

Argentina's National Commission on the Disappearance of Persons: Contributions to Transitional Justice

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Abstract¹

This article examines the contributions to transitional justice made by the National Commission on the Disappearance of Persons (CONADEP) in Argentina; a commission established in December 1983 by then constitutional president, Raúl Alfonsín, to investigate the fate of the disappeared. In particular, the article analyzes how CONADEP's inquiry simultaneously served the functions of creating a new public truth about the crimes – which were based on secrecy, the destruction of evidence and concealment by the state – and of collecting essential legal evidence necessary for the prosecution of perpetrators. Finally, it explains the success of the inquiry, which was a result of the combined efforts of Alfonsín's democratic administration and the Argentinian human rights movement.

CONADEP's Contributions to Transitional Justice

The investigations conducted by Argentina's National Commission on the Disappearance of Persons (CONADEP) and the resulting *Nunca Más* (Never Again) report have had a significant influence on the course of transitional justice policies in Argentina.² The evidence collected by CONADEP was the prosecution's key resource during the trial that led to the conviction of the military juntas. *Nunca Más* became an unprecedented bestseller on the subject domestically, as well as the authoritative narrative and explanatory text on human rights violations.³ CONADEP and *Nunca Más* have also had extensive international significance; in the context

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² For a comparative analysis of these policies, see, Neil Kritz, ed., *Transitional Justice: How Emerging Democracies Reckon with Former Regimes* (Washington, DC: US Institute of Peace, 1995).

³ According to Editorial Universitaria de Buenos Aires (EUDEBA), as of 2007, *Nunca Más* had sold 503,830 copies and had been translated into English, Hebrew, Italian, German and Portuguese. For the political history of the *Nunca Más* report, see, Emilio Crenzel, 'Génesis, usos y resignificaciones del Nunca Más: La memoria de las desapariciones en Argentina' (PhD diss., Universidad de Buenos Aires, 2006). On the juntas trial and the debates between the Alfonsín administration, the armed forces and human rights organizations, see, Carlos Acuña, Inés González Bombal, Elizabeth Jelin, Oscar Landi, Luis Alberto Quevedo, Catalina Smulovitz and Adriana Vacchieri, *Juicio, castigos y memorias: Derechos humanos y justicia en la política Argentina* (Buenos Aires: Nueva Visión, 1995).

of the democratization processes of the region, governments and human rights movements viewed them as models to deal with the political violence suffered by these societies in the 1970s and 1980s. As a result, ‘truth commissions’ became the main vehicles for constructing a truth about what happened during those years on the continent. However diverse their profiles, however different the relationships that their inquiries established with their respective legal system and however varied the reports they produced, CONADEP and *Nunca Más* have been unavoidable models for these initiatives.⁴

This article examines a process that has been little explored in the literature on transitional justice: how the Commission constructed a new public truth about the disappearances and, at the same time, gathered evidence for the eventual prosecution of perpetrators. It also offers a fresh explanation of the Commission’s success in both areas by positing that it resulted from the articulation of the constitutional government’s will and the active involvement of the human rights movement.

From Political Repression to Disappearance

The horror perpetrated by the military dictatorship that ruled Argentina from 1976 to 1983 was by no means a new phenomenon in the political history of the country. Since 1930, military interventionism in the institutional arena had become somewhat natural for wide sectors of civil society and the political community. This, combined with the influence of Catholic fundamentalism, created a culture marked by contempt for the law and rejection of otherness. Torture of the opposition and the use of violence to resolve political conflicts became common practice in this culture.⁵ However, the systematic practice of forced disappearance following the March 1976 coup introduced two radical changes with respect to the country’s history. First, the disappearances demonstrated the development of an obvious determination on the part of the state to exterminate its opponents. Second, they introduced a new characteristic to politically motivated murder – its

⁴ On the contacts between the humanitarian organizations of the Southern Cone and CONADEP, see, CONADEP, *Nunca Más: Informe de la Comisión Nacional sobre la Desaparición de Personas* (Buenos Aires: EUDEBA, 1984), 454–456; and Vania Markarian, *Left in Transformation: Uruguayan Exiles and the Latin American Human Rights Networks, 1967–1984* (New York: Routledge, 2005). On the impact of CONADEP and *Nunca Más* on transitional justice policies, see, Kathryn Sikkink, ‘From Pariah State to Global Protagonist: Argentina and the Struggle for International Human Rights’ (paper presented at the *Núcleo de Estudios sobre Memoria*, IDES, Buenos Aires, Argentina, 3 November 2006). For a comparative study of truth commissions, see, Priscilla Hayner, *Unspeakable Truths: Confronting State Terror and Atrocity* (New York: Routledge, 2001); Alexandra Barahona de Brito, ‘Truth, Justice, Memory and Democratization in the Southern Cone,’ in *The Politics of Memory: Three Decades of Transitional Truth and Justice*, ed. Paloma Aguilar, Alexandra Barahona de Brito and Carmen Enríquez (Oxford and New York: Oxford University Press, 2001); Greg Grandin, ‘The Instruction of Great Catastrophe: Truth Commissions, National History, and State Formation in Argentina, Chile, and Guatemala,’ *The American Historical Review* 110(1) (2005): 46–67.

⁵ On military interventionism in Argentine political history, see, Prudencio García, *El drama de la autonomía militar* (Madrid: Alianza, 1995). For an analysis of the influence of Catholic ideas on political and public life in Argentina, see, David Rock, *La Argentina autoritaria* (Buenos Aires: Ariel, 1993).

clandestine practice. These singularities set the case of Argentina apart, even from the rest of the dictatorships that ruled the countries of the region in the 1970s.⁶

From the very moment they were committed, the disappearances encapsulated the perpetrators' determination to go unpunished. The dictatorship officially denied any responsibility for them. This was coupled with the fragmented nature of their orchestration, made up of public moments – the abductions – and secret moments – clandestine captivity, torture and murder – which made it difficult to secure a comprehensive knowledge of the practice.⁷ The *centros clandestinos de detención* (clandestine detention centers) were instrumental in allowing the state to hide these crimes. While the detention centers replicated the country's degrading prison conditions, they departed from traditional political imprisonment in significant ways. The detention centers promoted the denial of the captives' existence and gave their captors ample freedom to physically eliminate them.⁸ Through the disappearances, perpetrators sought to avoid the kind of denunciation by the international community that the Chilean dictatorship had recently experienced. The disappearances also enabled them to take torture to extreme levels and to carry out the elimination of thousands of secret captives, unhindered by legal or political obstacles.⁹ In this way, no traces were left; the bodies of the abducted became invisible to the public, their captivity and murder could be denied and no one was held accountable.

Mirroring the original challenges posed by the disappearances, the relatives of the disappeared for many years only demanded to know the truth about the fate of their loved ones. In Argentina, they filed over 5,000 reports with the *Asamblea Permanente por los Derechos Humanos* (Permanent Assembly for Human Rights, or APDH) and submitted thousands of complaints to the Organization of American States' Inter-American Commission on Human Rights (IACHR), the International Committee of the Red Cross, the United Nations Human Rights Division, Amnesty International and organizations of various religious denominations. These reports prompted country visits from Amnesty International and IACHR. Despite this growing pressure, the dictatorship managed to neutralize all allegations until Argentina's defeat in the Malvinas/Falklands War in June 1982.¹⁰ Following the defeat,

⁶ Of the 8,961 disappearances recorded by CONADEP, the vast majority (76.6 percent) took place from 1976 to 1977. See, CONADEP, supra n 4 at 293. The human rights organizations, for their part, estimate the number of disappearances at 30,000. The disappearances set Argentina's case apart from other dictatorships in the Southern Cone. Prolonged imprisonment prevailed in Uruguay, public executions prevailed in Chile, while fewer than 100 disappeared persons were documented in Brazil and Bolivia. For Uruguay's case, see, Servicio Paz y Justicia de Uruguay, *Nunca Más* (Montevideo: SERPAJ, 1989). For Chile's case, see, Comisión Nacional de Verdad y Reconciliación, *Informe de la Comisión Nacional de Verdad y Reconciliación* (Santiago de Chile: CNVR, 1991). For Brazil's case, see, Arquidiocese de São Paulo, *Brasil: Nunca Mais* (Petrópolis: Vozes, 1989).

⁷ See, Ludmila da Silva Catela, *No habrá flores en la tumba del pasado: La experiencia de reconstrucción del mundo de los familiares de desaparecidos* (La Plata: Al Margen, 2001).

⁸ See, Hannah Arendt, *Los orígenes del totalitarismo* (Madrid: Alianza, 1982).

⁹ Emilio Mignone, 'Razones que contribuyeron tanto a producir el genocidio como a asegurar la impunidad,' in *Símpoio Contra la Impunidad y en Defensa de los Derechos Humanos* (Barcelona: Icaria, 1998).

¹⁰ The reports by Amnesty International and IACHR were not disclosed because of official censorship and the complicity of political leaders, who knew the contents of such reports. Emilio Mignone,

the allegations received widespread coverage in the press, and the civil society organizations that channeled the population's rejection of the regime demanded that all guilty parties be brought to justice. In their call for retributive justice, these organizations used the slogan, '*juicio y castigo a los culpables*' (trial and punishment for the perpetrators), a radical goal at the time.

As elections drew near, the dictatorship made every effort to formally entrench impunity for past crimes. In April 1983, the dictatorship issued the 'Final Document of the Military Junta on the War Against Subversion,' in which it argued that the armed forces had done nothing more than to carry out President Isabel Perón's 1975 order to 'annihilate subversion.'¹¹ In September 1983, only days before the elections, the regime passed the National Pacification Act, known as a 'self-amnesty,' which guaranteed impunity for the state by declaring extinguished all causes of action arising from the 'antisubversive war.'¹² In response to the 'Final Document,' human rights organizations demanded that the future constitutional government form a commission to investigate state terrorism. They demanded that the commission include members from both houses of Congress and that it be advised by the human rights community. A bicameral commission, they argued, would guarantee that such violations would never happen again, and would symbolize an official condemnation of state terrorism.¹³

Investigating the Past: Deciding on a Commission

In contrast to both the dictatorship's determination to remain unpunished and the human rights organizations' goal of widespread punishment, during his campaign, Raúl Alfonsín, the candidate for the *Unión Cívica Radical* (Radical Civic Union) party, stressed the need to distinguish three categories of perpetrators in prosecuting human rights violators:

those who planned the repression and issued the corresponding orders; those who acted beyond the orders, prompted by cruelty, perversion or greed; and those who carried out the orders strictly to the letter.¹⁴

Conceived by Alfonsín's human rights advisors, Carlos Nino, Jaime Malamud Goti and Eduardo Rabossi, this solution was part of a policy of preventive justice based on the hierarchical structure of the military corps and the prevailing ideological

Derechos humanos y sociedad: El caso argentino (Buenos Aires: Centro de Estudios Legales y Sociales, 1991).

¹¹ Elizabeth Jelin, 'La política de la memoria: el movimiento de Derechos Humanos y la construcción de la democracia en Argentina,' in Acuña et al., supra n 3 at 119–20. Art. 1 of the decree states that 'the Armed Forces are authorized to carry out any military operations that may be necessary to neutralize and/or annihilate the activities of subversive elements in the province of Tucumán.' Executive Order 265 of 5 February 1975. Months later, Decree 2772 by the provisional president, Ítalo Lúder, would extend these powers to the whole country. See, *Official Bulletin*, 6 November 1975.

¹² 'Documento final de la Junta Militar sobre la guerra contra la subversión y el terrorismo,' *Convicción*, 29 April 1983, 1–4, and 'Ley de Pacificación Nacional,' no. 22924, *Official Bulletin*, 27 September 1983.

¹³ See the cover of *Frente 6* (1983).

¹⁴ See Alfonsín's speech of 30 September 1983 at <http://www.ucr.org.ar/discursospresidenciales>.

context. The advisors argued that the context precluded disobedience and prevented a full understanding of the nature of the orders.¹⁵ According to this view, only those who had issued the orders and those who had committed excesses should be criminally prosecuted. Thus, the view admitted the existence of 'excesses' without specifying what these excesses were or who had committed them; it posited that the perpetrators had mechanically carried out orders without being able to reflect on the nature of the orders; it reduced the perpetrators' ideological adherence to indoctrination by their superiors and it established a vertical image of military bureaucracy that excluded the view that subordinates had done more than merely limit their actions to an administrative function in the exercise of evil.

Upon taking office on 10 December 1983, Alfonsín proposed that Congress repeal the 'self-amnesty' law and ordered the prosecution of seven guerrilla leaders and the dictatorship's first three military juntas. This decision was called 'the theory of the two evils' because it limited accountability for political violence to two sets of leaders and posited state violence as justified by guerrilla violence (although without justifying the forms this state violence took). Moreover, Alfonsín proposed that the perpetrators be tried in military courts in the first instance, with the possibility of appeal in a civilian court, and supported the principle of presumption of obedience for all but high-ranking officers.¹⁶ This proposal served to renew calls from human rights organizations for a bicameral commission which would conduct an inquiry and sentence those responsible for the violations, as it was anticipated that the military courts would not impose any legal sanctions.¹⁷ The proposal was incorporated into their agenda and into debates with the future administration as well as with the parties that had representation in Congress.

At the same time, a group formed by Antonio Tróccoli, Raúl Galván and Horacio Jaunarena, who were to become, respectively, minister of internal affairs, secretary of the ministry of internal affairs and secretary of defense, as well as Carlos Nino, a presidential advisor, came up with the alternative of forming a commission of 'notables.'¹⁸ Their proposal, Rabossi recalls, was modeled on special civil society commissions set up by the United States Congress to deal with specific issues, and it did not draw on the discouraging experiences of the previous national commissions to investigate forced disappearances in Uganda and Bolivia.¹⁹

¹⁵ Carlos Nino, *Juicio al mal absoluto: Los fundamentos y la historia del juicio a las juntas del proceso* (Buenos Aires: Emecé, 1997).

¹⁶ Minutes of the House of Representatives, 5 January 1984, 422–424, and Executive Orders 157 and 158 of 13 December 1983, *Official Bulletin*, 15 December 1983, 4–5.

¹⁷ Jelin, *supra* n 11.

¹⁸ Nino, *supra* n 15.

¹⁹ Interview with Eduardo Rabossi, Buenos Aires, 19 August 2004. See the arguments of Radical Party representatives during the debate around the creation of CONADEP, in minutes of the House of Representatives, fourth meeting, third extraordinary session, 22 December 1983, 347. In Uganda, the Commission of Inquiry into the Disappearance of People in Uganda since the 25th of January, 1971, was created by President Idi Amin in 1974, and in Bolivia, the *Comisión Nacional de Investigación de Desaparecidos* was created in October 1982 by the constitutional president, Hernán Siles Suazo. The report issued by the Ugandan Commission was kept secret because it attributed responsibility for the crimes to state officials, while the Bolivian Commission did not finish its inquiry. Hayner, *supra* n 4.

Nino would later explain that Alfonsín rejected the idea of a bicameral commission because he believed that the legislators would compete among themselves to impose harsher punishments on the armed forces, thus creating a situation of extreme tension.²⁰ This decision reflects the administration's lack of trust in the ability of the branches of the constitutional government and the political community to construct a shared truth about the disappearances, even in a context of institutional refoundation. Also, while the legal treatment of the past was central to Alfonsín's strategy concerning human rights violations, the construction of a public truth about these violations was shaped by the demands of the human rights organizations and the opposition. That is to say, the two key policies of transitional justice of the Alfonsín administration had different origins.

In forming the commission of 'notables,' the president summoned members of human rights organizations, leading supporters of the initiative, as a way to legitimate his proposal and deter Congress from investigating the past. Because of their opposition to the use of military courts, Pérez Esquivel, Nobel Peace Prize laureate and head of the *Servicio Paz y Justicia* (Service for Peace and Justice, or SERPAJ), and Augusto Conte and Emilio Mignone, leaders of the *Centro de Estudios Legales y Sociales* (Center for Legal and Social Studies, or CELS), turned down the invitation.²¹ So Alfonsín invited Ernesto Sábató to join the Commission.²² Nino, Tróccoli and José Ignacio López, one of Alfonsín's spokesmen, selected Rabossi,²³ Gregorio Klimovsky,²⁴ Hilario Fernández Long,²⁵ Marshall Meyer,²⁶ Ricardo Colombres,²⁷ Monsignor Jaime de Nevares,²⁸ Magdalena Ruiz Guiñazú,²⁹ René Favaloro³⁰ and Carlos Gattinoni for the Commission.³¹ The commissioners

²⁰ Nino, *supra* n 15.

²¹ Interview with Adolfo Pérez Esquivel, Buenos Aires, 13 December 2004. On Alfonsín's invitation to Conte and Mignone, see, Radical Party representatives, minutes no. 5, 21 December 1983, 13. See also, Mignone, *supra* n 9.

²² Sábató is one of Argentina's most renowned writers. During the military dictatorship, he praised President Videla after a meeting with him. Eduardo Duhalde, *El estado terrorista argentino: Quince años después, una mirada crítica* (Buenos Aires: EUDEBA, 1999). In 1981, however, he led the *Movimiento para la Recuperación de Niños Desaparecidos* (Movement for the Recovery of Disappeared Children) along with Pérez Esquivel.

²³ Lawyer. At the time of his CONADEP appointment, he was chair of the Argentine Society of Philosophical Analysis.

²⁴ Epistemologist. At the time of his appointment, he was dean of the School of Natural Sciences at the University of Buenos Aires.

²⁵ Civil Engineer. He was elected president of the University of Buenos Aires in 1965 but fired following the 1966 coup. Some of his relatives were disappeared.

²⁶ Rabbi and PhD in Philosophy. At the time of his appointment, he was a member of the APDH and a co-chair of the Jewish Movement for Human Rights.

²⁷ Lawyer. He represented political prisoners and was a Supreme Court justice during the constitutional government of Arturo Frondizi (1958–1961).

²⁸ At the time of his appointment, he was Bishop of Neuquén and a member of the APDH.

²⁹ Journalist. During the military dictatorship, she used her radio show to advocate for the disappeared and voice the demands of their families.

³⁰ Noted heart surgeon who created a foundation for medical assistance. He also met with Videla a few days after Sábató. See, Duhalde, *supra* n 22.

³¹ Protestant pastor. He founded the *Movimiento Ecueménico por los Derechos Humanos* (Ecumenical Movement for Human Rights) and the APDH, and denounced the crimes committed by the

were prestigious public figures from the spheres of journalism, law, culture, science and religion. Most had also been, to various extents, human rights advocates or had changed their stance toward the dictatorship when it started to show signs of crisis.

CONADEP, created by presidential decree on 15 December 1983, was to report to the executive branch and legislators from both chambers. It was given a period of six months to receive reports of disappearances (after which it would immediately refer them to the courts), inquire into the fate of the disappeared, locate abducted children, report to the courts any attempt to conceal or destroy evidence and, lastly, issue a final report.³² With the exception of the APDH, CONADEP was rejected by all the human rights organizations, as they maintained that only a bicameral commission would have the coercive powers necessary to subpoena the military and politically condemn state terror. Peronists and the center-left also rejected the Commission; consequently, only three Radical Party congressmen participated in CONADEP.³³

From the Search for the Disappeared to the Identification of Perpetrators

The inclusion of representatives from human rights organizations in the leadership of CONADEP had symbolic and political importance for the Commission and its work. This presence was strengthened when, in the first meeting, CONADEP decided to ask APDH for all the reports of disappearances it had gathered during the dictatorship.³⁴ At the same time, it commissioned Monsignor de Nevares to invite APDH member Graciela Fernández Meijide to be the head of the *Secretaría de Denuncias* (Department of Depositions). Meijide accepted the position with the condition that she be allowed to appoint the people who would work with her, and to that end, she asked human rights organizations to volunteer their activists.³⁵

Meijide's offer proved an additional dilemma for these groups, many of whom were already debating whether their members should appear before CONADEP. Some believed that the body could achieve something. Others, despite their

dictatorship. At the time of his appointment, he was a member of the APDH's governing committee. On Nino, López and Tróccoli's involvement in the selection of commission members, see, Nino, *supra* n 15.

³² National Executive Decree 187, 15 December 1983.

³³ 'Organismos de derechos humanos opinan,' *Clarín*, December 21, 1983, 8. This is an article posted by *Abuelas de Plaza de Mayo*, CELS, *Familiares de Detenidos y Desparecidos por Razones Políticas*, *Madres de Plaza de Mayo* and SERPAJ. See also minutes of the House of Representatives, fourth meeting, third extraordinary session, 22 December 1983, 347. The legislators were Santiago López, defense attorney for political prisoners who was elected national representative for Chubut in 1983; Hugo Piuicill, APDH member since 1976 who was elected national representative for the province of Río Negro in 1983, and Horacio Huarte, teacher and lawyer who was a representative for the province of Buenos Aires.

³⁴ CONADEP, minutes 1, 22 December 1983, 2.

³⁵ Interview with Graciela Fernández Meijide, Buenos Aires, 26 August 2004. Meijide became a member of the APDH after the disappearance of her son, Pablo, in October 1976. The other secretaries of CONADEP were Raúl Aragón, a member of APDH with a long track record as a human rights advocate; Alberto Mansur, Peronist lawyer exiled during the dictatorship, and Daniel Salvador and Leopoldo Silgueira, Radical Party activists.

misgivings, were willing to give their testimony, motivated by their commitment to the cause. Still others refused to cooperate as they were wary of the Commission, did not accept some of its members – such as Sábato – because of their behavior during the dictatorship or rejected the government’s decision to involve the military courts, a sentiment shared by survivors of the disappearances.³⁶ By volunteering their activists to Meijide’s work team, they would be legitimating a Commission they had not approved.³⁷ Despite their misgivings and perhaps because they saw the Commission as the only chance for an investigation, *Abuelas de Plaza de Mayo* (Grandmothers of Plaza de Mayo) met with CONADEP to coordinate the search for the missing children and *Familiares de Detenidos y Desaparecidos por Razones Políticas* (Relatives of the Detained-Disappeared) asked their members to come forward and declare. APDH, the *Liga Argentina por los Derechos del Hombre* (Argentine Human Rights League, or LADH) and *Familiares de Detenidos y Desaparecidos por Razones Políticas* forwarded the testimonies they had gathered and, together with the *Movimiento Ecuménico por los Derechos Humanos* (Ecumenical Movement for Human Rights, or MEDH), provided personnel. The human rights organizations even formed a Technical Commission for the Gathering of Information, in which the CELS team played a leading role. This team gathered and systematized information on the disappeared, the perpetrators and the clandestine detention centers and provided it to CONADEP.³⁸ Only *Madres de Plaza de Mayo* asked that their members refrain from giving testimony before the Commission, although some of the mothers and certain branches of the organization decided to declare and collect reports.³⁹ As of that moment, the organizations had a dual position: they cooperated actively with the Commission but publicly continued to call for the establishment of a bicameral commission, with the same arguments they had used to oppose CONADEP.

In the first days of the summer of 1984, the relatives of the disappeared and survivors formed long lines in front of the Centro Cultural San Martín in downtown Buenos Aires, where the Commission was headquartered, waiting to give their statements. Their expectations were varied. Although the survivors had witnessed killings, relatives continued to share a widespread belief that disappeared adults

³⁶ Interviews with Adriana Calvo, Buenos Aires, 18 May 2005, and Graciela Daleo, Buenos Aires, 17 June 2005. Both interviewees were from the *Asociación de Ex Detenidos Desaparecidos* (Arrested-Missing Persons Association).

³⁷ Meijide herself initially said that CONADEP limited investigation of the disappearances, preventing a political trial of those guilty of state terrorism. She was skeptical about the members actually being able to meet and about the effectiveness of any resulting report. She supported the establishment of a bicameral commission. APDH, minutes 81, 19 December 1983, 119–123.

³⁸ See, *Familiares de Detenidos y Desaparecidos por Razones Políticas*, Memoria Abierta archive, doc. B31.2, B34.5 and B34.8.

³⁹ CONADEP, minutes 2, 27 December 1983, 3–4; minutes 4, 3 January 1984, 8; minutes 5, 5 January 1984, 13; minutes 6, 10 January 1984, 16; minutes 8, 24 January 1984, 22; and minutes 11, 14 February 1984, 32. On the position of *Madres de Plaza de Mayo*, see, ‘Carta abierta al país,’ *Clarín*, December 29, 1983, 8. According to CONADEP, the Commission received from *Madres de Conscriptos Desaparecidos* (Mothers of Disappeared Recruits) 15 folders with information about 101 disappeared recruits (CONADEP, minutes 8, 24 January 1984, 22). The organization’s Mar del Plata chapter provided another 196 reports (CONADEP, minutes 14, 6 March 1984, 44).

could still be found alive.⁴⁰ What is more, human rights organizations demanded that the executive search prisons, mental hospitals and juvenile institutions for survivors.⁴¹ Several CONADEP members shared this belief. Guñazú recalls that they still hoped to find disappeared persons alive and that the first task of the Commission was to organize inspections to locate them.⁴² These initiatives revealed that CONADEP lacked an investigation strategy. Meijide accused former regime members of trying to fuel the belief with the aim of sidetracking investigation efforts and said that the Commission could not look for every single disappeared person given the little time it had. She also argued that it could not do anything more than draw up a 'list of the disappeared,' as apparently had been suggested by the minister of internal affairs to Commissioner Fernández Long.⁴³

CONADEP then made a decision that changed the course of its inquiry. In a public announcement, it stated that it had come to the conclusion that the best way to learn what had happened to the disappeared was to identify those believed responsible for the disappearances so that these individuals could explain the events in court. Thus the construction of the truth took on a fully legal purpose. Consequently, the president was asked to guarantee that anyone suspected of being involved in disappearances (some 40 military officers) not be allowed to leave the country. The executive agreed. This measure increased the organizations' trust, and, a week later, the Commission extended its time frame in order to process the large number of testimonies it had received.⁴⁴ The Commission's decision to make all the information gathered available to the human rights organizations contributed to a new atmosphere.⁴⁵ By steering the inquiry toward the identification of perpetrators, the Commission stopped being an intermediary that merely received the accusation and 'immediately' referred them to the courts, as was established in the decree that created it. To accomplish this goal, it needed to be backed by an abundant body of evidence, which led to the challenge of putting together and organizing the testimonies. Thus, the testimonies took on a decisive importance.

The Materiality of the Crime: the Role of Witnesses

CONADEP concentrated and centralized the testimonies on disappearances, which up until then had been scattered throughout the country and abroad. Most came from relatives of the disappeared residing in Buenos Aires and other large cities in Argentina. These testimonies included information about the kidnappings and relatives' efforts to locate the disappeared through the judicial system and the military authorities. Civil society organizations only had approximately 70 testimonies from survivors, which limited the evidence available on clandestine captivity and the

⁴⁰ Interview with Mabel Gutierrez, leader of *Familiares de Detenidos y Desaparecidos por Razones Políticas*, Buenos Aires, 26 October 2004.

⁴¹ 'Organismos de derechos humanos opinan,' supra n 33.

⁴² Magdalena Ruiz Guñazú, e-mail message to author, 24 August 2004.

⁴³ Interview with Graciela Fernández Meijide, Buenos Aires, 26 August 2004.

⁴⁴ CONADEP, minutes 9, 31 January 1984, 26.

⁴⁵ See, APDH, Memoria Abierta archive, doc. B7.489, undated, 5.

torture and murder of thousands of disappeared persons. As a result, the possibility of identifying any guilty parties, with the exception of the juntas and a handful of perpetrators, was severely constrained.⁴⁶ To tackle this situation, the Commission decided to travel throughout the country and create local delegations.⁴⁷ For this purpose, CONADEP appealed again for help to the organizations, which collaborated in the establishment of a delegation in the province of Córdoba, joined the delegation's leadership and offered a place for its headquarters. The organizations did the same in the cities of Bahía Blanca and Mar del Plata, with a member of *Madres de Plaza de Mayo* even participating in the Mar del Plata delegation.⁴⁸ In addition, the Commission asked for the organizations' help in collecting testimonies in the rest of the country.⁴⁹

These initiatives, the existence of a constitutional government and the official nature of the Commission of 'notables,' enabled the body of testimonies to be expanded and changed its characteristics. The testimonies from urban peripheries shed light on the magnitude of the disappearances among labor union activists and the population outside large cities. For the first time, the Commission saw cases of disappearances that had not been reported because families had nowhere to turn to or did not know where to seek assistance because they were in situations of poverty or isolation.⁵⁰ Of the new reports received by CONADEP, 64 percent were filed by people in such situations.⁵¹ The new reports also signified a change with respect to existing reports. Some of the survivors had been disappeared for days or weeks, others had spent years in captivity in the same place and still others had been in several different clandestine detention centers. Some of the survivors had collaborated with the state, and because their imprisonment conditions had been relatively better, they had a clearer visual memory of their experience. Others remembered very little and could draw only on their body's memories, which were formed through heightened senses caused by the sensory-motor deprivation to which they had been subjected. The evocation of smells and sounds, the sense of touch and furtive glimpses that managed to get by the blindfolds or hoods were all used to reconstruct the topography of horror and the identity of the tormentors and of fellow captives.

Because of its heterogeneity, this body of testimonies enriched the existing evidence, confirmed other testimonies and generated new ones. Hundreds of military and police centers throughout the country were added to the already-known, large clandestine detention centers that had contained most of the disappeared, like the

⁴⁶ Interview with Graciela Fernández Mejjide, Buenos Aires, 26 August 2004.

⁴⁷ CONADEP, minutes 19, 10 April 1984, 74; CONADEP, minutes 7, 17 January 1984, 20.

⁴⁸ CONADEP, minutes 10, 7 February 1984, 29; 'Identifican un cadáver NN en el cementerio de Mercedes: 3,500 denuncias de desaparecidos,' *La Prensa*, 28 March 1984, 3; 'Fernández Long juzgó difícil la búsqueda de desaparecidos,' *Tiempo Argentino*, 22 May 1984, 8.

⁴⁹ CONADEP, minutes 12, 21 February 1984, 36; CONADEP, minutes 18, 3 April 1984, 67–69; CONADEP, minutes 19, 10 April 1984, 75–76.

⁵⁰ Interview with Gregorio Klimovsky, Buenos Aires, 6 September 2004.

⁵¹ In the large cities, 85 percent of reports were filed immediately after the abductions. Inés Izaguirre, *Los desaparecidos, recuperación de una identidad expropiada* (Buenos Aires: University of Buenos Aires, 1992), 41.

Escuela de Mecánica de la Armada (Naval School of Mechanics, or ESMA) in the capital, Campo de Mayo and El Vesubio in Buenos Aires and La Perla in Córdoba. It also expanded the information available on some of the most important clandestine detention centers, like *Campo de Mayo*, about which there had been only one testimony before CONADEP was established.⁵² Lastly, these testimonies helped map the movement of disappeared persons from one center to another, thereby proving that these centers had been part of a system. The Commission also received statements from some individuals who had been involved in the disappearances – officers, subofficers, border patrolmen and policemen – who confirmed the existence of clandestine detention centers and the practices already reported.⁵³

The Commission gathered a new set of testimonies from people who had been involuntary witnesses to the disappearances. These witnesses included neighbors who had seen abductions, people who had seen military or police officers at the clandestine centers and doctors and nurses who had assisted pregnant disappeared women. Most prominent among these was a group of morgue workers from Córdoba, who submitted to the Commission a letter they had sent in 1980 to then *de facto* president, General Jorge Rafael Videla, demanding better pay. To strengthen their demands, the workers included an account of how they had received dozens of corpses of ‘subversive elements’ that showed evident signs of violence and how they had participated in their clandestine burial. According to Sabato, this was ‘one of the most significant pieces of evidence,’ for it confirmed that Videla was aware of such practices.⁵⁴

CONADEP decided to classify this vast material by clandestine detention center. This had ‘a magnet effect,’ attracting the testimonies of survivors, perpetrators and witnesses.⁵⁵ The decision translated into the presentation of evidence and the preparation of legal cases. It also helped the Commission find out details about certain centers, like Automotores Orletti, where disappeared persons from neighboring countries had been held. This proved that the dictatorships of the region had coordinated their repressive actions. Moreover, with this decision, the Commission fully inverted the nature of the strategic space of the disappearances. The nonplace that the detention centers had been became the focal center around which the materiality of the disappearances was reconstructed. Consequently, the Commission had to decide what would be considered a clandestine detention center. It included in this category any facility where a disappeared person had been held captive, even if only for a few hours. Thus, it took into account the experience of those who had been detained briefly in police stations or small military units, or who had been transferred from such places to the large centers. This decision

⁵² Interview with Graciela Fernández Mejjide, Buenos Aires, 26 August 2004.

⁵³ ‘Denuncia de militares sobre desaparecidos,’ *Clarín*, March 14, 1984, 6.

⁵⁴ For the morgue workers’ letter, see, ‘Revelan carta de sepultureros a Videla,’ *Clarín*, February 8, 1984, 8. For an analysis of the import of the letter, see, Emilio Crenzel, ‘Cartas a Videla: Una exploración sobre el miedo, el terror y la memoria,’ in *Miedos y Memorias en las sociedades contemporáneas* (Córdoba: Programa de Estudios de la Memoria, Universidad Nacional de Córdoba, Núcleo de Estudios sobre Memoria IDES, Editorial Comunicarte, 2006).

⁵⁵ Interview with Graciela Fernández Mejjide, Buenos Aires, 26 August 2004.

drastically altered the prevailing image of the nature of the clandestine network as, according to Alberto Mansur, CONADEP's secretary of legal affairs,

it was ascertained that any police or military facility could, merely by virtue of what they were, be turned into a clandestine center by decision of military officers, thus proving the systematic nature of state terrorism.⁵⁶

Through these initiatives, CONADEP was able to use the testimonies to give materiality to the disappearances and expand the information available to identify the perpetrators.⁵⁷ Numbering in the thousands, provided by diverse persons from various parts of the country and coinciding both in general aspects and in details, the testimonies represented an exercise in public remembrance, a task of memory that enabled the expansion of the knowledge of what had happened.⁵⁸

The Clandestine Detention Centers Revealed

After compiling conclusive testimonies, the Commission decided to inspect the clandestine detention centers, sketch maps of the centers based on the memories of former captives and draw up lists of disappeared persons and perpetrators seen in such facilities. These inspections presented several significant and novel benefits because, unlike those carried out in 1979 by IACHR, they received wide coverage in the press, covered almost 50 centers throughout most of the country and, for the first time, involved former captives. The inspections were interventions of a political nature because, in most cases, the authors of the violations being investigated were still among the personnel of the facilities. To the survivors, the inspections were trying experiences in many respects. They compromised their emotions because they entailed returning to places where the survivors had suffered terrible violence at the hands of people who might still be there. The visits also challenged the survivors' testimonies by putting their ability to recognize the perpetrators to the test. Upon being approached by the Commission, military and police personnel wavered between attempting to stop the inspections, denying all knowledge of the existence of the physical infrastructure reported and withholding information about the personnel assigned to each place.⁵⁹ On other occasions, the attempt to prevent the inspection was aggravated by threats to the witnesses, which were aimed at stopping them from testifying. This was the case during the inspection of La Perla, the first facility CONADEP visited.⁶⁰

An architect and a photographer were present at each inspection. Their role was to document the inspection and draw a map of the place. In most cases, no traces of

⁵⁶ Interview with Alberto Mansur, San Martín, province of Buenos Aires, 1 September 2004.

⁵⁷ CONADEP documented 8,961 reports of disappearances and over 1,200 testimonies of survivors, exceeding by far the number of testimonies gathered by the organizations.

⁵⁸ The notion of a memory task comes from Jelin, who uses it to reflect the evocations that include the will of those reminiscing over the past, as opposed to memories, which happen spontaneously. Elizabeth Jelin, *Los trabajos de la memoria*, vol. 1 of *Colección Memorias de la Represión* (Madrid: Siglo XXI Editores, 2002).

⁵⁹ 'Verifican la existencia de una cárcel,' *Clarín*, March 1, 1984, 8.

⁶⁰ Interview with Gregorio Klimovsky, Buenos Aires, 6 September 2004.

the physical infrastructure of captivity were in evidence, as the Argentine detention centers, unlike other concentration type experiences, served a dual purpose. The facilities were used to commit the horrors and at the same time to carry out the normal activities of state bodies. For this reason, verification entailed a peculiar approach. Rather than being a search for remains, the inspections were about the interpretation of signs. In some cases, the physical infrastructure reported was disguised, in others its appearance remained unaltered and, in a few, objective evidence could still be found. CONADEP member López recalls one of these last cases, which occurred upon him entering a cell at the *Departamento de Informaciones D-2* in Mendoza with a woman who had been held captive there. In that cell, they saw 'a mountain of books, among which stood out the cover of *Las venas abiertas de América Latina* by Eduardo Galeano.' The witness identified the book and found the dedication she had written to her disappeared boyfriend inside.⁶¹

The inspections established a new public truth about events whose interpretation had been dominated by the military perspective. For example, after visiting the Pozos de Quilmes and Banfield locations, one survivor recognized them as the places where he had been held captive. He said that his family 'had been told, at the time of his abduction, that he had been kidnapped by the guerrilla.'⁶² After the inspections, the Commission drew up notarized records to validate them as evidence. Thus, the truth about the nature of these facilities acquired legal relevance. As López points out, the inspections raised a key question:

How is it possible that common civilians can know the general characteristics of military or police facilities, as well as insignificant details like the location of an electric socket, if they were never there?⁶³

Finally, the results of each inspection were compiled with other evidence about the detention center, forming a 'dossier' to be submitted to the courts. In them, CONADEP classified the crimes committed, attaching the testimonies, the documentary evidence and the list of the 'victims' and 'personnel involved' (identified by at least three concurring witnesses). These 'dossiers' condensed a true legal inquest.

The inspections of the clandestine detention centers, the increase in the number of reports filed and the submissions to the courts altered the support and criticism received by CONADEP. Up until then, the main criticism had to do with the usefulness of its investigation and the connections of some of its members with the dictatorship.⁶⁴ Now, instead, CONADEP was criticized for its alleged association with subversive elements. Paradoxically, these statements prompted certain

⁶¹ Interview with Santiago López, Buenos Aires, 18 October 2004.

⁶² 'Conferencia de prensa: Informan sobre ilícitos de la represión,' *La Prensa*, February 22, 1984, 6.

⁶³ Interview with Santiago López, Buenos Aires, 18 October 2004.

⁶⁴ See the letter from Father Luis Maidana to Sabato questioning the usefulness of the investigation because of the absence of justice, '¿Adónde conduce esta cloaca?' *La Voz*, February 28, 1984, 32. For the criticism of Favalaro and Guinazú by Peronist leader Osvaldo Papaleo, see, 'Papaleo acusó al general Camps,' *Clarín*, January 25, 1984, 6.

human rights organizations and some sectors that had opposed the Commission in Congress to defend it.⁶⁵

Different Ideas of Justice

Having gathered a large amount of evidence, CONADEP began a discussion as to the judicial fate of the evidence. The Commission found itself divided into members who belonged or were favorable to human rights organizations and members who represented the government. In line with official policy, the latter proposed that the evidence be submitted to the military courts, arguing that these were the first instance courts, while the former insisted that they be submitted to civilian courts.

From their first meetings, CONADEP members were concerned about the executive's bill to reform the Military Code of Justice, which proposed the Supreme Council of the Armed Forces as the court of first instance. This concern grew stronger after the law was passed and the Council itself requested the gathered evidence. If it submitted the evidence to a military court, CONADEP would recognize that court's authority in the matter. The executive decree that created CONADEP was issued before the reform and set forth the obligations and limitations of the Commission with respect to the 'judicial system' or 'judicial branch.'⁶⁶ The Commission's answer to the military court's request was that it would forward the evidence gathered 'with the condition that in each case prior authorization from the people that provided the evidence shall be requested.'⁶⁷ A month later, CONADEP decided to send the evidence to the civilian courts and maintained the condition on the submission of copies to the military courts, a decision that it also communicated to human rights organizations.⁶⁸ Despite opposition by members appointed by the government, members favorable to the organizations remained firm in their idea of sending the evidence to the civilian courts and thus not going against the will of the accusers. However, the representatives of the government pointed out that the problem was the large number of depositions that did not include either the accusers' consent to submit them to the military courts or their refusal in writing to do so. Finally, Sábato, as president of the Commission, decided to support the submission of the evidence to the civilian courts.⁶⁹

In making these decisions, CONADEP demonstrated its independence with respect to the executive; its commitment to human rights organizations by making available to them the material it had gathered, including the cases submitted to the

⁶⁵ For example, when Admiral Horacio Mayorga, defense attorney for Admiral Rubén Chamorro, former head of the ESMA, the main clandestine detention center in the country, bitterly criticized CONADEP, he provoked the contempt of the Peronists, the center-left and Hebe de Bonafini, leader of *Madres de Plaza de Mayo*. See, 'Parece mentira!' *La Voz*, May 29, 1984, 32, and 'Reacción por críticas del defensor de Chamorro,' *Clarín*, May 31, 1984, 13.

⁶⁶ Minutes of the House of Representatives, fourth meeting, third extraordinary session, 22 December 1983, 345–367.

⁶⁷ CONADEP, minutes 9, 31 January 1984, 24.

⁶⁸ CONADEP, minutes 14, 6 March 1984, 47; CONADEP, minutes 19, 10 April 1984, 75.

⁶⁹ CONADEP, minutes 33, 17 July 1984, 128–132.

courts, and its commitment to the accusers by making evidence submissions subject to their approval. The survivors and the relatives of the disappeared acquired an authoritative role because it was they who decided which courts would hear their testimonies.

The Writing Process

When CONADEP set out to write its conclusions, it understood that it should combine two simultaneous objectives in its report: to condemn the system of disappearances and to build a legacy for future generations which would help prevent these events from being repeated. The challenge was to adopt a narrative style and an interpretative model that would achieve these objectives. In several public appearances, Sábato said that the Commission's report would be a kind of 'black book' about the tragedy caused by the armed forces, comparing the Argentine military to the Nazis and the legal proceedings underway to the Nuremberg trials.⁷⁰ This 'black book' would not have been the first in Argentina. 'Black Book' was the title of a report written about the ousted Perón regime by the military government that deposed him. Thus, Sábato imagined that the report would present a truth that would put an end to an entire period, evoking for that purpose the coup that had condemned Peronism.⁷¹ Mejjide proposed an alternative model based on the IACHR report, which she had helped draft. It was this latter model that eventually prevailed.

Another major issue was defining the style of the report. Sábato suggested that the report should not be technical but rather a vivid account that included testimonies, photographs and descriptions of illustrative cases.⁷² He argued that in this way the report would gain narrative strength and credibility and would have the potential to reach a mass readership. The decision to adopt this style for presenting the Commission's findings was influenced in part by the profile of the reader targeted by CONADEP. It was believed that most social sectors in Argentina viewed the disappearances with a mixture of ignorance and disbelief. Sábato believed that the objective testimonies would be irrefutable. He argued that the facts 'would in themselves move the reader, without any need to adjectivize or interpret.'⁷³ The proposed narrative strategy, whilst it aimed at influencing this readership, also impacted on the boundaries of the narrative itself. According to Mansur and Raúl Aragón, CONADEP excluded some episodes because of their extreme cruelty, fearing that this might undermine the credibility of the report.⁷⁴

The Commission divided up the writing process. The joint nature of the process was reinforced when Sábato explained that everybody could contribute to the

⁷⁰ See, 'Habr  un libro de la represi n,' *Clar n*, March 15, 1984, 6.

⁷¹ See, National Research Commission, *El libro negro de la Segunda Tirant a* (Buenos Aires: National Executive Power, 1956).

⁷² CONADEP, minutes 15, 13 March 1984, 56–57; CONADEP, minutes 37, 13 August 1984, 152.

⁷³ Interview with Alberto Mansur, San Mart n, province of Buenos Aires, 1 September 2004.

⁷⁴ Mansur was referring to cases of prisoners being skinned alive, and Arag n to the raping by dozens of soldiers of a woman prisoner, who was even raped after she had been murdered. Interviews with Ra l Arag n, Buenos Aires, 3 December 2003, and Alberto Mansur, San Mart n, province of Buenos Aires, 1 September 2004.

report and that chapter authors would be anonymous, inviting human rights organizations to suggest final recommendations and review the final draft. Amongst the key recommendations put forward, *Familiares de Detenidos y Desaparecidos por Razones Políticas* asked that the names of those responsible for the repression be included; MEDH requested laws that would protect the families of the disappeared and LADH called for education in human rights and that repressive laws be repealed. These contributions were for the most part included.⁷⁵

Sábato presented a draft prologue, and CONADEP commissioned Gerardo Taratuto, a member of the legal affairs division, to compile the writing. According to Taratuto, Sábato told him that he wanted a report that would offer a national view; would expose the violations of political and religious principles and rights; could be understood by anyone, regardless of their background, and, if read by a member of the military, would make him feel ashamed and unable to deny the facts presented. Taratuto decided to write a description of the sequence of abduction, torture and disappearance, stripping the account of adjectives and narrating it with both severity and objectivity.⁷⁶ He submitted this sequence to the Commission and consulted with fellow Commission members on how the accusers and accused would be presented. This issue worried the military, which feared that the report would include a list of those responsible for the disappearances.⁷⁷

Initially, the Commission decided to leave out the names of the accused and only mention the accusers by their first names and the initial of their last names. However, Colombres pointed out that there were no legal reasons to exclude the names of former captives, which had been made public by the Commission itself, or those of the accused, provided there was certainty about them, for it was witnesses that were naming them. Rabossi, for his part, cautioned that Alfonsín had been told that the list of repressors would not be included. Finally, the Commission agreed that the names of the survivors and of the perpetrators would be included in the testimonies, except where there was reasonable doubt, and that the list of the accused parties would not be published but submitted to the president and left to his discretion.⁷⁸ This debate and the debate around the judicial fate of the evidence illustrate the differences between the members of the Commission appointed by the government and those connected with the organizations. These differences revolved around the relationship between the truth the Commission would present to the public and the scope and characteristics of the criminal action it would generate.

⁷⁵ CONADEP, minutes 24, 15 May 1984, 100; CONADEP, minutes 27, 5 June 1984, 108; CONADEP, minutes 30, 26 June 1984, 115; CONADEP, minutes 33, 17 July 1984, 135; CONADEP, minutes 35, 31 July 1984, 144–145; CONADEP, minutes 40, 28 August 1984, 162. According to Mejjide and Rabossi, the organizations' revision was not possible because of the celerity with which the inquiry was completed. Interviews with Graciela Fernández Mejjide, Buenos Aires, 6 May 2005, and Eduardo Rabossi, Buenos Aires, 11 May 2005.

⁷⁶ Interview with Gerardo Taratuto, Buenos Aires, 7 December 2004.

⁷⁷ 'Pocos gozos, muchas sombras: Amnistía y comecón Sábato,' *Somos*, 7 September 1984, year VIII, no. 416, 12–13.

⁷⁸ CONADEP, minutes 40, 28 August 1984, 161; CONADEP, minutes 41, 4 September 1984, 163–170.

By contrast, the question of how to present the disappeared was barely discussed. CONADEP decided to describe them as human beings whose rights had been grossly violated. This view, which reflects the narrative produced by human rights organizations during the dictatorship, was a result of the Commission's decision not to reveal the victims' political affiliations for fear that this would provide public opinion with a justification for the violations.⁷⁹ Lastly, the decree that created CONADEP did not restrict the investigation of the disappearances to any given period of time, and hundreds of relatives had, in fact, reported disappearances that occurred prior to the coup. However, this provision changed as a result of the prevailing political situation. Some members admitted that, for political reasons, Alfonsín did not want to investigate the involvement of Peronists in the disappearances. In addition to the framework proposed by his decrees regarding the trials of military and guerrilla members, on 1 May 1984, amid growing tension within the military, increasing pressure from international financial agencies and the struggle for wealth redistribution, Alfonsín issued a 'historical reparation' decree in favor of Isabel Perón (then president of the Peronist Party), which, far from blaming her for the state violence, presented her as its victim.⁸⁰ Moreover, the Commission itself agreed that examining the responsibilities of the political leadership would trigger a series of cross-accusations that would diminish the legitimacy and impact of the report.⁸¹

In contrast to his earlier statement, Sábato took pains to clarify that the Commission's publication would be a 'report' and not a 'black book.'⁸² Many argued that a 'black book' would spark a confrontation with the Peronists and evoke a political tradition that had nothing to do with the democracy-dictatorship antinomy that had become the interpretative key to understanding the national political history of the 20th century. The slogan 'Never Again' evoked this new, shared sensibility. Used by the human rights organizations in their struggles, it represented a rejection of the dictatorship and the desire to find closure for a historical period.⁸³ Two significant facts illustrate its widespread use in public discourse: all the members of CONADEP recall that *Nunca Más* was quickly accepted as the title of the report and several claim to have been the authors of the idea.⁸⁴

⁷⁹ Interview with Raúl Aragón, Buenos Aires, 3 December 2003.

⁸⁰ On 1 May the executive issued Decree 1301, whereby the state dropped its case against Perón's widow for the sake of promoting 'the unity of the Argentine people.' Some days later, Congress passed Law 23062 with the same reasoning. 'Dictó el PEN un decreto que beneficia a Isabel Perón,' *Clarín*, May 2, 1984, 8. See also, 'Carencia de validez jurídica de las normas del gobierno de facto,' *Official Bulletin*, July 19, 1984.

⁸¹ Interviews with Raúl Aragón, Buenos Aires, 3 December 2003, and Alberto Mansur, San Martín, province of Buenos Aires, 28 June 2005.

⁸² 'Concluyeron el informe sobre los desaparecidos,' *Clarín*, August 7, 1984, 6.

⁸³ See the statement by Familiares de Detenidos y Desaparecidos por Razones Políticas, 'Por la vida, la libertad: Para que nunca más' of June 1983 in the Memoria Abierta archive, doc. B2.12B. See, 'Terrorismo de estado nunca más,' *Paz y Justicia* 1(6) (1983): 38–39. In addition, see the use of 'Never Again' as a slogan by the organizations as they repudiated the coup on 24 March 1984, Memoria Abierta archive, doc. B2.60.

⁸⁴ During our interviews, many of the Commission members claimed authorship of 'Nunca Más.' For Klimovsky and Taratuto, it was Sábato's idea. For Meijide and Aragón, it was Taratuto's idea.

Lessons for Transitional Justice Drawn from the CONADEP Experience

The CONADEP experience offers a number of lessons for policy making in the field of transitional justice. First, it demonstrates the importance of constructing a public truth about the crimes as soon as possible, immediately after the fall of state terrorism regimes. Second, it illustrates that, despite distrust and problematic institutional and political contexts, governments and human rights organizations can collaborate in this process. Such a collaboration can be productive in terms of unearthing new knowledge and can serve as a counterbalance to the tendency of post-dictatorship regimes to limit the scope of the truth. The presence of the human rights organizations within CONADEP also demonstrates that the possibility of objectively presenting violations is not thwarted by the involvement of those whose principal goal is to advocate for human rights. Third, this experience shows the importance of Commissions releasing progress reports of their investigations whilst their work is still ongoing. The reports serve to strengthen the legitimacy of these temporary bodies and make their results and findings known to the public. Fourth, it reveals that the investigation of the truth may constitute a pre-judicial instance necessary to trying the crimes in court. Fifth, the process reinforces the notion that truth constructed in legal terms tends to exclude the historicization of violence, the conflicts that triggered it and the political commitments of those who suffered it.⁸⁵ Finally, in analytical terms, the CONADEP experience sheds light on how the usual classification of official and unofficial truth commissions can eclipse the actual relations established between government and human rights organizations and other civil society organizations.

Conclusions

This article has analyzed the political context in which CONADEP was created and conducted its investigations, as well as how the Commission constructed a new public truth about the disappearances whilst at the same time gathering the legal evidence necessary to prosecute perpetrators. The Commission's success was the result of a shared effort by the constitutional government and the majority of Argentine human rights organizations, who participated in its direction and membership, offered their facilities outside Buenos Aires, collected testimonies, contributed their files and participated in the writing of the final report. These organizations contributed their experience to guiding the inquiry, taking it beyond the search for the disappeared. They also went beyond acting as merely an

Guiñazú says that it was she who suggested it after seeing the phrase written in several languages on a monument at the Dachau concentration camp in Germany. Rabossi claims that he was the author during his tenure as under-secretary of human rights, and that he chose it when he saw it in the 'self-amnesty' law, using it in response to that document and with the opposite meaning: 'I called *Sábato* [to suggest it] and he thought it was perfect.'

⁸⁵ Grandin, *supra* n 4. Grandin indicates the absence in the *Nunca Más* report of the institutional and economic factors that caused the 1976 coup and that marked the transformations that the dictatorship produced in the country's power relations.

intermediary between the people and the justice system. In this sense, this article offers a different look at the Commission's investigation, as compared to that of the existing literature on Argentina's recent past, which depicts the Commission's success exclusively as the result of efforts by the government or by a group of civil society notables.

These parties concurred on the need to compose a factual truth that would enable them to reconstruct materially the crimes – and that would be accepted by a public that did not recognize the reality of what had happened in the country. Their agreement went so far as to formulate a political and institutional interpretation that presented the dictatorship as the sole perpetrator of the crimes and the disappeared as subjects of law. Differences among the major stakeholders arose, however, when it came to discussing the relationship of this truth with the characteristics and scope of legal action. This was reflected in the debates within CONADEP over whether it should submit its evidence to civilian or military courts and whether its final report should mention the names of all identified perpetrators. The latter debate, incidentally, placed the government in a confrontation with civil society organizations in the public arena.

These differences notwithstanding, CONADEP's investigations have had significant political and legal effects. In the first place, through them, the government turned the disappearances into the subject of investigation and expanded its knowledge of the number and extent of disappearances. Furthermore, the Commission established a new public truth about these crimes that refuted the dictatorship's view, which denied or relativized their occurrence. It formed a core of unpublished evidence with which to prosecute the perpetrators, which, due to its exhaustiveness, turned the inquiry into a true pre-judicial instance. In fact, this evidence became the key resource of the prosecution in the trial against the military juntas, as well as in more recent prosecutions against perpetrators like Miguel Etchecolatz and Christian von Wernich. Finally, the result of the investigation, the *Nunca Más* report, proved its effectiveness in the field of representations of and ideas about the past by becoming and remaining the interpretative model for the dictatorship's violations. It also popularized, through the title of its final report, the slogan that summarizes, in Argentina and its neighboring countries, the determination to prevent the recurrence of such violence.