dead the disappeared, supporting instead other paths such as a law of absence by forced disappearance, similar to one in Argentina. At the same time, the group also showed its decisive opposition to the idea discussed in those days of delegating the search to military and former guerrilla fighters:

En reiteradas oportunidades hemos expresado nuestra opinión de cómo y por quiénes se deben buscar estas vías, así como de la transparencia e independencia que tienen que tener las mismas, lo cual descarta la fórmula propuesta. Además, afirmar que estas son las partes del problema, significa validar la mentira de que las

desapariciones forzadas fueron fruto de situaciones de 'guerra' o 'enfrentamiento.'

(In numerous opportunities we have expressed our opinion about how and by whom these paths should be sought, as well as the transparency and independence that they must have, which rules out the proposed plan. In addition, affirming that these investigations are part of the problem validates the lie that the forced disappearances were the result of situations of 'war' or 'confrontation.')

Between March and August, the deluge of events increased even more. On March 31, President Batlle welcomed the Argentine poet Juan Gelman to the Government House, informing him that there was very strong evidence (definitively confirmed days later) that indicated that his granddaughter—the daughter of Marcelo Gelman and María Claudia García Irureta Goyena, who disappeared in Argentina in 1976 during the military dictatorship—had finally been found and that she lived in Uruguay.<sup>49</sup> On April 6, the president ordered the dismissal and arrest for ten days of General Manuel Fernández, then Chairman of the Joint Chiefs of Staff, as a consequence of forceful declarations by this official against any path toward clarification. On April 13, one day before the always polemical April 14 commemoration,<sup>50</sup> Batlle became the first Uruguayan president to officially meet with representatives of *Familiares*. While support was growing for the measures taken by the government,<sup>51</sup> other events occurred: in the commemorative acts of April 14 the authorities of military clubs gave very harsh speeches opposing the possibility of any type of revisionism; on May 1 the PIT-CNT labor union included in its proclamation a nine-point platform defining its vision of the work that needed to be done;<sup>52</sup> on May 8 Batlle announced that a Uruguayan youth thought to be the disappeared son of Sara Méndez had agreed—after many years of refusing—to take a DNA test to confirm his identity;<sup>53</sup> on May 10 the judge Estela Jubette ordered the Executive Power to investigate the whereabouts of the teacher Elena Quinteros, disappeared during the dictatorship; on May 20 70,000 Uruguayans participated in the fifth march of silence under the slogan “Where Are They? The Truth is Possible and Necessary;” on June 5, after another meeting with the *Familiares* delegation, Batlle publicly announced the formation of a “Commission for Peace,” which would be responsible for carrying out the investigation; finally, August 9, by presidential decree, the aforementioned Commission was formally constituted.

According to the presidential decree that basically synthesized the foundations agreed upon by President Batlle, the Encuentro Progresista Party, and *Familiares*, the duties of the Commission included the collection of information about the disappeared in and outside of national borders, procuring the recovery and return of remains, facilitating the President's personal communication of the information

obtained to each of the families involved (the families would decide whether that information would be made public), and composing a general report in which the military and paramilitary personnel's responsibility for the forced disappearances would be put on record. Notably absent from the membership of the Commission was the representation of the principal associates of the coalition of President Batlle, the Batllist Forum of former President Sanguinetti, and the Herrerist faction of former President Luis Alberto Lacalle. The military was also absent, although the possibility of their presence had never been suggested.<sup>54</sup>

### **Notes for an Open Review: The Changing Context and the Juncture of 2002**

The creation of the Commission began to shape the consolidation of a milestone in the long process that we have been relating. On one hand, it definitively removed the official doctrine that had been in place until then that the issue and all that it implied had been resolved by the *Expiry Law*. At the same time, this initiative responded to a good part of the demands made by *Familiares* over more than a decade and especially since 1996. In that sense, the creation of the Commission could be interpreted as an achievement of the *Familiares* strategy of the previous years. Finally, it marked a considerable political wager on the part of the new President, clearly different from that of his predecessors.

In historical terms, the creation of the Commission resulted from the combination of four factors: pressure from the citizens, expressed in many different ways in the preceding years, that finally succeeded in impeding the definitive blurring of the issue, which was feared during the first half of the 90s; the evolution of the international context, more and more oriented toward a profound revision of the solution of impunity and the politics of forgetting in Latin America in the face of the crimes committed during the dictatorships of national security; the mobilization of family and human rights organizations, with a special emphasis on the actions of Mothers and Family Members of the Uruguayan Detained and Disappeared, which led—not without controversy, as we have shown—to a strategy aimed at negotiating widely agreed upon formulas relating to the issues of clarification and the full assumption of responsibility on the part of the State in relation to the denounced events; last but not least, the new attitude of President Batlle in accompanying and promoting an institutional reelaboration of the issue from the position of the government, after so many years of unyielding opposition to that possibility.<sup>55</sup>

The optimism and expectations that framed the beginnings of the work of the Commission were great, perhaps excessive. It should be noted that they coincided with a truly idyllic relationship between President Batlle and public opinion, in part related to the impact of his

unexpected gestures on the issue of human rights.<sup>56</sup> As proof of that, in July 2000, a few days before the Commission formally initiated its activities, the priest Luis Pérez Aguirre, representative of *Familiares* in the newly created organization, indicated to the press that they had “el 90% de los datos para conocer la verdad, sólo nos falta el 10% que tienen los militares” (*Búsqueda* July 6, 2000) (90% of the data needed to learn the truth, all that was left was the 10% the military had), emphasizing the issue of the return of remains. In a later report on the radio, Pérez Aguirre elaborated further, indicating that he had only agreed to be part of the Commission because he had become convinced that it would really be possible to make progress in substantive issues and that that was only possible if the Armed Forces cooperated (Olivera).

Related to this initial climate of optimism was also the question of estimating the time the Commission would invest in the fulfillment of their objectives; the predominating expectation was that within only a few months they would have the expected results.<sup>57</sup> In any case, even among those who decisively supported the launch of the initiative, there was no lack of objections regarding some of the limitations with which the Commission began: there were reiterated objections about membership, which we have already referred to, but fundamentally, the most consistent criticism pointed to the cutback of the Commission's powers and the absence of coercive power to obtain testimony from the military officials involved.

In its 2000 *Report on Human Rights in Uruguay*, SERPAJ first praised the advance signified by the creation of the Commission by saying that “esta investigación es imprescindible de realizar por el Estado y allí está su mayor valor” (this investigation is necessary to be carried out by the State and there is its greatest value) and then also indicated certain problems:

Nos parece una gran carencia el hecho de que para lograr su objetivo no se [haya] dotado a la Comisión [ . . . ] de poderes coercitivos. [ . . . ] Creemos que esta será una limitación muy importante para la investigación y que no sería incompatible la obligación de declarar la verdad, para los militares que no quieren aportar a la investigación por voluntad propia, con la caducidad de la pretensión punitiva del Estado. (SERPAJ 108)<sup>58</sup>

(to us it seems a great shortcoming that the Commission [has] not been given [ . . . ] coercive powers in order to achieve its objective. [ . . . ] We believe that this will be a very significant limitation for the investigation and that the obligation to declare the truth, for the military officials who do not want to contribute to the investigation of their own will, would not be incompatible with the expiry of the punitive powers of the State.)

Once the first euphoric moments passed everyone, and in particular the members of the Commission, was able to see that the path ahead would be arduous. The polemics increased, above all those in the heart of the left and internal to the human rights organizations. In any case, the work of the Commission continued to receive significant support. Tabaré Vázquez, leader of the Encuentro Progresista-Frente Amplio coalition, maintained his decisive support for the work of the organization, not only through the leading participation of his personal representative but also with categorical declarations of support. On April 20, 2001, during the event in which the Communist Party remembered those killed in a tragic episode in one of the local chapters before the coup d'état, Vázquez expressed with uncommon frankness: “La Comisión llegará adonde pueda llegar, no tiene otros mecanismos que el diálogo, la conversación, la persuasión. Estas son las herramientas. [ . . . ] ¿Qué otra cosa íbamos a hacer (nosotros de) haber llegado al gobierno?” (The Commission will achieve what it can achieve, it does not have any other mechanisms but dialogue, conversation, persuasion. These are the tools. [ . . . ] What else were we going to do [if we had] won control of the government?).

For various reasons, 2002 was a very difficult year for the Commission. In March, after 26 years of searching, the appearance in Argentina of Simón Riquelo, son of Sara Méndez and one of the most emblematic disappeared Uruguayans in the fight for truth, was confirmed. Méndez had maintained an important disagreement with the Commission's activities, some of whose members had suggested the previous year that it was quite possible that her son had died in Argentina. The eventual discovery of Simón, resulting from an investigation in which the Commission was not directly involved in the final stages, only exacerbated these differences.<sup>59</sup> Meanwhile, the economic and social collapse of the country clearly shifted the issue of the Commission's activities away from the center of the public agenda, at the same time that the sharp deterioration of President Batlle's image, the series of postponements in the estimation of the final date of its work, and even the political weakening of its main supporters all contributed to the deterioration of the political weight of the organization and in some ways lowered expectations for the final results of their work.<sup>60</sup>

### **About Stories and Final Stops**

At any rate, it is fitting to make a few final remarks. First of all, it seems more and more clear and accepted that the culmination of the work of the Commission for Peace cannot be understood as any kind of final stop on this issue. On the contrary, one of the biggest contributions of the Commission will be that of serving as a catalyst for strengthening actions and activities oriented toward the construction of a national

politics of human rights that would include, from the creation of permanent organizations all the way to new forms of mobilization and control in the hands of citizens. In this sense, a proposal is already being shaped for the creation of new mechanisms that would continue civilian monitoring of the clarification of what happened during the dictatorship and the social conscience of that issue, but that above all would project mechanisms of prevention toward the future so that episodes like the ones we have denounced do not occur again, all within an integrated defense of human rights in the country. As Javier Miranda has indicated: “No hay punto final, porque esto tiene que ver con la construcción de una gran política de derechos humanos. Los que entramos en este cuento por situaciones personales nos hemos convertido en militantes de los derechos humanos. Desde el punto de vista personal es lo mismo; yo quiero que la muerte de mi viejo tenga sentido” (10–11) (There is no final stop because this is about the construction of a politics of human rights. Those of us who enter into this story through personal situations have become human rights activists. From the personal point of view it is the same; I want my father's death to have some meaning).

There is no possible final stop for the never-ending tasks of the clarification of the truth, the construction of a democratic memory, the rigorous elaboration of a traumatic past as a task demanded from the position of *Never Again*. But, as has been indicated more than once, even the issue of justice, within the already mentioned restrictions still in place, has other inevitable dimensions: the implementation of the tasks necessary to efficiently prevent any future human rights violations of any kind; the transmission of civic and humanitarian values that establish in a persistent and renewed manner the moral condemnation of those who perpetrated the dictatorship and its crimes; the legislative sanction and specific laws that classify new criminal terms (such as torture and forced disappearance) and give clear signals to society about the absolute repudiation of any practice of terrorism, wherever it comes from; finally, the construction of a new social consciousness that is democratic and anti-dictatorial, essentially nonviolent.

The collective elaboration around traumatic pasts such as those mentioned in this paper is also elucidated on the level of storytelling, of narration, of the multiple forms of public representation of what has happened and its consequences. In this sense, it is important to point out that the stories about the dictatorship and the transition to democracy have gained public attention in Uruguayan society in recent years. In that context, we have confronted diverse visions and narrations and even though some “loud” silences have also been especially noted, it is not an exaggeration to notice that the “cracks” and insufficiencies in the self-indulgent official story about the Uruguayan transition and its merits gradually become evident.<sup>61</sup> There is still much left to investigate, there are still many testimonies left to explore and one could suspect that, despite the obvious destruction of some documentation, there is still much waiting to be discovered and interpolated. Some clues in this direction have been made out from what has been learned about the

Commission's work and we will certainly be met with more than one surprise in the future. As Baczko has said, societies have a "right to their past" and that not only presumes constructing memory<sup>62</sup> and making available information known to the public,<sup>63</sup> but also going from memory to the field of history, using the wise and modest rules of a millenary profession.

Each in their own way, inundated with politics as we have seen, the Uruguayan stories about the dictatorship and the transition have too long been guilty of self-satisfaction and lack of rigor. It is time to break through such condescension. And it is time to do so rigorously, without partisanship or vengeance, but keep going "until we hit the bone." In that context, it is necessary to point out one more time that the official discourse of the Uruguayan Armed Forces has been a monolithic refusal, often encouraged by partisan actors especially interested in shutting down the issue. There has been no institutional recognition of responsibility, or even any convincing categorical rejection of the possibility of another coup. The notion that the 1973 coup d'état was nothing more than a response to "armed subversion" and a consequence of a "power vacuum" during that period has persisted in varying shades. The highest military authorities, from 1985 until now, have shown reluctance again and again to accept institutional responsibility for the atrocities committed by their forces, in contrast to what has happened in other Latin American countries. An attitude of institutional protection has even prevailed for the most well-known figures involved with human rights violations during the dictatorship, again suggesting—explicitly or tacitly—the dangerous idea that the Uruguayan Armed Forces still consider this a taboo topic that cannot even be discussed. It is no longer only about the foreseeable vindications of the dictator on the part of "nostalgic" authorities of the military clubs: in recent declarations by some of the highest ranking leaders of the Uruguayan army, a firm refusal to bring up the issue even for more thoughtful consideration surprisingly and dangerously persists. What we have been able to find out about the lack of support from the majority of the military for the Commission's work point in the same direction and shapes the outline of an account still pending that is too important to be forgotten. It is expected that the Commission's final report will facilitate the journey toward a radically different attitude.

### **The Demands of Non-Violence and the Necessary Risk of Truth**

Throughout its history, Uruguayan society has often resorted to different kinds of shortcuts in order to avoid the requirements of civic dilemmas that have been as conflictive as they have been unavoidable. Under those circumstances, on more than one occasion it has been argued that obtaining and consolidating peace in our society required the

postponement of moral requirements and taking more prudent paths. At the current crossroads and with the perspective not only of the conclusion of the work by the Commission for Peace but also what will come afterwards, perhaps Uruguayan society can consider other paths that it needs maybe even more than ever before. The prudent choice is sometimes the most imprudent one and, as shown by all of the figures who preach non-violence, avoiding conflict is not a good way to achieve peace in a society. In an authentic democracy, the testament of the citizen cannot elude the risks of civic investigation into the truth. Lasting peace also requires it.

As a response to conflict, non-violence aspires to a rigorous resolution to conflict, to profoundly overcome, not just weakly attempt to calm it, which will leave the ultimate reasons for the dispute untouched. What is more, it could be said that through non-violence we can seek as a strategic objective the emergence of the real contradictions within the conflict, to create a peaceful future not based on the mere absence of violence but in the triumph over those factors that lead to violence. As indicated by the universally tragic experience of the twentieth century, the legacies of violence embedded in traumatic pasts, if not worked through, can reappear in different forms among the grandchildren and great-grandchildren of the original protagonists. The demand for truth as a necessary foundation for an integrated social fabric and peaceful future is much more than a pronouncement of principles; it identifies a historical tendency that is as recognizable as it is frequently forgotten.

In a text emblematically titled *Why We Can't Wait*, Martin Luther King, Jr. said with true clarity:

Non-violent direct action seeks [ . . . ] that a community which has constantly refused to negotiate is forced to confront this issue. It seeks so to dramatize the issue that it can no longer be ignored. [ . . . ] I have earnestly opposed violent tension, but there is a type of constructive, nonviolent tension, which is necessary for growth. The purpose of our direct-action program is to create a situation so crisis-packed that it will inevitably open the door to negotiation. (67-8)

We cannot wait either; the legacy we leave our children does not permit it. This Commission for Peace, in our judgment, should have been named, as in many other places in the world, "Truth Commission." And that is, among other reasons, because Uruguayan society is peaceful, a value that comes from its best traditions and that undoubtedly will always need to be cared for and resignified, because it is never achieved once and for all and requires daily, tenacious forging. But our peace lacks the necessary risk of truth; it lacks the deep roots of a demanding and open discussion of painful and difficult truths, many of them terrible but always better than lies, silence, or indifference.

## Notes

1. I am grateful for the comments and suggestions for this text made by Dr. Patricia Funes.
2. In the political history of Uruguay there is a majority opinion that there is a “Uruguayan model” for transition that is basically successful and that consists in democratic forces that avoid divisive practices and create pacts with powerful figures from the dictatorial processes regarding the conditions for their safe and orderly removal, for the purposes of facilitating the return to normal of governmental institutions. That is the model used by Máximo Tajes and Julio Herrera y Obes to dismantle the Latorre-Santos dictatorship in 1886 and 1887, the so-called “good coup” of Alfredo Baldomir in February 1942, and the negotiation of the *Naval Club Pact* in 1984.
3. See Quijano. *El país y su gente*, in particular chapter III entitled “Los golpes del pasado.”
4. This characterization of Uruguayan society as “hyper-integrated” was taken from Germás Rama in his text *La democracia en Uruguay*.
5. The action of this organization is discussed with special priority, which does not imply a lack of awareness or devaluation of the action of other organizations, such as *Familiares de Asesinados por Razones Políticas*, *Hijos*, *IELSUR*, *SERPAJ*, *SERSOC*, the *Human Rights Office of PIT-CNT*, and the group *Plenaria Memoria y Justicia*, among others. As will also become clear, there was not always consensus in the focus and strategies used by these organizations during the period studied.
6. Some passages of this section are from a previous paper by the author. Gerardo Caetano. “Verdad, memoria y democracia.”
7. Despite this, there still an ever more prolific bibliography on the complex relation between history and memory, how to study the history of recent and traumatic pasts, and many other related topics. The limitations of this paper prevent even a summary of this vast and growing bibliography.
8. See especially Sabato, “Historia reciente y memoria colectiva.”
9. This expression is from Carlos Real de Azúa.
10. There is a prolific bibliography about what is called the “Debate of the Historians.” On that occasion, Jürgen Habermas debated, among others, with the three well-known German revisionist historians Michael Stürmer, Andreas Hilgruber, and Ernst Nolte.
11. See Hanna Arendt, *Eichmann en Jerusalén: un estudio sobre la banalidad del mal*.
12. I am grateful to Dr. Patricia Funes for this citation.
13. Regarding this last point, see Jelin, *Los trabajos de la memoria*.

14. In relation to Uruguay, see “La dictadura: una intrusión en la intimidad” by Daniel Gil and Marcelo Viñar in Volume III of *Historias de la vida privada en el Uruguay*.
15. Over the last few years all of the pressure for the necessity to create international courts and juridical systems in order to avoid impunity for crimes against humanity is based on, in my judgment, the recognition of this difficulty.
16. Gerardo Caetano and José Rilla, *Breve historia de la dictadura*, 1987.
17. From the end of the 1960s, Wilson Ferreira Aldunate was the main leader of the National Party. Exiled after the *coup d'état* of June 1973, he was almost murdered along with Gutiérrez Ruiz and Michelini in 1976 in Buenos Aires. From exile, he led a strong opposition to the military regime, denouncing it in numerous international forums. He returned to the country on June 16, 1984, and was immediately imprisoned by the Uruguayan military. He firmly opposed the *Naval Club Pact* and, in prison, was not allowed to run as a candidate in the national elections in November of that year. He was released several days after the elections. In 1986, as we will see, his support made the legislative approval of the *Expiry Law* possible, which earned him harsh criticism even within his own party. He died two years later in March 1988.
18. From 1976 on, after removing Juan María Bordaberry from government, the Uruguayan Armed Forces attempted to give a judicial facade to their actions through the Institutional Acts.
19. In 1984, from a position of renewed leadership, Seregni played a decisive role in allowing the Frente Amplio Party to participate in the negotiation with the military, eventually making the *Naval Club Pact* possible. In the elections of November 1984, the only group that publicly opposed the pact with the military, the Independent Democratic Left (IDI), was the least voted for group within the leftist coalition.
20. The last president of the “Process,” General Gregorio Alvarez, indicated on December 17, 1984, in an improvised press conference at the end of the inaugural session of the XV Conference of Chancellors of Río de la Plata: “A la democracia [ . . . ], como a los árboles, como a los niños, hay que llevarla de la mano, hay que ponerle tutores para que crezca derecha y no se tuerza y caiga hacia lugares que produzcan frutos de colores rojos, que a ningún demócrata nos satisfacen.” (With democracy [ . . . ] like trees and children, you have to take it by the hand, you have to give it guardians so that it grows up straight and doesn't grow twisted and falling toward places that produce red fruit. We will not be satisfied with red in any democracy).
21. There are no statistics from the Uruguayan dictatorship of detainees and disappearances as in other countries of the continent, but there are some “records”: the number of political prisoners reached a figure of 31 citizens out of every 10,000, which makes dictatorial

- Uruguay the the Latin American country with the highest number of political prisoners in relation to its total population. See Sempol 54.
22. For a complete list of the legislators who voted in favor of and against the law, see “Cómo votaron senadores y diputados” (*Madres y familiares* 5–7).
  23. Zelmar Michelini was an important Uruguayan political leader, first belonging to the Batllist group, then one of the founders of the Frente Amplio Party. At the time of the coup d'état, he was a senator and firm opponent of the dictatorship. Héctor Gutiérrez Ruiz was an important leader in the National Party, within the group “Por la Patria,” and became president of the House of Deputies. While both were in exile in Argentina, they were abducted under the Operation Condor of May 18, 1976 and then sent to be brutally tortured. Their bodies, along with those of two other Uruguayans accused of being subversives, were found May 21, 1976. Especially after 1996, that date has become an emblematic commemoration in the struggle for truth and memory. For a study of the commemoration of that date, as well as April 14, see Aldo Marchesi. “¿Guerra o Terrorismo de Esatdo? Recuerdos enfrentados sobre el pasado reciente uruguayo.”
  24. Among the members of the Commission are Mario Benedetti, José D'Elía, Nelly Goitinho, Benjamín Liberoff, Ana Lía Piñeyría, Luis Pérez Aguirre, Tota Quinteros, Helios Sarthou, Diego Terra Carve, China Zorrilla, Alberto Candeano, José Pedro Díaz, Eduardo Galeano, Haroldo Ponce de León, Rodolfo Tállice, Ramón Valdés Costa, Tabaré Vázquez, and Justino Zavala Carvalho.
  25. Constitución de la República Oriental del Uruguay, Article 79, second section.
  26. In the face of the intense public controversy generated by this event, Minister Medina indicated the the sanction was “an inflexible decision,” that what the Electoral Court said about whether or not Silbermann had committed a crime by giving his signature did not matter, arguing that “a military official cannot and must not support the referendum.” Shortly thereafter, Silbermann requested his retirement, joining the ranks of the Party for the Government of the People, of which he became a leader.
  27. See Méndez. *Carta abierta a la Ministra Adela Reta*.
  28. See, for example, Mieres, *Desobediencia y lealtad*; Instituto Interamericano de Derechos Humanos. Centro de Asesoría y Promoción Electoral, *El referendun uruguayo*.
  29. Included in the publications that represent the efforts of intellectuals to discuss the issue during those years are, among others: Achugar and Caetano, *Identidad uruguaya. ¿Mito, crisis o afirmación?*; Viñar and Viñar. *Fracturas de memoria*; Gil. *El terror y la tortura*; Rico, “Memoria popular-Memoria del Poder en la transición democrática” and *Uruguay: cuentas pendientes*; Cosse and Markarián, *Memorias de la Historia* and *1975: año de la Orientalidad*.

30. See SERPAJ. *Derechos Humanos en el Uruguay. Informe 1992*.
31. Elena Quinteros was a teacher and an activist with the Party for the Victory of the People (PVP). She was detained on June 24, 1976, in her home in Montevideo. Four days later, after convincing her captors that she would make contact with another activist, she escaped and was able to enter the Venezuelan Embassy, screaming for asylum. Several military officials followed her into the embassy, assaulted a diplomat, and forcefully took her away in a car. Nothing was heard from her again. Because of this incident, Venezuela suspended diplomatic relations with the Uruguayan dictatorship, not renewing them until Uruguay's return to democracy in 1985. Elena Quinteros' mother, María del Carmen "Tota" Almeida de Quinteros, has taken innumerable steps with international organizations since then seeking the whereabouts of her daughter, and has become a symbol of the fight for the disappeared.
32. For this summary a review was done of press publications, focusing on a number of newspapers, especially the weekly *Brecha*, Montevideo and *Búsqueda*, with the collaboration of Lic. Valentina Curto, whose undergraduate thesis is entitled, *Las violaciones a los Derechos Humanos en Uruguay. Una visión desde la Ciencia Política* (mimeo). Also consulted was the radio web page *El Espectador*, specifically its file on the topic of disappearances.
33. In a powerful expression of the depth of the sentiment of impunity felt by military officials charged with human rights violations, central figures of the Uruguayan dictatorship were also found to be perpetrators of other crimes. In January 1995, José "Niño" Gavazzo and Ricardo Medina were charged with extortion amid accusations of counterfeiting.
34. Scilingo's revelations immediately brought to mind the cadavers that were discovered between 1976 and 1979 on the eastern coasts of the country, and whose origins were never clarified, as well as the stories circulating that they were the remains of detainees disappeared in Argentina.
35. About the case of Trócoli and a rigorous analysis of his books, see Gil, *El capitán por su boca muere o la piedad de Eros*.
36. Cecilia Fontana de Heber, wife of the former senator of the National Party, Mario Heber, died after drinking the contents of a bottle of poisoned wine that had been sent to her husband and two other National Party leaders (Luis Alberto Lacalle y Carlos Julio Pereira) during the dictatorship. See Alfonso, *El vino de la muerte*.
37. Michelini, Bluth, and Ballestrino publicly entered into the controversy at the time with differing versions of the events. Regarding what Dr. Sanguinetti advised the military about the possibility of reopening of the issue, Mauricio Rosencof, who developed a relationship with Lieutenant General Medina when both participated in the INPAN Initiative (National Infantry Patrimony), again indicated recently that the last Commander in Chief of the dictatorship had mentioned to him on more than one occasion that

then President Sanguinetti recommended against bringing the issue back up. In a recently published book on his conversations with Seregni, Roseconf said: “. . . quería referirme [ . . . ] al respeto al que llegamos con Medina, que fue un hombre del proceso pero también fue un hombre clave de la transición a la democracia. Un día decidimos quedarnos después de una sesión de INPAN y tuvimos un diálogo muy sencillo: ‘Bueno, ¿Qué hacemos con el otro tema?’ Y nos pusimos a conversar. [ . . . ] Y él lo decía con claridad: ‘Sanguinetti no quiere que se hable de esto porque va a hacer agua por todos lados. La orden superior es decir que acá no hay desaparecidos. Sabemos que eso no es así. . . Ahora, si surge con responsabilidad de un diálogo un entendimiento, una alternativa para que esto funcione de tal manera que se llegue a una solución, nosotros podemos hablar con Sanguinetti’” ( Butazzoni 391–392) (. . . he was reminding me of the respect we had developed for Medina, who was a man of the dictatorial process but also a man who was important in the transition to democracy. One day we decided to stay after a session of INPAN and we had a very simple conversation: ‘Well, what do we do about the other issue?’ And we started talking. [ . . . ] And he said it clearly: ‘Sanguinetti does not want anyone to talk about this because it will create a stir all over. The order from on high is to say that here there have been no disappearances. We know that is not the case. . . . Now, if an understanding arises responsibly from a dialogue, an alternative that will bring us to a solution, we can talk to Sanguinetti’).

38. The reference to the confession (difficult to implement in the case of involved parties who are not Catholic, for example), as well as the emphasis in the majority of the ecclesiastical declarations about the question of the need for forgiveness, could not avoid provoking controversy.
39. The declaration provoked intense polemics within the heart of the Jewish community, many of whose leaders were politically aligned with President Sanguinetti. For example, the Secretary of the Presidency and a well-known member of the community, Elías Bluth, stated that the proposal of the Central Israeli Committee was “ethically understandable” but “politically not viable.” In the face of this controversy, Scofsky was forced to renounce his post.
40. In this way Sanguinetti answered the Petition brought by *Familiares* in April, also reiterating that “there are no documents or official records that can shed light on the acts denounced by the petitioners.”
41. That year the organization *Hijos* (Sons and Daughters) carried out an *escrache* (demonstration in front of his home) on Trócoli, who was then unable to get to his home because of a police blockade. In their declaration, Hijos indicated: “[ . . . ] as long as crimes against humanity are not prosecuted we will continue showing their homes, their crimes, because each one of us has the right to know who we live with. We refuse to pay this price for peace because we cannot

- forget those who gave their lives for a more just and united country” (*Brecha*, Montevideo July 2, 1999).
42. In June, five Uruguayan citizens and one Argentine (all descendants of Italians) began measures before the Italian justice system to bring charges for the disappearance of their family members in Argentina during the dictatorship of the 70s and in the context of the events of Operation Condor. See “El Cóndor juzgado en Italia (*Brecha*, Montevideo June 11, 1999).
  43. This was the eighth case resolved out of twelve, leaving at that time those of Simón Riquelo, Beatriz and Fernando Hobbas, and the daughter of Blanca Altman Levi.
  44. On October 10, 1999, Juan Gelman published an open letter to President Sanguinetti, demanding that measures be taken in response to the request he had made in May of that year for help determining the whereabouts of his daughter-in-law and grandson or granddaughter who, according to information he had received, had disappeared in Uruguay. In his public letter, Gelman also revealed that he had discussed the issue with Elías Bluth, who had indicated that the Uruguayan president had committed to doing everything possible to investigate the case. See “Carta abierta del poeta Juan Gelman al Presidente Sanguinetti. ¿Qué piensa hacer con mi nieto o nieta?” (*La República* October 10, 1999, 4–5). In this way a deep disagreement started involving noted intellectuals around the world who expressed their solidarity with the Argentine poet; among them were the winners of the Nobel Prize for Literature José Saramago (who sent a letter to Sanguinetti on October 21 of the same year) and Günter Grass. The Uruguayan president responded equally harshly to Gelman and Grass.
  45. For an analysis of the electoral process and the formation of the coalition government, see *Elecciones 1999-2000*.
  46. Many news stories about what happened that March 1st emphasized an event during President Batlle’s trip from Parliament (where he had been sworn in and had given his inaugural speech) to the Government House at the Esteves Palace, where he received the presidential sash from his predecessor. Within a few blocks of leaving Parliament, the car Dr. Batlle was riding in came across *Familiares* representatives who had their usual posters with pictures of the disappeared. When he saw them, Batlle greeted them in a way that was deliberately visible.
  47. It is worth asking if the simultaneous timing of these gestures and declarations was not in some way agreed upon in private communications during previous months. Those involved have denied this possibility. Dr. Javier Miranda has indicated: “Sorpresivamente, el discurso del 1° de marzo del Presidente Jorge Batlle introdujo un giro radical, colocando en el centro del programa del nuevo gobierno el desafío de buscar un camino de esclarecimiento para la situación de los detenidos desaparecidos. Sin conocer las intenciones que el Presidente manifestaría en el discurso

de esa misma tarde en la Asamblea General, en la mañana del 1º de marzo apareció en algunos matutinos de Montevideo una Carta Abierta al Sr. Presidente dirigida por *Familiares*, en la que la organización retoma los postulados fundamentales de la Petición de 1997” (“Derechos Humanos” 72) (Surprisingly, President Jorge Batlle’s March 1 speech established a radical turn, placing at the center of the new government’s program the challenge of finding a path toward clarification in the situation of the disappeared detainees. Without knowing the intentions the President would express in his speech that same afternoon in the General Assembly, on the morning of March 1 an Open Letter to the President written by *Familiares* appeared in several morning newspapers of Montevideo, in which the organization again took up the fundamental points of their 1997 Petition).

48. See “Retorno del tema desaparecidos.”
49. The event, in addition to the enormous impact it generated, acquired a special symbolic relevance that began to mark very nuanced differences between President Batlle and his predecessor. In response to Gelman’s public letter, Sanguinetti had indicated that his investigation “no había surgido ningún dato que permitiera confirmar la presencia de su nuera en el país (had not produced any evidence to confirm his daughter-in-law’s presence in the country) and that suspected “en principio que su nuera no fue traída a Uruguay” (that his daughter-in-law had not been brought to Uruguay in the first place). In his response to Günter Grass in January 2001, Sanguinetti went even further, indicating his conviction that there had not been any disappearances of any children in Uruguayan territory. See “Apareció la nieta del poeta Juan Gelman, in *El Observador* April 1, 2000.
50. On April 14, 1972, the MLN (National Liberation Movement) murdered two police, one military and one civilian, that it accused of belonging to the “Death Squad,” the extreme right wing paramilitary organization. The response from the Armed Forces was immediate, killing eight Tupamaros in different operations. As he reacted to this incident, which signaled the launch of a new offensive on the part of the guerrilla group, President Bordaberry sent an initiative to Parliament to put into effect a “Declaration of the State of Civil War,” which was approved. Since then, the date was commemorated as vindication of the fallen in the fight against subversion. Between 1973 and 1975, it was officially called “Homage to the Victims of the Insanity.” Between 1976 and 1984, it was commemorated as the “Day of the Fallen in the Fight against Sedition.” After 1985 the name changed again to “Day of the Fallen in Defense of Democratic Institutions.” April 14 and May 20, then, are the two polarized dates of a conflict that continues in the battlegrounds of the fight for memory. See Marchesi, “¿Guerra o terrorismo de Estado?”

51. In what would be an important change in Uruguayan public opinion, opinion polls began to appear that revealed a clear tendency on the level of the citizens in favor of promoting investigations into the fate of the disappeared.
52. See "Desaparecidos: Raúl Olivera analiza los nueve puntos del PIT-CNT." "Reportaje en el programa *En perspectiva*." May 2, 2000. [www.espectador.com/text/desaparecidos/desent.htm](http://www.espectador.com/text/desaparecidos/desent.htm).
53. President Batlle himself was able to persuade the young Gerardo Vázquez to take the test. Various pressures on the youth and his adoptive family had provoked the refusal to face any kind of investigation, because they were afraid of not have any guarantee about the reliability of the final result. Finally, the DNA analysis showed a negative result.
54. The Commission would function in the sphere of the President of the Republic and would include the following people: the Archbishop of Montevideo, Monsignor Nicolás Cotugno, who would preside over the Commission; the historic union leader, José D'Elía, representing PIT-CNT; the priest Luis Pérez Aguirre, representing *Familiares*; Dr. Claudio Williman, affiliated with the non-Herrerist National Party, referred by Wilson, personal friend of President Batlle; Dr. Gonzalo Fernández, representing the Encuentro leader Tabaré Vázquez; and Dr. Carlos Ramela, presidential adviser and delegate to the Commission. As has been mentioned, there were no representatives of the Forist faction—there was an attempt with Nahum Bergstein, a senator of that sector, but without results—, the Lacallist faction, or the military. There was no representation of the New Space Party, either, a situation that merited the direct rejection of that party's leader, Senator Rafael Michelini. The appointment that generated controversy was the designation, as president, no less, of Monsignor Cotugno, who had no experience in human rights work and was a controversial figure, even within ecclesiastic circles.
55. A few days after creating the Commission, Batlle publicly committed to going "hasta donde pueda y me dejen [ . . . ] que estos resultados los tengo que lograr en paz, sin generar una guerra y con la aquiescencia de todos. [ . . . ] Lo que sí puedo decir es que noto una buena actitud de parte de los militares, una apertura." (Búsqueda July 13, 2000) (as far as I can and as far as they let me [ . . . ] because I have to achieve these results in peace, without generating a war and with the acquiescence of everyone. [ . . . ] What I can say is that I have noticed a good attitude on the part of the military, an opening).
56. President Batlle's popularity acquired unusual levels in the first months of his administration. Polls also showed that he was a considered a likeable figure by a significant percentage of citizens who had voted for his opponent, Tabaré Vázquez, in the second round of elections.
57. The initial estimate was 120 days and was then repeatedly extended.

58. In the same report, the authorities of SERPAJ indicated their hope that the Commission carry out “*una investigación profunda y seria para aportar a una PARTE DE LA VERDAD en lo que refiere al destino de los desaparecidos*” y que elaborara “*UN INFORME OFICIAL DONDE SE RECONOZCA EL TERRORISMO DE ESTADO que se practicó en el país durante la dictadura. Desde allí tendrán que concretarse los grandes avances a que nos hemos referido. Su informe no podrá ser el final sino el comienzo de la verdad y también de la justicia*” (107 Capitalization in the original) (a profound and serious investigation to contribute PART OF THE TRUTH about the fate of the disappeared” and elaborate “AN OFFICIAL REPORT THAT RECOGNIZES THE STATE TERRORISM practiced in the country during the dictatorship. It is from there that the great advances we have mentioned will have to be solidified. Their report cannot be the end, but rather the beginning of the truth and also of justice).
59. On March 19, 2002, the Argentine federal judge Jorge Urso confirmed to Sara Méndez the positive result of the DNA test given to her and the Argentine youth presumed to be her son. Finding Simón put an end to the 26-year-long search carried out by his mother. The end of the investigation was brought by Senator Rafael Michelini and journalist Roger Rodríguez, who found the youth after several months of investigating clues provided by a former member of Argentine repressive groups. In a review of the disagreements they had had in the previous years, Sara Méndez pointed out that neither the Grandmothers of the Plaza de Mayo nor the Commission for Peace had anything to do “con esta información que me fue transmitida por un parlamentario uruguayo [Rafael Michelini] que está siguiendo este camino nuestro, que es la búsqueda de la verdad . . . ” (“Sara encontró a Simón”) (with this information that was given to me by a Uruguayan representative of Parliament [Rafael Michelini] who is following this path of ours, which is the search for truth). Regarding the search for Simón Riquelo, see Amorín, *Sara buscando a Simón*.
60. At the time of writing this text, it is expected that the Commission will make its final report public between October and December 2002. Despite the fact that *Familiares*, President Batlle, and the Encuentro Progresista Party, the main supporters of its actions, maintain their support, it seems that there is a growing consensus that the political period of the Commission is over and that its work is coming to an end. The burdens of an especially critical juncture threaten to blur the achievements and amplify the limitations of the hard work done by the organization. However, it is neither possible nor convenient to hurriedly take inventory of the results of the Commission for Peace. Already it is appropriate to point out that the final results of the measure will not escape controversy. However, in the context of limitations and even errors, viewed from a historical perspective, the Commission’s work demonstrates an obvious

advance in comparison to the treatment of the topic during the 90s and will undoubtedly be considered an indisputable milestone in the struggles for truth and Never Again. It will also constitute one of the most prominent events at a time that, like the period beginning in 2000, has been extremely dramatic and unstable for the country.

61. See Tomás de Matos. "Narrativa uruguaya y cultura de impunidad."
62. A very good example of the creation of alternative memories to more genuinely understand the consequences of the Uruguayan dictatorship can be found in *Memorias para armar (I)*.
63. The public availability of information related to the new investigations into crimes committed during the dictatorship and, in particular, access to the documents gathered by the Commission for Peace, has been a topic of renewed public controversy since the approval in the Parliament's House of Deputies of a project for a Habeas Data bill. This bill established the exception for ten years the right to solicit and receive documents, official certificates, and information in the hands of the Commission for Peace. These guidelines, incorporated as modifications to the original project, were rejected in a joint declaration of rights organizations. This declaration asserted that those changes constituted "*un retaceo y una limitación a un derecho actualmente consagrado en la Carta Magna*" ("Organismos de DDHH") (a reduction and a limitation on a right currently consecrated in the *Carta Magna*).

## Work Cited

- Achugar, Hugo, and Gerardo Caetano, eds. *Identidad uruguaya. ¿Mito, crisis o afirmación?* Montevideo: Trilce, 1993.
- Alfonso, Alvaro. *El vino de la muerte. El asesinato de Cecilia Fontana de Heber*. Montevideo: Ediciones Fin de Siglo, 2002.
- Amorín, Carlos. *Sara buscando a Simón*. Montevideo: Ediciones de Brecha, Montevideo, 1996.
- "Apareció la nieta del poeta Juan Gelman." *El Observador*. Montevideo, April 1, 2000.
- Arendt, Hanna. *Eichmann en Jerusalén: un estudio sobre la banalidad del mal*. Barcelona: Lumen, 1999.
- Baczko, Bronislaw. *Los imaginarios sociales: Memorias y esperanzas colectivas*. Buenos Aires: Nueva Visión, 1991.
- Blixen, Samuel. "¿Quién es Jorge Trócoli? Mentiras verdaderas." *Brecha*, Montevideo. May 10, 1996: 3.
- Butazzoni, Fernando. *Seregni-Rosencof. Mano a mano*. Montevideo: Aguilar, 2002.
- Caetano, Gerardo. "Verdad, memoria y democracia." *Comisiones de la Verdad en la experiencia internacional. La Memoria y el Futuro*. Montevideo: Tradinco, 2002. 25–41.

- \_\_\_\_\_. "Historicidad y temporalidad. Apuntes para una nueva relación con el tiempo." *APU. IX Jornadas Psicoanalíticas en Conmemoración de su 40 aniversario. Lo arcaico, temporalidad e historización*. Montevideo: APU, 1995. 81–88.
- Caetano, Gerardo, and José Rilla. "El Uruguay de los atajos. El golpe del 33, la dictadura y la transición en el pensamiento de Carlos Quijano." *Tercera Orilla*. Montevideo: EBO, 1988.
- \_\_\_\_\_. *Breve historia de la dictadura*. Ed. Caetano and Porzecanski. Montevideo: Ediciones de la Banda Oriental, 1987.
- Cosse, Isabela, and Vania Markarián. *1975: Año de la Orientalidad. Identidad, memoria e historia en una dictadura*. Montevideo: Trilce, 1995.
- \_\_\_\_\_. *Memorias de la Historia. Una aproximación al estudio de la conciencia histórica nacional*. Montevideo: Trilce, 1994.
- "Desaparecidos: en las Fuerzas Armadas hay disposición para colaborar con la Comisión para la Paz, incluso devolviendo los restos a los deudos. Entrevista con el sacerdote Luis Pérez Aguirre." *Perspectiva. Radio El Espectador*. Thursday, July 6, 1999.
- Devoto, Fernando. "Notas sobre la situación de los estudios históricos en los noventa." *Cuadernos del CLAEH* 71–72. (1994): 43–52.
- Elecciones 1999–2000*. ICP-EBO, Política Viva Collection. Montevideo: Banda Oriental, 2000.
- Garcés, Gonzalo. "Entrevista a Tzvetan Todorov. Un pueblo debe poder hacer frente a su pasado." *Puentes* 1.4 (July 2001): 22.
- Gianelli, Daniel. "En el camino de la verdad posible." *Búsqueda*. Montevideo, July 12, 2001.
- Gil, Daniel. *El capitán por su boca muere o la piedad de Eros. Ensayo sobre la mentalidad de un torturador*. Montevideo: Trilce, 1999.
- \_\_\_\_\_. *El terror y la tortura*. Montevideo: EPPAL, 1990.
- Gil, Daniel and Marcelo Viñar. "La dictadura: una intrusión en la intimidad." *Historias de la vida privada en el Uruguay. Volume III: Individuo y soledades*. Ed. José P. Barrán, Gerardo Caetano y Teresa Porzecanski. Montevideo: Taurus, 1997. 301–26.
- Habermas, Jürgen. "The New Conservatism: Cultural Criticism and the Historians' Debate." Ed. and Trans. Shierry Weber Nicholsen. Cambridge: MIT Press, 1989.
- Ignatieff, Michael. "La cultura de lo instantáneo." *Letra* 27 (1992): 45–47.
- Instituto Interamericano de Derechos Humanos. Centro de Asesoría y Promoción Electoral. *El referendun uruguayo*. Costa Rica: IIDH-CAPEL, 1989.
- Jelin, Elizabeth. *Los trabajos de la memoria*. Buenos Aires: Siglo Veintiuno Editores, 2002.
- King Jr., Martin Luther. *Why We Can't Wait*. New York: Signet Classics, 2000.
- Madres y Familiares de Detenidos Desaparecidos. El referendun desde Familiares*. Montevideo, 1990.

- Marchesi, Aldo. "¿Guerra o Terrorismo de Estado? Recuerdos enfrentados sobre el pasado reciente uruguayo." *Las conmemoraciones: Las disputas en las fechas in-felices*. Elizabeth Jelin, comp. Madrid: Siglo Veintiuno, 2002, 101.
- Matos, Tomás de. "Narrativa uruguaya y cultura de impunidad." *Literaturas del Río de la Plata hoy: De las utopías al desencanto*. Ed. Karl Kohut. Frankfurt: Vervuert; Madrid: Iberoamericana, 1996.
- Memorias para armar (I). Testimonios coordinados por el Taller de Género y Memoria de ex presas políticas*. Ed. Taller Género y Memoria. Montevideo: Senda, 2001.
- Méndez, Sara. *Carta abierta a la Ministra Adela Reta*. Montevideo, April 23, 1989.
- Mieres, Pablo. *Desobediencia y lealtad. El voto en el Uruguay de fin de siglo*. Montevideo: CLAEH-Fin de Siglo, 1994.
- Miranda, Javier. "Mi madre murió en el 84, sin saber que mi padre había muerto un día y medio después de ser detenido en 1976." *Crónicas*. Montevideo, November 23, 2001, 10–11.
- \_\_\_\_\_. "Derechos Humanos. De la Ley de Caducidad a la Comisión para la Paz." *Observatorio Político: Informe de Coyuntura. N° 1, 2000. A un año de gobierno del presidente Batlle*. Montevideo: ICP-Trilce, 2001.
- Olivera, Raúl. "Reportaje en el programa *En perspectiva*." *El Espectador* web site, "Desaparecidos" May 2, 2000.
- "Organismos de DDHH rechazan cambios introducidos al proyecto de Habeas Data," *La República*. Montevideo, July 30, 2002.
- "El primer discurso del nuevo Presidente. 'Me comprometo ante ustedes'." *Tres. Revista de actualidad*. Montevideo, March 3, 2000.
- Quijano, Carlos. *El país y su gente. Cuadernos de Marcha (Tercera época)* 1.6 (November 1985).
- Rama, Germás. *La democracia en Uruguay*. Buenos Aires: G.E.L.-RIAL, 1987.
- Rabotnikof, Nora. "Memoria y política: compromiso ético y pluralismo de interpretaciones." *Revista de Ciencia Política* 9 (1996): 143–150.
- "Retorno del tema desaparecidos: ¿Cuándo? ¿Por qué? ¿Cómo? ¿Dónde? ¿Quiénes? La sociedad y el poder interpelados." *Brecha*, Montevideo. Montevideo, March 10, 2000.
- Rico, Alvaro. "La memoria del poder y la memoria popular en el Uruguay posdictadura." *Revista Encuentros* 1 (December 1992): 37–57.
- Rico, Alvaro, ed. *Uruguay: cuentas pendientes. Dictadura, memorias y desmemorias*. Montevideo: Trilce, 1995.
- Sabato, Hilda. "Historia reciente y memoria colectiva." *Punto de Vista* 49 (1994): 30–34.
- "Sara encontró a Simón." *La República*. Montevideo, March 20, 2002.
- Sempol, Diego. "Uruguay y la violación de los derechos humanos durante la dictadura. Ni verdad, ni justicia." *Puentes* 1.2 (December 2000).

- SERPAJ. *Derechos humanos en el Uruguay. Informe 2000*. Montevideo: SERPAJ, 2000. *Tribunal Permanente de los Pueblos. Sesión Uruguay. Abril de 1990*. Montevideo: Graphis, 1990.
- Usos del olvido*. Ed. Yoseph Yerushalmi et al. Buenos Aires: Nueva Visión, 1989.
- Viñar, Maren and Marcelo Viñar. *Fracturas de memoria*. Montevideo: Trilce, 1993.
- Yerushalmi, Yoseph. "Reflexiones sobre el olvido." *Usos del Olvido*. Ed. Yoseph Yerushalmi et al. Nueva Visión, Buenos Aires, 1998. 13–26.

---

Caetano, Gerardo. "The Citizens' Testament and the Necessary Risks of Truth: Accounts Pending in Contemporary Uruguay." *Human Rights and Latin American Cultural Studies*. Ed. Ana Forcinito and Fernando Ordóñez. *Hispanic Issues On Line* 4.1 (2009): 85–136. <http://spanport.cla.umn.edu/publications/HispanicIssues/pdfs/CAETANO.pdf>.

---