

# **The Power of Absence**

## **An Ethnography of Justice, Memories of Genocide, and Political Activism of a New Generation in Post-Transitional Argentina**

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**PhD Thesis**



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# Table of Contents

<b>Abstract</b>	<b>3</b>
<b>Declaration</b>	<b>4</b>
<b>Acknowledgements</b>	<b>5</b>
<b>Glossary</b>	<b>8</b>
<b>Introduction</b>	<b>11</b>
Introduction	11
Engaging with Questions and the Argentine Context	21
Personal Frame of Reference	36
Methodological Premises	41
Central Aim and Chapter Outline	49
<b>Chapter 1: Voices of Justice and Memory in Post-Transitional Argentina</b>	<b>55</b>
Introduction	55
Transitional Justice: A Concept and its Process	56
Justice and the ‘Presence of Absence’	77
The Power of Memory and Identities	93
From Presence to Representation	102
The ‘Ownership of Justice’: Summary and Outlook	107
<b>Chapter 2: Argentina. A Brief History of Violence and Justice</b>	<b>109</b>
Introduction	109
Before 1975: The Beginnings of Violence	111
Coup d’État and the Culture of Terror	115
The Return to Democracy: Efforts for Truth and Justice	121
Times of Impunity: The Failure of Institutionalized Jurisdiction	124
The Onset of Post-Transitional Justice: H.I.J.O.S. and the Scilingo Effect	126
Post-transitional Justice: Trials for Crimes against Humanity	130
<b>Chapter 3: ‘We are Born in their Struggle and they Live in Ours’</b>	<b>134</b>
Introduction	134
<i>Hijos</i> and H.I.J.O.S.: A Generation, an Association and its Members	136
The History(s) of H.I.J.O.S.	144
The Organization	156
The Population: A Question of Belonging	167
A new Government, a new Home	175
From the Margins to the Centre	179
Conclusion	183

<b>Chapter 4: ‘Si no hay Justicia, hay Escrache!’</b>	<b>186</b>
Introduction	186
The Escrache: A Street Theatre of Justice	188
Roots and Variations	201
Contesting the Escrache	214
Just Practice or Nazi-Defamation?	219
Escrache and Global <i>Judicioscapes</i>	225
New Roads and Continuity	227
Conclusion: Discursive Meaning Making and Visibilities of Absence	231
<b>Chapter 5: The Politics of Genocide: Representing the Past, Creating a Future</b>	<b>234</b>
Introduction	234
Part 1: Thinking through/with Genocide	237
The Past as Genocide: H.I.J.O.S. and the Meaning of a New Frame	237
From Memory Narratives to the Ownership of Justice	247
The Making of Memory Communities in Argentina’s Struggle for Justice	257
Part 2: Political Practice	261
Genocide in Argentina’s Courts	261
Challenging International Definitions	283
Conclusion	288
<b>Chapter 6: Taking Justice to Court. Performance and Contestation in Determining Guilt</b>	<b>291</b>
Introduction	291
The Romero-Niklison Case	297
H.I.J.O.S., Trials and Justice	304
The Courtroom: Healing Effect or Revenge?	315
Changing Ambiguities: Isabel and the ‘Culture of Justice’	324
Conclusion: The Transformed Character of Legal Practices in Argentina	330
<b>Conclusion: ‘They can Carry away the Most Beautiful Flowers, but they will not End Spring’</b>	<b>334</b>
<b>Bibliography</b>	<b>343</b>

## Abstract

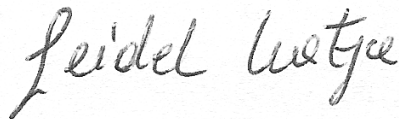
*For 30 years human rights groups have struggled for justice in Argentina. 'We are born in their struggle and they live in ours', thus goes the mantra of the second generation activists. In 1995, hijos, the children of the disappeared, murdered, unlawfully imprisoned and exiled victims of the 1976-83 civil-military dictatorship, decided to participate and created the association H.I.J.O.S. (Children for Identity and Justice, against Oblivion and Silence). Coming to the field in 2010, I arrived into a context radicalized through activism, campaigning, and a heightened level of legal activity in a temporality of post-transitional, pro-human rights. In this symbolic, discursive, and legal space of justice members of H.I.J.O.S. demonstrate why the violent past counts as genocide and promise not to forgive, not to forget, nor to reconcile. With their activism during the Escrache – H.I.J.O.S.' practice of social condemnation and street justice – and in the current trials for crimes against humanity, the second generation strives to recover their disappeared parents' political identity and create their own belonging from absence.*

*This thesis presents a detailed ethnographic reading of the dynamics of justice in post-transitional Argentina. Pursuant to complex and sometimes conflicting research on the nature of these concepts, this thesis focuses thus on the meaning and impact of H.I.J.O.S.' struggle over the past 18 years. The theoretical cornerstone of the work is an interrogation of the way in which post-memories are constructed, lived, and negotiated by members of the second generation thereby a demonstration of the productive quality of genocide and absence that bears new ontologies and political subjectivities. In holding an ethnographic mirror up to these experiences and hijos' political agency, this thesis goes beyond prevailing studies of transitional justice and genocide and explores the productivity and creative power of violence unleashed by activated post memories. With the concept of 'absence' as a motor for justice this thesis shows how hijos use their post memories to subvert a traumatic heritage and regain ownership of justice.*

## **Declaration**

I hereby declare that the dissertation submitted by me in fulfilment of the requirements for the degree of Doctor of Philosophy and entitled 'Between Absence and Presence. An Ethnography of H.I.J.O.S., Genocide, and the Dynamics of Justice in post-transitional Argentina' represents my own work and has not been previously submitted to this or any other institution for any degree, diploma or other qualification.

Signed:

A handwritten signature in black ink, reading "Feidel Lutje". The signature is written in a cursive style with a large initial 'F' and a long tail on the 'e'.

## Acknowledgements

A dear friend of mine once told me about the PhD process: *the only way out is through*. I am now through and finally feel the truth of her words. But for me to have gotten through this process makes me deeply appreciative to many people, who supported this thesis with their knowledge, ideas, interest, and empathy.

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La Memoria

Todo está guardado en la  
memoria,  
sueño de la vida y de la historia.  
La memoria despierta para herir  
a los pueblos dormidos  
que no la dejan vivir  
libre como el viento.

Memory

Everything is preserved in  
memory,  
Dream of life and history.  
Memory awakes to hurt  
The people who sleep  
Who don't let it live  
Free like the wind

*Leon Gieco*



## Glossary

**Abuelas:** *Abuelas de Plaza de Mayo* (Grandmothers of the Plaza de Mayo): *Abuelas* are a group of grandmothers searching for their missing grandchildren who were stolen from disappeared mothers and given away to regime friendly families. *Abuelas* estimate that the military stole approximately 500 babies. By 2014 *Abuelas* have successfully identified 110 stolen children.

**CONADEP:** *Comisión Nacional sobre la Desaparición de Personas* (the Argentine National Commission on the Disappeared). CONADEP was Argentina's truth commission that formed in 1983. Its report 'Nunca Más' was published in 1984.

**ERP:** *Ejército Revolucionario del Pueblo* (People's Revolutionary Army) was one of the main guerilla groups of armed revolutionaries. ERP was the Maoist-inflected, armed guerrilla group of the radical arm of the Revolutionary Worker's Party (PRT).

**Escrache:** It is a popular, non-judicial form of social condemnation and street justice introduced by H.I.J.O.S. in 1996. This distinctly local, street-based and non-legal condemnation of impunity intends to ostracize the perpetrators who lived with impunity all over Argentina in their own neighbourhoods. The term derives from a local Argentine dialect, meaning 'to bring to light what was hidden, to make evident, make visible'. Since 1996 the Escrache is one of H.I.J.O.S.' central tools of resistance.

**ESMA:** *Escuela de Mecánica de la Armada* (Navy Mechanics School). ESMA operated as a Clandestine Center of Detention and Extermination in Buenos Aires throughout the entire military dictatorship. Since the ESMA was handed over to Human Rights Groups in 2004, it is often referred to as EXMA (ex-ESMA or former ESMA).

**Familiares:** *Familiares de Desaparecidos y Detenidos por Razones Políticas* (Family-members of those Disappeared and Imprisoned for Political Reasons). The group formed in 1976 before the Madres de Plaza de Mayo and includes siblings, spouses, parents, and other relatives.

**H.I.J.O.S.:** *Hijos por la Identidad y la Justicia, contra el Olvido y el Silencio* (Children for Identity and Justice, against Oblivion and Silence). The association of the children of victims of the Argentine Genocide. H.I.J.O.S. formed in 1995 as an international, horizontal organization. 'We don't forgive, we don't forget, we don't reconcile', is their central slogan.

**hijos:** The children of the disappeared, murdered, illegally detained and exiled generation of the 1970s. In 1995 *hijos* established the association H.I.J.O.S..

**Jefatura:** *Jefatura de Policía de Tucumán* (Tucumán Police Station). The *Jefatura* in San Miguel de Tucumán operated as a clandestine detention centre during the civil-military dictatorship in the 1970s.

**Kirchner(ism):** Néstor Kirchner, Argentine President from 2003 to 2007 supported and advanced human rights efforts. During his tenure, trials against former military officials resumed and offices of human rights opened up in every province. With the election of Nestor Kirchner, Peronism came back to power and is today better known as Kirchnerism.

**Kirchner, Christina Fernandez de:** President Cristina Fernández de Kirchner is the widow of former President Néstor Kirchner. She was elected to office in and continues to support human rights in Argentina.

**Madres:** *Madres de Plaza de Mayo* (Mothers of Plaza de Mayo): The group formed in 1977 when they started their protest marches in front of the presidential palace, demanding knowledge about their ‘disappeared’ children. The white scarf (symbolizing baby-diapers) is the globally known symbol of the Madres. In 1986 the association split into two groups: The *Madres de Plaza de Mayo Linea Fundadora* and the *Asociación Madres de Plaza de Mayo*.

**Madres Linea Fundadora:** (Mothers of the Plaza de Mayo, Founding Line) is seen as the less radical branch of the two *Madres* groups. They focus on finding their disappeared children’s bodies, involve themselves in memorial projects, and demand justice. This branch is strongly associated with H.I.J.O.S..

**Montoneros:** The leftist political Peronist branch including a wing of armed activists. Montoneros was the most important and largest opposition group.

**Nietos:** Grandchildren or ‘living disappeared’. The grandchildren are the children of the disappeared who were stolen from their families and given to military families or their supporters during the dictatorship. Some of the estimated 500 stolen babies are siblings of *hijos*.

**Pagina12:** is a left leaning newspaper published in Buenos Aires published by Fernando Sokolowicz. It maintains an editorial line favorable to the government of Cristina Fernández de Kirchner.

**Peronism:** A political movement based on its first president Juan Domingo Perón and a ‘third position’ policy that is built on three pillars (social justice, economic independence, and political sovereignty). In the 1970s, ‘Peronism’ as a movement was employed by right and left extremists and led to clashes and violent struggles between Peronists on the far political right (e.g. the paramilitary Triple A) and

revolutionary guerrilla forces on the extreme political left (Montoneros), who both put up arms in his legacy. Juventud Peronista (or JP) is the Youth branch of the movement. Peronism is officially known as Justicialism (derived from social justice).

**PTR:** *Partido Revolucionario de los Trabajadores* (Revolutionary Worker's Party) was a Marxist-Leninist political organization in Argentina.

**Theory of Two Demons:** or 'two-demon theory' (*la teoría de los dos demonios*) is a historical narrative that puts guilt for the violence in Argentina equally on both, the revolutionary and the military forces.

**Triple A:** *Alianza Anticomunista Argentina* (Argentine Anticommunist Alliance) usually known as Triple A or AAA. It is a far-right paramilitary death squad founded in Argentina in 1973. Secretly lead by José López Rega it was particularly active under Isabel Perón's rule (1974–1976).

# Introduction

## Introduction

‘So you came to study our Holocaust?’ Guillermo asked when we met on a cloudy, humid day in February 2011 in *Parque 9 de Julio* in Tucumán. ‘Yes’ I answered, somewhat taken aback by the question. I was meeting with Guillermo Vargas Aignasse to talk about his memories of his father’s disappearance in 1976 and his experiences of the trial he brought against his father’s murderers in 2008. But for the next fifteen minutes we switched roles: I was interviewed about my family’s experience of genocidal violence, memory, and silence. When I finished explaining why I was interested in Argentina, Guillermo interrupted me stating,

If the silence wins they win too – this is the truth! ... When some part or group do this kind of things, they first try to eliminate the people and then the memory. It is two parts of the process. Because to win - to really arrive at the process to kill a group - you have to eradicate the memory. And because of the fear, nobody talks. When I was young and I told my school mate my story, they told me, ‘No it’s not like that, he will come again, he’s in prison somewhere’ and with *Nunca Más* the truth started to be known. And now with the trials it all changed. (Interview Guillermo 2011)

For the next two hours while sitting with 44-year old Guillermo, son of disappeared politician Guillermo Claudio, in the pebble-tilted garden of the park’s café, I learned that Guillermo was just nine years old when on 24 March 1976, the day the coup d’état installed the military dictatorship, his life changed forever. That very day, at 3:30 am, men broke into his home to take away his father, Peronist Senator Guillermo Claudio Vargas Aignasse, physician and father of five children. Guillermo’s family was and still is influential in local politics in Tucumán. His father was the youngest parliamentarian in Tucumán when he was unlawfully detained. The next night,

Guillermo Claudio returned, guarded by armed policemen, to get some things from the house. That was the last time that the younger Guillermo saw his father. A month later, the family was informed that Guillermo Claudio was apparently ‘kidnapped’ from a car during a transfer from one prison to the other. Since then he remains ‘disappeared’.

The ‘Holocaust’ Guillermo refers to in the opening sequence of our interview is the Argentine genocide – more commonly known as the ‘Dirty War’ or state terror – lodged between 1976-83 by the Military Junta headed by General Jorge Rafael Videla, Admiral Emilio Eduardo Massera, and Brigadier-General Orlando Ramón Agosti, following the 1976 coup d'état.<sup>1</sup> During this period of violence, Guillermo’s father was just one of an estimated 30,000 people who were disappeared or unlawfully detained and subsequently murdered by the armed forces.<sup>2</sup> And, like Guillermo, many more members of the post-terror generation spoke to me about their experience of ‘absence’ (Fuery 1995) produced by the 1976-83 military dictatorship, describing the period as genocide and comparing it to the Nazi-era Holocaust.

One year after I talked to Guillermo about his experiences, I found myself in Madrid with another group of *hijos* – meaning the children of those murdered, disappeared,

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<sup>1</sup> The armed forces formally exercised power through a Junta led consecutively by Videla, Viola, Galtieri and Bignone. Videla handed over power to Military Officer Roberto Eduardo Viola on 29 March 1981. His de facto government was followed by Lieutenant General Leopoldo Galtieri on 22 December 1981 and subsequently by Major General Reynaldo Bignone on 1 July 1982, who as interim General called for democratic elections. Altogether the military dictatorship lasted until 10 December 1983.

<sup>2</sup> The Argentine National Commission on the Disappeared, or CONADEP, officially reported 8,960 casualties. Conservative estimates still suggest that number, while human rights groups insist on thirty thousand ‘disappeared’ and assassinated as the actual number. Today, at least half of that number has been confirmed by official sources (Robben 2005).

assassinated, or forced into exile by the military forces and its allies – discussing their thoughts on violence, memory, and belonging. During our talk, Nicolas, whose father was forced into exile from Patagonia, pointed to another aspect of Argentina’s experience with violence and justice. Talking about the current trials underway in his home country, he expressed his feelings this way:

In a subjective way as an Argentine citizen, I celebrate the guarantee that exists in my country. I celebrate that this country, that they try (the perpetrators) there. It is a reference for other countries! That in my country they do the trials and that a generation can see that the things they worked and fought for were not bad. I celebrate it. (Interview Nicolas 2012)

Thinking about Nicolas’s words and the group of five people nodding in affirmation, I am reminded about how Manuel Ollé, Spanish human rights advocate working in criminal prosecutions of human rights violators based on universal jurisdiction, explained the judicial process in the country at the south of Latin America: ‘Argentine society taught the whole world a lesson: if you want to you can!’ and, he added ‘It is currently the biggest criminal tribunal in the world’ (Interview Ollé 2012).

Truly, Argentina’s juridical efforts to try the perpetrators, genocidaires, organizers and collaborators of the last military dictatorship are impressive. In 2003, with the election of Nestor Kirchner as president, crimes committed by the last civil-military dictatorship were classified as crimes against humanity. Thus exempt from the statute of limitations, this new classification – after a long period of judicial impunity – finally allowed for the reopening of the trials against all state-related perpetrators. According to the July 2013 update on the ‘Report on the current State of the Trials for Human Rights Violations perpetrated during the State Terror’ issued by the Argentine Ministerio Publico Fiscal, a total number of 1042 accused perpetrators currently face

trial for crimes against humanity and 471 convictions (of which 426 were found guilty) have been secured since 2007 (MPF 2013).<sup>3</sup> Thus, while for decades Argentina was renowned for terror, violence, and impunity, the continuous struggle for justice has renewed the country's image as a global precedent for justice and accountability.

But, one might ask, what about the felt injustices of the lack of memories, the desire for stronger self-determination, or the prevailing hopes about one's parent's return that so many of my informants from H.I.J.O.S. have referred to? Faced with the continuous presence of 'something not being there', the children of those disappeared engage in their lives, in the search for memory, and in the fight for justice in the aftermath of the dictatorship. For them, it seems, the experience of violence, terror, and repression is continuously felt as 'the presence of absence' (Bille, Hastrup, & Sørensen 2010). These absences comprise of the disappeared, of one's parents, of justice, or of any kind of participation in constructing the historical narrative and therefore become a driving force, indeed a motor for action, in which the post-terror generation assumes a place at the centre of the political stage.

Looking at the second generation, genocide, and the dynamics of justice between absence and presence in its apparent contradictions, I was encouraged to think about the activities involved in the recovery of belonging and memory in current day Argentina. I started to wonder about the role of the second generation in these processes and how collective belonging and desired understandings of the past as well

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<sup>3</sup> Accused meaning here 'a person for whom at least exists one enactment to institute proceedings' (MPF, July 2013).

as an imagined future are negotiated, made, and accomplished in practice.<sup>4</sup> And so, by addressing three largely underexplored areas, namely the long-term effects of memory understood as the ‘presence of absence’, the active participation of the second generation, and the discursive resonance of genocide as representative layers of current memory politics in Argentina, I started to ask: How do members of H.I.J.O.S. practice and discuss justice in the discursive, symbolic and juridical frame of genocide in post-transitional Argentina? What changes in the later stages of transitional justice in Argentina and what is the role of the organization H.I.J.O.S. in these dynamic processes? What is the impact of the trials as a place to activate memories of genocide? How do *hijos* create the meaning of absence and justice and what does it mean for their own identities and belonging?

To illustrate the processes unfolding in post-transitional Argentina my research engages with the discourse of genocide understood as the moral and legal frame for a historical narrative, a story that people tell themselves about themselves. Furthermore, it explores legal as well as sociocultural practices of justice, taking as focal points for my investigation the *Escrache* – H.I.J.O.S.’ creative practice of social condemnation and street justice – and the local legal proceedings that take place all over Argentina since 2006.<sup>5</sup> Based on multi-sited fieldwork in three different localities (Buenos Aires,

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<sup>4</sup> Literary critics beginning with Alan Berger have first used the term ‘second generation’ to refer to writers who, as a result of their parents’ experiences, feel similarly marked by the un-lived Holocaust experience (McGlothlin 2006). Throughout this thesis I will use the term for the children of the victims of the last civil-military dictatorship in Argentina, independent of whether they are or are not in the organization H.I.J.O.S.. The term also includes those not directly affected, but actively participating in H.I.J.O.S..

<sup>5</sup> The tools used in Argentina’s struggle for justice and memory are manifold and reach from memorial sites, commemoration marches, and ethical trials, to street demonstrations, theatre performances and local criminal prosecutions all the way to the global level in which victims bring their cases before the Inter-American Court for Human Rights or juridical institutions of foreign countries.



San Miguel de Tucumán, Madrid), this thesis brings together these differing but interconnected scales of activities in a theoretical model that puts into dialogue ‘memory narratives’ (Lessa 2013) and agents of the post-terror generation.

Starting my exploration in 1995, at the onset of ‘post-transitional justice’ (Collins 2010; Skaar 2011), this research diverges from extant transitional justice literature on Argentina. Most books and articles on transitional justice in Argentina draw on the immediate era of transition to democracy, and the period of impunity that ensued, using models of transitional justice for their analyses and theoretical approaches. When I did my fieldwork (2010-12) and actively engaged with Argentina’s struggle for accountability some 30 years later, ‘accountability actors’ – meaning those who work towards holding (legally) accountable those responsible for human rights violations (Sikkink 2011) – had lived through and experienced a variety of governments and justice policies. Collins and Skaar are two authors who explicitly label this later stage of justice efforts ‘post-transitional’ (Collins 2010; Skaar 2011). With this new name they also attempt a new conceptual framework, arguing that post-transitional justice as a distinct phase in the aftermaths of violent regimes is characterized by the intensification of juridical procedures, the absence of military threat, and the impact of new accountability actors (often, although not exclusively from the second generation).

My research, which is situated in the later stages of Argentina’s human rights efforts, is leaning on these conceptual advancements and the terminology introduced by the authors. Additionally, however, an anthropological approach to the topic shows the importance to emphasize memories and their narratives as well as agents’ discourses

to understand how the nascent political circumstances and *hijos'* work have significantly transformed the extant practices of justice in Argentina. In so doing this thesis goes beyond a theoretical exploration of the later stages of transitional justice. As an ethnography of violence and justice it takes seriously how agents act, discuss, and engage with justice locally in a globalized context of human rights and cosmopolitan law. As a case example of memories of the second generation this research thus provides knowledge for other areas with similar demands, political subject positions, and legal negotiations.

Contrary to the '*Madres*' or mothers of the disappeared, the children and their organization and activities have been little investigated so far. Even though the organization came into being nineteen years ago in 1995 and its members have had a remarkable impact on the advancement of the country's justice efforts, only few social scientists have dedicated research to the group. Apart from some important ethnographic works in Spanish (Da Silva Catela 2001; Bonaldi 2006a, 2006b) and on HIJOS La Plata (Cueto Rúa 2008, 2010), scholars concerned with the second generation in Argentina have largely focused on the Escrache (Druliolle 2013; Interviews 2010, 2011). To address this gap, I explore post-transitional justice through an approach that places H.I.J.O.S.' praxis and memory narratives at the centre and analyse the dynamics of activists' empowerment unfolding in the process of shaping truth, memory, and collective identities.

With such a focus, this research contributes to the exploration of the 'presence of absence' (Bille et al. 2010) as the driving force or motivation for agents' political activism and demands in post-transitional justice processes. Given the changed socio-

political and historical context reflected in the theoretical analysis, this thesis explores how the felt continuity of a trans-generational activism, which started in the 1970s and is now renewed by the post-terror, post-transitional generation in the struggle for justice against the ‘genocidaires’ (perpetrators of genocide), transforms and is transformed by structures and agents within specific representations of memory and justice. Looking at transitional and post-transitional justice and the current trials under way all over Argentina since 2005 (Sentencia 2005), I therefore suggest that society went from living in a culture of terror in which fear, ambivalence and uncanny images determine people’s every-day lives (Taussig 1989) to a culture of justice characterized by a feeling of collective belonging to real and imagined blood ties of a new ‘memory community’ or political kin in which the shared feeling of ‘absence’ is the driving force for and empowerment of H.I.J.O.S.’ struggle for justice. With practices of resistance and the powerful discursive representation, genocide emerges as an unexpected expression of the rarely considered productive quality of violence.

H.I.J.O.S. activate post-memories and the political narrative of genocide in a variety of ways. During times of impunity, the association used their subversive street-theatres called *Escrache* as their means to contest dominant memory narratives in a socio-cultural realm. With the reopening of the trials they transformed their space of resistance and now make their memories of trauma and absence visible at the courts and during their witness testimonies. However, research has shown that memories, especially post-memories from the second generation, are more about what we believe happened than what actually took place (Kaiser 2005) and that violent events and the reactions posed to them mutually influence each other (Rosenblum). Exploring the meaning of memories and their representation reveals what the dictatorship meant for

the second generation in Argentina. In this thesis on H.I.J.O.S. and their post-memories of a past depicted as genocide, I provide an insightful ethnographic case example and engage with the curious ways in which the law is harnessed in order to bring this justice project to fruition.

Taking H.I.J.O.S. and the local trials unfolding in Argentina as an ethnographic case study for a more general argument on the possibilities of justice and political agency, this thesis is positioned in the wider field of transitional justice and genocide studies and employs ethno-historical as well as praxeological theory. By acknowledging genocide as the discourse and frame for current accountability practices and memory politics in Argentina, I do not claim to present a full picture of Argentina's socio-cultural and political progress of truth, memory or reconciliation. What is offered is a socio-culturally contextualized and positioned representation of a specific group of current day Argentine actors and the social universe of rehabilitation in the aftermath of mass-violence. Other agents such as the '*ex presos politicos*' (former political prisoners), the children of military officers or the armed forces themselves take on a different position in Argentina's 'multidirectional memory politics' (Jelin & del Pino 2003; Robben 2012). By contrast, the data I represent in all its complexity is mainly derived from human rights groups, pro-trial lawyers, and judges as well as from those victims and their offspring who directly suffered the violence perpetrated by the dictatorship.

Nevertheless, this thesis is not a small case presentation of the organization H.I.J.O.S. or the current trials for human rights violations, but rather should be read as an analysis that – as Carolyn Nordstrom has called it – 'follows the question' (Nordstrom

2004). When I started to investigate the meaning of justice in Argentina, I realized that I am more interested in analysing how agents construct and produce justice in practice than in the outcome of these processes. My question thus evolved from asking ‘What is the meaning of justice?’ to ‘In what way is justice meaningful to my informants and the processes I observe in current-day Argentina?’ How do *hijos* think, how do they practice resistance, get involved in the trials and the struggle for justice and in what way are they reviving their parents names, ideals, and dreams?

Following the question brought me to unexpected places and insights. Amongst them I learned that in order to understand the complex field composed of so many agents and forms of resistance I need to include the international level of human rights and individual accountability, just as my informants and accountability actors do. As scholars have noticed, we would be misguided to treat the ‘international’ level of cosmopolitan law as standing above the local. Cosmopolitan law is not a bottom down structure, but is constantly made and remade by local application (Dembour & Kelly 2007).<sup>6</sup> I therefore argue the Argentine case of retributive justice and memory construction to be understood as an advancement of cosmopolitan law with impact on not only the local but also the global level. With help of cosmopolitan law and universal justice as well as global flows of experiential legal realism by means of global *judicioscapes* in which the new generation revives its parents’ project and establishes its own belonging generated between particularism and universalism.<sup>7</sup>

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<sup>6</sup> The term cosmopolitan law is used by Hirsh, who uses the term to refer to international law concerned with human rights and criminal justice (Hirsh 2003).

<sup>7</sup> I use the term leaning on Appadurai (1996); for more see chapter 4.6.

It is not easy to establish links between personal and collective memories, and between the latter and ‘identity’ and political or social processes (Barahona de Brito et al. 2001:38). While I agree with this statement, my research showed that, far from purely analytical theorizations, members of H.I.J.O.S. attempt to do exactly that: To link memory, agency, and transitional justice by means of active participation and practice. With their distinctly joyful and creative activism that is empowered by (re)constructed ‘memories of memories’ (Kaiser 2005), H.I.J.O.S. rejuvenated the Argentine justice struggle in 1995 and reopened the discussion of identity and group composing of both, *hijos* and their parents’ political agency. The question of belonging, and what it means to express one’s belonging to a group through political activism and memory is therefore central to my research and to the struggle to regain the ‘ownership of justice’ (El-Tom 2012).

### **Engaging with Questions and the Argentine Context**

This thesis is about justice, namely justice in the frame of genocide. And it is about *hijos* – the children of the disappeared, murdered, illegally detained and exiled generation of the 1970s – and their memories, their ideals, their practices and their impact on current ‘politics of memory’ in Argentina. In 1995, *hijos* – the children – established their association H.I.J.O.S. (Children for Identity and Justice, against Oblivion and Silence). In the ‘presence of absence’ that motivates their fight, the post-terror generation has since turned into an important agent of Argentina’s political landscape (Interview Slepoy 2012, Interview Judge 2011), in which the contestation over memory narratives underlies the on-going practices of resistance against trauma, impunity, and forgetting.

*Hijos*, the protagonists of this thesis, are the children of the people who, inspired by the successful Cuban revolution and revolutionary ideologies from around the world, organized themselves in the 1970s in socio-political and armed resistance movements in Argentina. With the country's particular political history of Peronism and its legacy of working class demonstrations, people as varied as students, trade unionists, workers, or social workers of the 1970s all engaged in a struggle that aimed to change society.<sup>8</sup> Best known among the socio-political and revolutionary groups were JP (Juventud Peronista), Montoneros (left-wing Peronist guerrillas) and ERP-PTR (Ejército Revolucionario Popular – Partido Trabajadores Revolucionario).

Violent clashes between guerrilla fighters and paramilitary troops had already started during the latest period of Perón's presidency (1973-74). But the armed power struggle escalated after Juan Perón's death in 1974, when his wife and vice-president Isabel Martínez de Perón succeeded him to power. In the two years that followed, these circumstances prompted Isabel to sign orders – later known as 'annihilation decrees' – to combat 'subversion'. Especially in Tucumán, the so-called 'laboratory of the dictatorship', the military and its paramilitary allies of the Triple A (*Alianza Anticomunista Argentina* – Argentine Anti-Communist Alliance) implemented

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<sup>8</sup> Juan Domingo Perón ruled Argentina from 1945-55 and again from 1973 until his death in 1974. Promoting a 'third position' policy, the populist leader and military general Perón and his wife Evita mobilized the working classes while also supporting the armed forces power. Built on three pillars (social justice, economic independence, and political sovereignty) his government sought a balance between both capitalism and communism. Peronism is also known for its many contradictions and the conflicting sentiments it causes. In the 1970s, 'Peronism' as a movement was read and employed equally by right and left extremists lead to clashes and violent struggles between Peronists on the far political right (like the paramilitary Triple A) and revolutionary guerrilla forces on the extreme political left (Montoneros), who both put up arms in his legacy. With the election of Nestor Kirchner, Peronism or officially called Justicialism (derived from social justice) came back to power (today better known as Kirchnerism).

genocidal practices (such as killing guerrillas and unlawfully detaining people in secret detention camps) in as early as 1975.

In 1976 the coup d'état that installed the Argentine Junta and a terror regime that implemented more than three hundred secret detention centres (CONADEP 2011) occurred. It created widespread fear and uncertainty with the systematic method of disappearing people as the cruel 'art of social control' (Taussig 1992:29-35). The military Junta thereby created a 'culture of terror' (Taussig 1989) that impacted all of Argentine society. Ambiguity made everyone vulnerable to rumours and distrust, and intermingled silence and myth, whereby fear and uncanny images of death and the unknown were spread even among those not affected directly (Taussig 1989:8). Built upon a Manichaeian discourse of cultural difference (Robben 2010b:6) between the 'subversive' enemy and those, who, according to the regime's 'Plan of National Reorganization', fit the category of western and civilized members of the Nation (Feierstein 2009), the Junta determined who belonged to the group of their enemies.

The collective trauma of unresolved crimes of 'disappearing' people has left people with open wounds and the impossibility to properly mourn the dead (Robben 2005). This produced a society in which memories were not left in the past but in which trauma as the result of state terror became an ever present experience that dominates Argentine memory politics and language (Feitlowitz 1998; Suárez-Orozco 1992). Expressed another way, especially for the children of the victims who often were too young to remember either their parents or the violence, the 'presence of absence' is experienced and felt uninterruptedly even 30 years later.



The 20th century is often remembered as the century of mass atrocities. Analysts have since called the past decades the ‘age of apology’ (Gibney, Howard-Hassmann, Coicaud, & Steiner 2008) or the ‘age of trauma’ (Fassin & Rechtman 2009), characterized by a psycho-pathological engagement with victimhood. Fassin and Rechtman (2009) discuss the politicization of victimhood and stress the individual’s scope of action, and the social, political, and cultural respectability of the victims through trauma.<sup>9</sup> And while trauma turned into the concept by which to understand and express suffering, trials and the demand of legal criminal accountability became the space to express the demand for justice, making human rights and cosmopolitan law ‘the fetish of our century’, as Jean and John Comaroff (2012a) put it. Abdullahi El-Tom points out the importance of international judicial responses to genocide and atrocious crimes, which, even though they do not necessarily accomplish trials or actual punishment, generated the growth of a culture that acknowledges crimes against humanity and genocide as morally wrong (El-Tom, personal conversation; 21.3.2014). Equally, Martha Minow pointedly stresses the importance of ‘the invention of new and distinctive legal forms of responses’ to these crimes of genocide and regimes of torture (Minow 1998: 1).

Argentina is a good example for these ‘distinct forms of responses’. With the end of the dictatorship in 1983, Raúl Alfonsín as the newly elected President of the democratic transition made initial transitional justice measures possible, of which two are most memorable: the truth commission CONADEP with its final report ‘Nunca Más’ (2011) and the ‘Argentine Nüremberg’, in which the nine leading Junta

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<sup>9</sup> By that they draw towards them not as passive casualties of suffering but rather as active agents determined by and determining power relations within our contemporary globalized society.

members were brought to court and five were convicted in 1985 (Sentencia 1985).<sup>10</sup> These initial state-led transitional justice efforts that, at the onset of democracy, followed the plea for truth and justice, made quite an impression on the children, as they learned about the power of memory and truth.

But the first phase of transitional justice mechanisms including the CONADEP truth commission and the trial against the Juntas were short-lived. Political instability and military threat of revolt soon restricted juridical justice efforts, by bringing about impunity laws (Ley Punto Final 1986; Ley Obediencia Debida 1987) that drastically restricted judicial proceedings in Argentina. In 1990, with the then elected government of Carlos Menem, collective amnesties closed (nearly) all paths to justice.<sup>11</sup> With perpetrators politically freed from all charges throughout the 1990s and the beginnings of the 2000s prosecutions of those who had murdered, tortured, and ‘disappeared’ Argentine citizens were thus impossible in Argentina. Additionally, Menem’s politics of ‘national reconciliation’ fostered the ‘theory of two demons’ (*la teoría de los dos demonios*), a historical narrative that put guilt for the violence equally on both, the revolutionary forces and the military.

But, human rights activists, survivors, and their kin did not surrender to the politics and laws they deemed illegitimate. The disappeared were still disappeared and the felt ‘absence’ was still felt, sometimes even more than before. Now not only were their beloved ones absent, but also justice, truth, and memory were object of the attempted

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<sup>10</sup> CONADEP: Comisión Nacional sobre la Desaparición de Personas (National Commission on the Disappearance of Persons)

<sup>11</sup> Only those crimes concerning cases of the appropriation of babies were still negotiable under these novel regulations.

annihilation. And so, longing and desire generated from the persistent presence of absence turned into a driving force (Kierkegaard 1987) and indeed spurred a kind of action articulated through the premises of justice. With the use of civic street protest and international law, resistance groups such as the '*Madres*' or '*Familiares*', who had already been active during the dictatorship, kept alive the demand for justice, truth, and memory.

In 1995, five years after amnesty laws had ended the first phase of transitional justice, the children of the victims of the state terror, who had by then grown into young adults, changed their role and officially announced the post-terror generation's association H.I.J.O.S. (Children for Identity and Justice, against Oblivion and Silence). With H.I.J.O.S., the children, many of whom had already participated personally in human rights marches and other acts of remembrance, now came forth not only privately but also publically, identifying themselves as the children of a violated, disappeared, and murdered generation.

For many years the *Madres* (Mothers of the Plaza de Mayo) have been the most prominent accountability actors in Argentina's struggle against oblivion and silence. Their role in the second phase of transitional justice in Argentina is still highly important and the *Madres* are cherished and honoured throughout the country. Their weekly rounds still remind locals as well as foreigners of the unresolved trauma of the 30,000 disappeared. Also they are present at every court meeting and human rights march. But the *Madres* are aging and their strength is weakening and thus they often point out the joy of having passed on the torch to the next generation: 'We can be calm now, because there is this beautiful young generation, who will keep up the

struggle and the memory’ (Taty Almeida, *Madres Linea Fundadora*; cited from documentary at hands of the author).

The beautiful young generation that Taty Almeida talks about is known as the ‘children’ or *hijos*, meaning the children of those murdered, disappeared, assassinated, or forced in to exile by the military forces and its allies. Accordingly, the use of the term *hijos* is a declarational one (the children are by now adults themselves and in many cases have started their own families) and mostly (but not exclusively) refers to members and activists of H.I.J.O.S.

Taking their terminology from Argentina’s kin-based justice structure and reality in human rights and political activism, the new group named its organization H.I.J.O.S. meaning ‘children’ in Spanish. Additionally, however, the word as an abbreviation stands for ‘*Hijos por la Identidad y la Justicia, contra el Olvido y el Silencio*’ (Children for Identity and Justice, against Oblivion and Silence) and thus points to the organization’s central demands of memory, identity, truth, and justice. Thus, similarly to the *Madres* (Mothers) or *Abuelas* (Grandmothers) *de Plaza de Mayo*, they name themselves in Argentine kin-organizational terms whereof the ‘disappeared’ are always at the centre and the key point of reference while displaying their departure from identification with suffering to the announcement of political activism.<sup>12</sup>

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<sup>12</sup> When Argentines use the term *hijos* in a political context they thus refer to the specific generation of those people born to victims of the 1975-83 genocide. Hence, the children (*hijos*) and the mothers (*Madres*) of the disappeared are the same generation as the grandchildren (*nietos*) and grandmothers (*Abuelas*), with the difference that the latter name themselves by their direct relation and the former refer to the generation at the centre. Hence, the ‘children/hijos’ and ‘grandchildren/nietos’ belong to the same generation and today mainly compose of the age group of 35-40.

Unsatisfied with the political and legal situation members of H.I.J.O.S. decided to stand up for their parents and to struggle for justice, truth and memory. In continuity with their parents' ideals and their grandparents' struggle for justice, they inherited a responsibility greater than their individual lives: '*crecimos en su lucha y viven en la nuestra*' (We are born in their struggle and they live in ours) (Slogan H.I.J.O.S.). Initially, the organization was marginalized, their legitimacy questioned, and their activities met with violent resistance by the armed forces. By contrast, in Autumn 2011 they were awarded by Caras y Caretas with the 'Democracy Award for 'Human Rights'', honouring their role as a leading human rights group in Argentina's struggle for justice and memory (H.I.J.O.S. 2011) and their meaning for the continuity of a trans-generational struggle (see chapter 3.7.).

H.I.J.O.S.' struggle for justice and memory is in continuity with former human rights' politics of memory such as that of the *Madres* or *Abuelas*. At the same time, however, it also presents a departure from these earlier strategies by incorporating joy (*alegría*), creativity, and the reconstruction of subjectivity. Contrary to the abstracted figures representing the 30,000 disappeared, members of H.I.J.O.S. recover their parents as individuals with ideals, thoughts, hearts, faces, and bodies. Just as Paula said in her testimony in Tucumán, 'I was very young, so I don't remember consciously, but surely on some level with the body'. Starting from memories that build on the trauma of absence rather than presence of events, the post-terror generation suffers from gaps and denial as much as from embodied experiences of trauma.

As representatives of their parent's ideals and dreams, the absence of the 'disappeared' materialized in the bodies of the children of those whom others had

attempted to put into oblivion. With their presence as a new, joyful and loud group, H.I.J.O.S. thus renewed resistance and claimed: ‘We don’t forgive, we don’t forget, and we don’t reconcile!’. Following their credo and a belief in their work as a trans-generational struggle, they strive for the reconstruction of their parents’ (political) identities, the legal conviction of the perpetrators, the restitution of their abducted brothers and sisters, and a historical narrative that does justice to the memory of the ideals of those murdered in the 1970s.

What followed was action, starting with the *Escrache*. The *Escrache* is a popular, non-judicial form of social condemnation introduced by H.I.J.O.S. in order to ‘make visible’ the perpetrators who lived with impunity all over Argentina. In this practice of street justice and popular ostracizing members of H.I.J.O.S. and other activists go to the house of a perpetrator in order to publically denounce his crimes and out the criminal in his own neighbourhood. The objective is to keep up the demand for juridical punishment for those who continue to live in Argentine society, next to the children and friends of their former victims, exempt of legal prosecution for their crimes. With the transmission of knowledge about and the moral condemnation of the criminal, they also hope to ‘make his home his prison’, as long as impunity prevents the transference to a real prison. This particular form of activism, with its festive character that expresses the children’s specific believe in ‘*alegría*’ (joy) as revenge, is what the children’s organization is best known for today.

But even though the *Escrache* is (or was) one of H.I.J.O.S. central tools of resistance, the variety of activities is much broader. The organization of the children deploys all kinds of justice, memory, and accountability strategies. From school talks and radio

programs to the active support of the work of *Abuelas* in the search of their abducted brothers and sisters, their scope of activities reaches all the way to Spain, where they participate and actively support ‘foreign trials’ in which Argentine perpetrators are indicted under the principle of universal jurisdiction and mobilize the Spanish ‘*nietos*’ (grandchildren) to claim justice and identity after the crimes perpetrated under Franco. Currently (2013) their work concentrates on human rights trials in Argentina that were finally made possible in 2003 when Nestor Kirchner won the national presidential elections (see chapter 5 and 6 for further details).

The coming into being of the Kirchner government brought about a qualitative shift in Argentina’s political landscape and introduced renewed practices of accountability and legal punishment. A new paradigm of human rights and cosmopolitan law superseded initial transitional justice practices and brought about new ways of treating the past. Thus, in this ‘second phase’ of justice, best described as an attempt at ‘post-transitional justice’, trials against the perpetrators were made possible with the annulment of the amnesty laws: Classifying all crimes linked to state-related perpetrators of the 1976-83 military dictatorship as ‘crimes against humanity’ made it possible to put to trial those responsible for the 30,000 disappeared, murdered, unlawfully imprisoned and forced exiled victims of the ‘Dirty War’.

This declared a pathway for hundreds of pending cases to be brought to court and changed the entire judicial landscape and justice practices in Argentina, including H.I.J.O.S.’ own work. Today, members of H.I.J.O.S. take part in the trials as witnesses, prosecutors, and lawyers. They organize public and online transmissions of hearings and renditions, produce flyers and other information material, call people’s

attention to the importance of attending the trials and are never tired of emphasizing their moral standpoint: ‘A court judges them, but we all condemn them’. They go to the hearings, support those who have to testify, and bring papers and pens, to draw and document those historical proceedings that the general audience is not allowed to photograph or film.

With this new stage of justice so appeared a new discursive frame and understanding of the past. This time, the classification of the past is described as genocide, just as Guillermo and Nicolas expressed it. Survivors, lawyers, mothers, fathers, and especially activists from the post-terror generation push for genocide as the new narrative of the past in the multidirectional and multi-authored (Saris & Bartley 2002:18) production of memory. Genocide, they say, was perpetrated against a generation of socially and politically active young revolutionaries who had intended to foster and gain a more equal and economically fair society, but whose goals were prevented by the ‘national reorganization’ and mass annihilation by the armed forces and its supporters. Advocating for a discourse of genocide with its recognition of the involvement of institutions such as the church, the judicial apparatus, and civilian agent groups, these activists fight socially, symbolically, and on a juridical level for the recognition of ‘genocide’ as the most accurate description for the state terror.

But this latest memory narrative is not just another layer of Argentina’s contested representations of the past. The practices of the second generation including their active discursive meaning making in the ‘frame of genocide’ implies a wider transformation of resistance and accountability patterns in Argentina. In this thesis I refrain from judging the legitimacy or ‘correctness’ of understanding and representing



the past as genocide. My goal is instead to show how people arrive at this understanding, how their practices influence and foster genocide as the representation of memories, and how memories are re-made by the understanding of the past as genocide. In so doing I analyse the meaning of such a discourse for the post-terror generation that, with the continuous struggle against impunity, eventually transformed memories and agency itself. Thus, what we see today in the struggle for justice is not only the struggle 'to get these guys into jail', but also a contestation about the ownership' of memory and the recreations of political agency.

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As a country well known for its transitional justice efforts, Argentina has served many scholars as the example par excellence for studies on violence and its aftermath. Not surprisingly, literature on and from Argentina's (in)justice experiences is rich, discussing everything from violence, human rights movements, truth commissions, accountability, trials, reconciliation, and memory. However, the way scholars analysed the Argentine situation of coping with violence and impunity, is largely dependent on the time in which these analyses are being conducted. As a highly dynamic field of inquiry, even a few years make a noticeable difference. Especially the immediate years after the peaceful transition from military to civilian rule after the 1983 election of Raul Alfonsín as the first post de-facto president have been discussed extensively from various angles. Analysts and especially Argentine intellectuals such as Emilio Crenzel (2008), Mark Osiel (1998, 2000), Carlos Santiago Nino (1996) Jaime Malamud Goti (1996), who have been actively involved in or lived through the conflicting, multidirectional production of memory, justice, and truth, have already written about their interpretations of the first phase of justice efforts in Argentina.

The growing body of anthropological texts on transitional justice advanced on the ground studies of (transitional) justice, memory and ‘coming to terms’ with violent pasts. Nevertheless, there are still considerable gaps in need of exploration as few authors have adopted a dynamic approach to memory and its representation as core elements of the later stages of the aftermaths of violent regimes. Firstly, even though memories and the construction of historical narratives have emerged in many texts as important aspects of transitional justice processes, only few authors have dedicated their analysis to theorizing both, memory and justice (see Lessa 2013 for a noteworthy exception) and even fewer have explicitly done so in later or ‘post-transitional’ periods.<sup>13</sup>

Secondly, many authors have pointed out the need for investigations into the long-term effects of violence and asked questions about transitional justice practices twenty or thirty years past the atrocities (Hinton 2010; Khittel & Pospisil 2011). They stress the importance of research that looks not only at the immediate and temporary practices but also at the long-term patterns and unexpected outcomes of these procedures. Nevertheless, the period of ‘post-transitional justice’ in Argentina has only received scant attention within anthropology and actual theories on the topic are still scarce.

Finally, still fewer studies have been generated on post-terror generations, their experiences and their active participation in post-transitional justice, where they often

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<sup>13</sup> Working on the later stages of justice in Argentina and Uruguay, Francesca Lessa declares: ‘transitional justice and memory have so far been treated separately even though they are intimately related topics’ (Lessa 2013).

take on a decisive role. Addressing questions of (collective) identity and belonging of the second generation in Argentina points to the importance of a holistic approach to practices of justice, in which research that goes beyond sketchy explanations of motivations, activities, and goals reveals the ‘presence of absence’ as a central component for both, the construction of memories and agent’s mobilization of human rights.

For my approach I therefore separate justice understood as adjudication, legal prosecutions and jurisprudence, from the meaning of justice understood as, ‘a signifier with more discursive resonance than meaning’ (Clarke & Goodale 2009). The constant demand for justice is more than simply a call for legal accountability. If thoroughly analysed, the demand for justice is a meaningful discursive tool to express the power that stems from absence.

Empowered by the ‘presence of absence’ that is invigorated through longing, absence expressed as justice thus became a motor and micro-resource for action. This helps understand how a common understanding of justice resonates in the collective political subjectivity, which allows for the on-going struggle essential to the improvements made until today. Whether local, international, or universal human rights tools, cosmopolitan law or non-legal practices of resistance are employed depends on the context. But the continuity of agents’ struggle based on the collectively shared, trans-generational idea of justice as a meaningful signifier is necessary and essential for the achievements made in the struggle against impunity.

Connected with this later stage of justice is also the need to engage with the long-term effects of violence on memory, trauma and political subjectivities. Research with Holocaust survivors and their testimonies has provided some understanding for the impact traumatic events have on memory, which often by the severity of the original experience does not allow for survivors to integrate it as yet another memory. Furthermore, it is understood that memories are not static and unchanging but unreliable and fragile. Present political and socio-cultural circumstances, subject's aims, as well as official historical narratives and evidence always influence the recollection of past events. Built on the work of Dominick La Capra, Sanford clearly explains the wrongfulness of investigating the 'truth' or 'correctness' of memories or to look for 'errors' in memory (Sanford 2009). When looking at memories and their meaning, Sanford suggests, it is less central to discuss the authenticity (Fillitz & Saris 2012) of the recollected event. Rather one needs to understand the legitimacy of narratives as representations of historical frames, patterns, and breakages (La Capra, cited in Sanford 2009).

Research with and on post-terror generations and the question of memory, however, requires an additional layer. The generation born in the 70s or even 80s of the 20th century had to construct memory from transmitted memories and trauma. This transmission does not necessarily have to happen verbally, but is also an embodied act (Kidron 2009) of everyday life. In *hijos* particular case, many people from the second generation however grew up in the 'absence' of their parents, implying that their experiences and the construction of memory is conceived in a different way. Bringing together knowledge from stories told by survivors, family members, and human rights organization, books, official state-generated historical narratives, and their own

unconscious embodied experiences, they turn the creation of memory and trauma into a ‘process of creation of meaning’ (Portelli, cited in Kaiser 2005: 10). So understood, I comply with an analysis of *hijos* constructed, collective memories as the ‘micro-resources’ of mobilization for political action (Rosenblum 2002:6) which are at the centre of the development of a culture of justice in Argentina today.

Hence, we need to ask about the way in which this is done in practice in order to understand the wider implication of the productivity of repression for collective identity and belonging. In exploring new memory narratives and the discourse of genocide, which, as a contested space, frames current efforts for truth, justice and memory in Argentina, I argue that we need to pay attention to concrete practices that allow for transformations of political subjectivities that constitute the centre of the ‘ownership of justice’ in Argentina.

### **Personal Frame of Reference**

It is not an accident that I developed interest in the children of the disappeared and the long-term effect of genocide for their generation, their unconscious and conscious decisions and actions. Anthropologists have widely discussed the importance of one’s own presence in the field. Discussions within the anthropological discipline, in which ‘the researcher is his or her first tool to filter information during the process of data collection’ (DeWalt & DeWalt 2011) left current anthropologists with the certainty of being an integral part of our research. The anthropologist’s own background, scholarly education, gender, sex, ethnic and national belonging influence the way he/she interacts with informants and even influences the decisions with whom she can or will interact. In my case, my national background and previous work with Jewish

Holocaust Survivors and Austrian Resistance Fighters, of which I was asked often in the field and openly tried to answer, also influenced (and mostly aided) my relations with my informants. Contrariwise, this background certainly directed my ‘anthropological gaze’ – the way I see, collect, filter, and analyse my data. Hence, there are emic and etic reasons to why the focus of this thesis coincides in the three analytical areas of genocide, the second generation, and the topic of memory, justice, and identity. Given the aforementioned, I feel the need to reflect upon and shortly introduce myself in this written representation before I aim for any theoretical interpretations.

As an Austrian anthropologist I grew up in country that has to cope with the legacy of genocide. For a long time, official politics portrayed Austria as the first ‘victim’ of the National Socialist regime, whereby official politics of denial and silence made truth, rehabilitation, and memory all the more difficult. The second generation hardly knew and barely dared to ask. It is more within the third and sometimes only the fourth generation that family histories are recovered and discussed. No different in my own family. Before I started my PhD I was fortunate to have been working for two years with ‘A Letter to the Stars’, a socio-historical organization that aims to bring history to life and to allow the younger generations to learn about the past not as an abstract complex of numbers but as intimate and personalized stories and experiences. In our projects I got to know many Austrian Jewish Holocaust child survivors. I was especially struck by something that Lisa, an Austrian Argentinean friend of mine, had said to me: ‘Memories are like gnomes. It is important to live with them, not for them’.

When I started my PhD studies at Maynooth, my intention was to work with Austrian Argentinean Holocaust survivors. But the more I read about Jewish Argentina and anti-Semitic practices of the civil-military dictatorship between 1976 and 1983 the more I became aware of literature on the Argentine genocide in general. Thus, with a growing pool of information on comparative studies and the current trials for crimes against humanity, I also encountered the regular presence of H.I.J.O.S. as active participants in these processes. And so my interest in the post-terror generation grew, especially as I was thinking about my home country and my own generation of Austrians that also has to cope with the legacy of the Holocaust. Thinking about genocide, history, identity and trauma, and Lisa's reflection on memories, I started to wonder: What if memories of the past are not your own, if you don't remember actively, but your body does? What if instead of 'indigestible' memories one feels the memory of 'absence'? Wondering about the long-term impact of mass violence I increasingly altered my research focus and, in 2010, when I went to Buenos Aires, I first got to know H.I.J.O.S. and made my passage into the present research.

### **Rite de Passage**

March 2010. I had just arrived in Buenos Aires two weeks earlier, still not quite sure about the social universe and correspondent people I was about to investigate and work with. Having set my mind on the topic of justice and the local trials as anchor points by which to explore the notion and its meaning in current day Argentina, it seemed to me that the federal criminal court was a suitable space and location to get me started. Hence, I made it a daily routine to go to the Buenos Aires court 'Comodoro Py 2002', where at that time four major trials for crimes against humanity connected with the last military dictatorship took place. And it was there

that I hoped to find a way of entering the dynamics of the negotiation of justice about Argentina's past.

Only about two weeks into my fieldwork I was still unfamiliar with the proceedings and relatively shy, not knowing whom I could talk to and whom best to approach. This was when I first met Camilo. After a long morning in which I had listened to two testimonies of survivors of the Vesubio concentration camp, I was tired and sad, overwhelmed by the sheer intensity of the recollection of witnesses' descriptions of their experiences of disappearance, torture, and psychological trauma. So when we all left for lunch break I took a break outside the auditorium, lit a cigarette and tried to calm myself a little bit.

That was when I saw a group of young adults, about 30 to 40 years old, standing together, laughing, and seemingly very friendly with each other. I decided to approach them and to ask who they were. 'We are H.I.J.O.S.' was the reply that brightened up my day. I had heard and read about the group, but it was this accidental occasion that had me connect. I started talking to Camilo, who told me about another hearing that afternoon in the ABO trial in which one of their friends, a '*compañero*' (companion), another '*militante*' (activist) of H.I.J.O.S. would give his testimony. He made it clear that this was the reason they all were at the court. 'We are here to support him!' And indeed there were to my estimation nearly 30 members of H.I.J.O.S. who came to participate in Ricardo's testimony.

As there was still some time left, Camilo accompanied me to the accreditation for the hearing, telling me about his own life. Both of his parents were made disappeared



when he was a small boy, he told me, and so he grew up with his grandmother and his two brothers. He is a musician, and the father of a small girl, living in Buenos Aires. ‘H.I.J.O.S. was so important to me, they are my family. And even if life sometimes takes me to other places and I have to do other things, they are my home’ (Interview Camilo 2010). After wandering the halls of the courthouse we finally arrived in the top floor, in the cafeteria to meet ‘the others’. It was a wonderful moment, as I was immediately integrated, briefly welcomed and introduced, which was followed by being treated as an integral, but also somehow invisible part of the group. We ate our lunch, me all of a sudden in the middle of 20 *hijos* of the disappeared who were loud, brash, sarcastic, funny, and direct. They shared their plates of food, drank my water, hugged each other and talked about the ‘*mierda y rata genocidas*’ (shitty and rat-like perpetrators of genocide) while at the tables next to us sat the advocates and lawyers of the defence. I was struck by the intensity of their words and the confusing openness in which they discussed the cases and the people involved. While I still struggled locating the different trials, their historical connections and the huge variety of perpetrators, victims, and ‘accomplices’, I realized that these young Argentineans had processed their traumatic memories for years and that the trials, of which I knew so little, had become a daily routine to them. So even though I understood less than half of ‘the common knowledge’ that they were taking for granted I was thrilled by the dynamic and naturalness in which this young crowd kept discussing the topic that I was interested in. And, strangely, I felt a certain belonging.

After this initial day, I understood that it was from their perspective, from my generation’s perspective, that I wanted to investigate the aftermath of the Argentine dictatorship, state terror, genocide, or whatever name one would like to assign to the

period of violence under the military Junta from 1976-83. That particular day when I got to know H.I.J.O.S. at the court of Buenos Aires brought together my lines of interest and my reflections on my own past in an anthropological project. I felt that it is in the second (or even third) generation that one can read the workings of history while at the same time exploring its creation from the present moment. I wanted to explore their perspective on the past and unpack the impact violence had on their lives, just as I had needed to learn about the impact the Holocaust and National Socialism had had on mine.

And even though the work with H.I.J.O.S. and my consequent research was not always as easy and open as this first day and meeting might indicate, I still owe my abiding interest to that initial meeting and intense feeling of knowing that we share a common belonging. While our experiences are determined by different cultural and historical circumstances and contexts, I did not research ‘the other’, but essentially I researched a common ‘we’ that lives out different practices according to differences of cultural, social, political, and even legal contexts. But fundamentally we come together in a universal human condition, no matter where or on which side of the ocean.

### **Methodological Premises**

In 1922 Bronislaw Malinowski published an outline of the requirements of good ethnographic fieldwork explaining that ‘it will be well to give a description of the methods used in the collecting of the ethnographic material’ (Malinowski 2002:2). My ‘ethnographic toolkit’ included long-term participant observation, a good command of ‘the native’s language’, recorded interviews, and a culturally contextualized and

holistic analysis of the phenomena I set out to understand. Fieldwork and analysis of the embedded everyday life-worlds of our informants are at the heart of the anthropological endeavour, but the methodologies used (just as the topics researched by anthropologists) have taken on many variations. By the 1990s, with the post-modern and feminist critique in anthropology (Clifford & Marcus 1986) and the introduction of multi-sited ethnography as a method (Marcus 1995), more and more studies on global connections emerged. These showed that an interconnected world often requires people, material culture, or political and legal processes as the site of investigation, making fieldwork thereby ever less dependent on a physical space or geographic area (Gupta & Ferguson 1992, Appadurai 1996, Hannerz 1996, a.o.).

This study is based on a variety of sources from three years of research and nine months of fieldwork in Argentina and in Spain (Madrid) between 2010 and 2012. As a legal anthropologist, working on violence and trauma during and in the aftermaths of mass atrocities, war, and state terror, I was and still am contemplating the best ways to research transitional justice efforts.

Observing a moving, changing, social field, with multiple influences touching on it, and trying to make judgements about causality, about meanings, is a difficult affair. [...] And formal law, a very self-conscious, self-defining field of activity, is chock full of explanations of itself. Anthropology asks, 'How literally should such knowledge claims be taken?' (Moore 2005:3ff.)

For this project, I take Nordstrom's (2005) suggestion as my vantage point and I decided to 'follow my question' and to collect the necessary data for an understanding of the phenomena I intended to analyse. For my research I have worked primarily with the second generation and its organization H.I.J.O.S. (both in Argentina and in Spain) as well as with lawyers, judges, journalists, children of police and military men, *Madres*, *Abuelas*, survivors and former political prisoners, as well as members of

many other organizations, who make up the social universe of justice agents in Argentina. In so doing, I have followed in practice the globalized realities of cosmopolitan law and memory narratives in post terror Argentina. I thus focused on local as well as international spheres of law and human rights and the everyday experiences of people making it useful to their demands.

Research included participant observation at trials and demonstration marches in two cities in Argentina (San Miguel de Tucumán and Buenos Aires), meetings and assemblies of H.I.J.O.S., memorial sites and other commemorative events. Ethno-historical data was gathered in archives and interviews and personal talks with informants brought me to their homes and other meaningful surroundings, where not only their words but also material culture opened up a window to their worlds and experience. Additionally, Internet research, email and Skype conversations, as well as online participant observation on court decisions and their online transmission completed the empirical data collection. The great variety of sources and methodologies used allowed for the constant evaluation and refinement of the data as well as its theoretical and empirical balancing and validation.

The data collected during fieldwork and participant observation is preserved in hand written and computer typed field diaries and includes numerous informal talks and observations during human rights meetings and protest marches, observations at court, on the streets and at private and human rights meetings, and self-reflection on my role, interactions, and feelings as an anthropologist. Additionally, I conducted 56 recorded interviews (diverging in length, from 45 minutes up to two and a half hours), and three recorded discussions with focus groups. Furthermore, I (video)taped three

pronouncements of judgements, two of them in front of the courthouse, where a stage was built for the crowd to participate in and listen to their delivery, and one inside the auditorium. During my fieldwork in a Northern Province of Argentina, I was granted permission to record the entire hearing of a trial over the course of seven weeks, from its opening session to the verdict, including all witness testimonies, the readings of the indictments, final speeches of the prosecuted, and the pleadings of both sides of the trial.

Members of the association H.I.J.O.S. provided me with a lot of unpublished material – original flyers, posters, and letters from a variety of ‘Escraches’ they practiced in since 1996. To look at that material and to work through texts, pictures and other visual remains from that time with my informants was specifically productive and elicited many personal stories and memories from the time. H.I.J.O.S. does not have a central archive of its material data. Consequently I collected and read through the organization’s material, including artefacts from the Escrache, copies of the journal ‘HIJOS’, and exemplars from H.I.J.O.S.’ internal newspaper ‘*Ombigo*’ (bellybutton) in members’ private homes.

I conducted archival work and research in the National Library of Buenos Aires, the Library of Congress, the University of the Madres de Plaza de Mayo, at Abuelas and in the house of *Familiares*. This helped round up the information on H.I.J.O.S. and the Escrache, historical texts and newspaper articles on and by the civil-military dictatorship. Due to my first education as a photographer, I also included visual tools into my research methods, taking photographs and small videos at protest marches, the courts and to map spaces.

In one instance, taking pictures at court elicited a rush of uncanny emotions if not to say fear that gave me a glimpse of how survivors and victims must feel when giving testimony at court while looking into the eyes of their or their parent's torturers. In spring of 2011, when the trial 'Robo de Bebés' had its opening session, I was allowed to take pictures of the perpetrators including Jorge Rafael Videla, Reynaldo Bignone, and Jorge Acosta. But after I took the first snaps of the rows that seated the accused, I arrived at Videla. Looking through my lens into his eyes and taking his portrait, I started trembling with knowledge about his criminal past. Left with shaking hands, this moment effectively ended my visual documentation. After just three minutes we were asked to leave the courtroom again. But even outside I still felt my stomach revolting in cramps. This experience provided an empathetic insight into how survivors and their kin must feel when being asked for their testimony in front of their former tormentors or the murderers of their relatives.

In addition to multi-sited and comparative methodologies during fieldwork I also analysed digital and visual methods for my research. One of the aims of the association H.I.J.O.S. (and other actors and institutions from the culture of justice in Argentina) is to make visible and available the data and knowledge produced in trials and during their struggle against impunity. With subdivisions all over the country and abroad, the association makes use of the Internet to get their message out and known not only locally but also internationally. Using twitter, Facebook, blogs and their own websites as well as online transmissions of judgements, radio-programs, and Escraches, the world wide web became yet another field-site for my study. So at times when I was not physically present in Argentina, I regularly conducted online 'participation' at trials, and researched twitter and blog-entries, Facebook

conversations about reactions to and developments of certain events, listened to the weekly radio-program of H.I.J.O.S., and exchanged emails. One example shall illustrate this form of ‘anthropology at a distance’:

Five months after my return from the field, on 26 October 2011, at 17:00, the verdict of the ESMA trial was finally delivered. Because of the former concentration camp’s renown status in Argentina the judgement was highly important and long awaited. Additionally it was important for my research as I had listened to testimonies given by members of H.I.J.O.S. in the AMIA courtroom during my fieldwork in 2010 and again in 2011, and the case of one of my closest informants, whose father was kidnapped, tortured and killed in the ESMA, was part of the charges in the trial.

When I was informed about the event by my friends and informants in Argentina, I prepared myself for some online ‘fieldwork 2011’. In the days leading up to the trial, I prepared myself. I talked to my informants, wrote to them, wishing them good luck, strength and asking them about their feelings and thoughts in the final days before the verdict. Then I sat down in my flat in Vienna, prepared tea, and turned on my computer. Shortly thereafter I was connected with the live streaming of the trial’s transmission on the webpage, which was announced by H.I.J.O.S.. From the start of the transmission, I spend six hours on the Internet, participating in the delivery of the verdict (for an analysis of the judgement and its impact see chapter 6).

And while the content of the judgement would have been available to me post its announcement, my distant but direct participation allowed me to observe the procedure, tensions and reactions of those who had waited for this moment for

decades. About an hour before the official beginning of the court session, H.I.J.O.S. and Madres as well as other human rights groups came together in front of the courthouse. It was exciting to see all the usual action (and also some diverging one's), which so clearly reminded of former preparations before judgements. From my home in Europe I thus saw them build up their stage, the flat screen, and their posters resembling the same patterns that I had observed at other times in Argentina. I saw many of my informants and started writing short messages to their mobile phones. Thus for six hours I was able to see and feel this important moment in real time and – even more – shared these experiences first hand with my informants by means of digital media.

At the time of my fieldwork the chapters of H.I.J.O.S. with whom I worked did not perform an Escrache. The practice by the time (in 2010/11 and 2012 respectively) was marginalized in favour of activists' participation in the trials. To explore H.I.J.O.S.' specific act of street justice anthropologically, I followed my 'ethnographic imagination' in combination with 'multi-sited research, extensive interviews, and cross-cultural comparison' (Robben 2010a:5), whereby cultural comparison is understood as 'controlled macro-comparison of distant case studies' (Gingrich 2002). As such, the apparent 'old' approach to anthropology at a distance introduces a new layer to the methodological toolkit. The project at hand can therefore be carried out through the anthropologist's 'ethnographic imagination', his/her own field-experience from other places (or comparative action) and the fact of 'having been there' (in a comparable place). Thus tracing similarities can make a valuable contribution.



With regards to the aforementioned, I did participant observation in various protests and spaces such as organized or spontaneous events in front of courts houses that resemble the idea, feeling and aesthetics of the Escrache. Additionally, video-documentation, online-Escraches on the Internet and discussions of legitimacy of the practice as evoked by the school curriculum debate as well as related practices by e.g. HIJOS La Plata or *piqueteros* (protestors who block roads as means of their protest), have provided me with a good sense of the event.<sup>14</sup> Furthermore, personal interviews, memories of my informants, group-discussions, and the analysis of original material, flyers, photographs, and video-recordings from specific Escraches form the basis of the data used in chapter 3.

The topics in this thesis are politically and emotionally as well as legally sensitive issues. Embedded in this thesis is thus a consideration of the ethics of conducting particular kinds of research. There is a voluminous amount written on the subject of ethics in anthropological research. For the most part, I assume an ethical stance of standing with many of my informants while constructing a sense of anthropological research as a form of witness (Veena Das 2003). The ways in which anthropology as a moral project or form of witnessing can lead to social action has been widely interrogated (see Pat Caplan 2003, Farmer 2004). Anthropology, however, characterized in such a fashion becomes restricted in what it can achieve. Assuming an ethical stance in any project can be limited and limiting, often impeded by questions of justice, morality, and above all else power. Taking a cue from Dominick La Capra, I argue for ‘empathic unsettlement’ a form of understanding which,

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<sup>14</sup> HIJOS La Plata is one of the groups of HIJOS ‘*sin puntitos*’ (without dots), representing those associations of children that, mainly for political reasons, do not belong to the national network of H.I.J.O.S. (for a detailed discussion of H.I.J.O.S. and HIJOS la Plata see Chapter 3.5.1.).

‘stylistically upsets the narrative voice and counteracts harmonizing narration or unqualified objectification yet allows for a tense interplay between critical, necessary objectifying reconstruction and affective response to the voices of the victims’ (2001:223).

Throughout the document I use ‘interview’ to refer to talks, personal conversations, interviews, and recorded interviews conducted personally during fieldwork. My research participants have explicitly given informed consent in their contributions to this thesis and so appear therein with their real names. However, given that our daily encounters certainly produced a kind of ordinariness of my presence in my informants lives that established trust and friendships, it is my ethical obligation to consider the potential delicateness of some of our conversations. Thus, in specific instances and to protect my research partners from potential harm, I decided to anonymize two people’s identities and to de-subjectify some critical voices with regard to specific topics.

### **Central Aim and Chapter Outline**

In this thesis I present a detailed ethnography of the three interrelated themes H.I.J.O.S., genocide, and post-transitional justice brought to light through a strong emphasis on practice and creation for both social and personal memories. My main theoretical approach is based on a theory of absence conceptualized as the ‘presence of absence’, which serves as a driving force in the struggle for justice and a representation of past crimes as a case of genocide. In the process I analyze the productive rather than repressive forces of violence and genocide that brought to life a new group of political ‘gens’ in the aftermath of Argentina’s civil-military

dictatorship. Furthermore, by engaging with the legal rather than solely the socio-political concept of genocide I demonstrate ‘frictions’ that appear in the localization of universal human rights terms like justice and genocide. This thesis thus moves beyond and questions or even subverts scholarly frames like ‘transitional justice’ or genocide studies, even if the relative success of these terms internationally provides a certain lure to normalize their study.

The narrative structure of this thesis follows a conceptual rather than a chronological ordering system. Starting with the theoretical frame and historical context (chapter 1 + 2), I guide the reader to chapter 3, that presents the main protagonists of the thesis. After that, chapters 4 to 6 discuss concrete practices of justice and resistance and the impact of genocide unfolding in Argentina since 1995. Thereby I exemplify the processes in which the symbolically meaningful discourse of justice is enacted, practiced, and realized. Given the heterogeneity of the practices’ contexts – the *Escrache* as a distinctly local, street-based and non-legal condemnation of impunity and the Argentine trials as a legal locus for the construction and manifestation of history, justice, and belonging – each of the chapters highlights distinct arguments and aspects of Argentina’s struggle for justice at work. I conclude by bringing back together those different but complementary spheres in the argument that for *hijos* the feeling of absence expressed in justice is the driving force for action that allows them to (re)structure contested memories and belonging.

## **Chapter 1: Voices of Justice and Memory in Post-Transitional Argentina**

*Chapter One* positions my research questions in existing debates on transitional justice and the anthropology of violence, memory, and human rights. As the

theoretical background I present philosophical and empirical approaches to ‘absence’ and ‘justice’ per se and, leaning on my own data, argue my specific use of the terms. The chapter also and briefly examines the topic of genocide (which is explored in more detail in chapter 5). Furthermore, it provides the conceptual framework of this thesis by discussing the concept of (post) transitional justice and my theoretical approach to memory, agency and representation, an exercise that allows for embedded understandings of the terminology. The exploration of existing research gaps clarifies the contribution this thesis makes to the wider field of legal anthropology and violence and conflict studies.

## **Chapter 2: Argentina. A brief History of Violence and Justice**

This research and the experiences of my interview partners are connected with a terror regime that ended 30 years ago. *Chapter Two* therefore provides reflections on earlier historical and judicial events as the ethno-historical context and anchor point for Argentina’s experience with violence, justice, and impunity. It specifically focuses on (il)legitimate juridical practices and judicial efforts and as a historical overview points to the mutual connections between local and global realms as well as the importance of changing memory narratives that, constructed by judicial and governmental structures and human rights agents, will be the topics discussed throughout this thesis. Specifically, it focuses on the time post 1995, in which emerged H.I.J.O.S. as a novel organization to participate in Argentina’s on-going but contested politics of memory.

## **Chapter 3: ‘We are Born in their Struggle and they Live in Ours’**

Acquainted with the cultural and historical context, *Chapter Three* then introduces the main protagonists of this thesis. Starting from individual life-stories, I explore the

coming into being of the post-terror generation's organization H.I.J.O.S. and its members' experiences with the association and its meaning. Then I attend to the organization's objectives, structure, and activities in some detail and present exemplary regional sub-groups. Finally, I argue that H.I.J.O.S. collective recovery of 'memories of memories' and their discussion of 'the population' were crucial for *hijos*' feeling of belonging to an affective kin-group. With their practices and persistent reconstruction of their parents' ideals, members of the second generation thereby impact their own political subjectivities as well as Argentina's post-transitional justice process as a whole.

#### **Chapter 4: 'Si no hay Justicia, hay Escrache!'**

*Chapter Four* examines the Escrache, H.I.J.O.S.' practice of making visible and socially condemning the murderers, *genocidas* (perpetrators of genocide), and other collaborators of the last military dictatorship at the onset of post-transitional justice efforts in Argentina. I discuss the emergence of the Escrache, its changing character, and diverse appearances. With various detailed case-examples I exemplify how the Escrache developed further the second generation's aim for visibility and 'presence'. Then follow comparisons made between the Escrache and the marking of Jewish houses during World War II. Exemplified by the debate, I explore the legitimacy of H.I.J.O.S.' street theatre. An additional section then takes a detour to the global level and interrogates the Escrache as an expression of global *judicioscapes*. Finally I argue for an understanding of the Escrache as a symbolic practice and representation of the 'presence of absence' that brings to life a trans-generational continuity of the struggle for justice this time in the narrative of genocide.

## **Chapter 5: The Politics of Genocide. Representing the Past, Creating a Future**

*Chapter Five* explores ‘genocide’ as the latest memory narrative in Argentina’s multi-directional and multi-authored politics of the past. Genocide is a polyvalent concept with impact on the social and legal proceedings as well as the exemplification of the work of post-memories. For the sake of clarity and given the complex of interrelated issues at stake I split the chapter into two parts. Part one (Thinking through/with Genocide) analyses how genocide became part of Argentina’s inventory and how it transformed from being a marginalized discourse into one of Argentina’s dominant memory narratives. Additionally, this part attends to the nascent historical narrative and its comparisons with the European Holocaust.

The second part (Political Practice) explores the ways in which Argentina’s nascent genocide narrative is activated for and subverted by the legal struggle in practice. Unpacking H.I.J.O.S.’ active participation in the process, it exemplifies the productivity of absence and violence and analyses the meaning and impact of the novel genocide discourse. I thus argue that the new discourse and representation of memories transforms local trials and the legal recognition of genocide and how the activation of memories in combination with a ‘vernacularization’ of international documents subverts prevailing genocide studies and even legal conceptualizations. In so doing, I argue that H.I.J.O.S.’ active participation in the (re)construction of the past as genocide provides social capital for the post-terror generation and enhances their own belonging to the memory community of justice.

## **Chapter 6: Taking Justice to Court. Performance and Contestation in Determining Guilt**

*Chapter Six* analyses contemporary post-transitional legal proceedings by means of the Romero Niklison case as a concrete case example from Tucumán. Through a detailed depiction of the hearings and H.I.J.O.S.' role in the trials in all their contradictions, I explore the impact and effects the trials have on the second generation and show how truth, memory, and belonging are created in practice. I argue that current Argentine trials for crimes against humanity exceed retributive justice and instead turn into a space, in which absence transforms into presence and ambiguities are replaced by certainty. Thus, the 'culture of terror' turns into a 'culture of justice' that brings healing to parts of the Argentine society and turns victims into active agents of their own collective political subjectivity.

### **Conclusion: 'They can Carry Away the Most Beautiful Flowers...'**

Having completed my analysis of various justice practices in Argentina, I summarize my main arguments in the concluding chapter. Additionally, I suggest some interesting questions that have opened up during my research. With an outlook on these I propose potential follow up research that appears worth exploring from this research.

# **Chapter 1: Voices of Justice and Memory in**

## **Post-Transitional Argentina**

In 1998 the Escrache met Videla for the first time. He was free and unworriedly walked the streets of the Belgrano quarter. In that moment, Astiz said that he was trained to kill and Patti was the candidate for Governor of the province of Buenos Aires. The impossible only takes a little longer: today all three of them are sentenced to life imprisonment. (Pisoni 2012)

### **Introduction**

This thesis is situated within the later stages of transitional justice efforts in Argentina 30 years after the civil-military dictatorship or ‘Argentine genocide’. The topics treated oscillate between absence and presence and the connected issues of memory, truth, justice, and identity that come to light in various contested legal and non-legal practices of resistance and discursive representations of the past. With my research on Argentina’s post-terror generation and its organization H.I.J.O.S., I look at the ways in which agents develop ‘ownership’ of justice and historical narratives in practice and how the nascent frame of genocide influences the second generation’s feelings of identity and belonging. Thus, leaning on Foucault, this dissertation attends to the productive (albeit unexpected) creative quality of violence, trauma, and absence that generates new social ontologies in the second generation. Hence, developing my case study as an ethnography of post-transitional justice, I problematize human rights and memory as enacted, experienced, and developed in discourse and practice by those affected by state terror.

This chapter situates my theoretical approach within the wider academic literature on violence, memory, transitional and post-transitional justice. By identifying existing



research gaps, the literature review clarifies the contribution this thesis makes to the anthropology of violence and justice and to an understanding of contested politics of memory in contemporary Argentina. I start by discussing transitional justice mechanisms and address some major debates and lessons learned from them. With a focus on memory, truth, and representation I carve out the importance of narratives of the political subject in the later stages of justice. Then I present the concept of the 'presence of absence' and examine the meaning of justice and absence in empirical research. With this locally embedded but also internationally connected research on justice this thesis thus progresses further the conceptual frame of post-transitional justice still little developed in social sciences.

Lastly, the theoretical framework engages with the topic of memories and violence (especially focusing on post-memories of the second generation) that is governed by conceptualizations of 'absence', 'presence', 'representation', and 'justice' as central terms to the subject treated in this thesis. I conceptualize a discursive approach to H.I.J.O.S.' post-memories and, by taking my cue from Michel Foucault, established my understanding of repression as a productive rather than repressive forces. A brief introduction to the legal term and crucial aspects of genocide, a concept at the centre of contested memory narratives and political as well as legal politics in Argentina, rounds up the intellectual and conceptual toolkit operational in this ethnography.

### **Transitional Justice: A Concept and its Process**

Transitional justice refers to a field of activity and inquiry focused on how societies address legacies of past human rights abuses, mass atrocity, or other forms of severe social trauma, including genocide or civil war, in order to build a more democratic, just, or peaceful future. (Bickford 2004: 1045)

Working on justice is a difficult task, especially when more often what we observe is injustice rather than justice itself. After periods of mass atrocities, war or genocidal violence, human societies always engage in some form of ‘coming to terms’ with the past in which individuals, governments, and social groups tackle these past atrocities, rebuild society, and punish those responsible for gross human rights violations. When in 1983 a civilian government finally replaced the military Junta in Argentina in the first democratic elections since 1973, human rights organizations, survivors, and the new government equally occupied themselves with the long process of and struggle for truth, memory, and justice.

A variety of definitions exist for this process that today is known as ‘transitional justice’ (for example ICTJ 2009). According to the 2004 UN Secretary General Kofi Annan Report ‘The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies’ transitional justice is explicitly placed in the context of peace and state building and comprises of ‘the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice, and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth seeking, institutional reform, vetting and dismissal, or a combination thereof’ (UNSG 2004:4).

Some authors date ‘transitional justice’ to as far back as ancient Greece (Elster 2004) or look at World War II, in which the ‘principle of individual responsibility’ was generated as the concept’s key background during the Nuremberg Trials against the

leading figures of the National Socialist Regime (Teitel 2002:226). But Paige Arthur, deputy director of research at the International Center for Transitional Justice, opposes the use of the term ‘transitional justice’ for these instances by pointing to the anachronism between the way in which scholars read for example the Nuremberg Trials from a present perspective and how agents involved at the time understood the trials and their justice efforts (Arthur 2009:328). Today, most scholars agree that ‘transitional justice’ as a subject of policy and field of academic study developed from comparative peace processes in the late 1980s and 1990s that many countries especially in Latin America and Eastern Europe underwent in these decades as a consequence of the collapse of the Cold War scenario and the transitions from authoritarian rule to democratic governments (Arthur 2009; Lessa 2013:10; Roht-Arriaza & Mariezcurrena 2006).

Argentina with its famous National Commission on the Disappearance of Persons (CONADEP) and the ‘Trial against the Juntas’ is one – if not the best known – example of that emerging field. Many questions arose in those times and included, amongst others, questions on how to address past crimes committed by states and state affiliated agents and institutions of those past violent regimes. A turn away from ‘naming and shaming’ towards accountability for past abuses urged lawyers, governmental agents, and an active civil society to employ new strategies to address those issues. So defined, transitional justice has since been described as the totality of processes and instruments by which societies ‘reckon with former (violent) regimes’ (Kritz 2004).<sup>15</sup>

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<sup>15</sup> At the same time, while practitioners were faced with on the ground realities, political scientists and legal scholars were the first to engage theoretically with the topic. Important early academic

Characterized by four measures in need of addressing during times of governmental transformation, transitional justice processes include punishment of the perpetrators, inquiries into the past (truth finding), reparations, and institutional transformations (including vetting) (Huyse & Salter 2008). Mechanisms employed in the process thus comprise of a set of judicial and non-judicial measures, including truth commissions, symbolic and financial reparations for the victims, exhumations, disarming of perpetrators, legal accountability (of national, international and universal character), institutional reforms, etc. (Bloomfield, Barnes, & Huyse 2005; Martín 2010). This conglomerate of mechanisms works in ‘response to systematic or widespread violations of human rights. It seeks recognition for victims and to promote possibilities for peace, reconciliation, and democracy. Transitional justice is not a special form of justice but justice adapted to societies ‘transforming themselves after a period of pervasive human rights abuse’ (Bickford 2004; cited in Martín 2010:4).

Thus viewed, the ‘politics of recognition’ (Taylor 1994, Povinelli 2002) are expected to bring closure and reconciliation and intend to re-anchor enmities and suffering in the past while at the same time keeping alive the memory of atrocities and terror in order for them never to be repeated again. However, this aspiration of the effects of transitional justice is based on universals rather than particularities of culturally embedded and historically situated experiences of specific groups or individuals and engages little with (or reflects upon) the second and third generation’s hopes and objectives. Anthropological experiences with on the ground realities during the aftermaths of violence have however shown that ‘the local’ just as different cultural,

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publications of their respective disciplines such as the work of Neil Kritz (2004) or Ruti Teitel (2002) that were generated in that time still influence the way scholars analyse transitional justice processes.

historical, and world-economic contexts play a crucial role and have to be taken into account for such analysis to be meaningful (Arthur 2009:360). Or, as Alexander Hinton puts it in his critique about transitional justice initiatives: ‘(These initiatives are) quite messy and often fail to attend to critical on-the-ground realities, ranging from social structure, to local knowledge, to complex histories and to the assumptions that underlie such endeavours’ (Hinton 2010:17).

Working with H.I.J.O.S. in Argentina and listening closely to their central defining statement, ‘We don’t forgive, we don’t forget, we don’t reconcile!’ additionally puts into question some of the assumptions attached to transitional justice undertakings and their promise of closure. Demanding justice and memory while at the same time rejecting reconciliation and forgiveness, the case of H.I.J.O.S. points to the necessity to deconstruct and unpack taken for granted goals of justice. Anthropologists with their culturally sensitive, contextualized approaches to research are uniquely equipped for such endeavours.<sup>16</sup> Asking less about the success or failure of certain justice measures but instead engaging with the process, dynamics, and local impact of transitional justice in practice, they interrogate the ways these tools are used, understood, and negotiated by local and international agents on the ground. Following the Geertzian paradigm of ‘thick descriptions’ (Geertz 1973) and embedded analysis it is the everyday experience and meaning of official and unofficial justice’ practices of the people concerned that anthropologists are interested in.

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<sup>16</sup> Nevertheless, while there is a vast amount of literature on all aspects of transitional justice with more than 2500 articles and books published, anthropological contributions are still relatively scarce. For reasons similar to anthropologist’s long-time reluctance to engage with human rights (for full discussion on the issue see Herskovits (1947), anthropologists struggled over whether and how to work on transitional justice, as it confronted them with issues of moral judgements, evolutionists’ thoughts, and western paradigms.

## **Early Experience in Argentina 1: Victims And The Right To Truth**

Crucial to all transitional justice measures is the imperative of a victim-centred approach that emphasizes victims' voices and the 'right to truth' after atrocious crimes. Next to juridical proceedings, alternative mechanisms such as truth commissions and conditional amnesties (such as was the case in South Africa) have sometimes been favoured in transitional justice processes. The victim centred approach – often referred to as restorative justice – focuses on the healing of individual and collective relationships, 'bringing (back) together what was lost' (Daly & Sarkin 2007:5), forgiveness, and reconciliation. Especially literature on truth commissions and tradition-based models of restoration that more widely emerged from African experiences give insight into these mechanisms (El-Tom 2012; Huysse & Salter 2008).

In Latin America, many examples of self-imposed amnesty laws of outgoing or defeated totalitarian regimes have largely produced a situation of juridical impunity for the perpetrators of state terror and mass atrocities. In Argentina, human rights groups and victims felt betrayed by Menem's official politics of 'national reconciliation' as these politics meant the implementation of general amnesties for all perpetrators in the late 1990s. To them the closing off of human rights trials and the liberation of already convicted perpetrators was like 'a shabby deal amongst criminals', to borrow the words of Thomas Aquinas, and thus excluded justice from reconciliation. But contrary to official politics in the 1990s, truth and punishment, they believe, would give significance to their suffering, serve as partial remedy for their injuries, and 'provide a unique means by which to assert democratic values' (Malamud Goti 1990:11). Hence, until today, former victims in Argentina show little

interest in reconciliation but instead aim for ‘truth’ and reparation through ‘retributive’ justice understood as juridical punishment.

But let me start from the beginning. In 1983 the long process of transitional justice started in Argentina. The situation of unresolved crimes, lack of knowledge about violations, and the ‘presence of absence’ (Bille et al. 2010) that the ‘disappearances’ had left behind, required the newly elected government of Alfonsín to inquire into the nation’s past and to search for the truth of what really happened during the years of violence and repression. Thus, putting the victim at the centre, Alfonsín’s government established the Argentine National Commission on the Disappearance of Persons, or CONADEP. With ten appointed individuals and chaired by well-respected author Ernesto Sabato, the commission took over 7,000 statements over a period of nine months, documenting 8,960 persons who had disappeared (CONADEP 2011).<sup>17</sup> The Commission’s report ‘Nunca Más’ was subsequently published at the end of 1984 and a book length edition became an immediate bestseller, with more than 500,000 copies sold by 2007 (Hayner 2011:45+46).

The success, impact, and effect of official truth finding enquiries largely depends on the way their reports are structured, how they are presented and whose voices and subjectivities are included (Hayner 2011; Robben 2010b). Reports and commissions attempt to establish the ‘truth’ about the past by analysing individual testimonies and historical documents embedded in the socio-cultural, political, and economic context

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<sup>17</sup> The subsequent trial against the Juntas heavily relied on the CONADEP truth report, showing the potential mutual benefit various parallel transitional justice mechanisms can have (Collins 2010; Skaar 2011).

of the time, bringing together official memories and counter narratives. However, to find a common historical narrative is difficult because, as James Clifford has shown, ‘truths are always partial’ (1986) a fact even more relevant in divided societies in which conflict, violence, and repression produced agonistic (Mouffe 2014) subject positions even in its democratic aftermath. The struggle between adversaries (Mouffe 2014:20) that is displayed in the contestation over history’s representation is hardly (if ever) reconcilable in a common memory narrative that legitimately represents all groups and individuals concerned. Truth – or rather truths in the plural – are always particular and subjective (Clifford 1986). As an on-going process their creation is thus dependent on specific socio-cultural contexts and temporalities and rendered by the commission’s and the victims’ perspectives (Hayner 2011:80-85; 89).

Analysing agency in the process of truth finding, Laplant and Theidon (Laplante & Theidon 2010:293) provide an example of power and representation related to political identity and truth from Peru, a conceptualization useful for my own research. In their work, the authors critique the Peruvian Truth Commission for its failure to represent (or better to say for the purposeful exclusion of) the ‘truth of terrorists’ and for the thereby created reinforcement of a structurally inclined Manichaeian discourse. With the official silencing of the voices of the members of the revolutionary forces of the Shining Path, the commission not only illegitimately claimed to represent ‘the truth’ but also failed to understand terrorists as political actors motivated by demands for social justice as expression of legitimate political aims. As the commission was not able to ‘separate out the tactic from the agent’ (Laplante & Theidon 2010:294) by allowing the guerrilla a voice in the production of the official memory narrative, it



deepened the divide that runs through society and excluded any potential ‘grey zones’ from its official politics of the past.

While in Argentina the truth commission provides an important first step to justice it is not the only place and moment in which contested ‘memory narratives’ are negotiated. Alongside official apologies, official and counter historical narratives, commemorations, and memorials, it is the trials and the punishment of those responsible for past crimes that are most difficult to achieve. Thus, the young democracy not only investigated the truth of what happened, but also sought accountability by putting to trial those most responsible for human rights violations. But the process of retributive justice, which included the famous ‘Trial of the Juntas’ (1984) and other convictions, provided an example of the challenges countries have to face in early times of political transition after violent regimes.

### **Early Experience in Argentina 2: Trials and its Challenges**

Theoretical discussions that developed from early experiences with transitional justice mechanisms are often treated as discussions under the headings of dichotomous positions such as stability versus justice, restoration versus retribution, national political order versus international legal imperatives (Lessa 2013:11) that are seen as contradictory, often mutually exclusive, and their balancing in need of better solutions. Within these dichotomies, the ‘stability versus justice’ dilemma figures most prominently, pointing to the challenges transitional regimes face when seeking juridical accountability of those responsible. The ‘school’ starts from the experience that democratic governments that replace political regimes in which state-led violence was endemic are often vulnerable during initial times of transition. Given the potential

political resistance in these periods, trials and punishment often pose the most contentious ethical questions for a post-authoritarian regime and open up questions of how to ‘balance competing moral imperatives, reconcile legitimate claims for justice with equally legitimate claims for stability and social peace, and foster the relationship between justice for crimes of the past and a more just political order in the present’ (Arthur 2009:323).

‘Transitions’ and the related need for trials, truth discovery, and healing are thus often a visible challenge for new and still fragile political governments. Due to weak juridical, executive, and legislative powers, governments have to balance the need of democratic stability and peace, with the equally legitimate demand for justice, accountability, and punishment, a situation that makes it difficult for former victims to find a sympathetic ear when they voice their wish to legally hold accountable the perpetrators (Barahona de Brito 2001:345; Méndez & HRW 1991).

No less so in Argentina, where early attempts of justice struggled with similar difficulties. While the dictatorship was still in place, the many human rights organizations in Argentina that demanded truth and knowledge were still largely divided on the question of justice (Sikkink 2011:68). To demand justice (instead of the more common demand of ‘*aparición con vida*’ (alive/appearance), it seemed, would simply have been too dangerous in the context of unequal power relations. Hence, while human rights groups had continuously struggled for knowledge about the destiny of their ‘disappeared’, justice – meaning the juridical prosecution of those responsible for the atrocities – was an important demand to be voiced in the early times of transition.

During his electoral campaign, Raúl Alfonsín, member of the Permanent Assembly for Human Rights, had shown his devotion to the issue of justice for human rights violations. After winning the first democratic elections after the dictatorship he however had to ponder this commitment with the ‘desire to integrate the armed forces into the democratic polity and prevent future military coups’ (Sikkink 2011:70). But even though his government was faced with political restraints, Alfonsín and his advisors took a series of steps to answer the human rights movements’ needs. After the revocation of the self-amnesty law the new government put to trial the military Juntas in the ‘Trial of the Juntas’ or ‘Argentine Nüremberg’ as an initial judicial act (see Sikkink 2011).

For the project of punishing crimes of human rights violations, Alfonsín appointed three advisors to his government: Eduardo Rabossi, Carlos Santiago Nino, and Jaime Malamud Goti (Crenzel 2008:176). In close interaction with the new president, Nino and Goti, both lawyers concerned with legal theory, developed a plan of preventive rather than solely punitive judicial proceedings. In a first step, they originally intended for military trials held by representatives of the armed forces themselves. Such criminal prosecutions, they argued, would have shown a good-faith attempt by the armed forces to purge its own ranks and to face up to their own role in the past. When military institutions failed to show even the minimum attempt, the government opted for prosecution before a civilian criminal court instead (Alfonsín 1993; Méndez & HRW 1991:13-14) and convicted five of nine Junta members (for further details see chapter 2.4.).

After the trial against the leading personnel of the Juntas was opened, increasingly more lawsuits were filed against members of the armed forces of all ranks, leading to military rebellion and threat of another coup d'état. Caught in the 'stability versus justice' dilemma, the government in consequence decided to put an end to judicial prosecution in order to secure peace and democratic stability. The Full Stop and Due Obedience Laws that officiated the new politics are regarded as the initial step towards the culture of impunity that was the outcome of the first wave of retributive judicial proceedings in Argentina.

Later, Malamud Goti and Carlos Nino reflected on their experiences with the first wave of retributive justice in Argentina. At the heart of their assessment was the question of how to punish those responsible while at the same time providing stability for a newly emerging democracy. With their books and analyses, they opened discussions on some crucial stakes of transitional processes still under debate within the field today. These included, 'whether there was an obligation under international law to punish violators of human rights; whether there was a minimal obligation of states to establish the truth about past violations [...] and how specifically to deal with human rights abuses by military authorities' (Arthur 2009:353).

In 'Radical Evil on Trial' Carlos Nino (1996) argues for a limited number of trials in the national context of transitions as this is – according to the author – the best way to prevent recurrence of violence, while at the same time not taking away too many resources from the nation state's faculties needed for building and maintaining democratic institutions. Nino's main concern was thus less with punishment but with prevention. Most importantly in this particular post terror stage are measures to secure

democracy, which, as Nino argues, is the first duty of national judicial proceedings. Comparable with preventive punitive measures implemented after WWII against perpetrators of the National Socialist regimes, the intention is to aim for exemplary trials that fulfil the duty of international punitive obligation and equally serve the future as case examples with deterrent effect (Nino 1996:129f.).

Jaime Malamud-Goti, directly involved in the trial and prosecution of the Junta members, later opted and supported the Full Stop Law. Taking on a critical standpoint he explains his position in this apparent contradiction with the argument that the prosecution of the perpetrators destabilized the new democracy. In his opinion, the Trial against the Juntas (as exemplary prosecution) largely failed its purpose: firstly, because the lack of consensus over the impartiality of judicial decisions rendered ineffective the juridical process in asserting individual rights (Malamud Goti 1996:167f.). Secondly, because it supported a bi-polar narrative that considered innocent those who were not tried before a court of law (1996:187-193). To that effect some former perpetrators even gained enough power to be re-elected to the political arena (for an example see General Domingo Bussi in Tucumán; chapter 6.1.).

From the point of view of the early years of democratic transition and the first wave of trials, Nino and Malamud-Goti's critiques show their value. In transitional justice literature, a focus on trials with their attention on individual perpetrators has been criticized for the inability to provide a victim centred approach to justice or to establish truth about repressive systems in historical context. However, taking on a less pessimistic and long-term approach, Kathryn Sikkink adds that the trial against the Juntas encouraged 'the discovery of the law' for ordinary citizens and contributed

to the ‘judicialization’ in Argentina (Sikkink 2011:82). Her analysis of the ‘trial of the century’ emphasizes the ‘symbolic element’ of human rights prosecutions (Sikkink 2011:75) and helps understand the importance of current trials for crimes against humanity in Argentina.

Contrary to the perpetrator centred approach to justice contemporary local legal proceedings in post-transitional Argentina involve processes that establish more than merely individual guilt of the perpetrators. To describe them Park uses the term ‘event justice’ (Park 2012), by which she means a ‘process that elicits narratives of particular acts so as to compensate for the harm those acts caused’ (Park 2012). According to Park’s research, proceedings include discussions on moral and ethical lessons, reconstruct memories, (re)establish a historical context, and provide victims with a platform to speak up and to present their political standpoints.

And so, while trials serve ‘justice’ and put into prison those responsible for human rights violations, my own fieldwork similarly shows that local Argentine judicial prosecutions today have many more purposes (see chapter 6). Even though those involved in the hearings critically comment on several shortcomings, including slow procedures and the potential re-traumatizing effects for witnesses who are called to testify over and over in different trials, the general process is widely regarded as reparatory for the victims, as the hearings allow them to reclaim and regain political ownership and self-determination over questions of justice and the narratives of the past (for further details see chapter 6). Furthermore, by engaging in the hearings victims and activists as well as the children of those persecuted during the dictatorship come together and collectively voice their belonging to the continuity of a legitimate

struggle of a generation annihilated by the dictatorship. And so, by legitimizing the ideas and ideals of the ‘revolutionary forces’ of the past they also legitimize their ownership of justice and politics.

### **The Times are Changing: Justice in Post-Transitional Argentina**

Justice processes in the aftermaths of the culture of terror are mostly addressed as ‘transitional justice’. The term ‘transition’, however, is primarily associated with the process of transitioning from totalitarian regimes to democracy. For example in his influential three volume publication, legal scholar Neil Kritz states that ‘transition’ is intimately tied to the idea of democratization and transitional justice thus viewed as a mechanism in a very limited time-period in the immediate aftermath of mass violence (Arthur 2009:330-333; Kritz 2004). In Argentina, the first period of transitional justice ended in 1990 with Carlos Menem’s general presidential pardons of all (state and guerrilla) related perpetrators. And even though the implementation of specific measures such as truth commissions or the purging of societal institutions might comprise of a relatively bound time-period, individual and collective processes of coping with past memories and reconciling social or ethnical groups, who had been on agonistic sides during the conflict, is often a much longer process.

Reconciliation, justice, and reparations for the victims form an important part of ‘*Vergangenheitsbewältigung*’ or ‘coping with the past’ (Timothy Garton Ash, cited in Arthur 2009:332). It is thus important to find common ground about the way the past is represented and remembered, a process, that potentially lasts for generations. The complex task of ‘*Geschichtsaufarbeitung*’ or ‘*Vergangenheitsbewältigung*’, as the process of ‘coming to terms’ with the past could be called using the German term, is

lengthy and arduous, a fact evidenced by the still on-going debates on the interpretations of the Holocaust (for further details see Jürgen Habermas' and the German 'Historikerstreit').<sup>18</sup> Authors focusing on cognitive and social rather than structural and political aspects of transitional justice express this insight by stating that 'reconciliation is not a matter of a confession once and for all, but rather the building of relationships by performing the work of the everyday' (Das & Kleinman 2001:14).

Emphasis on the ordinary everydayness inherent in rehabilitation from trauma suggests that it would be inaccurate to use the term 'transitional justice' to describe the later stage of resistance to impunity in Argentina. This period is marked by the renewed struggle for trials that started in the late 1990s with H.I.J.O.S.' practice of street-justice, universal jurisdiction in Spain, and by the strengthening discursive frame of genocide and the local criminal prosecutions implemented by the Kirchner government in the early 2000s.

Furthermore, since the fall of the dictatorship and the first free elections in 1983, Argentina has retained a democratic, legislative system. If transitional justice is understood as directly connected with the process of democratization, as many authors convincingly showed, then the 'de-linking of the concept from the democratic transition context' in the later stages of the aftermaths of mass atrocities introduces a 'second history' of transitional justice (Khittel & Pospisil 2011:7). In order to highlight these differences, some authors suggest using new terms such as

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<sup>18</sup> The German terms *Vergangenheitsbewältigung* and *Geschichtsaufarbeitung* comprise of a complex set of meanings for which there is no single term in the English language. They may be translated as 'coming to terms' with the past, 'treating' the past, 'working over' the past, 'confronting' it, 'coping with' or even 'overcoming' the past.



‘transformative justice’ (Daly 2001), ‘late’ or ‘post-transitional justice’ (Collins 2010; Skaar 2011).<sup>19</sup>

Elin Skaar and Cath Collins both focus on trials and retributive juridical justice as the cornerstone of ‘post-transitional’ justice efforts (contrary to the broad variety of measures during the first phase of transitional justice processes). Skaar uses ‘post-transitional justice’ as a term to describe a new stage of transitional justice past original initiatives of justice in the immediate aftermaths of mass violence. According to her, this new phase is marked by the high level of involvement of judges and the courts in the prosecution of human rights violations. The author considers three preconditions for trials central for the development of post-transitional justice: the absence of military threat, a sustained demand for truth and justice on the part of civil society, and a sufficient legal basis for prosecutions (Skaar 2011:68). Based on three case studies (Argentina, Uruguay, Chile), Skaar argues that the constitutional reform that increases judicial independence is the salient factor to explain changes in judicial behaviour that lead to increased willingness (and indeed practices) for putting on trial (military) perpetrators of gross human rights violations (Skaar 2011:2). Based on that analysis, the author then provides detailed insight into contextualized, juridical developments of human rights prosecutions in Argentina, starting with the 1996-2001 period as the onset of post-transitional justice (Skaar 2011:48).

Based on her long-term studies of Chile and El Salvador, Cath Collins approaches post-transitional justice from a slightly different angle. While the author equally

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<sup>19</sup> ‘Transformative justice’ is more strongly connoted with ‘healing’ and the western cognitive and psychological language and approach to trauma. In the process ‘principal social norms, values, beliefs, and understandings are shifted so that society can be just and decent again’ (Subotic 2011; Allen 1999)

attributes an important role to the judiciary, she more strongly emphasizes the role of private actors for the relative success in punishing those responsible in the later stages of justice efforts (Collins 2010:22-24). Additionally, Collins pointedly shows the impact international justice efforts have on local juridical developments, confirming thereby Arthur's recommendation for research on the influence of the rapidly expanding field of international law on transitional justice issues throughout the 1990s (Arthur 2009:359).

Research for this thesis was conducted thirty years after initial transitional justice mechanisms started society's long struggle for justice. Within that time period both the judicio-political context and the agents at the forefront of justice have been transformed. I thus agree with Collins and Skaar on the importance of a new theoretical framework that emphasizes legal and international processes as well as agency for understanding justice processes post original transitions. Additionally, my focus on memory narratives and the discursive frame of genocide also widens the proposed frameworks and addresses the second generation and their active role in these endeavours in which justice and the importance of historical narratives are negotiated.

The on-going transformation of society's 'memory narratives', Francesca Lessa (2013) points out, take place mainly at moments of 'critical junctures' described as 'periods of significant change' that 'establish certain directions of change and foreclose others in a way that shape politics for years to come' (Lessa 2013:23). Significant moments include truth commissions and trials, but also the election of a new government, unexpected confessions of a perpetrator, or similar socio-political

ruptures that have the potential to initiate shifts in memory narratives. However, the establishment of subsequent transformations of remembrance do not happen smoothly or fast but instead are subject to the long process of collective historical narrative productions that involve contestations and negotiations between agents involved in the power struggles over discourses on truth, justice, and memory. And so, focused on memory and political violence, Argenti and Schramm note about events of the past: 'By their very nature, the re-creations of the past produced by memory are partial, unstable, often contested, and prone to becoming sites of struggle' (Argenti & Schramm 2012:2).

Thus, in Argentina memories of atrocities are subject to constant transformation. The discourse of genocide as a cornerstone of Argentina's contemporary memory narratives is an essential part of the work of memory. For many years, Argentine society, the media, and academic scholars remembered the violent past as the 'Dirty War' or a 'cultural war against subversion'. With the work of human rights groups, this perception changed and the term 'state terror' increasingly replaced war in official and informal discourses and, emphasizing the destructive intention of the Junta, is now mostly spoken about as 'genocide'. This new narrative emerged due to a variety of reasons, some of them conscious, some of them unconscious.

As I will describe in detail in chapter 5, activists and Argentine authors 'intuitively' used the term 'genocida' (perpetrator of genocide) and the comparisons with other genocidal atrocities (such as the Holocaust) early on in their struggle. The judgement of the Junta trial and various books additionally pointed to the disproportionality of the state's responses to guerrilla violence and brought in evidence about the organized

and planned extermination of the persecuted group. But to discuss the past in terms of genocide is also an active choice. Strongly involved in this 'choice' are 'norm entrepreneurs', a term Sikkink uses to describe agents whose words or practices crucially influence our understanding of history (Sikkink 2011:27). In Argentina, social scientists like Daniel Feierstein but also H.I.J.O.S. and other human rights groups fall under the category of 'norm entrepreneurs' that play a central role in the memory game in Argentina.

Calling the state terror 'genocide' brings social capital to the victims and allows them go beyond the 1976-83 dictatorship to include in their accusations crimes committed with the same intention some years before the coup d'état. But, as I will argue, not only are memory narratives influenced and transformed by various agents involved in their (re)constructions but also the very narratives they tell equally transform the subjects involved in their making. Hence, memories work both ways, especially where they are influenced by those from the second generation, or otherwise put, those who recreate their testimonies and narratives from post-memories instead of first hand remembered experiences. Precisely because memories of the ideas, ideals, and experiences of their parents are often 'absent' the past is offered as a point of creative recreation and meaning making for the future. Thus, similar to what Foucault (1990) conveys in 'The History of Sexuality' I argue that to fully understand 'repression' we have to look not only at its silencing, suppressing, or destructive aspects but rather approach these regulated and powerfully mediated discourses through means of their productive effects. Foucault puts it this way:

Repression is not in any case fundamental or overriding. We need to [...] reverse the direction of our analysis: Rather than assuming a generally acknowledged repression, and an ignorance measured against what we are

supposed to know, we must begin with these positive mechanisms, insofar as they produce knowledge, multiply discourse, induce pleasures, and generate power; we must investigate the conditions of their emergence and operation, and try to discover how the related facts of interdiction or concealment are distributed with respect to them. In short, we must define the strategies of power that are immanent in this will to knowledge. (Foucault 1990:73)

Thinking with Foucault one can draw a line to violence. Certainly, terror and violent practices in Argentina first and foremost produced suffering, indisputable loss of life, traumatization, fear, pain, the dismantling of social relations, loss of trust and many other atrocious effects. However, looking more closely at the aftermath of the violent dictatorship and the second generation, genocide and violence also show how pain and suffering of one generation have profound meaning for their descendants, the majority of whom would have had no direct contact with those directly affected. Part of this creativity, however, is a politics that is in crucial respects different from what was at stake to both sides in the 1970s.

Based on participant observation in post-transitional Argentina, this thesis thus contributes to a new framework by showing how judges, social scientists, human rights organizations, and especially members of the second generation play a crucial role in establishing a discourse of justice flagged by genocide as the new context for understanding the past and creating a future. In post-transitional Argentina, I posit that H.I.J.O.S. with their active engagement in practices of discourse formation, participate in this creation of collective memory. Thus, what and how the past is remembered changes with each new generation. The label 'genocide' offers the new 'memory community' a possibility to engage with a cultural production around a lack that shows its creative power in producing new belongings and socio-political ontologies.

## **Justice and the 'Presence of Absence'**

In Latin America and especially in Argentina the practice of forced disappearance of 'subversives' or other state enemies was one of the abusive methods that stood out prominently amongst the many atrocities committed during dictatorships. The *UN International Convention for the Protection of All Persons from Enforced Disappearance* defines 'enforced disappearance' in the following way: 'The arrest, detention, abduction or any other form of deprivation of liberty by agents of the state or by persons or groups of persons acting with the authorization, support or acquiescence of the state, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law' (UNCED 1992:Art.2).

Argentina with its estimated 30,000 disappeared has 'the dubious distinction of adding the word *desaparecido* to the world's vocabulary' (Sluka 2000:20). The terror that befell society during the years of violence showed itself in the deformation of the Argentine language in which its citizens had to learn a new vocabulary by making use of 'disappearing' as 'a transitive verb' (Feitlowitz 1998:xi). Moreover, according to the Argentine forensic anthropologist Fondebrider, only 1000 bodies have so far been recovered and identified (Interview Fondebrider 2011), leaving society marked by the experience of 'absence' generated by violence.

'Disappearance' of a person implies more than the killing, detention, or kidnapping of a victim, which, while causing pain and suffering to those who remain, at least leaves them with the certainty and knowledge about the destinies of their loved ones. By contrast, the real horror of disappearances, Michael Taussig explains, is their

combination of the ‘terrible fact of loss with the ever-present hope that the disappeared will return’ (Taussig 1989:8). Furthermore, the author explains that disappearances are an expression of the uncanny ‘magical realism’ in which terror’s ‘sinister quality depends on the strategic use of uncertainty and mystery around which stalks terror’s talk and to which it always returns’ (Taussig 1989:7). Thus, the crime of ‘disappearing’ people without leaving any trace or even the certainty of the death of the victim leaves family members and survivors with the impossibility to mourn or to find closure even decades later. For the example of Argentina, Antonius Robben puts it this way:

The long-term psychological consequences of the dirty war are impossible to fathom, but the continued uncertainty about thousands of unrecovered dead and the impunity of their executioners cannot but gnaw at the heart of the nation. The massive trauma of the dirty war has undermined people’s trust in the State authorities, their fellow human beings, and maybe even themselves. The traumatic past threatens to become indigestible as the mourning continues impaired because a society that does not assume responsibility for its dead can never entirely trust the living. (Robben 2000:96)

The traumatic combination of terror, disappeared loved ones, and state-imposed impunity become ‘indigestible’. Or, put another way, living with disappearance is experienced as an everyday absence of something or someone with potential presence even decades later. The absence of a loved one but also the absence of knowledge of his or her whereabouts, certainty about his or her destiny, truth about what has happened in the past, as well as the absence of justice that would hold accountable those responsible for the crime, mark the experience of pain and suffering of the second generation. The ‘presence of absence’ is thus an experience central to everyday life-worlds of many people in Argentina.

Violence and the trauma of absence transcend into the ordinary as silent companions of the everyday. The trauma of unresolved pain and memory of the concealed past affects not only the first but also the second generation, the children of those disappeared and assassinated, who ‘absorb and retain pain and grief, consciously or unconsciously’ and suffer the consequences of what happened when they ‘carry traces of the experience into adulthood’ (Huyse 2005:55). Based on her analysis of literature and texts written by children of Holocaust survivors, Erin McGlothlin discusses the transmission of trauma and the meaning of memory. According to the author, the ‘second generation’ is ‘marked by an un-lived narrative of their parent’s suffering’ and through their own bodies ‘perform acts of remembrance that have no referent in their own memory’ (McGlothlin 2006:5). The concurrence of presence and absence of memories, the author explains, creates a stigma of suffering and pain that often confronts the children of Holocaust survivors with challenges when aiming for self-determination of identity. McGlothlin stresses these contradictory pressures that determine the lives of those growing up with the legacy of genocide that their parents suffered from. On the one hand their wish to respect their parent’s traumatic experiences, on the other hand the desire to break with that legacy and to discover their paths in life. Never entirely freed from the ‘phantom pain of an amputated hand that never was’ (McGlothlin 2006:9), the function of that desire is however to redeem their parents experience with becoming successful and happy.

The memory of experiences whereof one lacks ownership determines in large parts the second generation’s experiences of subjectivity, trauma and absence. Just as Ana Karpf, child of Jewish survivors of Auschwitz, so pointedly expresses: ‘It seemed then



as if I hadn't lived the central experience of my life – at its heart, at mine, was an absence' (Karpf 1996:146 cited in McGlothlin 2006:1).

'In Argentina, the children of the victims of state terror equally have to live with 'absence' and the legacy of violence and genocide that marked their own and their parents' suffering particularly because they not only suffered the absence of direct experiences but also the absence of those whose experiences have marked their lives.<sup>20</sup> Hence in our conversations my informants regularly pointed to the need to recuperate from the space of absence that which they were deprived of. In an interview with Pagina12, Camilo, my friend and first acquaintance from H.I.J.O.S., who had lost both of his parents shortly before and during the dictatorship asked, 'How can you explain the feeling of absence to a court?'. His question is a difficult one because the 'absence' Camilo is talking about is not simply something 'not there'. During my fieldwork, *hijos* regularly emphasized their claims on their parents' ideals, principles, and political agency as well as of their '*cuerpo*' (body/cadaver) and affirmed the horrors of the combination of absence and ever present hope created by the crime of forced disappearance (Fieldnotes 2011). For example, in his testimony in Tucumán, Adolfo, whose father was assassinated in 1976 but the body of whom was never found and is 'disappeared' till today, was asked about his memories of his childhood. In response he said:

You hope – you **always** hope! That maybe he is far away, maybe he is sick. And well... In the end one stops to – you know, after 1983, I was already in the high

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<sup>20</sup> In Argentina also exist another group of children, the so-called 'living disappeared' otherwise known as '*Nietos*'. These children of the disappeared have been abducted together with their parents or were born in captivity and were given to regime-friendly families, who would prevent them from growing up as 'subversives'. Analysis of *nietos* and absence would imply a different theoretical and empirical research that for reasons of focus and space cannot be provided in this thesis.

school and still he has not returned, and so well one starts to accept it, but there is this hope, **constantly**. That's how it is. (Testimony Adolfo 2011)

Absence is thus hugely influential on people's everyday experiences and belonging and their perception of the world. In their book 'The Anthropology of Absence' Mikkel Bille, Frida Hastrup, and Tim Flohr Sørensen (2010) argue that an important relationship exists between absence and presence, which the authors describe as the 'ambiguous interrelation between what is there and what is not'. Taking their approach from political philosopher Patrick Fuery, they understand absence not as 'primary absence' (meaning something that simply is not there) but as 'secondary absence' which is 'derived from, and defined by, its relational connection to presence' (Fuery 1995). Fuery puts it this way: 'Something is absent because it is not present, but the significant detail is that the absent something is figured as potentially present' (Fuery 1995:1). Thus, the experience of the apparent paradox of the 'presence of absence' is an important social, political, and cultural phenomenon with the power to 'impinge on people's lives precisely because of their absence' (Bille et al. 2010:4-7).

Because absences of cultural, physical and social phenomena powerfully influence people's conceptualizations of themselves and the world they engage with, scholars of material culture have theorized and approached absence as 'a force and thing' rather than something that is not there. To illustrate the meaning of the presence or thingness of 'absence' one could take a detour to astrophysics and evoke the metaphor of 'dark matter' or 'dark energy' (personal conversation Saris 2014). Invisible dark matter does not absorb, reflect or emit light, making it extremely hard to spot.

However, what is absent from sight nevertheless makes up most of the universe and is crucial in its effect for the universe as a whole.<sup>21</sup>

Kierkegaard (1987) discusses absence in relation to the present and to actions directed at the future. The potentiality of 'presence' connects the thing or person that is absent with the future and spurs action. For Kierkegaard longing or desire become the symptoms of absence analysed as a fundamental driving force behind human action. Suggesting that once the person or thing that was longed for has been obtained and the longing thus has vanished, not only will the motivation for action disappear, but also the action itself will cease to exist. The action spurred by longing is thus annihilated by its fulfilment. In turn, this leads to the longing for something or someone else and for new actions. Kierkegaard's analysis shows that absence implies longing and the desire for something, which, in turn is a motor for action. Building their insight on Kierkegaard, Bille, Hastrup, and Sørensen continue to explain their theoretical model and focus on the ways in which absences have or take power:

The power of absence [...] consists in the ability of such absences to imply and direct attention towards presence. Thus, phenomena may have a powerful presence in people's lives precisely because of their absence; a paradox that we refer to as 'the presence of absence'. (Bille et al. 2010:4)

Argentina, I argue, is a very good example for that phenomenon. Understanding the experience of 'absence' as the motor for action expressed in the demand of justice leads the second generation (and other justice agents) to employ human rights tools and judicial proceedings as a way to cope and to turn absence into presence of those lost. So what does absence mean for my analysis of H.I.J.O.S. and the second

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<sup>21</sup> See also CERN at <http://home.web.cern.ch/about/physics/dark-matter>; accessed 3.7.2014.

generation's engagement with justice? In the case of Argentina, the 'presence of absence' for the second generation takes on a variety of manifestations: first of all, the ever present possibility of the 'return' of the disappeared, just as Adolfo explained tellingly. But far beyond that, the potential presence of the absent thing or person or even goals and beliefs that one feels the lack of, also connects to justice, a better world and the image and personality of the person 'stolen' from one's life. What is transmitted to my informants is a lack – a missing parent, a missing picture – of something in need of filling. And so at the centre of H.I.J.O.S.' 'post memories' is not only trauma but also the possibility of an 'potential' that was destroyed in genocide. Hence, theoretically speaking, analysis of *hijos*' experience of a 'doubled' absence and productive potential opens opportunities for a new register in memory studies.

To engage with the active transformation of felt absence into collective, societal presence is thus an undertaking that extends into various levels of subjectivity, including the children's own self-determination built on post-memories but also on the everyday practices of shaping one's own future according to a thought trans-generational project. To fully understand current practices of justice of the post-terror generation since 1995, I argue, we additionally need to define justice and create an analytical model that connects the presence of absence with justice. Therefore, having established my approach to absence, it is now critical to explore how a sense of justice or injustice is negotiated within particular localities (Hinton 2010), in this case in Argentina.

## The Meaning of Justice in Empirical Research

During my fieldwork I was constantly confronted with people claiming justice, being denied justice, or lamenting ‘slow justice’ (Lorenzetti cited in Hauser 2010; Interview Paloma 2012). Reading texts on the aftermath of and rehabilitation from violence and conflict in Argentina, justice once again appeared everywhere often accompanied with ‘still struggling for’ or ‘short lived’, taking for granted an apparent understanding of justice as identical with truth, memory, and punishment of those responsible. What justice really means, however, is often far from obvious and based on a variety of assumptions. Let me explain my thoughts with an example from my fieldnotes:

On Monday, 2 May 2011, early in the morning I travelled from Avenida Rivadavia to the Federal Criminal Court, ‘Comodoro Py 2002’, to attend another hearing in the trial ‘Plan Sistemático - Robo de Bebés’, in which seven perpetrators of the 1976-83 military Junta were standing trial for the abduction and illegal adoption of the children of the disappeared. While waiting for the underground, I took a copy of *La Razón*, the free newspaper, from a stand. A large photograph of Osama Bin Laden covered the front page. In the photograph, he was shown talking, his hand next to his face and his forefinger held up in an instructing gesture. The headline read, ‘*Bin Laden Muerto*’ (Bin Laden Dead). Next to this image was a smaller picture of a seemingly content President Barack Obama, recent recipient of the Nobel Peace Prize, accompanied by the following text: ‘*Nuestro mensaje: se hizo justicia!*’ (Our message: Justice has been done!). (Larazon, 2.5.2011)

Reading these lines and the message issued by the ‘world’s superpower’ while researching the practices of justice in Argentina opened up seemingly contradictory possibilities of the ways in which one would understand ‘justice’. For the US president, the assassination of a mass murderer without trial seemed to serve ‘justice’. For my informants in Argentina, who had grown up next door to their parents’ murderers, physical vengeance has never entered their repertoire of justice and punishment.

At the time of the publication of the article conversations with my informants frequently turned to the topic of the assassination of the al-Qaeda leader, and I was not the only one to have been puzzled by the message issued by the ‘world’s superpower’. While activists, former victims, and other justice actors in Argentina would stress the need for justice, the concept obviously entailed a different connotation, one, that got me to thinking about the plurality of justice’s meanings. So what IS justice? Given the importance of the term I since asked a simple question: What does justice really mean (to my informants)? Or – as I came to learn – in what way is justice meaningful (to my informants)? Could justice ever be defined as an abstract category stripped from its context and social setting? Is it possible to discuss justice as a universal category objectifiable from subjective legal, moral, and cultural restraints?

As a philosophical project justice has occupied human thought since the beginnings. Philosophers and other intellectuals provide rich material generating an understanding and basis for a debate on the term (Holzleithner 2009; Kant 1977; Lock 1977). As a famous example, John Rawls developed the theory of ‘Justice as Fairness’ in which he postulates a thought-experiment of ‘the veil of ignorance’ (Rawls 1979). To attain social justice in societal cohabitation demands, according to Rawls, a theory of justice that builds upon theoretical treatises of the ‘social contract’ developed by Locke, Rousseau, and Kant (Rawls 1979:27). From this position, Rawls works out a more abstract and idealistic theory of justice that he calls ‘justice as fairness’. Just like his predecessors built their theories on the thought experiment that imagined Man in the ‘state of nature’, Rawls proposes to start from a theoretical position of equality, meaning a necessary pre-disposition of not knowing at which end of the social-scale one would be born. Only upon this premise of the ‘veil of ignorance’ as he calls the

original state of equality, could a just distribution and agreement of the principles of justice be negotiated without privileges or disadvantages for anyone. According to Rawls, this would necessarily lead to equal rights and duties as well as equal social and economic positions and power relations for everyone (Rawls 1979:32).

But while philosophical discussions on justice offer a useful background for any research on human rights and accountability these approaches are insufficient for research based on empirical data. Looking at the phenomenology of justice, it is much harder to stick to a normative definition or conceptualization of the term. In a recent article, Antonius Robben debates Rawls' theory by declaring that people's sense of justice can be understood as 'a notion of personal fairness based on a cultural understanding of society's social contract' (Robben 2010b:181). Given the reality of always already positioned political and social subjects, he continues to explain, easily arise tensions of what is considered 'fair' and just. Thus, applied to empirical case examples, Rawls' theory helps explain people's sense of injustice but non the less leaves the researcher with conflicting meanings of justice depending on individual and collective political and moral subjectivities and is, therefore, of little help for praxeologic analysis.

During my fieldwork, both in Argentina and in Spain, I thus asked my informants about their understanding of '*justicia*' (justice). Often the first answer was quick and referred to judicature and state ordered accountability measures. In one way or the other this idea of justice (or in German '*Gerichtbarkeit* or *Rechtssystem*') meant an ending of impunity, the legal conviction of the perpetrators, a chance to talk truth, and the recognition that what the military did in the 70s was not a war, has nothing to do with the theory of two demons, but must be regarded as the intentional killing of a

political opposition within society in Argentine. What is important to Argentine justice agents is to ‘stay the hand of vengeance’ and instead to try the perpetrators in a court of law.<sup>22</sup> By holding the perpetrators accountable, my interview partners pointed out, the culture of impunity will finally end and a more just society, built on trust in its institutions, on ethics and a strong civil society can emerge (Focus Group H.I.J.O.S. Tucumán 2011, Interview Emilio 2011). So far hopefulness is birthed in some form.

Looking less at teleological promises, when it comes to the ‘meaning’ of justice, the answers were much more varied. For example Valeria, lawyer and member of H.I.J.O.S. Madrid, who grew up in Tucumán in the presence of absence of her disappeared father, told me:

Let’s see, what is justice to me? I will never be able to say: ‘*Se ha hecho justicia*’ [Justice has been done]. Not in my case or in any of the cases of those disappeared or those similar crimes. Because what would be just? Just would be that all go to trial, that each one goes to jail correspondingly. That they would be convicted, the military, civilians, all who participated... But well, that is still very difficult to achieve. Thus your circle of justice will never find closure. And on the other hand, in my particular case, the disappearance of my father, men [*hombre*], it would be important for me, for all the family, that they would give us back what they find of his body. Because that is a way to close the circle of life and death. [...] So what would be just? To be able to close that circle. But also to convict all those who participated in the disappearance and death of my father and of all my companions’ parents, obviously. To return all the children who still don’t know their identity. Because I always think about the pain those

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<sup>22</sup> An example of this belief comes from an eleven year-old girl, child of disappeared parents, who was interviewed in the 1980s by the non-governmental organization ‘*Abuelas de Plaza de Mayo*’. In the documentary ‘*Nietos*’, which included the interview, Leticia is asked about her ‘disappeared’ mother, whose abduction she witnessed eight years earlier. ‘What do you think should happen to those who kidnapped and took your mother?’ the filmmaker asked. *Leticia*: ‘I think they should go to jail, and justice (*la justicia*) will decide, because, for example, it is said they tortured people and if we, for example, would torture we’d be in the same place like them. Well ... I don’t know. ... That’s what I think.’ *Filmmaker*: ‘So you think they should go on trial?’ *Leticia*: ‘Of course!’ *Filmmaker*: ‘Don’t you think they should go missing too?’ *Leticia*: ‘Well, for me, justice has to decide - that’s what it is there for!’ (Leticia cited in Nietos 2004)



mothers have to carry. So it's these things that make you feel: Justice? Never! But ok, justice [meaning the legal proceedings] has been reparatory for some, I guess, yes for sure. ... But it doesn't close your chapter of your disappeared. (Interview Valeria 2012)

This example shows that justice is strongly connected not only with judicial punishment but also with the recovery of the knowledge, ideals, and – if not the lives of – then at least the deaths of those still 'absent'. As another example, María, the daughter of disappeared parents and member of H.I.J.O.S. Tucumán, understands justice as a concept of which the trials are only a small aspect.

Certainly, the trials are important – symbolically; symbolically they mean a lot, and especially politically the judgement against Bussi was super important after all these years that we struggled and fought impunity. [...] That feeling, when I first heard the judgement 'imprisonment for life', that was amazing, it was really a kind of reparation. (Interview María 2011)

But while María mentions the positive feelings she had when the first judgements were spoken, she also went on to explain that to her justice has more to do with what her parents believed in, what they had fought for, and with the way in which she and her generation participate actively in continuing a trans-generational struggle:

In all these years of militancy, I don't know, it's like, it's as if I have always thought justice as, ... well, one thinks of justice in relation to one's dead parents in a way. That is, I think that in relation to my parents for me justice has to do with questions far beyond the trials. It appears to me that there are processes that we experience in Argentina in this moment which have to do with processes of inclusion, of equality, or in general, let's say, it's a question of social and political modifications that to me mean more justice than a trial for example. You understand? It's like that, I associate the term justice much more with ... with the issues that they fought for, with their ideals, with what they were searching for, and, in this moment, it's like for me... well, I work in education ... and to see an adult who learns to write who feels a bit more dignity for being more in life, well, that for me is justice. When they tell me justice I don't think of the trials. I think justice as a global concept, I think of it from this position. (Interview María 2011)

These exemplary answers of my informants show that justice is an important category with immediate emotional bearing. As a phenomenon it is direct and close to the body and significantly describes the felt need to continue a project that is associated with a generation missing and missed. Expanding my approach to justice from a legal to a socio-cultural phenomenon, I started to analyse justice through my data and explored its meanings as a locally situated concept (Hinton 2010). While I struggled with filtering ‘what justice meant’, my findings most significantly showed, roughly speaking, that justice is an expression of ‘desire’ that takes on many different roles in different circumstances. This desire as an expression of a lack in need of filling (Kierkegaard 1987) is activated in the struggle for certain goals, that include juridical punishment, financial reparations, moral recognition, recuperation of the dead, social justice and equality to name but a few. Additionally, however, justice also expresses the longing for rehabilitation of ideals and beliefs of the victim generation and the power to transform these into activated practices.

‘Justice’ is used and activated in the struggle against impunity and for accountability and punishment, in the everyday practices of human rights groups, in politics of memory, and in the discourse of genocide. I thus argue that the importance of ‘justice’ is less a particular outcome but the power it has as the discursive signifier for the shared feeling of absence that serves as a verbalization of the driving force for activity and action. To theorize the argument of justice as a powerful force, I found a useful conceptualization in Kamari Clarke and Mark Goodale (2009). The authors argue for an empirical notion of ‘justice’ and claim that justice serves as ‘a signifier with more discursive resonance than meaning’. They write ‘justice is normatively thin and functions something like an empty signifier’ (Clarke & Goodale 2009:11).

In their book 'Mirrors of Justice' the authors explain that 'justice as a discourse is formally contextual' (Clarke & Goodale 2009:10) and does not correspond to normative character. Built on that definition, the authors doubt the usefulness (or even existence) of 'an overly abstracted notion of justice' (Clarke & Goodale 2009:5) and clearly distinguish it from human rights, which, to the contrary, are clearly defined and, due to their universal and normative character, have to be 'vernacularized' (Merry 2006b) in each given locality.

'Vernacularization', a concept developed by legal anthropologist Sally Merry, addresses the process of localization of global human rights tools and conventions. As ideas from transnational sources travel to small communities, they are typically 'vernacularized', or adapted to local institutions and meanings. Human rights language is similarly extracted from the universal and adapted to national and local communities. These processes involve the mediation, translation, and modification of transitional justice idioms as well as a variety of actors such as human rights groups, mediators, international organizations and local legal systems. With the concept Merry bridges the question of universality and relativism in anthropology and argues that human rights are of universal character but that they are at the same time practiced and transformed in each locality according to given cultural and socio-political contexts. In Argentina, this process can be analysed effectively through the specific legal concept of genocide, which is not only applied locally but also transformed, subverted, and contested by a variety of actors involved in its activation in political and discursive practice.

The concept of ‘vernacularization’ also helps to analyse ‘frictions’ (Tsing 2010), ruptures, and discontinuities that evolve during the process of local articulations of international norms. It provides explanations on how transitional justice models are rendered instrumental, and experienced by social actors at different places in the transnational human rights network (Goodale 2006:6; Goodale & Merry 2007). Precisely because of ‘frictions’ and conflicting interpretations it is important to connect the legal level to the everyday social practice of societal agents and to look at the ways in which justice is experienced, perceived, and produced in specific localities, ranging from the kitchen table discourse, to the media, to the court-rooms and street protests, as well as to international organizations (see Hinton 2010:1).

Partially, the concept of vernacularization is useful for my thesis, especially where it comes to a discussion of legal documents and the usefulness and adoptability of cosmopolitan law for the post-transitional justice process. In local justice efforts, the struggle for justice is often voiced using international human rights terminology. Therefore, cosmopolitan law has to be transmitted and translated into local idioms so to be made useful and understood on the ground. Based on a shared understanding of justice, agents make use of international human rights law or ‘cosmopolitan law’ (Hirsh 2003) and non-legal measures to realize ‘justice’ in practice. To analyse how the definition of genocide as an example of ‘cosmopolitan law’ is used and transformed in Argentina, it is helpful to work with the concept of ‘vernacularization’ (Merry 2006a, 2006b) as well as ‘frictions’ (Tsing 2010), both concepts that allow connecting the legal level to the everyday social practice of agents (Hinton 2010:1).

Truly, local accountability agents make use of universal human rights to frame their demands of justice and employ cosmopolitan law in order to defend their claim for accountability. But with their practices they similarly transform international norms, which – understood as social processes – are also fluid and changeable. I will exemplify this point in chapter 5, in which I show, that the local use of the Genocide Convention not only changes the local setting and juridical understanding of crimes but also has the potential to transform the international usage of the concept.

However, universals are not universally the same and unexpected linkages, unevenness, and specificities in local settings and cases have to be taken into account. In ‘Paths to International Justice’, Marie-Bénédicte Dembour and Tobias Kelly show that international law is not ‘an abstract moral principle’ or ‘standing above anything’ but instead has to be analysed as a ‘social process’ embedded in specific local socio-cultural settings (Dembour & Kelly 2007). Therefore, the authors urge us to analyse ‘how international justice is manifested and made real through complex social processes’ (Dembour & Kelly 2007:2).

To analyse the relationship between local and global processes of these ‘*judicioscapes*’, ‘frictions’ (Tsing 2010 1993) is a useful concept for understanding the dynamic and ‘continually co-produced’ interaction of the local and the international sphere of cultural practices, discourses, and symbols. ‘Frictions’ defined by Tsing as ‘the awkward, unequal, unstable, and creative qualities of interconnections across difference’ (Tsing 2010:4) focuses attention on uneven and unequal ideas, power relations, and practices. Furthermore, these two spaces that are connected by frictions inform each other. Mutually dependent, the local is influenced

by the universal (and vice versa) with the universal understood ‘not as truths or lies but as sticky engagements’ (Tsing 2010:6).

In this thesis I will put into dialogue these different theoretical conceptualizations of justice with my own empirical data and suggest, that the dynamic and ‘vernacularized’ application of international juridical conventions and legal human rights documents are best understood as tools that are employed if, and at times when, it is suitable (or possible), and in cases where their applicability strengthens the practices of the struggle. Using human rights instruments, social condemnation, popular justice, and the legal apparatus, H.I.J.O.S.’ struggle shows, that justice the signifier for longing that is spurred by ‘absence’ became the driving force and has to be considered first.

Connecting the demand of justice with the feeling of absence as a driving force for action, I thus explore how people struggle for the ownership of justice, the recovery of memory, political subjectivity, and the active participation in the historical narrative construction. Furthermore, the construction and claim of justice is centrally connected with ‘how societies remember’ (Connerton 1989).

### **The Power of Memory and Identities**

Memories are created and fluid, not fixed and given. The choice is rarely between memory and oblivion but among shifting and competing remembrances. The social structures and institutions within which we tell and hear accounts of hatred and violence affect what we recall and record. The grievances that spur us to action and that become resources for expressing and correcting injustice are given name and character in specific social contexts. (Rosenblum 2002:4ff.)

The making and recollection of memories in how we remember past events is anything but stable and prone to flaws, errors, gaps, transformation, forgetting, and

manipulation. Insights into memory, testimony, and the aftermaths of mass violence have developed particularly around Holocaust studies and research with survivors of the Shoah (Kandel 2006; Langer 1997; Levi 1986). These studies include research on time and memory (Langer 1993), embodied memories and trans-generational transmission of trauma (Argenti & Schramm 2012; Kidron 2009), as well as the politicization of victimhood (Fassin & Rechtman 2009). In 'Ruins of Memory', Lawrence Langer analyses interviews with survivors of the Shoah. In his book, the author suggests the term 'deep memory' or 'parallel memory' (Langer 1993) to describe a 'more basic core of experienced memory' that runs beneath the banal reassurances of common memory as a continuously lived testimony and on-going witnessing of 'permanently disrupted suspension' (Kleinman & Kleinman 1994:717). Deep memories of suffering, torture, and prosecution then remain unredeemed and unhealed outside the 'context of normality now' in the 'abnormality then'. Comparably, Primo Levi, Jewish witness, writer, and survivor of the horrors of the Nazi concentration camps uses the term '*aufgezeichnet*' (recorded) to describe the imprint of traumatic memories that allow him to remember by heart sentences in various languages that he does not speak (Levi 1958, 1986).

In a slightly different vein, the historian Dominick La Capra is interested in the way people narrate and represent their experiences with mass violence. To him, it is not about the accuracy of memory but about what is expressed in the recollection of experiences. '[Testimonies] provide something other than purely documentary knowledge. Testimonies are significant in the attempt to understand experiences and its aftermath, including the role of memory and its lapses, in coming to terms with, or denying or repressing, the past' (LaCapra 2001:86-87; cited in Sanford 2009:32-33).

To exemplify his analysis, LaCapra elaborates on the testimony of Dori Laub, who in his recollection of the Auschwitz uprising recalled ‘inaccurately’ the numbers of chimneys blown up during the event. But far from focusing on the ‘error’ in the narrative, LaCapra recognizes the importance of the testimony as the ‘reality of an unimaginable occurrence’. In his analysis, Dori Laub testified not to an event per se but to the ‘breakage of a framework’, which, exceeding detail, is a historical truth (LaCapra 2001:88; cited in Sanford 2009:33). For Laub remains the meaning of the experience when looking into the past from the present.

With focus on experience and memory rather than the truth of facts as the starting point for collective narratives, historicity can thus be understood as a permanent process of remapping and involves both, the act of looking back at earlier events and their re-interpretation or re-narration from the present moment (Assmann 1999, Halbwachs 1980). Equally, in the quote at the beginning of this section, Nancy Rosenblum shows that memory, justice, and historical truths are interrelated and mutually depended processes and goals in the aftermaths of mass atrocities. Narratives of the past understood as purely factual accounts are thus impossible, for historical facts, individual and collective memories, and contested political narratives intersect in each testimony and spoken or written account of the past. Acknowledging the fact makes these narratives no less true or valid but instead opens them up as the felt and lived experiences of political subjectivities (Hinton & O’Neill 2009; Sanford 2009).

Collective memories and trauma are important areas in research on memory. In social sciences the term ‘collective memory’ goes back to the work of Maurice Halbwachs, and ultimately to his mentor Durkheim and the idea of collective consciousness. Halbwachs explains that ‘collective memory endures and draws strength from its base



in a coherent body of people, as it is individuals as group members who remember' (Halbwachs 1980:48). Collectively maintained memory is an essential part of a common narrative of any 'imagined community' (Anderson 2006). Therefore, every collective memory requires the support of a group delimited in space and time' (Halbwachs 1980:84).

Joan Kleinman and Arthur Kleinman point to the connection between trauma and memory both on an individual (the body) and social (and public) level of dealing with the past. Working on questions concerning the borderland between subjectivity and the symbolic order, agency and social control, as well as experience and representation, Kleinman and Kleinman point out that: 'The chief problem with classical formulations of social life is that they dichotomize the social field into individual and collective poles' (Kleinman & Kleinman 1994:712).

In a similar approach, Connerton writes that society's collective and individual memory are thoroughly interconnected, which makes these interconnections central to how societies reproduce their social order across generations. From his analysis, Connerton points out three ways of how societies remember: firstly, by means of inscriptions onto cultural texts, secondly, through commemorative rituals and thirdly, via incorporation of social memory into the human body (Kleinman & Kleinman 1994:707). Building their argument on Connerton's insight and their own research on political trauma after the Chinese Revolution, the authors thus show that experience is a key component to the topic of memory: 'Experience is an assemblage of social processes that together create a medium of interaction that flows back and forth

through the social spaces of institutions and the body-self' (Kleinman & Kleinman 1994:712).

Commonly, sociologists and anthropologists concerned with social and cultural collectives have analysed trauma not only as individual suffering but also as a socio-cultural phenomenon with impact on present and future societies. For example, sociologist Ron Eyerman explores the relationship between African American identity construction and what he calls the 'cultural trauma' of slavery. 'Cultural trauma', as he calls the phenomenon of collective intergenerational memory transmission and remembrance, is a phenomenon that grounds a group's sense of itself. 'Cultural trauma refers to a dramatic loss of identity and meaning, a tear in the social fabric, affecting a group of people that has achieved some degree of cohesion' (Eyerman 2001:2). To unpack cultural trauma and political violence in Argentina, Antonius Robben uses two separate terms. According to the author, 'collective trauma' applies to society as a whole, while social trauma is attributed to specific social collectives directly affected by violence. Taking the *Madres* as an example, Robben demonstrates that social trauma 'transformed individual suffering into political opposition' and gradually won the support of the Argentine population (Robben 2005:300). With his analysis, Robben already points to the potential of traumatic experiences in activating political struggle, a point I emphasize in this thesis.

Argentine social scientists have also discussed local struggles, resistance, and identities in the aftermaths of violent regimes. Jelin and del Pino are especially interested in the construction of communities that they view as the work of a population who 'bases its belonging on shared experiences', namely stories, myths,

and rituals, and who is involved in the historical construction of a scenario. Therefore, according to the authors, history and belonging are best investigated ‘as processes of appearance and transformation’ taking into account all their ‘conflicts and inner divisions’ (Jelin & del Pino 2003:4). Most importantly the authors additionally show how ‘violence and repression, or their meaning, contribute themselves to a new construction of community, and have constitutive character’ (Jelin & del Pino 2003:4). Their analysis, as well as my own approach to the productive aspects of violence that is instantiated by the historical narrative of genocide, ties in with Foucault’s hypothesis in which he suggests to pay attention to the ‘positive mechanisms’ of repression (Foucault 1990:73). In my research on the impact of violence and absence on Argentina’s post-terror generation, I argue for the potency of paying attention to the productive power of violence in the creation of political identities and belonging. Thinking with Rosenblum, I analyse how memories can be activated and made useful as ‘micro-resources of mobilization’ (Rosenblum 2002) for political and social activism of a new generation.

Given the importance of memory, violence thus not only seeks the physical annihilation of one’s antagonists but also aims at ‘the destruction of remembrance of individuals as well as of their lives and dignity’ (Minow 1998:1). Adam Jones argues, with reference to the Argentine ‘school’ of genocide studies, that the target of genocide consists of the destruction of social power and existential identity as well as the networks of social relations that make identity possible at all (Jones 2011:29). The so defined ‘memocide’ (annihilation or destruction of the collective memory) as a second layer of the physical destruction in genocide equally needs to be addressed and prevented in the aftermaths of mass violence.

Societies emerging from a period of terror struggle to regain peace, justice, security, truth, and 'basic trust' as essential ingredients of the process of coming to terms with the past. At the same time those affected by violence engage in the contested politics of memory and thus, as Elisabeth Jelin notes, make memory not a secondary layer but 'an integral and central component of the practices and politics regarding the past' (Jelin 2007:156).

The paths chosen in this enterprise are manifold and each society and social collective acts within its own unique cultural, political, and historical context. My research on H.I.J.O.S. shows that the new generation actively opposes the extermination of memory about the ideals, ideas, and lives of the victims of the Argentine genocide. More specifically, they fight for the recognition of the political identities of *hijos*' parents as a crucial part of the reconstruction of justice and memory in the aftermath of the civil-military dictatorship. With their active participation in the construction of 'memory narratives' a term that refers to the 'blend of individual and collective memories' (Lessa 2013:19) they thus actively participate in the contested, unreliable and fluid field that constitutes collective memory.

### **Memories and the Second Generation**

Some of the most interesting analyses of trauma and memory developed from research with the second generation of victims and the ways in which trauma and memories are transmitted inter-generationally. These studies are specifically useful for the present research as the later stages of memory highlight questions of identity, continuity, and selectivity (Argenti & Schramm 2012:4).

One way social scientists have approached the trans-generational transmission of trauma is through analysis of silenced but embodied memories. For example Carol Kidron employs an approach of embodied memories when she engages with the everyday presence of absence of memories in the homes of Holocaust survivors (Kidron 2009). 'Contrary to the literature', Kidron writes, 'ethnographic accounts of Holocaust descendants depict the survivor home as embedding the non-pathological presence of the Holocaust past within silent, embodied practices, person-object interaction, and person-person interaction. These silent traces form an experiential matrix of Holocaust presence that sustains familial 'lived memory' of the past and transmits tacit knowledge of the past within the everyday private social milieu' (Kidron 2009:5).

The way Kidron explores the presence of a traumatic (and verbally absent) past in families of Holocaust survivors can be usefully recomposed for Argentina's children of the disappeared. In the case of Argentina, *hijos* mostly have been babies during the violence and their memories of traumatic events and their parents are mostly retrieved from other people's narratives and second hand historical sources. Thus, looking at the memories of *hijos* or the post-terror generation in Argentina, one finds that they more often than not have to cope with 'absence' rather than the all-permeable presence of first hand memories.

Many children have witnessed their parents' disappearances but they were too young to remember it actively. This young generation, those directly affected by the violence without being a direct witness to it, have nevertheless participated in the production of narratives of the past that now impact the everyday speech and the even the judicial

proceedings. Creating presence and memory from absence and ignorance, *hijos* have to engage in the project of reconstructing and excavating memories. Their memories of Argentina's past are what Susanna Kaiser calls 'post-memories of terror' (Kaiser 2005). Leaning on Marianne Hirsh, Kaiser explains how the second generation constructs memories from pictures they have seen and stories they were told. The author thus refers to post-memories as 'intergenerational interconnections by which people adopt their elders' memories as their own' (Kaiser 2005:2). In the reconstruction of 'memories of memories' decedents thus receive a representation of the past and – at the same time – create their own powerful form of memory (Kaiser 2005:3).

Apart from Kaiser, only few scholars have dedicated their research to the post-terror generation in Argentina and even less to the organization H.I.J.O.S.. Alejandra Serpente (2011) is a noteworthy exception. Calling the children 'memory carriers', Serpente explains that 'memory communities' are 'new spaces where individuals can come together as collectives to remember, but also challenge the dominant modes of memory in the Southern Cone that for so long have privileged the figure of the human rights activist' (Serpente 2011:133). Built on embodied memories, historical records, and collectively reconstructed memories and images of their parents, the 'children' are involved in the process of justice and rehabilitation of their parents and at the same time discover and construct their own belonging to a group and imagined community. What is at stake in Serpente's analysis is whether the act of transference of post-memory 'can also speak about the experience of a wider generation that is affected by the events of the Southern Cone dictatorships' (Serpente 2011:133).

While these exemplary analyses provide useful insight into the work of memory and trauma in post-terror generations, they are little concerned with the way the post-terror generations actively impact and restructure current justice processes with their practices and memory narratives. With my work on the second generation in Argentina, in which I use the ‘presence of absence’ as the ‘micro-resource’ or ‘motor’ for political activism, I fill this gap and ask: How do members of H.I.J.O.S. build collective consciousness of their own trauma in the aftermaths of the violence? In what way do they transform and make useful ‘memories of memories’ for the struggle for justice? And how, in the light of everyday practices of resistance, do they create their own belonging related to violence and justice? In so doing, I direct my research on collective trauma and social activism towards questions of the ownership of justice, new political belongings, and the productive power of violence.

### **From Presence to Representation**

Finding one’s voice in the making of one’s history, the remaking of a world, though, is also a matter of being able to recontextualize the narratives of devastation and generate new contexts through which everyday life may become possible. (Das & Kleinman 2001:6)

As a contextualized project and mechanism, transitional justice engages with different layers of activities, in which justice is associated with three interconnected areas: truth, memory, and representation. Truth is always entangled with memory and memory in return is connected with the way the past and present are represented. In the process, and especially during the later stages of transitional justice, I argue, memory, identity and representation are the cornerstones of this process.

How we ‘picture’ social suffering becomes that experience, for the observer and even for the sufferers/perpetrators. [...] What is not pictured is not real. [...] The very act of picturing distorts social experience in the popular media and in the

professions under the impress of ideology and political economy. So entailed, even personal 'witnessing' is compromised. (Kleinman, Das, & Lock 1997:xiii)

Hence, while it is important to find a place (such as the Escrache or the trials) in which to voice one's suffering, the question of how to represent and contextualize these experiences is central not only to society's recognition but also to one's own experience of suffering. The way the past is publically remembered, or whose voices, experiences, and narratives are acknowledged in common historical accounts, are crucial aspects for an understanding about society's perception of the past.

Argentina with its current legal prosecution of state-related perpetrators provides a vital example of the contested discursive spaces of representation. Memories in Argentina are in constant transformation and are made, remade, and established by the practices of resistance, representation, and justice. Memory politics that Argentine politicians have made use of in judicial proceedings during the first decade after the dictatorship have rendered it impossible to develop a collective narrative. Alessandro Portelli calls that phenomenon 'divided memory' (Portelli 1998:106, cited in Jelin & del Pino 2003:7) Others have used the term 'multidirectional memory politics' (Jelin & del Pino 2003; Robben 2012) to describe the conflicting narratives that keep alive the deep divide of contested politics of memory that runs through society, with some calling it 'state terror' or 'genocide' while others still refer to the past as 'Dirty War' or 'necessary fight against subversion' that saved the nation from the cancer of Marxist rebellion (Statement Menéndez in Romero Niklison trial 2011).

Elisabeth Jelin points out that different memory narratives presuppose social actors who create, sustain, or fight them. Their goal is the recognition of a past that legitimizes their political project in the present, which again shows the impossibility



of creating a single narrative in these processes (Jelin 2003, cited in Lessa 2013:19). Analysis of memory narratives understood as tools in the practice of making justice in the contested field of power, leads to the conclusion that the past in Argentina has not turned into history, but has become a permanent process in which memory is negotiated and created even 30 years later.

The always existent and productive, conflicting and power-related negotiations of truth and memory between social agents and institutions resemble what Foucault defines as discourses: ‘Discourse [...] is so complex a reality that we not only can, but should, approach it at different levels and with different methods. [...] It seems to me that the historical analysis of scientific discourse should, in the last resort, be subject, not to a theory of the knowing subject, but rather to a theory of discursive practice’ (Foucault 1994:xiii).

In any given sociocultural or political field, social structures, institutions, and agents come together and make history and memories. The struggle over memory is thus a struggle of competing memory narratives and power. Termed by Foucault as ‘discourse formation’, the inclusion (or privileging) of marginalized voices over ‘official’ memories instituted by states and state-related agents involves ‘counter memories’ (Foucault 1994) that point to the continuous struggle between dominant and marginalized voices in the production of history/memory (Argenti & Schramm 2012:6). What is hence most interesting or imperative, according to Michel Foucault, is an analysis of discursive processes and practice in which meaning ‘springs up through the manifest formulations, it hides beneath what appears, and secretly duplicates it’ because ‘each discourse contains the power to say something other than

what it actually says, and thus embrace(s) a plurality of meanings: a plethora of the 'signified' in relation to a single 'signifier' (Foucault 2002:133+134). This means that only understood in its complexity and discourse itself can one find the plenitude of the reality of subject's knowledge, history, and memories.

In Argentina a powerful representation of the past as genocide is increasingly growing from counter hegemonic narrative into a dominating discourse. In the contested realm of historical memory constructions, newspaper articles, books and documentaries represent different opinions of how to best understand Argentina's violent past. Thereby various authors and intellectuals support and advocate the legitimacy of the use of genocide for the crimes of the last military regime (Feierstein 2007, 2009; Mántaras 2005; O'Donnell 2007). Others strictly oppose the term and even still recall the Junta's regime as involved in the 'war' against subversion (Expert Statement Acuña 2011). But even among those who acknowledge the violence as disproportional not all agree on the figure of genocide as most suitable for the state terror of the past (Alaniz 2013; Vezzetti 2002, 2009, 2012). Although they morally acknowledge the righteousness of the term, these critiques mostly approach the topic from a legal point of view and put into question juridically that genocide is the most correct term for the complex matter (Schabas 2000; see chapter 5 for detailed discussion of the topic).

To approach multi-authored memory narratives (Saris & Bartley 2002) and their meaning from the point of view of those involved in the process, Johannes Fabian (Fabian 1990) suggests analysing 'representation' as praxis. Discussing representation, power, and different subject positions, Fabian explains that things are paired with images, concepts, or symbols, acts with rules and norms, and events with

structures. In his analysis, representation requires presence, which in turn means that representation is best approached as praxis (Fabian 1990:756) in which people engage in concrete re-enactments and re-presentations of presence and that allows for analysis that includes experiences.

Fabian's conceptualization of self and other in representation is a good starting point for an analysis of identity formations and constructed memory narratives in Argentina. Connected with power (over ones lives, histories, and agency) the discourse of genocide as 'the representation' of the last civil-military dictatorship, forged by those concerned in the field, creates the Other, but also the self in this narrative of rehabilitation and recovery of identity in Argentina. Genocide is therefore not only 'what really happened' but also a representation of the past that builds on the theoretical analysis of gains and losses undertaken by human rights agents in post-transitional Argentina who seek to win back ownership of history and justice. Again, this evokes Rosenblum's approach to justice:

What we remember and feel compelled to relate affects our judgment of existing structures of public witnessing and recollection, our judgment of adequacy of public responses to hateful violence. The experience of injustice and our explanations of it influence our expectations about what constitutes justice. [...] We design new collective responses and institutions to cope with these memories of the experience of injustice. (Rosenblum 2002:4ff.)

Rosenblum's description on the dynamic interaction between memory and representation, personal and collective narratives, and institutional and governmental structures points to the importance of a holistic analysis of violence, trauma, and justice. Equally, research on transitional justice has shown that historical truth(s) and representation also mutually influence each other and are determined and transformed by people's active practices in the present. Hence, with this thesis on the concrete

practices of justice, I analyse the representation of the past as an act of genocide in its legal and discursive complexity as well as in its making through praxis.

### **The ‘Ownership of Justice’: Summary and Outlook**

30 years of experiences with and research on transitional justice produced a growing number of case studies that show that coming to terms with the past is an enduring process little dependent on its connection to democratization and initial political transformations. Equally, research on Argentina throws into question some of the earlier assumptions of transitional justice, such as the need for its mechanisms to happen in times of ‘transitions’ from authoritarian rule to more democratic governments. The on-going struggle for truth, memory, and punishment in Argentina that currently is carried on not only by survivors but also by the post-terror generation is a vital example for that statement. And while the process continues, circumstances, tools, and agents changed, turning post-transitional justice into a phase with characteristics distinct from the ones employed in initial times of transition.

With my research on the post-terror generation and Argentina’s justice efforts since 1995, this thesis contributes to this important field of post-transitional research. Looking at (the onset of) post-transitional justice efforts in practice, I extend existent studies of juridical punishment by asking specifically about the active participation of the second generation in current political and socio-historical developments in Argentina. In so doing, I emphasize the relevance of practice for the creation of social, personal, and collective post-memories.

I thus argue that in the era of post-transitional justice the second generation takes on an 'essential role' (Judge Cattani cited in Skaar 2011:68, Interview Judge 2011; Interview Slepoy 2012) and with their 'memories of memories' not only changes official memory narratives, but also changes the character of current trials, turning them from punitive, perpetrator centred juridical proceedings into platforms for victims to construct their own belonging to a history understood as genocide. Conceptualizing the 'presence of absence' as the driving force for action expressed through justice as a 'signifier with discursive meaning', H.I.J.O.S. vernacularizes cosmopolitan law in a process shaped by 'frictions' in which they create new meanings for their own group as well as for the imagined community in Argentina. Looking at justice agents from the second generation, this thesis thus goes beyond the goal of 'coming to terms' in post-transitional justice and poses interesting questions about prevailing frames of genocide and transitional justice literature.

## **Chapter 2: Argentina. A Brief History of Violence and Justice**

### **Introduction**

The court condemns [...] Julio Héctor Simón nicknamed ‘Julian the Turk’, ‘el turco’ or ‘Julián’ [...] with the penalty of 25 years in prison, absolute and perpetual disqualification, other legal and ancillary costs, for being co-criminally responsible for crimes of illegal deprivation of freedom doubly aggravated by his status as official public and for having lasted more than one month, in repeated ways. Two facts: the imposition of torments aggravate by running to the detriment of repeated political persecution and concealment of a ten-year-old minor, [...]. (Sentencia 2006)

On 4 August 2006, at the Federal Criminal Court Nr. 5 in Buenos Aires Judges Luis Rafael Di Renzi, Guillermo Andrés Gordo, and Ricardo Luis Farias announced the verdict in the case of the disappearance of the matrimony Poblete and their daughter Claudia Victoria. Full judgement of the so-called ‘Caso Simón’ trial for crimes against humanity committed in 1976 was read a week later. The judgement, in which Hecór Julio Simón, former member of the Federal Argentine Police and oppressor and torturer at the secret detention centre *El Olimpo*, was sentenced to 25 years in prison was the first sentence obtained against a perpetrator of the 1976-83 dictatorship since the annulation of the amnesty laws.

But the sentence read by the head of the tribunal in the AMIA court room at Comodoro Py 2002 in Buenos Aires expressed not only a judgement over one perpetrator of human rights violations or justice for one victim but instead powerfully introduced a decisive change in Argentina’s justice efforts as a whole. Considered a milestone, Pagina12, one of Argentina’s daily newspapers, announced the next day what many former victims, family members, human rights activists, and other

accountability actors felt: '*Se está empezando a hacer justicia*' (They are starting to make justice) (Ginzberg 2006).

Since Julio 'El Turco' Simón's conviction for human rights violations, hundreds of state-related perpetrators of the last military dictatorship have received their sentences in dozens of trials held in local federal criminal courts all over Argentina. These cases of retributive legal justice and juridical punishment form the cornerstone of present-day justice efforts in post-transitional Argentina. Accountability actors within and outside Argentina widely recognize this new area of juridical punishment as a distinct period in Argentina's history, underscoring the paradigmatic shift of the country's human rights policies, in which the newspaper-headline '*Se está empezando a hacer justicia*' still rings loud.

Today, Argentine human rights organizations often refer to the past ten years as an area of justice and the hundreds of trials under way truly are impressive. However, they certainly did not come about without previous justice attempts or without the continuous resistance to impunity of the people affected by the military government's crimes. This chapter contextualizes my analysis of current Argentine justice practices and politics of memories, providing the historical context of the 1976-83 violence and its subsequent aftermath. The intention is to provide a general, albeit focused historical and socio-political overview of the before, during and after of the 1975-83 violence and its aftermaths.

Before I do so it is important to clarify that this chapter is only partly a factual account of past events. Rather, as discussed in the previous chapter, I understand history as

positioned in the dialectics of historical evidence and individual and collective memories. As a process of permanent construction, discourse formations, and power relations, agents' concrete practices structure history in relation to their memories. The following historical episodes are therefore elected according to their relevance for the research subject and specifically for their relevance for understanding a particular representation out of the multitude of representations of the past.

Given these premises, this chapter engages with the 1976-83 state terror, initial justice attempts, times of impunity, the coming about of H.I.J.O.S., and the trials that were reopened under the Kirchner government, unfolding in three parts: The time leading up to the dictatorship and the years of 'la violencia'; the early aftermath of state terror and initial state-led attempts of truth, justice and rehabilitation; and, thirdly, the post-transitional justice period, starting with the emergence of H.I.J.O.S.. With specific attention paid to transformations in symbolic and linguistic representations and corresponding agency, I aim at tracing the transformations of past representations that are made and unmade in discourses and practices by agents concerned with Argentina's past.

### **Before 1975: The Beginnings of Violence**

1945 is a good starting point for the discussion of Argentina's 'Dirty War', state terror, or genocide. According to Robben (2005) and many other authors, Argentina's historical record and political landscape between WWII and the coming of the 1976 state terror was characterized by two main strengths: Juan Domingo Perón as the most influential political figure and the powerful Argentine army. Between 1945 and 1976 only three out of twelve governments were democratically elected and routine



takeovers of power by military leaders in 1930, 1943, 1955, 1962, 1966 and 1975 dominated Argentina's politics for years (Méndez & HRW 1991:5). These regular coup d'états had the effect of a general, middle-class indifference towards military regimes and caused Argentina's difficulties to build democratic governmental institutions. Recurrent military coups had proven the 'unholy alliance' between the military and the government in Argentina. People got used to de-facto regimes and even those, who had migrated to Argentina in the early years of their lives, had made peace with the influential role of the armed forces in Argentina (Interview Erwin 2010).

In Argentina and most other Latin American countries of the 50s, 60s, and 70s, revolutionary forces and social and socialist movements included Marxists, Communists, Trotskyists, Third World Movement Catholic workers, labour union members, and students, all of whom were growing in numbers, demanding social justice, worker rights, labour unions and social housing. And while these armed and unarmed guerrilla movements at the time established themselves all over Latin America, Juan Domingo Perón gave the Argentine case a special edge. Since his first presidency, he supported the working class, and made people aware of their power 'en mass'. As if read and learned from Canetti's 'Crowds and Power' (Canetti 1984), in which the Nobel Prize Winner ascribes power to the crowd for the reason of an 'irresistibly felt equality', Argentines learned and regularly employ the power of 'winning the streets' as their weapon of choice (Robben 2005:18).

After Perón went into exile in 1955, leftist groups with socialist and social democratic ideals started organizing, demanding rights and opposing the various military

dictatorships of the time (Park 2012). In the 70s and 80s, the most popular revolutionary forces were Montoneros (a leftist Peronist formation including a wing of armed activists) and the ERP-PTR (Ejercito Popular del Pueblo or the People's Revolutionary Army, a Maoist-influenced, armed guerrilla group of the Revolutionary Workers Party). The symbiosis between Perón and the Crowds was overshadowed however when tensions between right and left Peronist political wings increased after Perón's return in 1972 after 17 years in exile in Spain. Especially when Perón turned his back on the revolutionary Peronist groups, the Janus face of Peronism started what would turn into the worst violent conflict of Argentina's history.

Those calling themselves Montoneros, also known as 'the soldiers of Perón' (Gillespie 2008), have fought for their leader's return but felt betrayed when during Perón's second reign, they and ERP members were increasingly more often been spoken about as guerrillas, terrorists, or subversives. Soon, enmities increased and Montoneros, the political left-wing of Peronists, were persecuted and attacked not only by official military and police forces, but also by the right wing, paramilitary Peronists called *Triple A*. With an ever more tense political scenario, violent confrontations amplified and, after General Perón's death in 1974, fierce clashes, bombings, and shootouts turned into a daily occurrence. This prompted Isabela Perón as the vice-president and successor after Juan Perón's death, to implement measures to end the violence imposed by 'subversive elements'.<sup>23</sup> Legitimized by the government's signing of the 'Eradication Decrees', official orders in the first document explain about 'the activities that subversive elements generate in the

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<sup>23</sup> One of my informants and founding member of H.I.J.O.S. referred to documents that even take this order back to Perón (Interview Polo 2011).

province of Tucumán and the necessity to adopt adequate measures for their eradication' (Decree 261/75). The first article then continues with an order: 'The task forces shall proceed executing military operations that are necessary in order to neutralize and/or annihilate the activities of subversive elements that operate in the province of Tucumán' (Decree 261/75).

The persecution of armed and unarmed revolutionaries was especially gruesome in Argentina's northern province of Tucumán, where the persecution of 'subversives' known as '*Operativo Independencia*' had already started in 1975. In Tucumán, the province often called the 'laboratory of the dictatorship', full-scale terror and systematic annihilation of subversives was thus perpetrated already more than a year before the coup d'état that officially installed the military as the country's de-facto government.

Thus, during the democratic government of Isabela Perón in 1974-76, state agents systematically started to fight political and social activists whom they labelled 'terrorists' and 'subversive groups' accused of undermining the national '*estilo de vida*' (life-style) (Statement Menéndez 2011). After Montoneros demonstrated their growing strength by attacking a military base in the city of Formosa, the government signed a second round of decrees in October, which broadened the command for annihilation to all of Argentina, stating that all necessary measures to be taken 'to effectively annihilate the activities of subversive elements in all of the country's territory' (Decree 2772/75). With the secretly founded right-wing, paramilitary *Triple A* the state used sheer brutality attacking hundreds of armed revolutionaries but also

trade unionists, social and street workers, university students and workers were killed or had to flee into exile.

And even though or maybe because paramilitary troops already fought left-wing guerrilla forces in the North and all over the country, the atmosphere of the supposed thread of ‘communist terrorists’ and social chaos prevailed under Isabel Perón’s ultraconservative but weak government. On 19 March 1976, just shortly before the Military took power, Jacobo Timmerman, later victim of the military regime himself, published an article at the front page of ‘La Opinión’:

One dead every five hours, a bomb every three. Ten bodies - seven in the Province of Buenos Aires, two in Rosario and one in Cordoba - were the tragic toll of violence in Argentina yesterday. The scenario was always the same: A wasteland, a deserted area, a dead life. Together they confirm to the country another disastrous record, while the political nation dramatically debates its institutional future. Between Thursday 11 and Thursday 18 of March, 38 people were assassinated throughout the country, without producing any arrest. In the same period, 51 bombs exploded in different locations. The balance cannot be more frightening: Every five hours a murder, every three a bomb that detonates somewhere in the Republic. (Timmerman 1976)

Hence, the need to re-establish ‘order’ was taken as an excuse for the military coup launched by the united armed forces, headed by General Jorge Rafael Videla, Admiral Emilio Eduardo Massera, and Brigadier Orlando Ramón Agosti.

### **Coup d’État and the Culture of Terror**

When the Argentine population lived the coup d’état on 24 March 1976 there was no immediate rejection or protest. The coup or ‘*golpe*’ overturned Isabela Perón’s government, which was marked by a growing atmosphere of uncertainty and fear generated by the seemingly uncontrollable violence of various armed left-wing guerrilla groups and revolutionary forces such as ‘Montoneros’ or ‘ERP’. Most

Argentines at that point saw the intervention as a relief as the revolutionary forces had amassed sufficient power and means of violence to enforce their demands and the general population feared a Marxist revolution and civil war. The reaction most common to the military take over was simply ‘they are going to bring order’, believing that a strong hand will regain security, the rule of law, and successfully fight subversion and armed guerrilla forces. Furthermore, to legitimize the process that would save Argentina as a culture and nation, the military ‘painted an apocalyptic picture of the cultural war’ in which ‘the military Junta emphasized time and again that this anti-revolutionary war was not between armed forces and guerrillas, but between the Argentine people and the subversives, be they combatants or not’ (Robben 2005:184).

The Military Junta promised to end the daily violence and to restore security and order. Their coming into power was thus at first welcomed by a majority of Argentines (Sikkink 2011:61), especially as the society had long become familiar with the unholy alliance of military power and politics (see Crenzel 2008:174). In his inauguration speech, Videla articulated the motivation behind the military coup:

The armed forces, in fulfilment of an indispensable obligation, have assumed the leadership of the state. [...] This decision pursues the goal of putting an end to misrule, corruption, and the subversive flagella, and is only directed against those who have committed crimes and abuses of power. It is a decision for the *patria*.<sup>24</sup> [...] Therefore, at the same time as the fight against subversive delinquency will continue without a rest, open or concealed, all demagoguery will be banished. (Videla, Massera, & Agosti 1976)

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<sup>24</sup> *Patria* means ‘native or adoptive soil arranged like a nation, to which the human being feels tied by juridical, historical and affective ties’ (Dictionary of the Spanish Language; Real Academia Española).

A few days after the coup, Jorge Rafael Videla, Argentina's new de-facto president announced the 'Process of National Reorganization' aimed at the construction of a society built upon an ideology of Western and Christian values and a neo-liberal economic system. The new discourse openly proclaimed the need to 'heal the national body' by eradicating all subversive forces and served to legitimize the state terror that was implemented thereafter. As Admiral Massera put it:

These are difficult days. Days of cleansing, preparation [...]. This country has been ill for too long for a sudden recovery. That's why we must understand that we have only begun our period of convalescence [...]. For our recuperation of the nation's health [...] we must cleanse the country of subversion. (Massera; El Camino, opening speech)

In Argentina, by means of propaganda, spreading rumours and false information, a 'Manichaeian discourse of cultural differences' (Robben 2009:6) was implemented built upon the term 'subversion' (see chapter 5. for further details on the issue). Additionally, fear and doubt were systematically inflicted upon society, producing the ever more common saying '*por algo será*' (it must have been for something) in order to cope with yet another story of a disappearance.

The unconstitutionality of the 'de-facto' regime emerged when the Junta dissolved the Congress, re-established the death penalty for political cases, allowed detention for unlimited periods of time without charges, and replaced about 80 per cent of the judges (Méndez & HRW 1991:5f.). However, the military dictatorship made little use of its self-imposed 'legal' powers. Instead it installed the method of forced disappearances that resembled the 'night and fog' operations of the National Socialist Regime. To '*chupar*' or to 'disappear' people turned into the regime's preferred

weapon and the saying, '*Es como se lo hubiera chupado la tierra*' (It is as if he/she had been sucked up by the earth) became known widely.

While the general population did not immediately foresee the terror that was upon them, state repression and the 'clandestine practice' used by the military regime soon proved a departure from former dictatorships and demonstrated 'the development of an obvious determination on the part of the state to exterminate its opponents' (Crenzel 2008:174). The military apparatus employed a clandestine system of repression, dividing the country into zones and sub-zones with approximately 350 secret detention centres all over Argentina (Feierstein 2000). Throughout the country and following the cruel orchestration of a well-established procedure, task groups composed of military officers, policemen, and civilians, who arrived at the houses of their victims to kidnap, torture, and detain their targets never to be seen again by their families (Perelli 1994:44). Often, the targeted subject was taken into a car and brought to secret detention centres found all over the country. These clandestine operations allowed the regime to dispatch itself from 'subversive' or 'terrorist' enemies without leaving any trace of their whereabouts.

Using clandestine means of violence the military regime, operating in the 'shadows' (Nordstrom 2004), not only succeeded in effectively dismantling guerrilla and leftist movements, but, by the same token, also implemented a 'culture of fear' (Green 1999), that made people learn 'not to see, not to hear, and not to speak' (Interview Judge 2011). Hence, while thousands of people were being shot or disappeared, thousands more left the country or went into hiding, it was only very few who found the strength to speak out.

After seven years of genocidal dictatorship, an estimated 30,000 Argentines were disappeared, tortured, and murdered, and a repressive apparatus of more than 600 secret detention and torture centres or ‘concentration camps’ served as the cruel balance of the Military Junta (Ferreira 2013:5). People were kidnapped and disappeared from their homes, their workplaces, on the street, during meetings or in any other occasion of every day life situations. Family members and witnesses to the abductions faced walls of silence with their attempts to find information of the detained person. Investigations, habeas corpus documents and all other kinds of inquiry to find their loved ones were consistently denied by the employees of the armed forces, judges, and other bureaucratic institutions, leaving citizens in full doubt, fear and constant hope of the return of the lost person. As detentions were secret, all forms of torture, unlawful questioning of imprisoned persons, and deliberate killings were possible and shielded from any judicial or administrative investigation and was hence carried out without fear of punishment (Méndez & HRW 1991:6).

The denominated ‘counterrevolutionary war against subversion’ was fought with the intention to fulfil the ‘Doctrine of National Reorganization of the Argentine Society’. Given that the armed revolutionary forces had been largely decimated even before the military coup, the majority of the regime’s victims consisted of worker’s leaders, trade unionists, students, social workers and others, all who opposed the apparent order and ‘Argentine culture’. Videla put it this way: ‘The enemy is not only a terrorist with a weapon or a bomb [but] anyone who spreads ideas which are contrary to our western and Christian civilization’ (cited in Feierstein 2006:153). Hence, political opposition, trade unionists, students, and other civilians, all apparently suspect of delinquent activities, were persecuted by the regime in order to ‘completely eradicate subversion,



making it impossible for Marxism to make a comeback in the country in the future’ (Menéndez cited in Ledger 1979).

By 1980, the guerrilla groups were wiped out, as were a variety of political parties and social movements, for the definition of the enemy included all of those potentially contesting the military Doctrine of National Reorganizations, which put forth ‘Christian, Western’ values. In 1982 inner-military conflicts surrounding the financial crises owed to growing dependency to foreign investment and local protest of human rights groups led then Junta president Leopoldo Galtieri to commit a fatal decision. In the attempt to shift attention away from the inner-political crisis he decided to invade the Malvinas Islands, occupied by the United Kingdom since 1833, in an attempt to gain back sovereignty over their territory in what became known as the ‘Falklands War’. As the government had built warm relations with the Reagan administration the military leaders assumed the United States was on its side. However, in the global arena of power-relations the USA sided with Great Britain and the war was short, costly and disastrous for Argentina, revealing the weakness of ‘a force trained not to do battle, but to act as a vicious repressive force against an ‘enemy within’ (Méndez & HRW 1991:7).

After the Falklands War was lost, it was only a matter of time for the military de-facto regime to collapse. The head of the so-called ‘caretaker Junta’ General Reynaldo Bignone (Méndez & HRW 1991:7) lead the country into the elections that would facilitate a peaceful transition to democracy and peaked in free elections in December of 1983, in which Alfonsín as the most convincing civil candidate was elected the new president of Argentina.

## **The Return to Democracy: Efforts for Truth and Justice**

For seven years Argentines were paralyzed by a 'culture of terror' (Taussig 1989) perpetrated by a brutal military regime. The announced 'Process of National Reorganization' became the epitome for one of the worst dictatorial regimes of Latin America and left society to cope with 'collective trauma' and the terrible loss of basic trust (Robben 2000). In 1983, the dictatorial Junta Regime that conducted the country for seven years handed over power to newly elected president Raúl Alfonsín, who headed the first civilian government since 1975. Alfonsín was now given the delicate task to lead the new and fragile democracy into a future that 'would withstand military pressure' while at the same time working towards the fulfilment of civil and human rights organizations' demands for truth and legal punishment for those responsible for the crimes of the atrocious past (Méndez & HRW 1991:3).

In the immediate aftermath of the transition, or what I call the first phase of transitional justice in Argentina, Alfonsín's government embarked on the struggle for justice and social restoration. When he reflected upon Argentina's transitional justice process at the 'Salzburg Conference on Justice in Times of Transition' the former president put it this way: 'Punishment is one instrument, but not the sole or even the most important one, for forming the collective moral conscience. The revelation of the truth through impartial judicial proceedings and the resulting public condemnation serve just as well as the imposition of punishment to impress upon the public mind the kinds of behaviour that society is unwilling to accept' (Alfonsín 1993:19). His government thus ordered a thorough investigation of the crimes, which resulted in the establishment of the famous CONADEP truth commission, and in 1984 established a military tribunal, later known as 'the Argentine Nüremberg' or 'the Trial of the

Century' (Barahona de Brito et al. 2001:4), to prosecute the nine leading figures of the former military government.

While the CONADEP truth commission and its final report intended to shed light on the patterns of violence, tease out responsibilities, and make general knowledge available for Argentina's citizens, the trial against the nine leading Junta members is considered the most important act of these early times of transition. Especially when connected with Alfonsín's intention to provide truth, the trial can be said to have fulfilled two purposes. It accomplished the need to punish those responsible for the state terror and it provided grounds for a new understanding of the past. This new understanding held that the Juntas had a systematic and organized plan of persecution and extermination that was carried out throughout Argentina.

To prove the 'systematic plan' of the genocidal regime, the prosecutors elected a few hundred of the most paradigmatic cases from the thousand victims reportedly known, strategically choosing them according to their gravity, and their regional as well as temporal diversity and pressed charges (Interview Ocampo & Strassera; in documentary at hands of the author). In 1985, the tribunal of the 'Argentine Nüremberg' convicted the main perpetrators and leading figures of the authoritarian regime, and sentenced five of them to life imprisonment. During the trial, public prosecutor Julio César Strassera and his assistant, Luis Moreno Ocampo, had been the first to use the term 'genocide' before a court (for further details see chapter 5). Finally, the judges concluded that there was a systematic plan behind the crimes committed by the armed forces, which was based on the intention to economically and

ideologically reorganize Argentine society, a judgement and juridical statement of lasting importance and influence.

And even though the trial and the CONADEP truth report ‘Nunca Más’ (2011) declared the systematic plan of the state terror, these initial transitional justice efforts also laid grounds for the ‘theory of two demons’ (*la teoría de los dos demonios*), according to which the state and revolutionary forces were equally allotted guilt, responsibility, and blame for past atrocities that society had to suffer.<sup>25</sup> The new government’s strategy was to hold trials that were ‘as exemplary as possible, in order to prevent episodes of violence and authoritarianism from recurring’. For this strategy to succeed, Alfonsín decided to try not only the main state-related perpetrators, but also former guerrilla leaders such as Mario Firmenich, Fernando Vaca Naravaja, Enrique Gorriarán Merlo, and Roberto Perdía (Perelli 1994:47 ff.).

Additionally, Ernesto Sabato’s prologue in the published report of the truth commission directed the collective memory towards this understanding. ‘During the 1970s, Argentina was torn by terror from both the extreme right and the far left’ (CONADEP 2011). A good example of the ‘justice dilemmas’ countries have to deal with during initial times of transition, Sabato’s intention was not to anger the military forces. Therefore, he deliberately opted to state that ‘the armed forces responded to the terrorists’ crimes with a terrorism far worse than the one they were combating, and after 24 March 1976 they could count on the power and impunity of an absolute state, which they misused to abduct, torture and kill thousands of human beings’

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<sup>25</sup> The CONADEP truth report promoted the ‘theory of two demons’ when it recognized that the dictatorship used violence disproportionately, but in response to violence from the guerrilla.

(CONADEP 2011). Thus, even though the weight of guilt is put on state-related military and police forces, the report still clearly positions guerrilla violence as the initial reason for the ‘disproportional’ responses.

In the immediate aftermath of the military regime, legal rehabilitation, accountability and truth seemed to be achievable goals, but this initial phase of implementing justice was soon brought to an end. Countering the strategy of ‘exemplary justice’, more and more complaints (by then over 2,000) were filed against more than 600 defendants (Robben 2005:331). And although these cases progressed only slowly, they also brought about a big quantity of evidence (Oberlin 2011:201). With advancing juridical proceedings, President Alfonsín, fearful of antagonizing the still powerful armed forces, passed the two amnesty laws ‘Full Stop’ (Ley Punto Final 1986) and ‘Due Obedience’ (Ley Obediencia Debida 1987) essentially ending the first phase of transitional justice in Argentina.

### **Times of Impunity: The Failure of Institutionalized Jurisdiction**

With their limitations of time and responsibility the Full Stop and Due Obedience Laws greatly reduced the legal accountability of members of the military and brought nearly all cases to a hold. Even worse for human rights organizations, the succeeding government of Carlos Menem continued the path of impunity. In support of a version of history as a war between revolutionary forces and the military his government further promoted the two-demon theory. In the name of peace, the newly elected president therefore pardoned hundreds of convicted officers and guerrillas in 1989 and released the imprisoned Junta members one year later (Robben 2010b:188; Soledad Catoggio 2010:9). Menem justified these pardons in the name of ‘national

reconciliation' (Druliolle 2013:260), which assumed responsibility of both, state agents and guerrilla forces, and intended to close the chapter.

Given the official historical narrative it seemed at that point that human rights groups' efforts for legal punishment of state-related perpetrators were futile because, as Argentine social scientist Soledad Catoggio put it, 'In the midst of these conflicting versions, the battle for meaning was won, temporarily at least, by the interpretation (that) saw the whole society as the 'victim' of two twin evils: guerrilla violence and state terrorism' (Soledad Catoggio 2010:13).

With the discharge of the prisoners and the amnesty laws mentioned above, a decade of impunity began in which all possibilities for juridical accountability and legal prosecution of the members of the security forces were suspended. And even though human rights organizations and family members of the disappeared kept insisting on truth, punishment, acknowledgement and memory, reconciliation was the new paradigm. While the *Madres* in Buenos Aires and elsewhere kept marching every Thursday, and while the *Abuelas* kept looking for their missing grandchildren and some military agents and former perpetrators kept struggling with their consciousness and the question of whether or not to break the military's code of silence, there was no official, governmental, or juridical response to their demands. To the contrary, those well known for their roles during the state terror later regained political positions and power in several cities in Argentina. One such example is General Domingo Bussi, who during the Argentine genocide was installed Governor of Tucumán on 24 March 1976, the same day his political opponent Guillermo Vargas Aignasse was disappeared from his home. For the next year and a half, Bussi governed the province

with an iron fist and by the systematic disappearance and annihilation of political opponents, labour unionists, university students, and workers restructured society economically, politically and socio-culturally to the effect that he was elected Governor of the Province of Tucumán for the legislative period of 1995-99.<sup>26</sup> Thus, the imposed policies of the past led to a ‘cultural scenario of impunity’ in which ‘the ‘normalization’ of living with repressors’ showed itself, as Susana Kaiser argues, ‘in society’s apparent adaptation, conscious or unconscious, to the reality that torturers, assassins, and ‘disappearers’ (of people) have a place within streets, restaurants, coffee shops, television screens, magazines, holiday resorts, official ceremonies, and even significant public office’ (Kaiser 2002: 501–503).

### **The Onset of Post-Transitional Justice: H.I.J.O.S. and the Scilingo Effect**

For many years the juridical framework of impunity ruled official politics in Argentina. Still, opposition to the imposed silence and to reconciliation without justice was kept alive on a socio-political and international level. In 1995, Adolfo Scilingo, a former Argentine naval officer, came forth confessing his participation in the systematically organized death flights ordered by the military regime. According to his testimony, unlawfully imprisoned and ‘disappeared’ people were dazed by injections, put into small planes and flown out off the coast of Argentina. There they were thrown to their deaths into the Rio de la Plata, to die without evidence (Verbitsky 1995a).

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<sup>26</sup> In 2003, Bussi was elected again but was not allowed to assume office due to the trial opened against him for the disappearance and murder of Guillermo Vargas Aignasse. Today, Antonio Domingo Bussi is legally sentenced to imprisonment for life for the murder of Vargas Aignasse, a sentence central not only to the struggle for justice but also for the change in consciousness within the Tucumán society.

Scilingo's confession caused great disturbance as details of the brutal methods of the former regime in killing and torturing its enemies were admitted for the first time by a perpetrator. But with the confessions human rights groups regained power after the unresolved and unpunished horror of the past returned with the face of a perpetrator who dared to break the pact of silence. Thus, in Argentina the confessions triggered civil outrage, further confessions by other '*milicos*', and media involvement remembered as the 'Scilingo Effect' (Feitlowitz 1998) and brought about a new wave of human rights protests creating a context in which the organization H.I.J.O.S. was born.<sup>27</sup>

At the same time in Spain, the unexpected confessions evoked Universal Jurisdiction efforts, where Judge Baltasar Garzón decided to file cases against the confessant and 98 other Argentinean 'Dirty War' perpetrators for their crimes of genocide, torture, terrorism and other offences. With the help of hundreds of Argentine citizens who with their testimonies made the case possible, Scilingo was captured in Spain in 1997, where he – ironically – went to, asking for political immunity and refuge. After his arrest and the successful trial, judgement was spoken in 2005, which sentenced the perpetrator to 640 years of prison (TRIAL 2013).

The conviction of Scilingo (and later the extradition of Ricardo Cavallo) had enormous impact on the visibility of universal jurisdiction's power and on the public awareness of the possibility to prosecute gross human rights violations. With its ability to issue arrest warrants internationally, 'foreign trials' based on the principle of universal jurisdiction allow for the sensation that 'the only refuge that the criminals

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<sup>27</sup> *Milico* is a derogatory term for the military in colloquial Argentine Spanish.



are left with is their own country in which they committed the crime, because they are persecuted internationally' (Interview Slepoy 2012). Remembering what H.I.J.O.S. said about the Escrache, 'So that the home will be their jail!' one can see the same effect write large: By restricting perpetrators' spaces of global movement, their home-countries will be their prisons. Accordingly, the important work of Judge Garzón is still regarded a stepping-stone in the fight against impunity and for the legal punishment of the human rights violations committed by the military dictatorship and certainly connects with Argentina's most recent attempt to 'return the favour' (see chapter 2).

Locally, the trigger of Scilingo's confession and the atmosphere of public discontentment with the still widely felt impunity and distrust in state institutions gave birth to a new wave of human rights protest. Within this context of confessions, recovery of memories and the empowerment of human rights groups, the association H.I.J.O.S. came into being, extending Argentina's list of human rights organizations with its reference to kinship ties. In the period up to and including 1995, many young adults all over the country, each of them affected by the loss of a family member, came together in search of a trusted circle of friends who would understand their loss and the meaning of 'absence'. The children of the disappeared first met during human rights protests, at the Thursday marches of the *Madres de Plaza de Mayo*, at university, or simply at a friend's party. To meet their common needs, they began to organize their own meetings. There they exchanged their experiences and life-stories as the group began to gather more information on their parents' lives, ideals, and forced disappearances (Peer group H.I.J.O.S. 2011).

In 1995, H.I.J.O.S.' first annual national meeting officially established the new Argentinean association. Within the course of one year this egalitarian social network counted more than 600 activists, with branches all over Argentina but also internationally. During H.I.J.O.S.' weekly meetings, the shared anger against the national impunity that protected all former perpetrators who killed, tortured, and disappeared thousands of people and harmed their own generation led to their dictum: 'We don't forgive, we don't forget, and we don't reconcile!' (Hijos-Tucumán 2011). And even though all institutionalized paths for legal penalization were closed, members of H.I.J.O.S. clearly opposed 'false reconciliation', stating,

[The government] should know that the table of reconciliation will always be missing one paw [*pata*]: the paw of those, who do not accept to shit on our fallen, of those, who do not give in for impunity to become law and the paw of those, who understand that a truly democratic society does not exist if it establishes itself on cadavers and inequality. (H.I.J.O.S. 2000c:4)

In order to break the imposed silence and to stand up against impunity H.I.J.O.S. decided to practice justice its own way. In 1996 the groups started with a strategy of social condemnation that turned into a far-reaching, symbolic, non-state jurisdiction with lasting impact on Argentina's politics of justice and memory. By 'politicizing trauma' (Benegas 2011) the 'Escrache', as these protests were called, directed public attention to the everydayness of impunity and coerced intimacy of perpetrators and their victims, who still lived door to door of each other.

Towards the end of the second period of the Menem government (1994-99) and during the short presidencies of Fernando de la Rúa (1999-2001), Adolfo Rodríguez Saá (2001) and Eduardo Duhalde (2002-03) the demands for juridical investigations and trials were voiced once again, this time even louder and by a wider group of

citizens. Not to be forgotten the many new activists who with the energy of the youth came forth protesting for justice, using non-legal mechanisms of condemnations and public shaming as the new means of resistance.

### **Post-transitional Justice: Trials for Crimes against Humanity**

Reconciliation, if it is not preceded by true justice, is a vulgar shady deal between criminals. (Thomas Aquinas)

With the advent of the millennium, Argentina saw a new era. When Nestor Kirchner was elected president in 2003 he promised to change the course of the country's dealing with its past. Already in 1983, when the dictatorship had finally handed over power, at a Peronist meeting at Ateneo in Santa Cruz, Nestor Kirchner spoke out for the need of retributive, juridical justice, a promise he kept when voted into government. 'We always condemned the military dictatorship. We always said that Videla, Massera and Agosti who have brought shame to those who came after them, have to sit in the bench of constitutional justice to respond in face of so many abuses, to so many crimes that they committed' (N. Kirchner cited in Cappa 1983).

After his election, in an important early symbolic act Nestor Kirchner ordered to take down the portrait of Jorge Videla from the gallery of presidential pictures in 'Campo de Mayo', a military base in the outskirts of Buenos Aires. This deed gave confidence to the Argentine people in the new government's true intention to take seriously human rights and the struggle to end impunity.

Soon thereafter, in 2003, the Argentine Congress passed a law in which it declared null the Impunity Laws of the late 1980s. Then the possibility of the local prosecution of perpetrators for crimes against humanity was re-opened in 2005, when in the trial

‘Caso Simón’ seven judges for the first time judicially declared unconstitutional the laws ‘Full Stop’ and ‘Due Obedience’ (CELS 2005) and labelled all crimes committed by the last military dictatorship as crimes against humanity. Built on that sentence, the Supreme Court of Buenos Aires reasserted the unconstitutionality of the impunity laws and ruled that human rights abuses committed by the military regime between 1976-83 shall be considered crimes against humanity, turning them into criminal acts exempt from the statute of limitations. This was the starting signal for the nation-wide prosecution of former military officers in the federal courts of Argentina.

The trials for crimes against humanity including homicide, torture, the appropriation of minors, and the intentional extermination of a group of people are the current focal point of Argentina’s fight against impunity, as the perpetrators, murderers and torturers, economic collaborators, and high-ranking organizers of the ‘Argentine Genocide’ are being tried locally, by their own successor-government, for their human rights violations. With early judgements in the ‘Etchecolatz’ (2006) and ‘Van Wernich’ Case (2007), the verdicts of which legally introduced ‘genocide’ as the historical and political frame for the judged crimes, human rights groups’ struggle for justice reached its symbolic and reparatory highpoint that influenced not only Argentina’s politics of memory but also the way in which a generation of victim’s decedents understand themselves (for further details on the discourse of genocide and the current trials in Argentina see chapter 5 and 6).

Today, during Argentina’s retributive justice efforts, hundreds of victims, survivors, and witnesses give their testimonies and turn their memories and suffering into legally valid evidence. According to up-to-date information from CELS, a total of 2,071

people are currently accused, processed and/or tried for crimes against humanity committed during the Argentine Genocide (CELS 2013). Furthermore, the December 2013 update on the ‘report on the current state of the trials for human rights violations perpetrated during the State Terror’ issued by the Argentine Ministry of Public Prosecution shows that a total number of 1069 *personas procesadas* currently face trial for crimes against humanity and 520 convictions (of which 460 were spoken guilty) have been secured since 2007 (MPF 2013).<sup>28</sup>

Since 1985, Argentina has brought cases against 520 perpetrators, of which 460 were found guilty and 60 were absolved (MPF 2013). The yearly increase in legal convictions and cases is remarkable. Up to the year 2009, the convictions secured did not outnumber 98, whereas in 2010 alone 19 trials concluded and more than 119 convictions were secured (Unidad Fiscal 2010a, 2010b), which means they more than doubled in 2010. In 2011, 148 more were convicted, while in 2012 the total number went to 378. In 2013 another 160 perpetrators received their judgements, 142 of which were tried for the first time (MPF 2013). This is a juridical improvement not least thanks to the work of the governmental institution *Unidad Fiscal de Coordinación y Seguimiento de las Causas por Violaciones a los Derechos Humanos durante el Terrorismo de Estado*, presided over by Jorge Auat and Pablo Parenti, which was created in 2007 in order to assist, homogenize, and monitor these legal processes (MPF 2010). This remarkable judicial process in the aftermaths of mass violence in Argentina is globally unprecedented and has turned the country, its politics and

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<sup>28</sup> *Persona procesada* means ‘a person for whom at least exists one enactment to institute proceedings’ (MPF, July 2013)

especially its accountability actors with their continued struggle for justice into a globally pioneering example.

## **Chapter 3: ‘We are Born in their Struggle and they Live in Ours’**

### **Introduction**

I think, therefore I am is the statement of an intellectual who under-rates toothaches. I feel, therefore I am is a truth much more universally valid, and it applies to everything that is alive. ... The basis of the self is not thought but suffering, which is the most fundamental of all feelings. (Milan Kundera, *Immortality*)

*Hijos* – the children of the disappeared, exiled, murdered generation – grew up in a country that suffered the political trauma of a nation shattered by state terror of the worst kind. During the civil-military dictatorship or the ‘Argentine genocide’, as my informants prefer to call it, an estimated 30,000 people were annihilated. Genocidal violence is directed against a specific ‘group’ and, as scholars showed, is always connected with the destruction of social, cultural, and political power as well as existential identity. According to Adam Jones (2011), this is accomplished not only through physical destruction but also by the annihilation of memory and the ideas that connect a group’s activities and belonging. Similarly, in Argentina, the armed forces not only physically exterminated the regime’s enemies during and also before the dictatorship but also, as Daniel Feierstein (2006, 2007) demonstrates in his analysis of the Argentine genocide, intended to wipe out memories of the political and socio-cultural ideals that these people were fighting for (for further details on the ‘Argentine genocide’ see chapter 5).

But in Argentina, the children of those murdered during the genocide kept alive the political demands and socio-cultural ideas of their parents' generation. Their resistance to the 'memocide' (destruction of the collective memory) that is still pursued by the armed forces' and their pact of silence must be understood as an integral aspect of post transitional Argentina and H.I.J.O.S.' activism.<sup>29</sup> Within the discourse of genocide, the children generate politics of memory in the present that reinvent a historical struggle remembered as a 'potential' of the past, thinking, 'they can carry away the most beautiful flowers, but they will not end spring' (Karakachoff, cited from exhibition of *Familiares* in ex-ESMA; Fieldnotes 2011).

It is children of the victims, the post-terror generation, who with their embodied activities and rhetoric carry on the struggle for justice in the name of their parents' spirit. Proud of their roots they publically expressed their joy of being the bearer of their parents' heritage in an open letter to General Jorge Videla read during an Escrache in 2006.

Who would have thought 30 years ago, that these babies, that these children who could hardly babble words such as mum or dad would start to organize to fight impunity. Surely, Videla, although in his luxury prison must be lamenting that he has not imagined it. Ten years after we had met we continue together, we continue searching for our brothers and sisters, we continue to fight for justice, we continue to reclaim our parents and their companions' way of being young. This form of being young that is synonymous with being rebellious, with showing solidarity, with taking into our own hands the decisions and the commitment. Because it is on us to hold up the flag that (our parents) had never allowed to fall down. It is on us – for us and for our children – to create the

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<sup>29</sup> Authors use a variety of derivatives to describe the specificities of destructive violence of genocide; terms include urbicide (destruction of cities), sociocide (destruction of the social fabric), ethnocide (destruction of an ethnic group), cultural genocide, and mnemocide/memocide (destruction of the collective memory) (Shaw 2007).



world they would have wanted. All of that is why we are here today! (H.I.J.O.S. 2006)

This chapter presents H.I.J.O.S., the association of *hijos* or the children of the murdered, disappeared, unlawfully imprisoned, and exiled victims of the last civil-military dictatorship. First, I present some individual stories of my informants and the importance of the trans-generational feeling of belonging. This is followed by a description of the history(s) of the organization. Taken from three different places, members' experiences of becoming part of H.I.J.O.S. leads directly into a discussion of the organization's structure and a short overview of the tools and activities employed by the group. Part four then attains to H.I.J.O.S.' 'population' and discusses the formation of belonging and affective kinship. I end by presenting how the organization transformed its work, focus, and composition since the reopening of the trials.

### **Hijos and H.I.J.O.S.: A Generation, an Association and its Members**

Well, it's not that we were simply friends, no no no! We are *hijos*. We are the children. Not only because we get together and think alike, but because we came from a heritage. (Guillermo; H.I.J.O.S. Santiago del Estero)

#### **Valeria (H.I.J.O.S. Madrid; formerly H.I.J.O.S. Tucumán)**

Valeria and I sat together in her modern apartment in Madrid. Valeria is a 37-year old beautiful, dark-haired woman from Tucumán in Argentina. Born in 1975 she studied law after high school and now works as a lawyer in Madrid. Joined by her partner Fernando we talked about her life and her experiences with the Argentine state terror that disappeared Valeria's father and for years imprisoned her mother. Over a cup of

coffee Valeria tells me that she was ten when she learned that her father is a 'desaparecido'.

I always thought that he had died in a work accident. So only years later, when my brother and I went to a family therapy, they told us everything. Also about my mother's imprisonment. Because we didn't remember that we haven't seen her in these first years. We had no memories; so really, we didn't even know that she wasn't with us for the first five years. (Interview Valeria 2012)

Over the years, Valeria learned that she was six months old when on her father's birthday the family awaited him to celebrate at her grandmother's house. But Manuel Francisco Pedreos never came home. Instead, some men arrived at the house and, at the very hour that her father was disappeared from work, her that time pregnant mother was taken away as well. Valeria was left in the arms of her aunt who was hiding her from sight when the armed forces asked about the child before they left. Just a few weeks later her mother, still in captivity, gave birth to a little boy who shortly thereafter was sent back to the family.

My brother was born with some difficulties because of the torture my mother received. So for example he had some problems with his optical nerve. Also he was born prematurely. So for all those reasons they didn't take him for the military but instead called my grandmother who brought him home. (Interview Valeria 2012)

For the next two years the remainder of the family had no contact with Valeria's disappeared parents. One day the military 'cleared' her mother, which meant that she was now officially – although unlawfully – detained as a political prisoner. Finally, after five years in which Valeria and her brother grew up in their grandmother's home, her mother was released and re-joined the family. Valeria's father remains disappeared.

María (H.I.J.O.S. Tucumán)

María is a founding member of H.I.J.O.S. Tucumán. Mother of a 15-year old boy, María lives in a small house in San Miguel de Tucumán, where she works at the Human Rights Ministry.

We are from Tucumán, but my parents belonged to the political arm of Montoneros and there were very few Montoneros in Tucumán. So because of their militancy they went to the capital. There my sister and I are born, first me in 1974, and then Lucía in May 1976. Then, in September of the same year, my father died in a shootout with the military. (Interview María 2011)

María's mother and the two girls were left completely disconnected from the organization. While they were still trying to find a way to leave the country for Brazil, the armed forces kidnapped María's mother and her by then 10-months old sister. Reconstructing the story, María later learned that they were both taken to the clandestine detention centre ESMA where they were tortured and her mother was killed. As soon as María's grandmother found out about the abduction, she travelled to Buenos Aires, picked up María, and started searching for Lucía everywhere. 10 days later she found the little girl in an orphanage with a sign reading 'abandoned minor – for adoption'. In a mixture of sadness, amazement, and elation María recalls, 'I have no idea how my granny did it, but we are very lucky that we found her. But Lucía still suffers from the experience, especially from the torture she underwent. In the nights she still wakes up screaming' (Interview María 2011).

Immediately thereafter María's grandmother took her grandchildren to Jujuy in the North of Argentina, where, for the next ten years, the girls grew up in their paternal family.

I think these early years have marked me. My grandmother insisted that we call her '*abuela*'. She always said: 'you have parents who loved you very much. They have taken them away, but they are your parents'. ... So we always knew the truth and we did not have to be ashamed to talk about our parents. My granny was a Mother de Plaza de Mayo and whenever possible we went to the Thursday marches. And she always took us with her. My grandmother was a very strong woman. (Interview María 2011)

In 1984, María's grandfather died and her grandmother, who suffered from a physical and emotional break down, could no longer take care of the girls. So María and Lucía moved to their maternal family in Tucumán where everything changed. 'There, no one talked about my parents. In Tucumán, these were difficult times and the '*desaparecido*' was regarded as a bad word' (Interview María 2011).

#### Charly (H.I.J.O.S. Capital)

Charly has no personal memories of his parents. He was only 37 days old when the armed forces disappeared his mother and his father in August 1977. Since then Charly grew up with his grandmother, an active participant of the Mothers of Plaza de Mayo. In the beginnings, the two lived in Argentina but then exiled to Spain until the return of democracy in 1984, when his grandmother decided to return to Buenos Aires.

I always knew the truth about my parents' story. Since I was a baby my grandmother told me the true story of what had happened to me. So there were no doubts. It's better to know, I think. (Interview Charly 2011)

In 1996, Charly entered into H.I.J.O.S. and having remained there for the past 18 years Charly is one of the few activists who never left. Today, thanks to the help of H.I.J.O.S. and survivors' testimonies, Charly knows that his parents were taken to the secret detention centre 'Club Atlético', where they were kept for a month and a half before their subsequent '*traslado*' (meaning killing) on 20 September 1977.

Sitting in Café Metro in the centre of Buenos Aires over coffee and a ‘media-luna’ (mini-croissant filled with dulce-de-leche), Charly and I talked about his parents, his memories, and the importance of H.I.J.O.S. in his life. Recalling for me how he learned about his parents’ lives and activities, Charly presents to me the meaning of identity and the everydayness of the construction of belonging in the ‘presence of absence’.

*Charly:* I didn’t know anything about my parents. Well, I knew that they were disappeared, but I never met with survivors to talk. [...] So then I talked to them, and later to others, to friends and family, to my father’s companions, [...]. My father was in the Juventud Universitaria Peronista in the Faculty of Engineering. And my mother was an activist in the Juventud Trabajador Peronista in a bank. [...] And then I was receiving photos, and anecdotes, and other things. [...] All of this is a process of the construction of identity, which really continues day by day, because we have to construct identity everyday. ... You see, when you don’t know a person ... you start to reconstruct your story by what other people tell you. So for example, I have 10 pictures of my father. And if anyone brings a new picture it’s a super important moment, you see. And this is the everyday reconstruction. But H.I.J.O.S. helped completely in that I do this. It helped a lot, because I told myself this is the path; this is the path to get there.

*Katja:* And what changed since you know more about your parents?

*Charly:* Che, a lot, I love them much more, I value them much more; to know that they didn’t fight only for themselves but that they fought for us, for transforming the country; and to know what they liked. My dad for example liked the Rolling Stones and I like the Rolling Stones but without knowing that he liked them too. Or other things you have in common. I sneeze seven times. And I don’t know why, but one time I sneezed when I was with one of my mother’s friends and she told me that I sneeze the same way as my mother. You see, it’s those little things.

## **Hijos de...**

Each of the above stories describes one of *hijos* unique experiences and incomparable biographies. All activists from H.I.J.O.S. individually grew up with very different experiences, life-stories, economic and social circumstances, and differing knowledge about their parents and the history that moulded their lives. At the same time,

however, the examples show patterns that are common to and collectively shared by the children of the victims of the dictatorship: the burden of living with ‘absence’, the desire to learn about and understand one’s parents lives and struggle, and the need to relate one’s own belonging and identity.

When I asked *hijos* how they imagine their parents, they mostly depicted them as people with ideals and thorough dedication to human rights and justice. This is sometimes expressed through the words ‘hero’ or ‘super-papa’, as Valeria put it:

Well, let’s see, obviously the image of my father is that of a super-Daddy! It’s an ideal image that I have of him; the image of a man who at the age of 27 had already had an advanced university career, who worked, and who was downright committed to society as a whole. [...] He brought medicine to the prisons, taught children in disadvantaged areas in Tucumán. So of course, all of this makes me feel extremely proud about my Dad. So the picture I have of him is one of a super-Dad. (Interview Valeria 2012)

At other times, this admiration is also experienced as anger of not having gotten to know one’s parents of whom everyone always talked so highly (Interview Miriam 2011). And while *hijos* experience conflicting feelings about their ‘disappeared’, they always appear as attachment figures and as a relationship of fundamental importance to the second generation’s own struggle, activism, and identity. The importance of trans-generational belonging, even if only experienced as the presence of absence of that connection, is clearly stated in an example María used when describing her experiences after moving to Tucumán. ‘For example, in my maternal family we have always been the ‘*chiquitas*’ (the small ones); we weren’t the children of anybody. All my cousins were the children of this or that person, the child of whomever, and we – *las chiquitas*.’ (Interview María 2011)

In her analysis of *hijos* in Santa Fe and the post-terror generation's identity constructions, Argentine historian Andrea Raina uses the phrase '*hijos de...*' to emphasize the referential aspect of belonging to one's parents. Stressing the Of in 'children of...' Raina examines identity and subjectivity as dependent on the relational quality to the direct descendent family (Raina 2012). But more than that, the five *hijos* interviewed by Raina specifically point to the special connection they feel with those from their own generation, in spite of the fact that they campaign in *Familiares* not H.I.J.O.S.. During my fieldwork, Lole, son of unlawfully imprisoned parents who were exiled to Nicaragua, the country in which Lole was raised, similarly used the phrase *hijos de* to explain to me the importance of H.I.J.O.S. as an '*espacio de pertenencia*' (place of belonging). 'In the beginnings, when H.I.J.O.S. was established, there were only children of disappeared and murdered parents. I think the '*hijos de*' (children of) met because they needed a common place, somebody to talk to and to share their experiences with' (Interview Lole 2011).

Many people take their 'identity' for granted. But for the children of the disappeared, identity and belonging are of central concern to their lives. Identity as a relational process of working through 'memories of memories' (Kaiser 2005) is to *hijos* not an academic research but an everyday individual and collective practice. Camilo, whom I had first met in the National Court Comodoro Py 2002 in Buenos Aires, was nine when his mother was arrested and imprisoned in Devoto prison where she also died a year later. Then his father was disappeared and, as Camilo had to learn later, killed in the secret detention centre ESMA. A member of H.I.J.O.S. Capital and the father of two children, Camilo asked in an interview for the national newspaper what so many *hijos* expressed to me: 'How can you explain the feeling of absence?' (Ginzberg

2010). Explaining about his struggle with the ever-present ‘absence’ of his parents, he highlights the everydayness of the past’s presence this way:

They talk a lot about the past, they say that this is the past. But for me the past is the present, today I don’t have nowhere to go to bring flowers to my Dad. That is now; it’s not something that happened back in the past. So even though one has more or less processed the pain, I don’t want to process anything. (Camilo, cited in Ginzberg 2010)

Throughout their childhood it was difficult for ‘the children of...’ to admit to and to talk about their parents. In the 1980s and ‘90s, while *hijos* grew up with their grandparents, uncles, and aunts, the national policy depicted ‘the disappeared’ as ‘Marxist terrorists’ and ‘*zurdos*’ who were at least partially to blame for their own destiny and the brutal violence society had to endure.<sup>30</sup> Having suffered from these images, the children learned to reject that label and instead to emphasize their parent’s social and cultural work, their ideals, and the collective economic projects that would lead to a more equal and fair society. And as they had to counter official representations, *hijos*’ project of relating their own belonging was (and still is) therefore directly connected with the project of re-creating their parents’ silenced identities. Memory and its recovery are however not only fixed on the past but also, as a trans-generational agenda, are equally oriented towards the future. And so, in one of H.I.J.O.S. assemblies, Alina explained her desire to fill the memory hole for herself but also for her children.

I want to tell them, I want to tell my children who their grandmother was. I don’t want not to be able to give answers when my son asks me about her, who she was, what she did, what she thought. Even if I can’t answer everything, but to keep quiet would be as if I were an accomplice of her destiny. (Focus group H.I.J.O.S. 2010)

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<sup>30</sup> *Zurdo* meaning ‘fool’, ‘leftist’ or ‘left-winger’; literally for left-handed, signifying something wrong; comes with a negative connotation



With the coming into being of H.I.J.O.S., the individual need to regain identity and political agency transformed into a collective, trans-generational and political project for justice that is now represented on H.I.J.O.S.' website reading,

We recall the spirit of the struggle of our parents: because they wanted to change society, they wanted that things would have been different, and that's why they have taken them. Our parents fought so that we could work with dignity, so that we all could study. [...] They fought for a better life! (H.I.J.O.S. 2014b)

The physical violence that took away their parents was continued by a psychological violence of silencing the memories, political objectives, and ideals of those exterminated. What *hijos* were left with was a felt 'presence of absence' that created a desire to know, learn, explain, feel, connect, and revive a project that was started by their parents' generation and 'delayed' by violence. Thus, put another way, the belonging to this family of activists transcended the actively involved generation and by means of longing was revived and creatively transformed by the second generation. Aware of the shared need to create something from the 'absence' that determined their lives the creation of H.I.J.O.S. was hence an important step for these young people.

### **The History(s) of H.I.J.O.S.**

1995 is a remarkable year in Argentina's recent history. In general literature it is mostly mentioned in connection with Adolfo Scilingo's confessions of the death flights (Feitlowitz 1998; Verbitsky 1996) and the subsequent impact these and other avowals of military officers had on human rights movements. Known as the 'Scilingo Effect' (Feitlowitz 1998) the public narratives of the violence surfaced politically repressed memories and trauma and lifted the felt need for justice back to the level of collective action and resistance. But the year 1995 has also another meaning. Twenty

years after the genocidal crime of the ‘annihilation of subversion’ was started in Tucumán, ‘the generation the dictators had hoped would cower in fear or simply forget had jumped onto the public stage and would not leave’ (Kaplan 2004:153). Thus, in 1995, at the onset of post-transitional justice in Argentina, *hijos* officially entered the political human rights field by announcing H.I.J.O.S., their nationwide association.

The group started out with the intention to find a common space or ‘place of belonging’, where people of the post-terror generation could share their experiences and exchange their stories and feelings. In a dossier called ‘HIJOS. Identity and Politics’ composed by the ‘Provincial Commission for Memory’ as information material for school projects, the editors Cueto Rúa and Salvatori describe H.I.J.O.S. shared commonality as ‘the world of representations that make up the identity of the children: an experience covered by absences, presences, memories and pain’ (Salvatori & Cueto Rúa 2010:2). When asked about the purpose of the association, scholars and members of H.I.J.O.S. mostly point to the primary goals that motivated *hijos* to build the organization: to come together, support each other, to fight impunity, to find their brothers and sisters, and to revive their parent’s struggle.

During the second part of the 1990s, the prevailing historical narrative was still driven by the ‘theory of two demons’. This officiated understanding of mutual blame in combination with social and legal impunity of the perpetrators left *hijos* with an uncanny feeling of a wrong representation of their parents’ struggle, ideals, and labels. In this political context, it was difficult for members of the second generation to talk about their doubts, beliefs, memories, and alternative understanding of the past.

Therefore, *hijos* have repeatedly described their first meetings as a form of ‘collective therapy’ (various interviews with *hijos*). Akin to therapeutic models of truth telling, in which a healing process is ascribed to the act of witnessing, participating in, or hearing about the truth and people’s experiences with and feelings about the past in public, telling one’s story is said to initiate the slow healing process (Minow 1998). And so Temma Kaplan calls the coming together of the young generation ‘cathartic’, because the young people were able to share their experiences and demand punishment ‘without having to defend their feelings or explain that they wanted justice not vengeance’ (Kaplan 2004:155). H.I.J.O.S. as a family-like organization of ‘affective kin’ provides that collective ‘place of belonging’.

### **Roots of the Organization**

In the middle of the 1980s, human rights groups and *ex-militantes* (former activists) of the 70s started to organize workshops such as the ‘Taller de Amistad’ in La Plata or the ‘Taller Julio Cortázar’ in Cordoba, with the objective of providing the children with a space of containment, companionship and mutual assistance (Salvatori & Cueto Rúa 2010:3). These meetings, in which they talked, watched movies, or went camping, was an important step for the creation of *hijos*’ belonging. For many of these 10 to 14-year old children the meetings provided a space where for the first time the ‘absence’ of their parents did not work as separation but created a common denominator and integrative energy.

On 3 November 1994, approximately fifteen *hijos* met at the Faculty of Architecture and the National University of La Plata where former activists had organized a commemoration meeting in honour of Carlos de la Riva, abduction victim of the

*Triple A*. At some point, the group of young adults were asked to step up and talk as representatives of their generation. And even though less than twenty children attended the meeting, the weight of their emotional narratives was so intense and impressive that their audience encouraged them to formally organize in order to make their voices and stories heard. The La Plata meeting is since remembered as *hijos*' first public appearance in which they were regarded as a group 'united by their common condition as the 'children of the disappeared'' (Salvatori & Cueto Rúa 2010:3).<sup>31</sup> And so, for the first time, they felt 'as if they had found kin' (Kaplan 2004:154).

Until today, the 1995 La Plata meeting figures as the widely told 'creation myth'. But in some parts of Argentina H.I.J.O.S.' coming into being took a different starting point. In Tucumán, for example, some children had already started organizing themselves in as early as 1993, as María told me in one of our talks.

[Because my grandmother was a Mother of the Plaza de Mayo], I always knew other *hijos*. And then, in 1993, this girl approached us. She wanted to do a documentary on the children of the disappeared. So we met. It was amazing. Because of this documentary we started to meet weekly, exchanged your stories, thoughts, feelings. A little later we started investigating about the past and also about the present. Bussi at the time was running for elections and we felt the need to speak out, to speak up and tell our stories – he was going to become Governor again and nobody seemed to even realize that he was a *genocida*. And so we thought we have to do something... So really, without even knowing it, we had started to organize. (Interview María 2011)

At the time, H.I.J.O.S. still did not exist as a nation-wide organization. In their regular meetings in Tucumán, *hijos* therefore had to think about a name for their group and, dwelling in her memories with laughter, María recalled:

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<sup>31</sup> For political reasons, the group of children present at the La Plata meeting has since split into H.I.J.O.S. (with a great variety of regional sub-groups) and a more radical group HIJOS 'sin puntitos'. Notwithstanding their differences, today both, HIJOS and H.I.J.O.S. still regard the La Plata Architecture meeting as the founding moment for *hijos* awareness about themselves as a political and social collective in the public space (see chapter 3).

So when we decided to organize as a group we needed a name, and we came up with a horrible one, because we called ourselves ‘Group of the children of those directly affected by the political repression in Argentina’. Terrible and long. So long! But we just didn’t know how to call ourselves, it was a difficult matter. (Interview María 2011)

While in Tucumán the ‘Group of the children of those directly affected by the political repression in Argentina’ already organized workshops and passed around information material, participants from the La Plata meeting and the children from the ‘*talleres*’ (workshops) in Córdoba decided to set up a first inter-regional meeting in Río Ceballos near Córdoba (Druliolle 2013:264). There, during the Holy Week of 1995, approximately 70 youngsters collectively voted for the association’s name H.I.J.O.S. which, as an acronym, stands for ‘*Hijos e Hijas por la Identidad y la Justicia, contra el Olvido y el Silencio*’ (Sons and Daughters for Identity and Justice, against Oblivion and Silence).<sup>32</sup> Most visible, the name H.I.J.O.S. - meaning children in Spanish - clearly states their kin-related legitimization that puts them in line with other organizations such as the *Madres de Plaza de Mayo* (Mothers of the Plaza de Mayo), *Abuelas* (Grandmothers), or *Familiares* (Relatives), who also draw on their relation with the disappeared.

Calling themselves *Hijos* and *Hijas* they emphasize the ‘sacred bond’ of the family (expression of H.I.J.O.S. Santa Fe, cited in Alonso 2010:122) and their blood relation with the ‘disappeared’ generation. But contrary to other organizations like the *Madres* or *Abuelas*, who similarly are named after their kin-relation with the disappeared (or the ‘living disappeared’ in the latter case), the children decided to use capital letters and dots as abbreviations in order to highlight their political goals and their focus on

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<sup>32</sup>Artists of GAC translate the abbreviation to ‘Children of the disappeared, exiled, and imprisoned of the Argentine genocide initiated in the 1970s’ (GAC 2009: 57).

the struggle for justice, memory, identity, and the recreation of their parents' ideals. Hence, since 1995, the post-terror generation's association completes the kin-organized human rights structure of accountability associations in Argentina and, with the power of the youth, is 'instrumental in rejuvenating the struggle of the Argentine human rights movement' (Druliolle 2013:260).<sup>33</sup>

After the 1995 April meeting, various regional groups originated throughout the country in Córdoba, Buenos Aires, La Plata, Rosario, and Mar del Plata. Furthermore, by means of an 'Open Letter to the Argentine Society', H.I.J.O.S. decided to publically announce the organization on 30 April 1995 (Pagina12; 30.4.1995; cited in Van Drunen), declaring:

We have grown up. Today we are together not only to ask questions, but also to speak and demand. This society is the offspring of silence and terror, and there is an attempt to spread a veil of oblivion over the history of our country. We are not bricks in this wall of silence. We want to pull it down. We need to know the truth of our histories to reconstruct our identity. [...] For us, reconstructing our personal histories is essential. But this necessity is not just ours. Recovering memory and knowing the truth is essential for society as a whole. The country must take responsibility for its own history. (H.I.J.O.S. 1995: paras.4,6; cited in Druliolle 2013:264)

The following months the group grew rapidly and more regional divisions emerged resulting in a second meeting in Cordoba in October of the same year. 'This is when the invitation reached us', María told me. As an official association, H.I.J.O.S. set up the camp for its members from all over Argentina in order to talk about the emerging

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<sup>33</sup> Today, Argentine human rights groups with reference to kinship comprise of Madres de Plaza de Mayo (Mothers of the P.d.M.), Madres de Plaza de Mayo Linea Fundadora (Mothers P.d.M. Founding Line), Abuelas de Plaza de Mayo (Grandmothers P.d.M.), Padres de Plaza de Mayo (Fathers P.d.M), Familiares de Desaparecidos y Detenidos por Razones Políticas (Family-members of those Disappeared and Imprisoned for Political Reasons), H.I.J.O.S. (Children for Identity and Justice against Oblivion and Silence), Nietos (Grandchildren) and Hermanos (Siblings; a subdivision of H.I.J.O.S.).

association of the children of the victims of the last military dictatorship. There during the four days meeting and about twenty years into their lives, *hijos* discussed the structure of their new horizontal, non-hierarchical association, decided on the founding pillars and agreed upon the principle of consensual decision taking. Three days later, when after this first national meeting everybody had returned home into their specific regions, H.I.J.O.S. as a national network and official association publically announced their existence and demands with the following press release.

National Meeting of H.I.J.O.S. (Press Release 19.10.95)

On the 13, 14, 15 and 16 October in the Province of Cordoba, we organized a national meeting of H.I.J.O.S. (Hijos por la Identidad y la Justicia contra el Olvido y el Silencio) in which participated more than 350 members. 14 regional groups came together: Capital Federal, Mar del Plata, La Plata, Cordoba, Mendoza, Santa Fe, Rosario, Ceres, Tucumán, Neuquen, Entre Rios, Chaco, Salta y Jujuy. During these four days of camping, each group told about their experiences with the everyday work that they push forward in their specific region for memory, justice and identity, and in rejection of the repressive actions of the State. Later, after working in different commissions, we defined in a plenary session the base points of our organization:

- We demand historical, individual and collective reconstruction.
- By means of social condemnation, we work to achieve legal condemnation, which puts into prison the murderers responsible for the genocide of our parent's generation.
- We demand the restitution of our brothers and sisters appropriated during the last military dictatorship.
- We reject the theory of 'two demons' and the possibility of reconciliation with the murderers and their accomplices.
- We reaffirm our political and institutional independence.
- We reclaim the spirit of the struggle of our parents.
- We shared these days with Juan Gelman and Leon Gieco who approached us, once again, to offer their affection and solidarity.<sup>34</sup> To end this statement, we

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<sup>34</sup> Juan Gelman, famous Argentine poet, father of a disappeared and grandfather of a living disappeared, accompanied the group. The book 'Ni el flaco perdón de Dios' he later wrote about *hijos* and their stories and that originates from his participation in the first national meeting of H.I.J.O.S. in Cordoba is a collection of voices, reproduced and printed in first person direct speech. Leon Gieco, musician and life-long supporter of Argentina's human rights groups also participated in the first official meeting by H.I.J.O.S.. He again showed his support for the group, when in 1998 he had them announce an Escrache during his concert in Buenos Aires (see chapter 4).

want to report that – by motive of the acceptance of the oppressor Domingo Bussi as Governor of the Province of Tucumán, H.I.J.O.S. declares 29 October the ‘Day of National Embarrassment’ (H.I.J.O.S. 1995).

Within H.I.J.O.S. different regional groups have different founding moments, some more conscious, some less clearly marked. The group in Tucumán, the provincial government of which had H.I.J.O.S. declare the ‘day of national embarrassment’ is probably the first to knowingly have turned into an association of the children. But many others have appeared since the founding of the network. Today, nearly twenty years after the creation of the network, 18 regional groups are found under the umbrella of H.I.J.O.S. National Network. With 11 groups inside of Argentina and seven more all over the world (Paris, Madrid, Barcelona, Sweden, Uruguay, Guatemala, Mexico), H.I.J.O.S. comprises of approximately 300 members in total (Interview Charly 2011). Over the years, some of the regional groups ceased to exist (such as H.I.J.O.S. Sweden) whereas others have only appeared more recently (e.g. H.I.J.O.S. Barcelona). Still, regardless of their de facto appearance, all members recognize the first national meeting in Cordoba as H.I.J.O.S.’ official birthday, which is celebrated yearly on 16 October marking the last day of the first national meeting that brought into being their new family.

### **Memories of the Beginnings**

All *hijos* remember the emergence of H.I.J.O.S. or their respective moment of entrance into the organization as a unique experience. For example, Valeria from Tucumán was too small to have any personal recollections of her father and so she struggled to find out about her parents, their lives, and their ideals. And so, on a sunny afternoon in Madrid she told me why it was important to her to get to know other *hijos*:



At the time it was difficult to talk about ‘the disappeared’. *Desaparecido* was a bad word. ... Also at school it was difficult to explain that my father was a disappeared. ... You know, as a child, the whole world has a father and a mother. So they ask you and then you tell that your father is a disappeared. And we explained what it was to ‘have been disappeared’ because the children of our age didn’t understand or so to say, the children didn’t have the slightest idea about the dictatorship, and so they didn’t understand having a disappeared father. (Interview Valeria 2012)

But while her voice was strong and even a little bit angry when she told me about her childhood experiences, Valeria’s tone changed when she continued telling me about the feeling of absence and the difficulties of communicating that feeling to her fellow classmates:

So, well, we have always apprehended and lived it that way ... that is to say, he was a father who wasn’t there... but not because he wouldn’t have wanted to, but because, well, because the circumstances had been different. (Interview Valeria 2012)

Getting to know H.I.J.O.S. and meeting regularly with them gave her a sense of security and, for the first time as she recalls she felt like ‘one of them’. No longer the ‘other’, she started to focus on the collective ‘we’ that changed her life. Today, Valeria is a lawyer, a fact that to her is no incident. ‘You know, many of us in Tucumán became lawyers. I don’t know, but maybe deep down we all hoped that one day we need this knowledge when we try those criminals’ (Valeria 2012).

When H.I.J.O.S. formed, Lole lived in Nicaragua where he grew up after his parents went into exile. In 1975, his mother was illegally detained in Buenos Aires and baby Lole was put into prison with her. After two months, due to changes in the legal regulations, he was then sent back to live with his grandmother, until, in 1977, both his parents were liberated and the family left for Peru. For years they moved between different countries in Latin America, until the family finally settled in Nicaragua.

With little knowledge about the developments in Argentina, Lole learned about H.I.J.O.S. when he met Polo, founding member of H.I.J.O.S. Capital. In Nicaragua, Polo gave him information material, showed him H.I.J.O.S.' newspaper and invited Lole to join the group once he returned to Argentina. And so, inspired by Polo's descriptions of H.I.J.O.S., Lole took the decision to move to Buenos Aires for his studies, so that he could participate in his generation's project.

When I first heard that in Argentina they have now started a group of the children, where one could go to, participate, share one's feelings, find others whose experiences were alike, I immediately decided to go. It appeared stupendous, I really liked the idea. I imagined a group of young people with great solidarity and with utopian ideas. So I said, well, when I go to Argentina, I will become part of this group, I want to know them, I want to share my experiences and participate in the activities. (Interview Lole 2011)

About a year later, in 1997, Lole came to Buenos Aires and went to meet the group at the house of *Familiares* at Riobamba-Rivadavia, where the newly founded association was located at the time. Just like so many other children, Lole had high expectation when he first entered H.I.J.O.S. 'I was so excited, and really I learned a lot those next couple of years' (Interview Lole 2011). And he was lucky, because Lole arrived on a Wednesday, the day they prepared the *Ombliigo*, and so Polo was there, making Lole's entrance a warm and easy experience.<sup>35</sup>

Nahuel, member in H.I.J.O.S. Capital since 15 years remembers his experiences quite differently: 'My entrance in H.I.J.O.S. was quite natural' he recalls. Born in 1971, Nahuel had a very difficult childhood ever since the *Triple A* assassinated his parents in 1975. He was separated from his sisters and, after living at his aunt's house, he left at the age of 12, living in various places, from the houses of human rights members all

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<sup>35</sup> *Ombliigo* meaning bellybutton was for many years H.I.J.O.S. internal newspaper.

the way to youth-centres and the borstal. When Nahuel was about 13 years old he lived in La Plata where he was in contact with various human rights groups active in the city. They introduced him to the ‘Taller de Amistad’ (Workshops for *hijos*), the group organized for the children of the victims of the dictatorship.

The workshops (the one in la Plata but also those in Cordoba and Chaco) were the ‘seeds’ of the organization H.I.J.O.S.. So years later, when I already worked in Buenos Aires and lived with my girlfriend and daughter in my own house, I saw H.I.J.O.S. on TV. So the next week I went to their place to participate in the organization. But it was a *quilombo* (huge chaos)! Terrible, there were so many people and nobody even saw me. So I left and it took another year until I finally returned. (Interview Nahuel 2011)

Just like Nahuel, Charly heard about H.I.J.O.S. when he saw a girl talking about the organization on TV. But contrary to Nahuel’s previous connections with group activities for *hijos*, for him it was a sudden and unforeseen moment that changed his life. As he recalls, ‘I saw that girl (Paula) and I knew – I have to go there! This is not right that they are there and I am here. This is where I belong. This girl is me!’ (Interview Charly 2011). And the next day he went and never left. For Charly H.I.J.O.S. became the new family and his place of belonging.

The entrance into H.I.J.O.S. is often remembered as a moment of ‘arrival’. But warmth, common space, and mutual understandings were not the only feelings *hijos* experienced during the beginnings. In the second half of the 1990s, the socio-historical context was difficult and performances of the *Escrache* often met by violent resistance on behalf of the police forces that were ordered in protection of H.I.J.O.S.’ target subject. Thus, participating in H.I.J.O.S. and its activities sometimes led members to quarrel with their own families, who, remembered fearfully the consequences of activism their own children had to suffer (Interview Charly 2011,

Interview Ivan 2011). When Charly told me about his decision to enter H.I.J.O.S. in 1996 I asked him about the way in which his family reacted to his decision of starting in H.I.J.O.S.. Knowing about the strong legacy of activism through his mother but also his grandmother who engaged with the *Madres* after her daughter's disappearance, I suggested that, 'They must have been very proud'. But contrary to my expectation, Charly surprised me with an explanation about internal family conflicts. 'No, no no.' he said, 'all to the contrary! They were not happy at all. You see, those were difficult times in Argentina and they were afraid. The memories of the violence were just still too fresh' (Charly 2011).

As we entered the memories of the beginnings, he also started talking about the chaotic onset of H.I.J.O.S. itself and the many people who passed through. Regretfully he remembers the many mistakes made in the beginnings:

It's a shame. It really was a big mistake on our behalf. In the beginnings everything was so chaotic, so many people, a huge *quilombo* (chaos). So if you didn't know anyone personally, it was very difficult to continue. (Interview Charly 2011)<sup>36</sup>

Similarly, Lole explained: 'People came once, or twice, felt very uncomfortable and left never to return' (Interview Lole 2011). Especially upon entrance into the organization a good few of those who went with high expectancies were soon disappointed by reality.

Everything was a discussion: who belongs, how to do this, or that. Or with whom to march on 24 March, everything! And while there is the principle of

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<sup>36</sup> Not all regional groups experienced these early times in the same way. In the North of the country, H.I.J.O.S. Tucumán, with its different history and much more natural growth of the group, the above described chaotic situation encountered and experienced in H.I.J.O.S. Capital in Buenos Aires were less felt in Tucumán.

consensus, that doesn't mean that it was democratic. There was a lot of pressure and some people never got to speak up. Furthermore, the assembly meetings sometimes lasted until three in the morning and people had to work the next day. It was so tiring. So often there were 20 people inside, on the table, discussing and 30 more standing outside on the street, drinking beer. (Interview Lole 2011)

Over the years, H.I.J.O.S. managed to become more professional and learned to cope with these difficulties. One crucial improvement was the creation of the 'Identity' and the 'Welcome Commission', where people had the chance to approach H.I.J.O.S. in a more formal way. There, instead of arriving at the general assembly they could talk about their own stories, learn about the organization and find what most came looking for: a place of belonging and people who understood what it meant to be the child of a victim of the dictatorship.

### **The Organization**



Figure 1: Emblem of H.I.J.O.S.

As an association, H.I.J.O.S. has always used artistic elements and expressions. Shortly after its appearance and in full awareness of the social and symbolical capital (Bourdieu 2000, 2002) of visual representations, *hijos* created their association's emblem. In cooperation with GAC (Grupo de Arte Callejero), a group of young street artists, members of H.I.J.O.S. designed the symbol as an estranged regulatory traffic-sign consisting of a white round disc with a red circle framing a military hat and displaying their demand: '*Juicio y Castigo*' (trial and punishment). Hence, while the slogan '*Apareción con vida*' (alive appearance), used by the Mothers of the Plaza de Mayo,

directed the activism of human rights groups for many years, H.I.J.O.S.' new logo 'trial and punishment' more strongly pushed the demand for justice and adequately represented the paradigmatic shift that the new generation brought about (GAC 2009:102).

### **Structure and Base Points**

H.I.J.O.S. is a national network of largely independent regional groups. Owing to differences in political, historical, and socio-cultural circumstances each local division is confronted with its respective local challenges and particularities. Thus, members everywhere determine their everyday actions as they see fit, provided that their actions are consistent with the base points that members unanimously agreed upon in their first national meeting in 1995. It would therefore be 'wrong' to speak of 'H.I.J.O.S. Argentina' (Alonso 2010:124) because the regional groups subsumed under the term H.I.J.O.S. are largely autonomous of each other in their decision-making process and course of action.

With regional groups enjoying ample sovereignty, it is the commitment to the nine '*puntos basicos*' (base points) that holds the association together (H.I.J.O.S. 2014b). These points serve as the organization's 'founding pillars' and consist (amongst others) of H.I.J.O.S.' call for trials and punishment for all genocidaires and their accomplices, the demand for individual and collective historical reconstruction, the restitution of their brothers and sisters who were kidnapped during the military dictatorship, and the recreation and rehabilitation of their parents' '*espíritu de lucha*' (*Kampfgeist* or militancy) (H.I.J.O.S. 2014b).

Furthermore, to preserve a common profile and to keep close contacts between different regional groups, the network H.I.J.O.S. organizes annual meetings where representatives from all regional divisions come together and report about their experiences. This common space offers room for the discussion of urgent political decisions and for the collective planning of future directions of the organization as a whole. Then, at the final day of each ‘National Congress’ the meeting climaxes in collective action. The regional group to host the event invites all *hijos* who attended the meeting to participate in an Escrache that they have prepared in their own area (for an example see chapter 4.5.).

While the annual meeting and the ‘base points’ set the tone of the organization (including strict adherence to the principle of consensus) the association is structurally organized by a system of ‘Commissions’. Every regional group launches weekly meetings called ‘assemblies’ in which all respective members come together to discuss organizational, financial, and political issues and to plan future steps. The system of committees furthermore structures the work of H.I.J.O.S.’ members and their respective activities so to make the weekly general assemblies more effective. Due to the limited size of members, smaller regional groups sometimes distributed the different tasks more evenly or, given the regional situation do not have all of the below described commissions (e.g. the radio-committee). But over the year the system has proven useful especially for regional groups with high membership. As an example, H.I.J.O.S. Capital, a group that comprises of approximately 30 permanent members (Fieldnotes 2011), currently runs the following nine commissions: *Trial and Punishment Committee, Memory Committee, ‘Siblings’ Committee, Committee for Legal Issues, Media Committee, Reception Committee, Radio Committee, Identity*

*Committee, Finance Committee* (H.I.J.O.S. 2014c). According to his or her personal interest, every permanent member and some supporters work in one (or more) of these workgroups.

## **Commissions**

The ‘Reception Committee’ was one of the first committees established by the new organization. In the beginnings, H.I.J.O.S. were far less organized and with new *hijos* approaching the group weekly the entrance for new members was a very messy process that scared off many potential members and activists. As there was no official entrance process, several people who first came to H.I.J.O.S. felt lost and soon decided to leave never to return. In consequence to the chaos, H.I.J.O.S. apprehended the need to dedicate meetings specifically to the reception of new *hijos*. Every week in these meetings (mostly held on Saturdays) *hijos* already member to the organization and ‘new’ *hijos* tell their stories and share their particular pasts and feelings (Guarini & Céspedes 2002). A vibrant committee until today, these meetings furthermore serve the purpose of introducing newcomers to the organization by passing on all necessary information, including details about the base points, to which new members have to commit themselves to.

Constructed in fulfilment of one of H.I.J.O.S. base points, the ‘*Hermanos* (Siblings) Committee’ works towards the ‘restitution of identity’ of the still missing 400 children or ‘living disappeared’ (some of whom are *hijos*’ brothers and sisters). Born in captivity or disappeared with their parents as babies, they were secretly kidnapped and illegally appropriated by regime friendly families during the dictatorship. The search for these children is of central concern to a specific group of mothers of the



disappeared. Calling themselves '*Abuelas de Plaza de Mayo*' (Grandmothers) their focus is on their grandchildren. So far, *Abuelas* have successfully restored the identities of 110 of the estimated 500 children (Abuelas 2014).

The dictatorship has treated the stolen children as '*botín de la guerra*' (spoils of war). For H.I.J.O.S. it is therefore important to call this struggle the fight for the 'restitution of identity' and not the 'recuperation' of the children of the disappeared (consensual decision in 5. National Congress in Cordoba, H.I.J.O.S. 2007). Thus, H.I.J.O.S. emphasis on identity stands in contrast to the objectification of the victims and instead helps see them as individuals. As the biological but also affective brothers and sisters of the 'living disappeared', members of H.I.J.O.S. who work in the '*Hermanos*' committee work in close cooperation with *Abuelas* and support their work in any way possible. Furthermore, they provide a space of trust for people with doubts about their identity and on their webpages ask people to, 'Contact us, if you have doubts about your identity and if you think that you might be the daughter or son of disappeared parents' (H.I.J.O.S. 2014).

So far, H.I.J.O.S. has successfully worked in a variety of cases. Juan Cabandie and Victoria Donda are two case examples of 'living disappeared', who reclaimed their identities directly with the help of H.I.J.O.S.. Another example is H.I.J.O.S.' partaking in the restitution of Manuel Gonçalvez, brother of Gaston Gonçalvez, a famous Argentine musician. Today both brothers are members in H.I.J.O.S. and have recently participated as private prosecutors in the Patti Trial held in San Martín in the outskirts of Buenos Aires, in which Ana 'Pipi' Oberlin, lawyer of H.I.J.O.S. Capital, represented and won their case (Fieldnotes 2011).

As communicators, H.I.J.O.S.' members launch a variety of committees in the pursuit of public attention. Most importantly, the 'Press Committee' is responsible for H.I.J.O.S.' respective regional website, fotolog and/or Facebook account. In Buenos Aires, Nahuel, the person in charge of H.I.J.O.S. Capital's website explained to me its double purpose. Firstly, the Internet helps in the diffusion of knowledge about the groups' activities, and, secondly, it serves as the organization's archive.

The problem in H.I.J.O.S. is that it doesn't have any systematization. That is we don't systematically file anything. We don't have an archive we don't have a book, a movie, or a newspaper. (Interview Nahuel 2011)<sup>37</sup>

All material produced by H.I.J.O.S. –flyers, movies, letters and reports written after national congresses, or photographs taken at their activities – is dispersed throughout its member's homes and often has to be recovered from dusty boxes and storing places (Fieldnotes 2011). 'And so what I try to do with the website', Nahuel continues 'is that all we do is at least kept in this (virtual) space. So that whatever it is, if you search for it, you can find it there' (Interview Nahuel 2011).

Alongside the 'Press Committee', H.I.J.O.S. has produced a radio-program called '*La lucha que nos parió*' (The struggle that brought us to life). For eleven years now, H.I.J.O.S. broadcast music, discussions, personal stories, and communicate information on events and trials every Thursday between 5 and 6 pm at FM La Tribu ([www.fmlatribu.com](http://www.fmlatribu.com)).

In the 'Memory Committee', members of H.I.J.O.S. discuss politics of memory, especially where connected with former concentration camps such as the ESMA.

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<sup>37</sup> In the past, between 1998 and 2000, H.I.J.O.S. published four issues of its own newspaper HIJOS.

Furthermore, the commission actively gets involved in the organization of commemoration ceremonies including the annual ‘March of Resistance’ or the preparation of the 24 March, the ‘National Day of Remembrance for Truth and Justice’. Like the ‘Memory Commission’, the ‘Committee of Finances’ also has to organize many events. As an independent organization, H.I.J.O.S. does not receive any financial support from political parties nor does it accept any governmental subventions. Instead, the association generates its own financial resources by organizing parties and other public activities.

The ‘Trial and Punishment Committee’ is one of the most important commissions and more than two thirds of all members actively work in it. Not to be confused with the ‘Legal Committee’, in which members (but also other supporters) work directly in the trials as lawyers and witnesses and support the judicial process itself, the ‘Trial and Punishment Committee’ is responsible for everything having to do with the ‘public side’ of the trials. As its central task, members of the Committee organize activities connected with the trials against the ‘*genocidas*’, such as public transmissions in front of the courts, organization of special events (such as the fun-fair at the beginnings of the Patti-Trial) and the mobilization of people asking them to participate in the trials. Guided by the slogan: ‘A tribunal judges them, but we all condemn them’ they produce information material that allows for better public distribution of the knowledge about and generated by the trials. With this intention in mind, members of the commission coordinate the ‘*Mesa por el Juicio y Castigo*’ (Table for Trial and Punishment) that consists of a variety of groups, human rights organizations, and other companions dedicated to the effective prosecution of the perpetrators (Lescano & Gitelman 2012).

The association's 'Committees' should however not be regarded as fixed or unchangeable as committees appear, dissolve or transform. For example in the first three years, the organization entertained a committee called 'Comisión del Barrio' (Neighbourhood Commission) in which its members, inspired by their parents' dedication to social work, went to the surrounding slums, taught children, helped with basic infrastructure, and built houses (Interview Lole 2012).

The 'Juicio y Castigo' Committee is another example of the flexibility of H.I.J.O.S.' structure. For many years, actual legal prosecution of those responsible for the state terror was unthinkable in Argentina's courts, as Florencia from H.I.J.O.S. Tucumán told me, 'We never thought it will actually happen, and less that it'll happen so fast!' (Fieldnotes 2011).<sup>38</sup> In all those years of impunity, H.I.J.O.S. chosen road to justice was therefore the public denunciation of the *genocidas* by means of the *Escrache*, and, accordingly, the Committee working for justice and punishment was formerly called 'Escrache Committee'. With similar objectives (punishment and accountability, public awareness building, and social condemnation) the transformation and renaming of the committee that for years was most central to H.I.J.O.S.' work pays respect to the changed political and legal circumstances.

## **Activities**

In the beginnings, H.I.J.O.S.' main effort was to research and to learn about their parents' lives and their political motivation. The new generation was trying to find answers about who their parents were and why they were persecuted and killed by the

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<sup>38</sup> Until 2005, the call for the 'effective annulment of the amnesty laws' (a base point of the organization) was therefore central to their commitment to justice and the demand for 'trial and punishment'.

state or the military. Most of my informants' parents belonged to Montoneros and JP (Juventud Peronista), fewer to ERP-PRT and other organizations.<sup>39</sup> And so, while some activists of the victims' generation were indeed involved in armed resistance activities, most were committed to non-violent social justice (see Taylor 2002:150), an aspect hidden from memory in the aftermath of the genocide.

They denigrate our parents as subversives, guerrillas. Our parents had ideals, dreams, utopian ideas, and hopes for a different country. We want society to know who our parents were. (cited from 'Voces' by Juan Gelman in Kaplan 2004:155).

The political agency of those prosecuted by the armed forces was completely silenced throughout the 1990s, as they were either labelled 'innocent victims' or 'violent terrorists' leaving little space for 'grey zones'. This lack of integration of political subjectivities into national memory narratives, as analysed by Laplante and Theidon (2010) in the Peruvian case, excludes former victims (or perpetrators) from having a voice in the present. 'If the silence wins, they win too', Guillermo had told me, stating in simple terms that the eradication of remembrance of individuals (Minow 1998:1) and the destruction of their 'social power' (Jones 2011:29) are additional effects and aims of genocide. The dictatorship had left the second generation with the 'presence of absence' that *hijos* experienced not only as the physical absence of their parents but also as the absence of knowledge about a generation's project, an entire *Weltanschauung*, that was repressed and exterminated by violence and terror. Growing up with absence as a constant companion, members of H.I.J.O.S. thus

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<sup>39</sup> Again, some of my informants and their parents had no socio-political affiliation with any revolutionary group, but within H.I.J.O.S. such cases have to be regarded as less common (Fieldnotes 2011).

discovered the desire to fill this memory hole as a personal necessity but also as a much needed, collective project.

In Argentina, *hijos* live with memory holes and the presence of absence that constantly creates longing. In return, this ‘longing’ or ‘desire’ created by something that is not there, leads to action (Kierkegaard 1987). In Argentina, *hijos* made it their task to recover the spirit of their parents and to reconstruct their lives, their dreams and their ideals. However, in the process, *hijos* not only seek to recover memories as something situated in the past but instead through discourse and embodiment imbricate post-memories into their own social activities and identities. With their declaration, ‘We don’t forgive, we don’t forget and we don’t reconcile’ they announce their standpoint on the question of justice and started with a wide range of corresponding activities.

In their weekly meetings the organization developed ways to turn into practice its collective demand for a new historical discourse of responsibility and identity. Understanding themselves as ‘communicators’ (Interview Charly 2011) of counter-narratives and subaltern experiences, the young activists use a variety of tools and practices. Ranging from the organization of school talks and commemoration workshops, to various forms of social work and education projects, as well as the production and distribution of information material, H.I.J.O.S.’ work reaches all the way to ‘truth trials’ (which they planned and realized together with other human rights groups), the ‘theatre for identity’, the Escrache and finally, the legal prosecution of the perpetrators.

Even though H.I.J.O.S. is probably best known for the *Escrache* as its tool to thwart impunity, the practice is mainly enacted in Buenos Aires. Other regional groups such as H.I.J.O.S. Tucumán do not always have the personnel capacities to realize such events or, as in the case of various groups of H.I.J.O.S. in Europe do not feel the local political needfulness to perform the *Escrache* regularly. And so these groups focus more on other tools of ‘awareness building’ and chose to ridicule repressors in more traditional theatrical performances or ‘ethical trials’ (Fieldnotes 2011).

With the reopening of the trials in 2005, the ‘pure’ *Escrache* ceased in importance and performance and H.I.J.O.S. now concentrate on the trials. Those activists, who formerly have worked in the ‘*Escrache* Committee’ nowadays work in the ‘Juicio y Castigo Committee’ where they support the diffusion of knowledge about the trials, produce flyers, and organize events before, during, and after judicial proceedings and court sessions. This performativity as knowledge transmission still closely resembles aspects of the *Escrache* and exemplifies yet another display of H.I.J.O.S. collective belonging that becomes visible in the discourse of justice and genocide.

Additionally, in 2010 H.I.J.O.S. started its latest and probably most successful and widespread campaign called ‘*Me pongo la Camiseta por el Juicio y Castigo*’ (I put on the T-shirt for judgement and punishment). With the distribution of thousands of T-shirts the organization reached its uttermost prominence and level of communication and managed to successfully include celebrities who, by wearing their T-shirts, perform H.I.J.O.S.’ demand all over the world.



Figure 2: H.I.J.O.S. Tucumán with 'Juicio y Castigo' T-Shirts; 2011

So, whatever the means – legal, extra legal, or symbolical – all members, driven by the shared believe in justice, sedulously work for their motto, ‘It is our moral duty to show who is responsible and to transmit this knowledge to the next generations’ (Interview Camilo 2010).

### **The Population: A Question of Belonging**

H.I.J.O.S. belongs to the wider cluster of associations working in the interrelated field of ‘memory, truth and justice’ and is positioned as a non-partisan, non-governmental organization with dedication to human rights. According to its members, H.I.J.O.S. is a ‘political group that works in human rights’. At the same time, *hijos* often refer to their association as a ‘space of belonging’ or ‘family’ for ‘brothers and sisters of the same history’ (Interview Peer Group H.I.J.O.S. 2011). Thus, the organization in which ‘the personal mixes a lot with the political’ (Interview Lole 2011) cannot be compared to other non-governmental bodies such as ‘Amnesty International’ or ‘Greenpeace’,



for one's participation in H.I.J.O.S. – just like in *Madres, Familiares* or *Abuelas* – is primarily legitimized by one's own blood relation to the victims of the dictatorship, a fact that especially in the beginnings brought together exclusively children of those 'directly affected' by the genocide.

Today, the association is best described as a '*población abierta*' (open population) of activists, with members from a variety of backgrounds. Provided that people respect and follow the organization's base points and consensually agreed upon their profile, membership composes of the 'children of disappeared, murdered, exiled, and imprisoned parents' but also, 'any other person who wants to be part of the association' (Interview Matías 2010). But that was not always the case. During H.I.J.O.S.' emergence, its members exclusively consisted of descendants of the 'two origins' (meaning the children of those disappeared or murdered). With more regular meetings more and more children approached the newly established group and H.I.J.O.S. soon found itself composed of *hijos* of 'four origins' meaning that not only the children of disappeared and murdered victims, but also children of those who were politically imprisoned or exiled by the dictatorship attended the meetings.

Consequently, H.I.J.O.S.' activists started the debate about what it means to be 'directly affected' by the dictatorship. 'It was a very difficult question. In the beginnings there was a lot of distrust and we had no means to control who entered the group' (Interview Charly 2011). Some *hijos* felt that only those, who had gone through the same history (namely the disappearance or 'absence' of one or both of their parents) could understand their suffering and relate to their experiences. Others considered H.I.J.O.S. a place for everyone coming from 'the four origins' meaning

thereby all those of the post-terror generation who by direct blood relation to the victims are considered kin and hence belong to the group (including the children of imprisoned and exiled parents). And so the question of ‘the population’, as H.I.J.O.S. calls the conglomerate of its members, soon brought about intense and long discussions.

In 1996, when *hijos* started discussing the issue, people from all four origins already actively participated in H.I.J.O.S., which made the argument about ‘the population’ one of the most difficult and painful discussions H.I.J.O.S. had to go through, especially for those participants whose legitimacy of pain and suffering was put into question. Talking about his early experiences in H.I.J.O.S., Lole, son of exiled parents who had come to Argentina from Nicaragua told me:

In H.I.J.O.S. exists something that we call ‘*dolorometro*’ [a kind of pain-meter that puts a hierarchy on suffering]. First come the disappeared, than those whose parents were murdered, followed by those from the other two origins. It’s absurd, but that’s how it is. (Interview Lole 2001)

After many months, H.I.J.O.S. consensually agreed to integrate all those coming from the same heritage, which essentially included everyone from ‘the four origins’. But once the question of the ‘origin’ was solved, members and ‘supporters’ of H.I.J.O.S. quickly started debating the definition of its ‘population’ again. Connected by the ‘*memoria del sangre*’ (blood memory) but also by collective political activism, more and more activists approached those participating in or ‘belonging’ to H.I.J.O.S.. Especially *hijos*’ friends but also other people from the same generation who shared their beliefs in justice wanted to actively support the struggle against impunity and felt connected to H.I.J.O.S. as their chosen place of activism. Faced with the choice of either excluding these companions or changing the terms of membership, the

organization officially decided in its national assembly of 2000 to become an ‘open population’. This meant that nobody but oneself is responsible for one’s membership, as Charly explained it,

Even if you come to all the activities it does not mean that you **are** in H.I.J.O.S.. To be member of H.I.J.O.S. you have to participate organically, you have to come to work in the assembly and in a commission. If I participate in the assembly and in one commission, I am in H.I.J.O.S. (as a member). If you participate only in a commission, well, you contribute to H.I.J.O.S., I don’t know if I would say you **are** in H.I.J.O.S.. And if you only go to the activities, you ‘support’ H.I.J.O.S., but you are not **in** H.I.J.O.S. (Interview Charly 2001)

According to Charly, membership thus depends primarily upon one’s own engagement and active participation in the association, a statement also reflected on H.I.J.O.S. website where they explain that,

H.I.J.O.S. is an organization that exists all over Argentina and abroad [...] made up of children of those detained-disappeared, murdered, formerly politically imprisoned and exiled and also of other companions who, without having suffered in their own families the direct repression of the last civil-military dictatorship we understand that we all are the children of the same history. (H.I.J.O.S. 2014c)<sup>40</sup>

But the question of ‘the population’ is not only a practical issue of membership. Rather, it also indicates a wider, theoretical declaration of H.I.J.O.S.’ approach to and understanding of history and identity. To sustain a narrow demarcation of group-boundaries and membership that requires all members to have blood relations with the victims of the dictatorship would have been ‘to continue dependence on the dictatorship’ (Interview Lole 2011). Insight from research on genocide has shown that any group persecuted in genocide is determined as such by the perpetrators (ICTR

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<sup>40</sup> Taking their position on the definition of belonging serious, Nahuel explains that even the children of the perpetrators would be welcome to join their struggle if they would clearly distance themselves from their parents (Interview Nahuel 2010)

1998; Jones 2011:18) (see chapter 4). For H.I.J.O.S. to break with that cycle was a clear statement of a new definition of belonging. During the civil-military dictatorship, the perpetrators forced ‘belonging’ on to their enemies and killed, tortured, and disappeared all those they deemed ‘subversive’. Depicting the ‘Dirty War’ as genocide, *hijos* understand that the repression of the dictatorship was not directed against individuals but against a collective project of an entire generation. ‘What was attempted was not the elimination of Montoneros, ERP, or other political organizations. What was attempted was the elimination and demobilization of a whole generation of Argentines who, even though they did not share the same ideologies, were united by their critical thinking towards the course of the country and their dedication to solidarity and inclusion of all Argentineans’ (Final Speech Querella 2010).

As a well analysed process, genocide studies showed that the perpetrators of genocidal practices deny the heterogeneity or even relatedness of those making up the persecuted ‘group’ and instead, by means of a ‘Manichaeian discourse’, determine themselves the ‘belonging’ of the subjects they attempt to eradicate. My research with H.I.J.O.S. and the second generation in Argentina brings a new dimension to these insights. My findings show that genocide not only destroyed a group but also produced a group in its wake. Discussing the ‘repressive hypothesis’ Foucault explains:

Repression is not in any case fundamental or overriding. We need to [...] reverse the direction of our analysis: Rather than assuming a generally acknowledged repression [...] we must begin with these positive mechanisms, insofar as they produce knowledge, multiply discourse, induce pleasures, and generate power. (Foucault 1990:73)

H.I.J.O.S. in Argentina provide an example for Foucault's insight on repression, as the creative power of Argentina's violent past manifests in the second generation in the present. While people still argue over whether or not the dictatorship's violent atrocities resembled a genocide contemporary representations clearly discuss the past as genocide. Such a depiction however indicates the need for a persecuted subject. Members of H.I.J.O.S. describe their belonging as linked to a group that with its ideals, ideas, activities, projects, and ambitions is created in the present from post-memories. However, calling themselves an 'open population' that includes all those who believe in the same past and future, the second generation accomplishes at the same time to surpass the perpetrators' group definition. And so, while the violence had brought into being the need for their struggle, it is their practices and active engagement that determine their belonging, their political subjectivities, and the future they will live in. Their relation to the annihilated generation is not one of blood but one of affective belonging to a memory of something that probably was but certainly could have been.

Hence, in a productive way, violence experienced as the 'presence of absence' creates the second generation's own belonging to a new kin or 'gens' of political activism that allows them to win back the ownership of justice. *Hijos* feel that the long-term socio-cultural, political, and economic effects of violence affected all from the post-terror generation. For H.I.J.O.S. identity within the politics of 'blood memory' is dependent on each and everyone's own practices and behaviour. With an organization that thoroughly is committed to justice and even more to the discourse of genocide, the children have found belonging in political activism that constructs their own kin-like, collective identity. And so, with their decision for an 'open population' that includes

all children of the same history, H.I.J.O.S. have actively embraced the productive quality of violence.

### **H.I.J.O.S. and HIJOS La Plata**

H.I.J.O.S. emerged during the La Plata meeting in 1995. However, when in 1996 H.I.J.O.S. 'with dots' consensually decided for membership according to 'the four origins', the question led to a split with one of their regional groups. HIJOS la Plata, currently known as HIJOS 'without dots', decided early on to keep a more exclusive, two origins membership policy. Differing from the general standpoint on belonging, HIJOS (without dots) La Plata, that time still an integral group of the national network, opted against the collective decision and restricted membership in its group to 'two origins' (children of those disappeared and assassinated).

Apart from that difference, H.I.J.O.S. 'con puntos' (with dots) and HIJOS 'sin puntos/puntitos' La Plata arrived at a series of political and structural differences throughout the years. In 2001, the fundamental differences between H.I.J.O.S. and HIJOS La Plata, including specifically their differing opinions on the question of 'the population' led to a split in which HIJOS La Plata as well as HIJOS Zona Oeste decided to mark their identity differently by erasing the 'dots' normally marking the association's acronym. Since then, the La Plata and Zone Oeste groups are often referred to as 'sin puntitos' (without dots) and have always followed a path slightly different from the national network (Cristal et al. 2002; H.I.J.O.S. Capital 2001).

Since then, essential discussions between the groups repeatedly led to disputes and disagreements during the first few national meetings of H.I.J.O.S.. The network

specifically pointed out that HIJOS La Plata' political activities lacked accordance with the base points. In 2007, the activities as well as official statements of HIJOS La Plata increasingly diverged from the consensually decided upon base points of the network. And so, after years of discussions, the representatives of the 12th National Congress of H.I.J.O.S. in Paraná decided to take action and to write a letter explaining their standpoint and suggesting the exclusion of HIJOS La Plata from the network (H.I.J.O.S. 2007). Since the exchange of letters, in which HIJOS La Plata confirmed their pull-out (HIJOS LaPlata 2007), the two groups HIJOS La Plata and HIJOS Zona Oeste no longer belong to the official network H.I.J.O.S. and currently operate as distinct socio-political organizations.

### **H.I.J.O.S. and 'El Colectivo de Hijos' (CdH)**

In the course of history, the children have organized themselves in a variety of associations. While I have already presented the difference between H.I.J.O.S. and HIJOS (without dots), I also want to briefly mention another, more recent organization: '*El Colectivo de Hijos*' or CdH (The Children's Collective). CdH defines itself this way: 'We are a collective of sons and daughters of those imprisoned-disappeared and murdered in Argentina, orphans produced by the genocidal action of the State' (Colectivo de Hijos 2010). The *Colectivo de Hijos* (CdH) came into being in 2010, when its members first published their manifest. Their goals – always presented in an artistic way – comprise of demanding the right to justice, memory, and the right to work for all the children affected by the genocide (Interview Polo 2011).

CdH is the most recent organization of *hijos*. It is therefore not surprising that its members always (including any published material) use genocide, not state terror, as their term of choice to describe the violence that took away their parents during and before the last military dictatorship. Finally, it is important to note, that CdH defines as *hijos* only those coming from the two origins: *hijos* of the disappeared and *hijos* of those murdered by the genocidal regime).

### **A new Government, a new Home**

Over the years, the association H.I.J.O.S. struggled with and solved many internal questions. Not unusual for a group with dedication to horizontal and consensual decision taking, it took years for some more controversial issues to be solved. The question of ‘the population’ is one example, including the painful split between H.I.J.O.S. and HIJOS ‘*sin puntitos*’. Another example appeared with recent political developments brought about with the Kirchner government.

H.I.J.O.S. is defined as a non-partisan, independent human rights organization. For many years, there was no need to question this positioning, which, as one of H.I.J.O.S.’ founding pillars, is central to its self-understanding, mostly because H.I.J.O.S.’ work for memory, trials, and the punishment of all state-related perpetrators was in clear opposition to the official politics of Argentina’s governments in the 1990s and early 2000s. Official governmental policies changed however with the election of Nestor Kirchner and the Justicialista Party in 2003. Since then, the ‘*Kirchnerismo*’, currently headed by Christina Fernandez de Kirchner, largely responded to human rights groups’ demands. Most noticeable, the government officially declared all crimes of the last civil-military dictatorship committed by state-



related perpetrators as crimes against humanity, a governmental ruling that actively pushed for the reopening of hundreds of court cases. Additionally, the new government implemented new 'politics of memory' by creating the *Parque de la Memoria* in the outskirts of Buenos Aires and turned 24 March into a national holiday called the '*Día Nacional de la Memoria por la Verdad y la Justicia*' (National Day of Remembrance for Truth and Justice).

The new context obviously works in favour of human rights groups' demands. However, the changed political predispositions also brought with them the need for human rights groups to re-think their position and relation to the government. After 30 years of active opposition, they now started working in line with official politics of the state and have to critically rethink their 'independence'.

In 2004, the government in an official act took from the armed forces the former clandestine detention centre and military school ESMA (Navy Mechanics School) and turned it into the '*Espacio Memoria y Derechos Humanos*' (Space of Memory and Human Rights). Since the nationalization of the 3000 square-meter large arsenal the place now hosts a museum and an archive, and provides the space for human rights activities and film screenings. Furthermore, the former 'Casino', in which were kept and tortured those illegally detained-disappeared is contained as a memorial place.<sup>41</sup> By 2004, most of the buildings were officially handed over to human rights groups for their own use.

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<sup>41</sup> When I did fieldwork in Buenos Aires hearings for the ESMA trial were underway. Thus, for legal reasons the 'Casino' was still closed to the public and one could only be enter with a guided tour.

As the organization H.I.J.O.S. has spear financial resources, it was seldom able to financially sustain its proper place. Most regional groups comprise of ten or even fewer regular members, allowing them to gather for their weekly meetings in public cafes or in one of their members' homes. Given their size, H.I.J.O.S. Capital, the regional subdivision with most regulars, was faced with a different situation that demanded a permanent place for meetings, group discussions, commission meetings, and the preparation of their activities. For that purpose, the group has managed for some years to rent its own office in San Telmo in the late 1990s, but throughout most of its existence it officially resided at and shared a space with *Familiares*.

With the conversion of the ex-ESMA into the Espacio de la Memoria, H.I.J.O.S. was also handed one of the buildings as the new home for its organization. Formerly the sports-hall, the government's offer of this huge building arose broad discussions on the partisan position of the association. As a solution H.I.J.O.S. now calls its building the '*Casa de Militancia*' (house of militancy/activism) and not H.I.J.O.S., such as other groups, who have named their new places *Madres*, *Abuelas*, or *Familiares* according to their organization's names. By contrast, the '*Casa de Militancia*' represents a space not only for H.I.J.O.S. but also for a variety of organizations who actively engage in human rights projects and activities. 'With this place we want to reclaim the political organization, whether it is the one of the 70s or the current one' (Pagina12, 26.6.2011). In 2011, the new house was officially inaugurated during H.I.J.O.S.' 13th National Congress in Buenos Aires. Still in the state of reconstruction, the building will, once it is fully developed, provide H.I.J.O.S. with their proper place to start and maintain an archive of its activities, integrate their own radio station, offices, and many other things.

Although with positive synergies, the building they were given in the EXMA (ex-ESMA) has changed H.I.J.O.S.' special situation all together and stressed the need to discuss their association's independence. The newly felt support and pro-human rights position of the government produced intense debates within most human rights associations, with members warning about the danger of loosing the political independence central to their successful struggle. Similar to other activist groups, H.I.J.O.S. had to open the debate about its political standpoint towards the new government. Discussing the topic with Charly while waiting for the weekly march of the Madres on the Plaza the Mayo, he explain to me his understanding of the new situation:

Starting 2003, they nullified the impunity laws, they pressed for the recuperation of the Clandestine detention centres, they gave a huge impulse to the effective restitution of the children, and ... and, above all, they started to oppose a ton of social sectors; all those sectors of society who supported the dictatorship, such as the church, the security forces and the military, the big economic groups, the media monopolies such as Clarín, all these ... the stock breeding oligarchy, the agrarian. All these sectors that I named are those that supported the dictatorship. And all these sectors are those who fought this government. So whether you are in favour or in contra of them one also positions oneself with this government. I for one am in favour, but there are many who see that this government has all these enemies who equally are our enemies; and so this government is not my enemy. So many position themselves for the positive aspects and others for the negative ones, but all in favour of the government. (Interview Charly 2011)

As the organization aligning itself ever more with the politics of the current government, some members went into opposition, pointing out the importance of maintaining the organization's strength independently of the respective government or

ruling political party.<sup>42</sup> The situation especially affected regional groups inside Argentina, where some pro-government members were accused of being ‘superkirchneristas’ (Alonso 2010:118), making it hard for the organization as a whole to maintain their label as an independent association. H.I.J.O.S. thus struggled for years to consensually decide their position towards the new government. When I left the field, the official position taken by the organization towards the question of independence declared the association as unconnected to any formal party, but had added a transformed ethico-political standpoint.

The association remains independent. However, we decided a little while ago, that we have to support the national project of Christina, the project that Nestor and Christina have started. We are not in any political party or anything, but we decided from above that we would support this project. And we will call on people to vote for them. Now, in October. But we are not inside the official Party, nor in any other, you understand? (Perr Group HIJOS 2011)

And so in 2010, after seven years of discussion (Interview Santiago 2011), the group has defined its new profile and relation with the government as ‘in support of’. This compromise means, according to H.I.J.O.S.’ members, that the organization officially positions itself in favour of governmental policies but still retains its critical distance and partitisan independence.

### **From the Margins to the Centre**

For many years H.I.J.O.S.’ activists who demanded truth, justice, and memory, struggled with societal and political opposition, violent resistance to their activities, and the historical narrative that reduced their parents to either victims or perpetrators.

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<sup>42</sup> The government is now paying some of H.I.J.O.S. lawyers in Cordoba, working in the trials for human rights violations (Fieldnotes 2011); as the exception of the rule this could be read as part of the changing dynamics of the organization.

But over the years, the continuity of their struggle has turned H.I.J.O.S. into an important and politically honoured organization. In 2011, the organization and its work were even voted ‘Teachers of Life’ for the important impact of their work of passing on values, memory and identity (CTERA 2011).



**Figure 3: H.I.J.O.S. Capital at ‘Teachers of Life’ award**

Partly the new perception is owed to the changed political government, but mostly the organization’s reputation is earned by H.I.J.O.S. itself, as the historical narrative including the representation of the past as genocide that is anticipated by its members has entered the official discourse about the past and made its way into society’s understanding of its own violent history.

Today, as one of human rights high-profile members, H.I.J.O.S. are specifically important to the aging *Madres*, who now feel the guarantee that the new generation will carry on their life-work and continue the struggle for justice in Argentina. At

various points during my fieldwork I heard a *Madre* saying: ‘We are now calm, because we know that these brave young people will carry on the torch’ (Fieldnotes 2010, 2011). This torch includes the fight against impunity, the struggle for social and political justice, and the need to carry on the search for more than 300 stolen children or ‘living disappeared’. Continuing a trans-generational project, H.I.J.O.S. thus provides peace of mind for the first generation of accountability actors, who trust that, ‘With the children a new generation of victims emerged that will continue preceding struggles and that does not resign to impunity’ (Voices of human rights groups’ members, cited in Alonso 2010:78).

This continuity is also represented on the Plaza de Mayo, the most politicized square in Buenos Aires. Honouring the courageous work of the Madres and symbolizing their weekly rounds, since 2005, their white headscarfs are painted on the grounds circling the central Pyramid. In a symbolic act and to show their inter-generational connection, H.I.J.O.S. have now added the children’s logo ‘H.I.J.O.S.’ next to each painting of a white scarf, symbolizing their belonging.<sup>43</sup>

The felt continuity with previous resistance actors is not only discussed by H.I.J.O.S. but also symbolically presented in public. Pointing to the familial and political bonds with the *Madres de Plaza de Mayo Linea Fundadora*, members of H.I.J.O.S. have started wearing white scarfs around their necks. Since 1977 these scarfs are the

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<sup>43</sup> But as a politically contested space, the Plaza de Mayo is also the site of symbolic struggles over power. Thus, in 2006, the ‘*Asociación de Familiares y Amigos de los Presos Políticos de Argentina*’ (Association of Family-members and Friends of Argentina’s Political Prisoners) painted black mourning bands next to the white scarfs (Robben 2012). Adding the words ‘*Victims of Montonero and ERP terrorism*’ the paintings are a gesture of solidarity with accused, processed and imprisoned military and intend to contest the dominant historical narrative, in which their suffering is silenced and their demand for justice unanswered (Interview Villaruel 2011).

symbol of the mothers. Representing their babies' diapers, the headscarfs partly protected them during the dictatorship as they characterized the insubordinate woman as mother who searched for her children because of the maternal bond and not for a political standpoint (Robben 2005). And even though the work and demands of the *Madres* dynamically transformed over the years they always stuck to their scarf as a powerful symbol for their struggle.

H.I.J.O.S. took on a more confrontational position and with the 'Juicio y Castigo' emblem has chosen a symbol more clearly communicating their political demands. More recently however, they also created their own scarfs to symbolically represent the continuity of their struggle and to mark their identity and belonging. On 26 September 2011, H.I.J.O.S. work and impact as well as their importance in the continuity of the struggle for justice, truth, memory, and a society with more equality and solidarity was officially honoured with the 'Democracy 2011 Award' in which the organization received the award in the category for human rights. Taking place at the cultural centre 'Caras y Caretas' a cheerful *Madre* Taty Almeida handed over one of Argentina's most important awards (Caras y Caretas 2011).

During the ceremony the children beautifully emphasized their intergenerational connection verbally but also symbolically by wearing white scarfs – the typical symbol of all Madres de Plaza de Mayo – around their necks, with their own letters H.I.J.O.S. printed on them. When they received the price from the hands of Madre Taty Almeida, the children affectionately wrapped their award with one of their scarfs.



Figure 4: H.I.J.O.S. wrap their 'Human Rights' award with a headscarf at Caras y Caretas

## Conclusion

In the course of 17 years, the association H.I.J.O.S. has undergone important changes in its activism and in the political circumstances of its struggle. As a group *hijos* have always dynamically adapted to given possibilities, but their founding principles and central objectives have never changed. That way, H.I.J.O.S. has become one of Argentina's most important human rights organizations, the work of which is strongly supported by the current government. With its recent election for the 'Democracy 2011 Award' in the category of human rights, the association was honoured for its work and impact in Argentina's struggle for justice. Hence, the perception of the organization has changed entirely over the years and, as one member put it, has become 'a real reputation' (Interview Charly 2011).



Additionally, H.I.J.O.S. has influenced the children's lives and identities. From the very beginnings H.I.J.O.S. aimed at the recognition of their parents' objectives, goals and ideals and the recreation of their parents' political agency. With the organization and members' awareness of their collective belonging to a generation that suffered the consequences of the Argentine genocide, participants have managed to find and create their own belonging to a new kin-group of political activists that with their definition as 'open population' has surpassed the power of the perpetrators. '*Nacimos en su lucha, viven en la nuestra*' (We are born in their struggle and they live in ours) is one of *hijos* most important slogans that immediately points to the trans-generational connection and puts kinship as well as activism to the front. Emphasized even more strongly in the discursive frame of genocide (see chapter 5), the children as affective kin-group gain strength and, providing an example of Foucault's 'repressive hypothesis', show the productive quality of power.

Making history visible, they always demanded juridical punishment for the murderers and torturers of their parents, the criminals who still lived unpunished within society, stating 'We don't forgive, we don't forget, and we don't reconcile!' and 'trial and punishment' for all perpetrators. Working towards the rehabilitation of their parent's project, their post-transitional justice efforts thus do not seek reconciliation but call for the stipulation of activism and a political project that once could have been.

Starting with the effective punishment of the perpetrators at a time when impunity still left no road to juridical punishment, H.I.J.O.S. used the *Escrache*, a form of popular justice and social, street condemnation, in which a perpetrator is met by the crowd at his own doorstep where his crimes and involvement in the violent past is made public.

The Escrache as one of H.I.J.O.S. most acknowledged and effective practices is at the centre of the following chapter, which discusses its details and impact with the help of some case examples.

## **Chapter 4: ‘Si no hay Justicia, hay Escrache!’**

### **Introduction**

Neighbours, be alert, a murderer lives next to you. Today, 30 years after the military coup, we meet right in front of the cave of this filthy rat: Jorge Rafael Videla! We will come up to visit you, because we want to speak to you, face to face. Because we know that you should be in your home, but we are not sure if you comply with your house arrest. We came, you filthy rat, to *escrache* you! (H.I.J.O.S. 2006)

On 18 March 2006, a member of H.I.J.O.S. read these lines during an Escrache in which 12,000 people marched the streets of Buenos Aires, singing, dancing and shouting in anger their demand of justice. While the protestors approached the house of Jorge Rafael Videla they handed out flyers and installed street signs such as, ‘In five hundred metres – Rafael Jorge Videla – *genocida* – Cabildo 639’. It was the Escrache with the highest participation in an event ever organized by H.I.J.O.S. and the third time an Escrache met the first president of the 1976-83 military dictatorships. The event marked the horrible memories of the violence but also the resistance that it brought about. March 2006 was the 30th anniversary of the military coup that brought into power the Junta responsible for the organized disappearance, torture, assassination, and systematic annihilation of thousands of Argentine citizens. But March 2006 was also the 10th anniversary of the Escrache, H.I.J.O.S.’ strategy of public resistance to impunity, silence, and forgetting. 10 years of resistance to impunity by the post-terror generation, 10 years of the realization of social condemnation and street-justice marked the new generation’s promise: *Si no hay justicia, hay Escrache!* (If there is no justice, there is Escrache!).

This chapter discusses the *Escrache*, a practice of social denunciation and popular ostracization of *genocidas*, used by the organization H.I.J.O.S. in order to make visible the perpetrators who live in society exempt from legal prosecution for their crimes next to the children and friends of their former victims. I illustrate the coming into being of this specific tool for justice used in the aftermaths of the Argentine Genocide, its evolution over time, its manifestation and the ideas behind the practice. After a short description of the roots of the practice, I present the *Escrache* as explained and intended by H.I.J.O.S.' members and give examples of its multifaceted manifestations. Then, some detailed examples show the range of its usage and the impact it had on society as a tool of awareness-building and empowerment, allowing therefore for an understanding of H.I.J.O.S. 'street-theatre' as seen through the eyes of the people who participated and experienced the outings, their impact, and the difficulties encountered. I end the chapter with my own analysis of the *Escrache* as a tool of discursive meaning making that transforms the personal experience of the 'presence of absence' into a visible, public performance of justice that calls for memory and responsibility. The *Escrache* is thus another instrument members of H.I.J.O.S. use to participate in the contested construction of Argentina's historical narrative. Putting their bodies to the streets, they found a way to counter impunity and to symbolically and visibly present their demand of justice.

Additionally, when talking about the *Escrache*, the question of justice highlights the question of legitimacy. Is it legitimate to employ social condemnation and for people to take justice into their own hands? Can the *Escrache* be compared with vengeance? Is H.I.J.O.S.' claim of 'our vengeance is to be happy' legitimate or does it simply conceal the desire for revenge? Building on the polemic controversy that arose during

my fieldwork in 2011, I discuss the comparisons made between the *Escrache* as performed by H.I.J.O.S. and the marking of Jewish houses and stores by the National Socialists in the 1930s. I present the standpoints I encountered in Argentina and analyse the moral and ethical differences between the two ways of ‘marking’ employed by H.I.J.O.S. and the National Socialists, respectively.

### **The *Escrache*: A Street Theatre of Justice**

Indifference keeps them free, our struggle will take them to prison.  
(*Escrache* against Etchecolatz)

*Escrache* is a slang word the origins of which are debated. Most commonly people explain that the verb *escrache* derives from the Argentine *lunfardo*, a local dialect associated with Italian immigrants and the Tango milieu of the late 19th century in the Río de la Plata area meaning ‘to bring to light what was hidden, to make evident, make visible’ (H.I.J.O.S. 2104a). As a far-reaching, symbolic, direct non-state intervention the *Escrache* attempts ‘to bring justice to the doorstep of amnestied torturers and pardoned repressors’ (Robben 2010b:188) in order to ‘make visible’ the perpetrators who live with impunity next to the children and friends of their former victims. One of the intentions of the *Escrache* is to break with the normalization of repression that consisted of patterns ‘revealing a distortion of public values that has to be considered as a legacy of terror in the public sphere’ (Kaiser 2002:500). What the *Escrache* does is to uncover knowledge about the perpetrators of the last military dictatorship once H.I.J.O.S. ostracizes them in their own neighbourhoods.

H.I.J.O.S. came into being as an established association in 1995, a time when the Argentine legal system and political structure had, with a few exceptions, closed all institutionalized paths for legal penalization. Given the official historical narrative of

the time, including the promotion of false reconciliation and the two-demon theory, it seemed at that point that human rights groups' efforts for the legal prosecution of the murderers, torturers, and collaborators of the last military regime were futile. But unlike so many other genocides and perceived injustices, the people in Argentina did not accept the silent normalization of 'living with the perpetrators' (Kaiser 2002:501-503). Convinced that the perpetrators must be held accountable for a more just and democratic society to emerge, they decided to act in order to get their demands heard.

Faced with the unbearable fact of impunity for those who had murdered and disappeared their parents and thousands of other people, the children of the victims in Argentina decided to do something. During H.I.J.O.S.' weekly meetings, the shared anger against the national impunity that protected all former perpetrators led to their dictum: '*No perdonamos, no olvidamos, no nos reconciamos!*' (We don't forgive, we don't forget, we don't reconcile!). In an attempt to break with the imposed silence and to stand up for their demand of justice members of H.I.J.O.S. creatively thought out an alternative form of social condemnation. And so in 1996, only one year after their collective appearance, they discovered the Escrache as a way to publicly bring to everybody's attention the absence of justice that they were unwilling to accept.

Generally the first Escrache as we know it today is remembered as the one initiated against Dr. Jorge Magnacco, child appropriator at the ESMA. During the dictatorship Magnacco was a doctor at Despido Clinic and had supervised torture sessions and officiated the births of children of pregnant abductees (Kaplan 2004:162). Baffled by the ignorance about his past which allowed him to still practice medicine as a gynaecologist in a public hospital, H.I.J.O.S. decided to go to his work-place and to

denounce his deeds. Furthermore, H.I.J.O.S. came to his place of residence and started a *trabajo territorial* or local area work, in which they discussed the crimes with local residents. After they finished the first Escrache, H.I.J.O.S. returned to Mitre Clinic every week over the next couple of weeks in January 1996. As a result of the continuous Escrache, Magnacco had to move out from his home and lost his job at the clinic he was working in.

Empowered by their success, the idea of the Escrache grew into a regular activity. As their goal, participants of the Escrache intend for the past to enter the present to remind the people of the *barrio* (local quarter or neighbourhood) to put into question the normalization of the impunity that rules their country. In other words, H.I.J.O.S. aims to bring awareness to the absence of justice so painfully felt by the second generation of victims. Making the perpetrators visible is, according to my informants, identical with making present the violent history that the government was trying to silence for good. '*Ni olvido, ni perdón*' - Neither oblivion, nor forgiveness, but justice is at the heart of the Escrache as a project that brought to life the spirit of their parents who, even though in a different register and temporality, had similarly resisted state imposed policies they deemed illegitimate. By means of the Escrache, as a 'form of social activism that allows for a narration from below' (Colectivo Situaciones 2004), H.I.J.O.S. asks society to face the failure of justice and to 'define its policy toward the original human rights violations as well as within on-going struggles for accountability' (Kaiser 2002:500).

With more regular events, H.I.J.O.S. and the 'Escrache Committee' frequently met enthusiastic support by some groups and individuals external to H.I.J.O.S..

Consequently, they started thinking about ways of making use of local knowledge and of including the people from the *barrio*. In order to involve more neighbours, human rights activists, artists, and other committed individuals, H.I.J.O.S. created the '*Mesa de Escrache*' (Escrache Table) (Colectivo Situaciones 2004:57) as a space for the participation of ad hoc working-groups. Since 1998, people from the *Mesa de Escrache Popular* supported H.I.J.O.S.' work, which allowed them to take into account the local specificities and problems of a place or situation. The *Mesa* thus travelled to different places where locals call for the need of an Escrache. There, during numerous meetings, the activists involved in the Escrache decided weeks ahead of the event on the form and style as well as the time and place of the forthcoming Escrache.

In Buenos Aires, the place with the highest record of completed Escrache events, I talked to Charly from H.I.J.O.S. Capital, who had participated in dozens of Escrache since his entrance into the organization in 1996. Dwelling in personal memories, my informant Charly, who more than anyone else always focused on specifying precise and 'correct' data, names, and numbers, decided to provide me with some structural information. A typical Escrache, he said, consists of three consecutive parts that characterize the event: the pre-*Escrache*, the event of the Escrache itself, and the Post-Escrache (Interview Charly 2011).

To begin with, the public impeachment is based on months of research about the to-be-*escrached* perpetrator. This work as part of the pre-Escrache includes the preparation of visual material, speeches, and of getting to know the local situation (an undertaking strongly supported by people from the *Mesa de Escrache*). Before the



actual Escrache takes place, H.I.J.O.S.' activists also have to prepare their visual material. Looking at some samples of old Escrache-flyers that Lole had given to me and that I had brought to our meeting, Charly told me:

When we first started the Escrache we basically had their photographs and we thought people should know their faces. We have to print flyers and show their faces. That's the minimum of what you can do, no? (Interview Charly 2011)

These flyers, with information about the crimes committed by the culprit are central to every Escrache. Far from a sterile representation of words, the pamphlets emphasize the perpetrator's portrayal and display his address and phone number so that everyone could individually recognize, denounce, and out the oppressor. These flyers and posters denounce the perpetrator as a criminal and often resemble the style of police 'most wanted' notices (Benegas 2011:24). And while pictures of the better-known perpetrators were by and large available publically, this was not the case with more 'clandestinely' operating repressors. 'Sometimes there were just no photographs available' said Lole, my Nicaraguan-Argentine friend who campaigned in H.I.J.O.S. between 1996-2000. Being an anthropologist and photographer, his analytical voice, that sometimes dominates his recollection of a story, was pushed aside that afternoon when we looked at dozens of slides that he had taken for H.I.J.O.S. at events, protest marches, and Escrache. Filled with emotional memories he explained:

One of the most terrifying things was to take their pictures. You know, sometimes we didn't have a picture. But we wanted to make him known. So we were hiding close to his house, observing, waiting. And then I took the picture. It took a couple of days for me to get the photograph, because I was shaking too much to snap a sharp one. (Interview Lole 2011)

Once everything is prepared and still during the pre-Escrache, H.I.J.O.S. hold talks and workshops in the local districts and sometimes announce the respective Escrache in their weekly radio program '*La lucha que nos parió*' (The fight that brought us to

life). As an example, Nahuel of the Radio Commission, an impulsive but considered member of H.I.J.O.S. Capital, who always has a warm and somehow roguish smile on his face, read the incitement for the 2002 Escrache against Luis Donocick.

Luis Donocick, known as Polaco Chico, lives in Honorio Pueyrredón 1047 1<sup>er</sup> A of 'Asesino' (murderer). His telephone number is 4981-7228. We suggest you call him from a public telephone. He works in *Segard*, a Security Company at Lavalle 1672, 10th floor, office 51. On Saturday 14th we are going to *escrache* him! (Lescano & Gitelman 2012)

Members of H.I.J.O.S. and the *Mesa de Escrache* then initiate the Escrache by handing out flyers that display the photograph and phone number of the person concerned. Thereby they inform the people of the quarter about the criminal background of the to be denounced perpetrator. Then, about a week later, the work culminates in the Escrache itself. Thus, the group of people to participate in the event meet at a certain time and a certain street to start their outing ceremony. Near euphoric and always with some laughter, participants start marching through the neighbourhood of the addressed *genocida* towards his place of residence or in some cases to his work place. And while on their way, the protestors recite slogans such as '*Alerta, vecinos, al lado de su casa esta viviendo un asesino*' (Neighbours, be alert! A murderer lives next to you) or '*Como a los Nazis les va a pasar, a donde vayan los iremos a buscar*' (Just like to the Nazis it will happen to you, wherever you go we will come looking for you).

For the Escrache to be effective, H.I.J.O.S. additionally made use of a wide range of visual tools. In cooperation with GAC (Grupo de Arte Callejero), the group of artists who had already designed H.I.J.O.S. 'Juicio y Castigo' emblem, the activists created a variety of symbols which, as parts of H.I.J.O.S. material culture, have become

habitual to all Escrache events. Those best known and most regularly used are alterations of traditional street signs, the meaning of which Caroline from GAC describes as a way of turning a symbol on its head. ‘Our contribution was to subvert the images or institutional codes to denounce just what the institutions wanted to keep hidden, using that code to denounce genocidaires who are free because of the Full Stop and Due Obedience Laws’ (Caroline 2002, cited in Lescano & Gitelman 2012).



**Figure 5: Members of H.I.J.O.S. installing altered street signs during an Escrache**

During the Escrache, activists install these altered street signs indicating the address of and remaining distance to the perpetrator’s house or pointing to the specific violent crimes the perpetrator is made responsible for. Additionally, demonstrators announce indictments by megaphone and hand out printed flyers about the targeted murderer, *genocida*, or torturer. They dance and sing and express their ‘*alegría*’ (joy) about the event to everyone. Once the group of protesters arrives at the perpetrator’s home, members spray-paint accusations on the street and throw bags of red paint against the house or apartment of the accused perpetrator symbolizing the ‘blood they spilt’

(Interview Rolando 2011). With the visualization and ‘marking’ of the human rights violator, H.I.J.O.S.’ activists denounce the perpetrator’s real identity and hope to evoke his neighbours disgust, so that he would no longer dare to walk the streets, making thereby ‘his house his prison’ (*Para que la casa sea su carcel*) for as long as the lack of trials and judgements prevents the transition into real prisons.

Participants explain that the Escrache is a very intense event that brings up big expectations, anxiety, and adrenalin in a complex mixture of emotions (Fieldnotes Seidel 2010). The thrill of going to the streets and activating a creative, loud, and colourful event that also involves songs, music, artistic visualizations, and ‘*murgas*’ (theatrical manifestations) had some of my informants describe the Escrache as a *fiesta* (party) that, as a form of protest, diverges from more traditional resistance strategies such as the weekly rounds of the *Madres*.<sup>44</sup> But while H.I.J.O.S.’ form of street justice displays a unique style and character, Ursi and Verzero (2011), two Argentine art historians, also analyse the Escrache in continuity with former generations. They argue to read the Escrache as political practice in line with counter-hegemonic street theatres from the 70s. In the 70s various groups of young idealists made visible the weaknesses of the government through sarcasm and irony. Similarly, Escrache events involve artistic groups such as GAC and *Ecetera* and display a form of participatory street theatre in which the dominant historical impunity is denounced and countered with joy, counter memories, and action (Ursi & Verzero 2011).

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<sup>44</sup> At the same time, the Escrache always bears risks, especially throughout the first few years of its enactment, when the protestors were regularly met with violent resistance by the police forces that were called to protect the targeted subjects (for further details see chapter 4.5.).

Whereas Ursi and Verzero span their comparisons between different temporalities, other authors analyse similarities between different contemporary resistance strategies. For example, in her book 'Taking back the Streets' (2004), the historian Temma Kaplan examines various manifestations typical for Argentine (and other Hispanic) resistance movements and emphasizes the body as the locus of resistance. The increased violence of the Junta and the ever more radical repression of public discourses and resistance in the late 1970s led to the prohibition of all public assemblies. Consequently, Kaplan writes, the mothers of the disappeared started their weekly marches. Taking their own bodies to the streets was their way to counter shame and silence that was intended to quiet all resistance. Like the weekly rounds of the *Madres de Plaza de Mayo*, the author points out, activists of H.I.J.O.S. use the body as the last resort of resistance to express their frustration with the political and legal system. Taking shame, trauma, and silence as her point of entrance to a discussion of the Escrache, Kaplan explains that, 'silence often accompanies shame, and that is why the Madres, the Hijos, and Chilean practitioners of the *funa* make noise.'<sup>45</sup> Whereas the torturers try to pass unnoticed, the activists and their supporters make scenes' (Kaplan 2004:159).

Like Kaplan, my informants as well as scholars of performance studies such as Diana Taylor (2002) and Diego Benegas (2011), point to the important connection between the *Madres* and H.I.J.O.S., who with their activism renewed the hope to keep the struggle for justice and memory alive (Taylor 2002). But even though H.I.J.O.S. goals and motivations for resistance are related to the *Madres* or *Abuelas de Plaza de Mayo*,

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<sup>45</sup> In Chile, H.I.J.O.S. call the Escrache '*Funa*'. See also <http://comisionfuna.blogspot.com/>; or <http://hijoschile.blogspot.co.at>; accessed 3.7.2014.

their specific style of the Escrache also represents the power of the youth, as H.I.J.O.S. exercise civil disobedience by including joyful, theatrical elements such as giant puppets, military pigs-on-wheels (Taylor 2002:151) or the rat-mobile (a big foam-rubber rat wearing a military cap, being paddled from underneath the skin of the rat) (H.I.J.O.S. 2000b:12). Using their own bodies to express their demands and feelings publically, the Escrache is thus located somewhere between street theatre and abreaction and pays respect to H.I.J.O.S.' statement '*Nuestra venganza es ser felices*' (Our revenge is to be happy) (Pisoni 2012). Furthermore, according to participants of the Escrache, the enactment of the politics of memory comes alongside a cultivation of self-empowerment, as it enables the citizens to renew their local district and the social bonds that have been violated by the terror (see Colectivo Situaciones 2004) in an experience that 'blurs the boundary between art and politics' (Taylor 2002; Benegas 2011).

About a week after the Escrache ends, members of H.I.J.O.S. and other participants come together again in the post-Escrache and share pictures taken, answer questions of the audience, and evaluate the event. According to the activists, the success of the Escrache is measured in the sustainability of its impact after the disappearance of the immediate event (Interview Rolando 2011). In the weeks after the Escrache, the social condemnation remains as a dynamic force in the supermarkets, on the streets, at the hairdresser, or even at the local church, where the still exempt from punishment but by now recognized and marked perpetrator is ignored, not served, and excluded. In that way society prolongs the outing of the perpetrator, torturer, or murderer and realizes the intention of the Escrache. In a documentary filmed in 2002 during the

Escrache against Donocick, a member of the ‘Escrache Committee’ explained it this way, repeating canonically what I was told dozens of times by members of H.I.J.O.S.:

Impunity is that genocidaires like Donocick walk freely in the neighbourhood and have a coffee [...]. But with the Escrache this impunity ends, because this genocidaire, who seems to be a nice neighbour, was a guard in four clandestine detention centres. He’s a torturer. And with the people learning about him, social justice starts with social condemnation. Of course we want to see him in public prison, that the impunity laws end, but in this moment, the Escrache is also a part of justice. Little by little it creates consciousness in the people. What we pursue is that his own house turns into his prison, his own neighbours sentence him in everyday life, in everyday things like going out to buy something or to get a newspaper. This is when the social condemnation makes the baker decide not to sell him bread any longer, the taxi driver not taking him, because now they know his past. We want the neighbours to stop being indifferent to him. (cited in Lescano & Gitelman 2012)

Diego Benegas (2011), professor of performance studies, emphasizes the way in which the Escrache works on identity. Understanding the Escrache as a form of street theatre, the author divides participants into three main actors – the target, active agents, and the public – and asks about the way in which the Escrache functions upon participants, the ‘*escrachado*’ (the person targeted by the Escrache) and society as a whole (Benegas 2011:24). Using Bourdieu’s concept of habitus, the Argentine author convincingly argues that the Escrache affects all agents involved. According to Benegas, the Escrache affects not only the targeted perpetrator, whose public perception is changed after the Escrache has ‘outed’ him for his crimes, but also all active and passive participants, including the activists and even the people from the ‘audience’, as they have to reconsider their identity and political position.

The Escrache challenges the public image of the target person. But it solidifies the personal and group identity of its agents, as taking part in an Escrache can be a deeply transformative experience. For the neighbours, however, the Escrache starts a conflictive process of reflection and personal self-discovery that puts their identity in question. (Benegas 2011:24)

Susanna Kaiser equally explores the relationship between shame, political memory, and society at large. In her analysis, Kaiser first contextualizes the practice in the then cultural context that she describes as ‘the normalization of living with major criminals’ (see Kaiser 2002:501-503). She then argues that the Escrache as a ‘communication strategy’ contests the ‘legitimization of impunity and constitutes a new struggle over memory’ (Kaiser 2002:500) that disrupts the peaceful impunity of repressors and challenges the dominant politics of memory. The power of the Escrache, Kaiser writes, is to reveal and transform the way Argentina’s past and the military dictatorship is understood. Kaiser, who more recently has published a book about memories of the post-terror generation (Kaiser 2005), emphasizes this aspect of social activism as an active part in historical narrative constructions.

Diana Taylor more directly emphasizes the blood-connection between various political agents, art, and political activism. In ‘“You are here” - The DNA of Performance’ (Taylor 2002) the author discusses the way in which H.I.J.O.S. ‘make(s) visible the lasting trauma suffered by families of the disappeared and society as a whole’ (Taylor 2002:152). Emphasizing the symbolic and spatial dimension of the Escrache, Taylor argues that protestors use trauma and the inter-generational re-enactment of the struggle for justice to ‘animate their political activism’ (Taylor 2002:152). With examples from the Escrache, the weekly marches of the *Madres*, and other acts of resistance she shows the important link between memories of violence and political activism. By means of performance the generation that has not witnessed the violence but is the heir to that trauma produced testimonial transfers that ‘prove vital to an understanding of cultural agency’ (Taylor 2002:152). Taylor’s article resonates with my own argument that members of the second generation create their



own and their parent's political agency in the process of claiming the ownership of justice and memory in post-dictatorial Argentina.

As H.I.J.O.S.' most visible performance of justice and civil disobedience the Escrache stresses the political dimension of their activism and is experienced as empowerment by those who participate in it. Additionally, emphasizing the practice's 'carnevalesque character' both, scholars and activists celebrate it as a creative form of 'resistance' (Druliolle 2013:260-261). So what is the meaning of the Escrache and how can we interpret its impact?

The Escrache certainly is a complex practice affecting various socio-cultural and political dimensions as well as those participating directly and emotionally. In my own interpretation, the Escrache is a specific form of cultural expression that works as a continuum from earlier generations to the present affecting the future. By displaying the young generation's discontent with any form of reconciliation with repression it expresses a trans-generational continuity of belonging to a political project of justice. In our group discussion in Tucumán, Guillermo from H.I.J.O.S. Santiago del Estero told me:

[The Escrache] is more or less a minimum example of what formerly could have been. It's more the idea of militancy (*militancia*), the idea of activism connected with the way of thinking that existed in former times. ... Maybe, we are now denouncing those old sons of a bitch, those murderers. But ok, that is what we have to do now, right? (Peer group H.I.J.O.S. Santiago del Estero)

Through the body of the activists, the street manifestations express an idea of justice and resistance. Their activation symbolically works on the collective consciousness that rebuilds and transforms cultural memories into a collective narrative that allows

for a more participatory future. Specifically the constant use of the term ‘*genocida*’ (perpetrator of genocide) and ‘genocide’ in H.I.J.O.S.’ announcements, on flyers, and street signs as well as during the marking of streets and houses injected the general public with the verbal repertoire of a new way of thinking about the past. That way the Escrache shows its potential in transforming society’s awareness and reconfiguring the ‘habitus’ and the historical structures in which Argentineans remember their past.

### **Roots and Variations**

In our talks members of H.I.J.O.S. pointed out that they have not ‘invented’ but ‘discovered’ the Escrache. Even though over time the group has developed the practice in its own way, they do not claim to have been the first to have made use of this kind of social justice practice. Polo is a founding member of H.I.J.O.S. and for 16 years was an activist in several of its regional groups. When he was still in H.I.J.O.S., Polo was the editor of the ‘*Ombigo*’ (Navel or Bellybutton), H.I.J.O.S.’ internal newspaper that the group wrote every Wednesday over the course of a decade. Seeing himself as the organization’s ‘archivist’, Polo routinely collected flyers and documented the Escrache and other events organized by H.I.J.O.S., material he wants to publish in his upcoming compilation. Lole was the first to tell me that Polo, who had initially acquainted him to H.I.J.O.S., had written a book about the Escrache (unpublished by 2013) and that I should go talk to him.

A week later I had lunch with Polo and his girlfriend in their house in Buenos Aires, discussing their experiences of absence and resistance. That afternoon, Polo told me about his travel to Germany as a delegate of H.I.J.O.S. and explained to me his understanding of the Escrache as ‘re-discovered’ rather than an ‘invented’ practice. In

the late 1990s, during his meetings with local youth organizations in Germany, Polo explained to his audience about H.I.J.O.S.' socio-political struggle for justice, including stories regarding the practice of the Escrache. One day, he recalled, they responded by telling him about the work of 'Nazi-hunters'. These groups of Jewish survivors unravel hidden Nazi perpetrators and – just like H.I.J.O.S. – produce flyers with the names, pictures, phone numbers, and places of residence of the genocidaires. To Polo, these pamphlets from the 70s were the first Escrache:

What I say (is) that the Escrache in Argentina is an inheritance of global antifascism against the Nazis [...]. What I try to refute is the egocentric view that says 'Argentina invented the Escrache'. No. We discovered something that has already been invented within the antifascist battle. I say that in Argentina it was discovered in the context in which we as the children were around 20 years old, but it is a legacy of the global antifascism movement. (Interview Polo 2011)

Hence, while H.I.J.O.S.' Escrache is a particular Argentine practice used in the aftermaths of the Argentine genocide it was in these exchanges with German youth that H.I.J.O.S. became aware of its connection with a wider web of justice movements in Germany and all over the world.<sup>46</sup>

Despite the roots of the Escrache, it is important to note that the practice is not a cultural artefact but a process, flexible and adaptable. Since its 'discovery' and H.I.J.O.S. first experiences with their new form of street justice the Escrache underwent significant changes in its symbolic aims and the intensity of its usage. In the beginnings, the first activities consisted of interruptions of well-known public perpetrators at their workspaces or in their homes.

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<sup>46</sup> Ironically, contrary to Polo's comparisons, public media opened a polemic discussion in 2000, in which the Escrache was compared to National Socialist's way of marking Jewish houses in the 1940s (see chapter 4 for full discussion of the topic).

From the beginnings, the idea was to get people to repudiate the *genocidas* who lived amongst us exempt from punishment, so that there would be social condemnation contesting the absence of legal condemnation. And so started the theme: If there is no justice there is Escrache! (GAC 2009:57)

Thus the activists chose strategic dates and public events in order to install the theme and to win the attention of the media. Furthermore, in order to gain wide public visibility H.I.J.O.S. chose as their target subject people like Martínez de Hoz, Jorge Rafael Videla, Emilio Massera, and other ‘figureheads of the dictatorship’. And while most of these Escraches took place on the streets, members of H.I.J.O.S. also managed to denounce perpetrators in other situations. This allowed them to transmit their activity via the media, with a famous example being the bashing of Alfredo Astiz in the so-called ‘Court-room Escrache’ in 1998. This public denunciation of Astiz that took place inside the court of Buenos Aires is not an Escrache in the strict sense of the term. Nevertheless, it belongs to the realm of the Escrache, like other public social shaming rituals such as the ‘justice fun fair’ organized during the opening session of the trial against Luis Patti in front of the court theatre in San Martín.

### **Court-room Escrache against Astiz**

Captain Alfredo Ignacio Astiz, alias ‘Gustavo Niño’, the ‘Judas’ who betrayed the *Madres* at Santa Cruz church on 8 December 1977 is one of the most hated representatives of the dictatorship. In 1998, Astiz agreed to an interview with Gabriela Cerrutti in which he justified his actions without remorse: ‘Do you know why a soldier kills? For love of country, for pride, for machismo, for duty’ (Astiz, cited in Cerrutti 1998). The perpetrator who was already tried by a French court for the murder of Léonie Duquet and Alice Domon, two French nuns who were abducted, tortured, and murdered alongside some Mothers of the Plaza de Mayo in 1977, was now on the radar of the Argentine justice system. After his interview with Cerrutti,

Alfredo Astiz was charged with ‘justifying criminal acts’, a crime under Argentine law, and was ordered to appear in court at the end of February 2000 (Ginsberg 2000).

When Astiz entered the courtroom and sat down for the trial, only a few young, well-dressed people were seated in the audience. After he entered and took his seat, Astiz, the media – both photographers and camera-men – and the guarding police were all taken by surprise when the group for young people in a sudden move took off their blouses and displayed T-Shirts that read ‘Astiz is an assassin’ and ‘Imprison those who commit genocide’. Furthermore, the activists, composed of approximately 15 young people, started shouting, ‘Try him for what he did not for what he said’ and ‘*Como a los Nazis...*’. Alfredo Astiz, the ‘*Angel rubio*’ (blond angel of death) attempted to escape the situation but H.I.J.O.S.’ members had blocked the door and kept shouting their accusations.



**Figure 6: Courtroom Escrache against Astiz in 2000; @ R. Andrade**

Rolando, a photographer present at the scene, still remembers the joy and excitement he felt when confronted with the group of young people powerfully outing a perpetrator who personified evil for so many Argentines (Interview Rolo 2011). While the scene went on a little while longer, the police managed to escort Astiz to another exit door and so ended the protest. H.I.J.O.S.' mission was however accomplished and the instance made news all over Argentina the next day. Furthermore, the participants in the 'Court-room Escrache' remember the moment as a deliberating experience and a huge success. After their successful action, they embraced each other and, when they left the court room, still kept singing with pride: '*Como a los Nazis les va a pasar, a donde vayan los iremos a buscar*'.

### **Small-Scale Escrache, 'Aqui Viven Genocidas', and Escrache Pass**

Even though there are some central aspects that define every *Escrache* and hence can be used as point of departure for its analysis and description, H.I.J.O.S.' practice of 'justice from below' comes in a variety of manifestations and modifications. As a tool of justice that developed out of necessity, the practice was constantly transformed and its organizers professionalized their tool and developed creative variations. While the *Escrache* most often appears as an organized event, activists also call upon people to individually continue the social condemnation. The pamphlet produced for the *Escrache* against Etchecolatz gives some examples of these 'practical methods' for the reader, inviting him or her to individually perform the *Escrache*. On the final page of H.I.J.O.S.' pamphlet against Etchecolatz entitled '*Escrachelo Ud. mismo (método práctica)*' (*Escrache him yourself – practical method*) the activists ask the reader to go to the house of the perpetrator at the indicated address and suggests to perform a small scale *Escrache*: 'If you see him' the authors suggest, 'spit at him, don't sell anything

to him, call him by his name: *Asesino* (murderer), dump a bucket of water over his head, etcetera' (Pamphlet Escrache a Etchecolatz, undated).

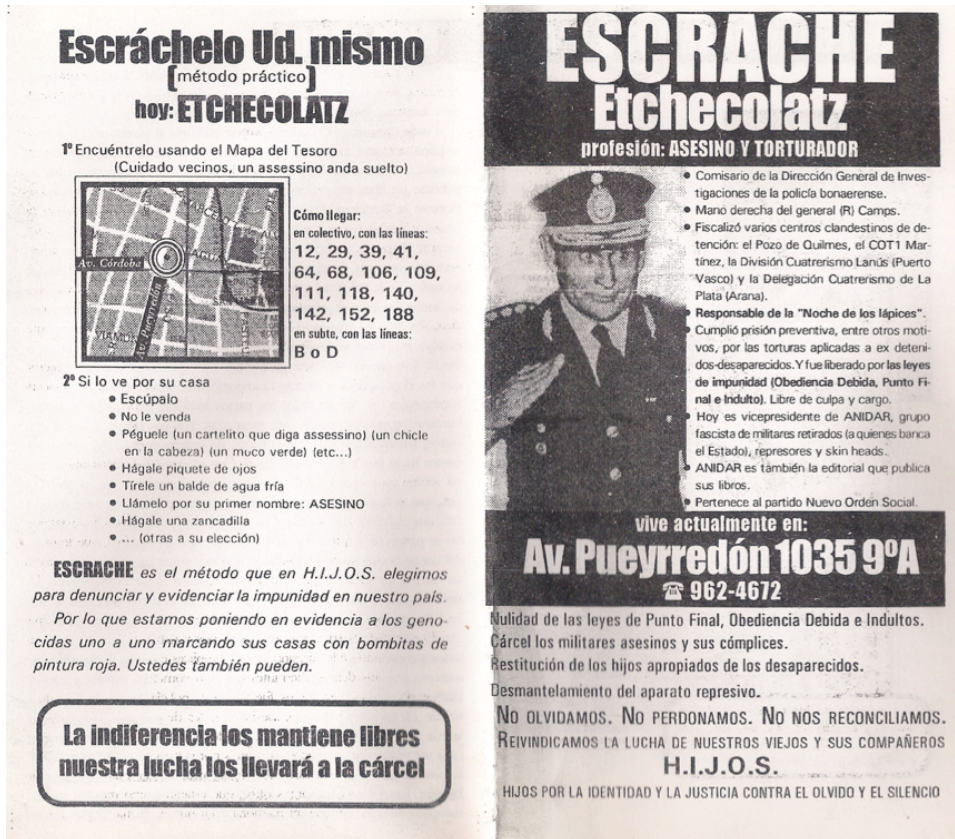


Figure 7: Pamphlet Escrache against Etchecolatz; @ H.I.J.O.S.

In spring 2011, during my fieldwork in Tucumán, I participated in a 'Small-scale Escrache'. After the opening session of the 'Romero Niklison' trial (see chapter 6) I was standing outside the courthouse with Guillermo and Rosa, two members of H.I.J.O.S. Santiago del Estero, who had come to support their fellow companions from Tucumán. Chatting away about our first impressions of the trial, the prisoner van arrived to pick up Roberto Heriberto Albornoz, ex chief of intelligence of the federal police in Tucumán and one of the two indicted perpetrators in the case. Innocently I interrupted our talk, suggesting that I should be taking his picture. 'Why would you take the picture of this son of a bitch? I have a much better idea. We're going to

*escrache* him!’ replied Rosa. And so they did (while I was standing by and tried to capture the scene on video). As soon as Albornoz came out of the courthouse, Guillermo and Rosa started shouting at him ‘*Asesino! Asesino! Sos una mierda! Genocida!*’ (Murderer, murderer! You’re a shitbag, you perpetrator of genocide!), before breaking into laughter and a satisfied gesture of victory.

Owing to the current political situation in Argentina Guillermo and Rosa did not have to fear any violent response even though we were standing next to a dozen policemen. However, the reaction of an elderly couple that happened to walk by in that moment gave me a sense of the still heated political atmosphere in Argentina. They shouted angrily ‘Bastards. You should be ashamed of yourselves...’ from the other side of the street thus making a statement of their disagreement with H.I.J.O.S.’ behaviour and showed that, while the trials attempt to produce a narrative of right and wrong, many sectors of Argentina’s society are far more ambivalent about the country’s past. But Rosa, with her long experience of H.I.J.O.S.’ street justice and discursive repertoire, was hardly irritated and instead responded immediately with some joy about the event, ‘Accomplices! You are also the dictatorship!’ (Fieldnotes Seidel 2011).

Like the active practice or performance of the *Escrache*, visual condemnation and awareness building is also done by other means. As mentioned earlier, members of H.I.J.O.S. and artists from GAC have always worked in close cooperation. One of the symbolic campaigns of outing perpetrators was the ‘AQUI VIVEN GENOCIDAS’-project, carried out in 2000. Activists produced socio-cultural ‘cartographies’ of the city, displaying the places of residence (including their addresses) of perpetrators.



Thousands of these ‘maps’ were then printed and posted on walls throughout the city of Buenos Aires (GAC 2009:26-27).



Figure 8: Poster from 'Aquí viven genocidas' campaign @GAC

Another example of a creative visual variation of the Escrache is the ‘Escrache Pass’ and the ‘Metro sticker’ that H.I.J.O.S. produced in 2001. In order to denounce Miguel Angel Rovira, former member of the *Triple A* and that time member of the security forces of the underground system, the organization stuck altered Metro symbols all over Buenos Aires’ undergrounds in 2001 and distributed thousands of ‘Escrache-tickets’ (see Figure 10) imitating the normal metro tickets to users of the public transport system (GAC 2009:95).

As these visual representations show, the term ‘*genocida*’ is to *hijos* a crucial way to address the perpetrators. ‘*Genocida*’, literally meaning perpetrator of genocide or ‘genocidaire’ takes the abstract term ‘*genocidio*’ (genocide) and gives it historical and

cultural content and specific subjectivity. The creative denunciation was again a great success as the employer discharged Miguel Rovira a few weeks later as a consequence of the Escrache.



Figure 9: 'Escrache-tickets' distributed in Buenos Aires Metro in 2001 @ GAC

### **Escrache en Madrid: Isabelita de Perón**

As an instrument in the struggle for justice the Escrache was (and is) used most often by H.I.J.O.S. Capital in Buenos Aires. According to my informants, by 2006 more than 60 Escrache have been performed in Argentina's capital alone. However, even though less regularly, the strategy is certainly activated in other parts of Argentina and even outside of the country. One prominent example is the '*Escrache sorpresa*' (Surprise Escrache) against the ex-president María Estela Martínez de Perón that H.I.J.O.S. Madrid organized at her home in Villanueva de la Cañada, a suburban area of Madrid. In the two years of her presidency from 1974-76, María Estela Perón, commonly known as 'Isabelita Perón' started the Argentine Genocide with the persecutions of so-called 'subversive terrorists'. Troubled by continuous rebellions in

the North of the Country, Isabela Perón signed ‘annihilation decrees’ (Decree 261/75; Decree 2772/75) at the advice of Carlos Ruckauf. With her official presidential sanction she assigned López Rega with the task to annihilate all subversive elements and initiated thereby the violent persecution that in the next couple of years turned into the assassination and disappearance of 30,000 people.

‘To organize an Escrache in Europe is difficult, because the legislations and regulations are more restrictive’, Amanda told me after we took a swim in the community pool of her house in Madrid. ‘Which is why it had to be a surprise’ (Interview Amanda 2012). Amanda, formerly in HIJOS La Plata and now an active member in H.I.J.O.S. Madrid is one of those who had been involved in the Argentine trials in Spain, especially the one against Ricardo Cavallo, that were made possible by means of universal jurisdiction (Extradition Cavallo 2003). Convinced of the need to make visible crimes and responsibility not only legally but also on a societal level Amanda and H.I.J.O.S. Madrid *escrached* Isabela’s house in Mocha Chica on 25 March 2007.

At around four in the afternoon, the group of 20 activists hung pictures of victims on the streets around the house, accompanied by the sentence ‘Those murdered by the *Triple A* and the disappeared of the last military dictatorship. H.I.J.O.S. Madrid, present!’ and spray-painted their slogans ‘*En este barrio vive una genocida*’ (In this neighbourhood lives a genocidaire), ‘*juicio y castigo*’ (Trial and Punishment) and ‘*memoria es identidad*’ (memory is identity) (Guisoni 2007) all over the streets. Finally, when they reached the place of target, they then covered the ex-president’s garage door with photos of the disappeared.



**Figure 10: Isabela Perón's garage after the Escrache**

The next day, an article appeared in Argentina in the newspaper Pagina12 describing the event. Alexis, then member of H.I.J.O.S. Madrid, expressed his satisfaction with the local situation: ‘The neighbours themselves showed us where Isabelita lived. [...] And one noticed that they were very curious, nobody knew what we were going to do; we actually managed to keep the arrangements a secret’ (Alexis cited in Guisoni 2007). Discussing the event in Madrid, I asked Amanda about her perception of the Escrache:

Emotionally it was fantastic! Fantastic, because nobody has ever asked any explications from that woman and terrible things happened during her government. So when the possibility emerged to Escrache her here (in Madrid) that was good. [...] It was a political return, an activity of H.I.J.O.S. Madrid so that they know ‘wherever they go we will come looking for them’. Above all, that they know, that as much as they want to escape, there are people who will find them, no matter if they are in Spain, in Holland or wherever else. (Interview Amanda 2012)

Thus, while there was little resonance to the activity in Spanish media, H.I.J.O.S.’ activities in Madrid became known in Argentina, making sure that the perpetrators know that the children of their victims will come and find them no matter where they

go or hide. And so, while a gratified smile appeared on her face, Amanda said, ‘It is good that they know that we are going to plague them until they die with their consciousness, even if they never go to jail; but at least they know that we know!’ (Interview Amanda 2011). The Madrid-Escache thus once again underlines actors’ promise of ‘*a donde vayan los iremos a buscar*’ and emphasizes the power of H.I.J.O.S.’ belief in justice. By means of global ‘*judicioscapes*’ this belief expands the struggle against impunity to the international level (for more on the theory on ‘*judicioscapes*’ see chapter 4).

### **The mobile Escache: ‘El Regreso’**

By the end of 1999 H.I.J.O.S. had organized dozens of Escache in and outside of Buenos Aires. Therefore, as the final activity of the Millennium, they decided to revisit some of those previously ‘*escrached*’ and to once again make them visible to society. On Saturday, 11 December 1999 at 3 pm, activists gathered in front of the House of Congress in the heart of Buenos Aires for the ‘mobile Escache’ called ‘*El Regreso*’ (The Return) that was organized under the slogan ‘We return, we return, once again we return, and as long as you are not in prison we will always return again’ (H.I.J.O.S. 2000b:13). Most people came on bicycles, motorcycles, and roller-skates. But the group had also organized an open truck that provided space for hundreds of participants of the ‘mobile Escache’ to accompany the group on its way to six different locations and target subjects. Furthermore, the ‘ratmobile’, a papier maché rat wearing a military hat that ridiculed the military perpetrators, lead the group of mobile protestors (H.I.J.O.S. 2000b; Kaplan 2004:161ff).<sup>47</sup>

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<sup>47</sup> In her book ‘Taking back the streets’ Temma Kaplan gives a detailed account of the event with precise description of all six perpetrators that the Mobile Escache met along their way. But while her

After inviting everyone who passed by to participate, the growing group of activists started the demonstration march. The group initially went to the Casa de la Provincia de Buenos Aires, where they ‘visited’ two repressors: lieutenant colonel Aldo Rico, who had led the Easter Uprising against Alfonsín, and Carlos Ruckauf. Ex-vice president Ruckauf, who in 1975 had signed the first decrees authorizing the ‘Annihilation of Subversion’. These decrees are today considered the ‘stepping stone of what later turned into a genocide’ (H.I.J.O.S. 2000b:13) as they established the patterns of abduction, kidnapping, and extrajudicial murder.

From there, H.I.J.O.S. and the Escrache then moved on to as they call it ‘a nostalgic meeting’: Dr. José Luis Magnacco. Considered the ‘first *escrachado*’ (perpetrator targeted by the Escrache), H.I.J.O.S. still remember the feeling of empowerment when their action led Magnacco’s boss to fire him from the hospital. After the group visited Magnacco, activists went on to target the *genocida* Durand Saenz, ex-commander of the Secret Detention Centre Vesubio. At that Concentration Camp in which victims were tortured, killed, and their bodies burned, H.I.J.O.S. and the other activists again left their signature when they threw bags of red paint onto the walls of the building.

Finally, the theatrical protest reached ‘two big fish’ Eduardo Massera and Domingo Bussi as the highpoint of their Escrache. Bussi was the one to officiate ‘Operation

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description of the event is very close to the original summary written and published by H.I.J.O.S. in their newspaper HIJOS, some mistakes creep in to Kaplan’s version, including incorrectly dating the event to 1995 (Kaplan 2004:161) instead of 1999, when it actually took place. Furthermore, Kaplan explicitly calls the Mobile Escrache H.I.J.O.S.’ first Escrache event (Kaplan 2004:162). I was at first confused by the seemingly contradiction between the date and the high organization displayed in the event. By the end of 1995, H.I.J.O.S. had only just started developing their practice. Hence, not easy to notice for the uninformed reader, I detected the mistake by comparing Kaplan’s description with original material from my fieldwork (H.I.J.O.S. 2000b) and various interview passages with my informants from H.I.J.O.S. who all refer to Magnacco as the first Escrache (Interview Charly, Nahuel, Lole and others).

Independence' in Tucumán when Isabela Perón was president in 1975. Then, one month after the coup d'état, Bussi had become the military Governor of Tucumán and he ruled the province with an iron fist. He is said to have been one of those repressors who benefited financially from their victims, in his case mainly from wealthy landlords and factory owners. And even though or specifically because his orders destroyed the militant working-class leaders (Interview Cesar 2011), Bussi was re-elected as Governor twice after democracy was restored (Kaplan 2004:164). As the *genocida* is to H.I.J.O.S. an emblem of the continuity of repression and injustice generated by impunity, dancing in front of Bussi's house in Buenos Aires and throwing paint at his walls while helicopters flew over their heads created a feeling of empowerment for the activists (Interview Lole 2011; Kaplan 2004:164).

At the end of the day, when the 'Mobil Escrache' had finished, members of H.I.J.O.S. euphorically kept on dancing well into the night. Policemen had guarded the houses of the *to-be-escrached* perpetrators, but they had not hindered the demonstrators in their activities. H.I.J.O.S.' creative, powerful, and artistic farewell to the 20th century was therefore a full success and brought a feeling of happiness to its participants, who later expressed it their newspaper as: '*Alegria!* (Joy!). Joy that the fight brings, the joy of fighting together, the joy of being side by side. It is the joy of the collective' (H.I.J.O.S. 2000b).

### **Contesting the Escrache**

Being met by the *Escrache* changes the life of the concerned oppressor. In many cases the marked murderers had to leave their houses and move to another part of the city as a consequence of the public shaming (Interview Rolando 2011). The case of Jorge

Rafael Videla provides a good example for this, as the *Mesa de Escrache* followed him from home to home and, over the years, ostracized him three times in different locations. And so, for H.I.J.O.S. the Escrache was a very successful alternative during the many years of impunity. Not surprisingly, the practice was frequently met with resistance. When H.I.J.O.S. started with the Escrache the political situation in Argentina was quite different. Especially during the first couple of years it was a dangerous and highly controversial attempt to shine light on injustice and the past. The Escrache was hence often enacted as a sudden, surprising event and sometimes activists came in the middle of the night (Interview Lole 2011; Fieldnotes 2011). Especially in cases when the target subject was a flight risk, an Escrache announced beforehand would have lead to the unavailability of the *to-be-escrached* subject.

Throughout the late 1990s, participants had to face all kinds of resistance, both by neighbours and the armed forces that in some instances even prevented the group from reaching a specific location (see case example Bussi). Especially in the first three years, activists had to suffer police violence and occasional detention of activists. In an extreme example during the Escrache against Peyón, an approximate 200 activists (including many *Madres* and committed people from the neighbourhood) stood face to face with an estimated 100 policemen who defended the targeted perpetrator. By the end of the Escrache, various *Madres* had been beaten, 12 activists had been arrested, and many more suffered from injuries (Pagina12 1998). Over the years the presence of police forces that defended and secured the places of the addressed *genocidas*, turned into an unavoidable circumstance. As a consequence, in 1999, H.I.J.O.S. developed a banner addressing the police directly, stating: '*Al Servicio de la Impunidad*' (At the service of impunity!) (GAC 2009:69). Shielding the police from



sight and symbolizing the continuity of repression the banner has been used as part of the Escrache ever since.

### **Violent Repression: The Escrache against Domingo Bussi**

In the summer of 1998, Leon Gieco, famous musician and supporter of H.I.J.O.S., who participated during the first national meeting of H.I.J.O.S. in Cordoba, played at the annual cycle of open air concerts called ‘Buenos Aires Vivo’. Before he started the last song ‘*Solo le Pido a Diós*’ on the Plaza de Mayo he invited H.I.J.O.S. to join him on stage: ‘*Que no solo escrachan pero tambien cantan!*’ (So that they not only *escrache*, but also sing!). In the middle of the song León then called for Polo to make his announcement. And so, after the first three strophes of the song Polo announced his invitation that was followed by big applause:

Good evening! In the name of all my companions from H.I.J.O.S. I came here to invite you to an Escrache in the province of Tucumán against Governor Domingo Bussi. This Escrache will take place on 12 October in the capital of Tucumán. As we all know, the Escrache disturb! Because these ‘*tipos*’ (guys) would have to be in jail! And those people who left them free, who do not want that we go and *escrache* them, all of them we will have to send to live on the moon! Because Bussi is a genocidaire! We will *escrache* all of them. Because they have to go to jail! Thank you [*big applause and chanting*]. (Polo, cited from video at hands of the author)

On 12 October 1998, H.I.J.O.S. Tucumán realized the Escrache against General Antonio Domingo Bussi. During the ‘Argentine genocide’ he was responsible for various secret detention centres, worsened political repression, and ordered the violent persecution of the local population. Because of his re-election as Governor in 1995, H.I.J.O.S. had declared the day of his election the ‘*Día Nacional de Verguenza*’ (National Day of Embarrassment) during their first national assembly in Cordoba. Two years later, again during one of H.I.J.O.S.’ national meetings, members of

H.I.J.O.S. Tucumán proposed the need for an Escrache in their province. At the time, however, Bussi was still democratically elected Governor of the Province of Tucumán making it difficult for H.I.J.O.S. to find support (or even understanding) for its demands locally. ‘We always said to H.I.J.O.S. Capital and the others: Well, an Escrache is beautiful, but we, alone in Tucumán, that’s suicide’ (Interview María 2011). Contrary to Buenos Aires, La Plata, or Cordoba, where H.I.J.O.S. often encountered a lot of support from the neighbours, Loli explained to me her experiences with the Escrache in smaller places like Mendoza or Tucumán:

Well, with the Escrache, sometimes everything was closed, all windows, all the shops were closed. And the house of the perpetrator, the house, where we went to - *olvidate* [don’t even think about it]! There was no one there, only police, but all the windows were closed, nobody there. And of course we always had their number, their phone-number, that we gave out to everyone. But then, when we called, one or two days before the Escrache, the line was dead. It was really insane. But, *she added*, we still always knew that we had done some harm. We always knew someone, who could tell us about the impact our work had on the *escrachado*. (Interview Loli 2011)

In Tucumán, the group of H.I.J.O.S. was relatively small and their capacities limited. Furthermore, Domingo Bussi was not only a well-known perpetrator but also the then elected Governor enjoying support from large parts of society. Given these circumstances, the Tucumán activists asked their fellow companions for help and in their national meeting decided to organize the next national congress in San Miguel de Tucumán. This would bring at least 300 *hijos* to the city, a support group big enough to perform the Escrache even in these perilous circumstances.

When the day arrived, the Escrache against Bussi was well planned and its route fixed, and so the group started its demonstration:

We started at *la Quinta* and walked the *Avenida* until the square that was called ‘*Operativo Independencia*’ [referring to the military operation in 1975]. And

there, in a public act, we changed the name of the small square. And well, that's all we achieved: to change the name. But from there we went down to the centre, to the Plaza de la Independencia, because the *Escrache* was planned at the town hall, because Bussi was the governor. (Interviews Miriam 2011)

But once the group got closer, all streets leading to the centre were blocked by heavily armed police forces, who prevented the 300 activists from proceeding towards the central square of the city, where the final act of the *Escrache* should have been performed in front of the government building (Fieldnotes 2011; Interview Miriam 2011).

All streets, but really all of them were blocked. We even sent someone to cycle as far as 15 blocks, but nothing. I'm not lying to you. All streets towards the centre were closed by police forces. There was no possibility for us to pass. [...] And so we sent two companions from Cordoba to the centre to see what happened, and imagine! They were arrested, because no one was allowed to go there. (Interview Miriam 2011)

H.I.J.O.S. Tucumán had expected some difficulties to appear during the *Escrache*, but the extent of repression was a devastating experience even for the local activists. The power displayed by the state forces showed the continuum of structural violence and the consequences of impunity after genocidal regimes. Thus, members of H.I.J.O.S. were terribly disappointed. But while the event was disturbing in itself, the worst was still to come once everybody had left the city, as María recalled:

In that same night they started to threaten us, that same night when the *chicos* from the other provinces left, in that same night they started to follow us. They threatened us for about a month, called the phone, people in the streets talked to you badly, normal citizens, [...] they rang my doorbell at three or four in the morning. It was very sad for us [...] because the whole situation has completely torn us apart, because we had no one to protect us. At that moment, Eva for example left to live in Canada and that was very symbolic for us. We lived with a lot of fear. (Interview María 2011)

For a whole year H.I.J.O.S. Tucumán dissolved, with various members leaving the country out of fear and disappointment about the demonstration of power, violence, and repression. Even Loli, a tall, powerful woman with strong beliefs in resistance who had often demonstrated to me her dedication to H.I.J.O.S.' activism told me:

In this time, to be honest, I moved to Mendoza, also because I couldn't imagine that this son of a bitch, this asshole of 1000 bitches was governor. It was terrible in Tucumán. People in the streets looked at you and talked badly. I didn't want to stay. (Interview Loli 2011)

According to H.I.J.O.S. Tucumán, it was therefore even more important to see Bussi face trial in 2008 and to watch him enter the courtroom and to officially be accused of murder and torture (Interview Loli 2011). The trial convicted Antonio Domingo Bussi to life imprisonment for the crimes of illegal deprivation of liberty, torture, and homicide (Sentencia 2008). This judgement initiated a transformation in society's general perception of the Governor/perpetrator and made it much harder to dispute his responsibility for past crimes.

### **Just Practice or Nazi-Defamation?**

As an extremely visible and radical practice of participation in the discourse of responsibility and punishment, the Escrache as a form of awareness building and street justice has been highly debated in different social realms. The controversy I discuss in the following section evolving with and surrounding the inclusion of the Escrache into current school curricula in 2011 probably serves as one of the most blatant examples of opinions on what the Escrache really is: A just form of social condemnation and moral courage in a democratic society or an illegitimate act of violence that resembles Nazi practices of defamation of Jewish citizens' houses.

Before I enter the discussion it is important to point out that the term *Escrache* nowadays is used by many people and organizations for all kinds of political manifestations and direct interventions against individuals. The ‘Diccionario del Habla de los Argentinos’ published by the Academia Argentina de Letras in 2008, officially defined the *Escrache* as, ‘a popular denunciation against people accused of human rights violations or corruption, that is realized by acts of protest such as seated protests, songs, and graffiti taking place in front of his private house or in public places’ (Letras 2008:329).

The definition of the practice therefore is less restrictive than the one used by H.I.J.O.S. when referring to the *Escrache* as their way of fighting impunity. First of all, H.I.J.O.S. are not mentioned in the definition and the concrete context of the application of the popular denunciation is not given. Hence, variations and the exercise of ‘*Escrache*’ by collectives other than H.I.J.O.S. are all subsumed by the notion provided, even though the organization itself does not agree to that (Peer group H.I.J.O.S. Capital 2011). This again fuels confusions that prevail nowadays in popular Argentine and media discourse in which violent *Escrache* or *Escrache* held against political representatives who have nothing to do with the Military Regime of the 70s are described as the same form of activism.

As a radical tool of political participation and direct democracy the *Escrache* is highly contested. As described above, the besmearing of alleged perpetrators’ houses and pedestrian areas in front of them is one important part of the *shame-bolic* practice (act of symbolic shaming) and stigmatization strategy. Activists write words such as ‘*genocida*’ or ‘*aquí vive un asesino*’ on outside walls and target windows and doors

with red paint. Hence, H.I.J.O.S. interprets the practices of public ‘demarcations’ as part of the strategy that brings to light the criminals and their deeds that were absent from collective memory. Critiques, however, have more often called the *Escrache* ‘vandalism’ or referred to the social ostracism as ‘violent acts’ in which the presumption of innocence as a human right and basic guaranty of the democratic state is ignored by the social stigma imposed upon individuals.

H.I.J.O.S. counters the argument and insists that the *Escrache* is characterized as a non-violent intervention. One afternoon, I asked Rolando, one of my trusted informants from H.I.J.O.S. Capital, about his opinion on the *Escrache* and the accusations of violence. Upon discussion on violence and the rights of the perpetrators I suggested some of the arguments I came across in the media and on the streets. He looked at me and, somehow taken aback by my question, responded angrily:

We throw bags of red paint at the houses of those rapists, those murderers and torturers! Not Molotov cocktails, PAINT [is what we throw]! If that is violence, well, than we talk about a different story. (Interview Rolando 2011)

Clearly, my question had evoked irritation about my understanding of H.I.J.O.S.. Calling the *Escrache* violence is to H.I.J.O.S. comparing apples with oranges and reminds the activists of the ‘theory of two demons’, which as the dominant historical narrative over many years has placed guilt for the ‘Dirty War’ equally on the State and on their parents’ side (Soledad Catoggio 2010). Sometimes members of H.I.J.O.S. are faced with accusations of vengeance by perpetrators directly and the *Escrache* is called an act of revenge on their behalf. In an article written by H.I.J.O.S. in response to Videla’s declaration during the trial ‘Robo de Bebes’ in 2012, in which the former dictator accused H.I.J.O.S. of violence and vengeance, Charly points out:

Is it really necessary to explain to Videla that this is not revenge? No! We know that he says these things in an attempt to revive civil society's fading support. Revenge would have been if today he was spending his days in a clandestine detention centre, tortured; if we would have violated his wife; if we would have stolen his property and illegally had taken possession of his real estates; if we would have robbed his children and his grandchildren. That would have been revenge. And none of these things happened nor will they. To the contrary, this culprit, just as the other genocidaires currently on trial, enjoy all the rights and guarantees that our parents did not have. (Pisoni 2012)

Contrary to these accusations and as an expression of the group's moral standpoint that rejects reconciliation with their parent's murderers they also express a felt continuity with their parents' ideals:

We recall the spirit of the struggle of our parents: because they wanted to change society, they wanted that things would have been different, and that's why they have taken them. Our parents fought so that we could work with dignity, so that we all could study... They fought for a better life! (H.I.J.O.S., 2014b)

Today, however, many people and organizations use the term *Escrache* for all kinds of political manifestations and direct interventions against individuals. This fuels confusion prevailing in the Argentine popular and media discourse in which violent *Escraches* or *Escraches* held against political representatives who have nothing to do with the military regime of the 70s are described as the same form of activism. Much of the confusion and even accusations attempted against H.I.J.O.S. have their roots in those alienated forms of realizing *Escraches*. H.I.J.O.S. themselves confine the term to a very specific type of action, one, that aims at 'making visible the perpetrators and unpunished criminals of the last civil-military dictatorship' in order to 'socially condemn them in their own neighbourhood' so that their homes 'will be their jails' as long as there is no other way to 'juridical prosecution and justice'.

In 2000, the legitimacy debate peaked when a journalist first compared H.I.J.O.S.' way of outing the perpetrators and collaborators of the Junta regime with National Socialist's strategy of painting the Star of David and 'Jew' all over Jewish houses during the onset of World War II. He argued that the practice of marking people and houses is morally wrong and resembles genocidal practices of the Holocaust. Once started, the discussion kept appearing in public media. In 2011, while I was on fieldwork in Tucumán, the social debate surrounding the Escrache once more surfaced, now in contexts transcending that of the dictatorship. This time it was triggered by the proposition of the Ministry of Education to include the Escrache as a practice of political participation into the school curriculum 'política y ciudadanía' (Wiñazki 2011).

At first glance, as both practices use tools of stigmatization and marking, the comparison with National Socialist's defamation of Jewish homes seem legitimate and so the author's intention to morally ridicule, defame, and denigrate H.I.J.O.S.' resistance strategy was soon debated by everyone. Talking to my informants about the issue, I encountered outrage and indignation about the comparison. Referring to the trans-generational responsibility to continue their parent's struggle for a more just and democratic society, Camilo told me: 'It is our moral duty to show who is responsible and to transmit this knowledge to the next generations' (Interview Camilo 2011). The moral aspect inherent in the duty to show 'who is responsible' is a point worth analysing. The Escrache as a means of resistance displays an idea of justice built on an a-political, trans-generational feeling of belonging to an imagined kin-group of justice generated in the historical narrative that understands the violence of the Junta as Genocide. Far from arguing with human rights, this practice claims legitimacy



based on absolutes of good and bad and a genealogy of imagined blood ties and belonging. Leaving the question of morality aside, Loli put it this way:

It's crazy to make the comparisons. It's crazy, because we did not go to the house of someone with a different religious belief but to the house of someone who tortured, killed, it's not the same! You cannot compare these two actions, not like we do between the Nazis and the *milicos* [military and other state-related perpetrators], who are a scum of people, killers. (Interview Loli 2011)

In the case of the Nazi outcasting of Jews it was the state power marking a group of its own citizens as part of its strategy of 'genocidal priming' (Hinton 2005). Contrary to that the Escrache as an attempt to make visible what powerful governments hide works as a 'form of social activism that allows for a narration from below' (Colectivo Situaciones 2004).

This difference in context and intention, in which one practice denounces individuals for their criminal deeds and the other sets out to stigmatize an entire enemy group, makes the comparison unjustifiable. Going way back, cultural anthropologist Franz Boas has already cautioned against facile phenomenological comparison. Instead, he reminded us, that any comparison of cultural manifestations is only possible within an analysis of 'the historical causes that led to (their) formation' and by 'a detailed study of customs in their relation to the total culture of (those) practicing them' (Boas 1982:276f.). Hence, even if the two practices of 'marking' houses and people display phenomenological similarities, they do not hold up to thorough comparison of context, power relations, and the contrast between strategies of genocidal priming by and acts of resistance against totalitarian regimes.

Less theoretical, some criticize the Escrache for its failure to respect the presumption of innocence. To that, members of H.I.J.O.S. respond that the Escrache is not an end in itself but a strategy to demand justice. ‘By means of social condemnation we work to achieve legal condemnation which puts into prison the murderers responsible for this genocide’ (H.I.J.O.S. 2014a, 2014b). Emphasizing the *IF* of the slogan ‘If there is no justice there is Escrache’, they point out that their actual purpose consists of juridical procedures and legal punishment of the perpetrators, where they would stand trial with all the rights of the justice system, including the assumption of innocence, a goal they reached with the reopening of the trials in 2006. However, as long as the state denied H.I.J.O.S. these basic rights to legal procedures, the activists insisted on their right to civil disobedience.

### **Escrache and Global *Judioscapes***

So far, I have discussed the Escrache as a distinct Argentine practice and expression of resistance. But cases and variations of H.I.J.O.S.’ street theatre diffused also to other countries and cases in global *judioscapes*. One example appeared with the global financial crises hitting Spain full on in 2011, in which PAH, a group of mortgage victims decided to call out and perform the Escrache to get their voices heard.

The post-modern world with its cultural, economic, and political flows and the explosion of connections and disjunctions is marked by a new paradigm: Law has become the ‘fetishism’ of the 21st century (Comaroff & Comaroff 2012b), producing new images, new live-worlds, and new feelings of belonging. Local and universal processes, agent’s practices, and structural frameworks influence and transform each

other. These constantly negotiated constructions of places and imaginations are what Appadurai in 'Modernity at Large' first called 'scapes' (Appadurai 1996). Defined as global cultural flows, -scapes are of fluid, irregular shapes and exist between historically situated imaginations of disjunctures and relationships (see Appadurai 1996:33). With the concept the author thus creates a theoretical model of globalization, in which the local and the global, heterogeneity and homogenization as well as distance and proximity are all viable parts.

While Appadurai focuses on flows of ethno-, media-, techno-, finance- and ideoscapes, I make use of the model by discussing global *judicioscapes*. Our global world of modernity is 'characterized by a new role for the imagination in social life' (Appadurai 1996). Justice as a 'signifier' with more 'discursive resonance than meaning' (Clarke & Goodale 2009) empowered by longing created by absence becomes a driving force for action. Characterized by a shared, inter-generational mindset, *judicioscapes* create a realm in which activists, legal agents, and survivors, by the use of local as well as universal mechanisms of civic disobedience, have the power to contest political (il)legitimacy in a collective effort. While ideas of justice and practices of resistance are always rooted in specific localities, these images have the potential to diffuse globally, vernacularize in different localities, and multiply and diversify the 'node(s) of complex transnational construction of imaginary landscapes'. Argentina and Spain are good examples to explore such a node of global *judicioscapes*.

Let us return to the case example of Spain, where resistance to state imposed measures grew in 2011/12 and people started organizing themselves. Blaming the Spanish

government, in which heritage from the Franco dictatorship produced a rather undemocratic political system with little to no possibility for participation of its citizens, the social 15M-movement demands essential change. As part of the wider movement, the PAH or 'Platform of Mortgage Victims' started campaigning to protect those at risk of homelessness and demanding justice. The so-called 'housing bubble' at the centre of the financial crisis produced extreme suffering in Spain's population, as thousands of citizens lost their homes, were being dislocated but are still left with the mortgage they could not pay in the first place (see Navarro 2013).

In this context, they creatively adopted the practice of the *Escrache* and made it useful to their purpose. As victims received no responses by politicians for their demands and ILP (Popular Legislative Initiative) petitions, they decided to confront respective ministers directly in front of their homes (Yaiza 2013). These *Escrache*, well documented by the organization (PAH 2014), are a pragmatic cases of the local 'vernacularization' (Merry 2006b) but also of 'frictions' and the diffusion of justice' practices in global *judicioscapes*, in which the continuity of resistance strategies are empowered by the same cultural approaches and social experiences of absence of justice elsewhere.

### **New Roads and Continuity**

The political landscape of Argentina changed dramatically in 2003 when Nestor Kirchner won the general elections. During his candidacy, he had promised to put an end to impunity and to prosecute the perpetrators of the Argentine Dirty War. As the new president, he therefore by vote of congress politically supported the annulation of the amnesty laws. In 2005, decision of the Supreme Court followed due, allowing

hence for the reopening of the legal convictions of the crimes committed by state agents during the de-facto regime.

This political earthquake, as I have explained in chapter 3, had enormous impact on the work of human rights groups, including on H.I.J.O.S.. And the possibility to finally seek justice in the courtroom, in front of a judge and official legislation, also brought about a marginalization of the Escrache. Members of H.I.J.O.S., many of whom had earned a degree in legal studies and had become lawyers and advocates, now focused their effort on the legal denunciation of the perpetrators. Giving testimony and working towards juridical truth transformed H.I.J.O.S.' space of allocating responsibility from the street as a platform of performativity and visibility to the more structured place of the courtroom (see chapter 6 for further details on the issue).

While some Escrache (such as the one against Videla) still take place since the legal changes in 2005, H.I.J.O.S. generally ceased the use of the Escrache. An indicator for the transformation is the renaming of the work-group 'Escrache Committee' into the 'Committee for Trial and Punishment'. Members of H.I.J.O.S. now work within the juridical apparatus as advocates, witnesses, and in any other way possible to support the legal prosecution of the perpetrators. But not only inside the courtrooms: According to Nahuel, H.I.J.O.S. and the '*Juicio y Castigo*' sub-committee still assumes an important role in the dispersion and circulation of information and in the process of awareness building surrounding the trials. Activities such as a 'justice-fun fair' at the beginnings of the trial against Patti and stage performances and video

transmissions in front of the courthouses resemble the stylistic character of the Escrache.



**Figure 11: Justice 'Fun-fair' at the trial against Patti @ van Roekel**

Internet information platforms and flyers additionally display the continuity of H.I.J.O.S.' struggle for justice, and with the recurring sentence 'A court judges them, but we all condemn them!' reminds the average citizen about the importance to participate in the trials and not to be ignorant about Argentina's recent history. Nevertheless, even though the way H.I.J.O.S.' members 'perform' justice has largely shifted towards the courtrooms, my research partners from H.I.J.O.S. never forget to add: 'At the moment, we don't practice the Escrache [because we are too occupied with the trials], but that doesn't mean that it is gone forever. The Escrache will always return. Always, when needed' (Interview Carlos 2011).



**Figure 12: Outings at final session of Patti trial @ Seidel**

One example of this ‘need’ was the Escrache against Videla in 2006, a quotation of which started this chapter. While the Escrache partly intended as a celebration of the completion of 10 years of Escrache, it also addressed H.I.J.O.S.’ concerns with the legal procedures. This time, H.I.J.O.S. focused on the denunciation of the ‘*justicia lenta*’ (slow justice) and the difficulties of ‘*prisión domiciliaria*’ (house arrest) making visible not only the perpetrator himself but also the insufficiencies of the juridical apparatus and the trials for crimes against humanity. During the manifestation protestors first passed the *Hospital Militar*, denouncing the institution’s complicity with the illicit abduction of hundreds of babies during the military regime. Then the protest made its way to the apartment of Jorge Rafael Videla in Cabildo 639 with decrying the perpetrators crimes, but also denouncing the flaws of ‘slow justice’ and demanding ‘*prison perpetua y efectiva en una carcel común*’ (effective imprisonment for lifetime in a public prison) for all indicted criminals.

## **Conclusion: Discursive Meaning Making and Visibilities of Absence**

We are convinced that memory, just like justice and politics, is action, it is construction, that we must do it from the bottom up, and therefore we are constructing social condemnation. (Member of H.I.J.O.S. cited in El País 24.3.2002)

The political non-state practice of bringing justice ‘to the doorstep of amnestied torturers and pardoned repressors’, as Robben (2010:188) called it, had enormous impact on society. Powerful slogans and visual material of H.I.J.O.S.’ street theatre of justice directed the collective historical consciousness and its corresponding narrative. The regular use of the term *genocida* and H.I.J.O.S.’ denunciations of the crimes committed during the Argentina genocide influenced societal discourse and the legal perception and handling of these dark times. The second generation thus managed to make visible what was absent from memory and established its political agency in the struggle for a more democratic and participatory society.

Depending on whom you talk to, the Escrache has been described both as social condemnation and as a step towards legal condemnation (Colectivo Situaciones 2004; GAC 2009). Emphasis is put on one aspect or the other regarding the impact that H.I.J.O.S.’ outing events have as a tool of street justice. The immediate purpose of the Escrache is to make visible the perpetrators who live often still unknown amongst Argentine society. Its intention, however, is to continue with the demand for punishment and legal prosecution and not to let perpetrators get away with impunity. One way to analyse H.I.J.O.S. civil protest is to read it as cultural resistance to hegemonic models of memory. The Escrache as well as nowadays the ‘*juicio y castigo*’ campaign that employs the same aesthetics and related activities can be



understood as a narration from below, with the power to transform images and historical memory.

As a specific expression of the embodied performance of a counter narrative, H.I.J.O.S.' resistance strategy connects the group born from past violence with 'absent' generations in the present. Thus, the Escrache first of all makes visible the absence of justice and points to the immediate goal of punishment for those responsible for atrocities, an interpretation regularly emphasized by *hijos*. But it does more than solely demanding juridical accountability. Through its enactment, H.I.J.O.S.' members publically display the 'presence of absence' of sociocultural beliefs of former generations and actively express their felt belonging to a trans-generational political project for a different world. Analysed through absence as the driving force for action, H.I.J.O.S.' practice of street-justice thus works both on the individual and societal level. Each Escrache reveals the crimes of a specific perpetrator. But aside from the specific case example it also transforms society and establishes a counter narrative that contests official silences instigated by state politics towards the past. Demonstrating the 'presence of absence' of the disappeared with their own bodies, *hijos* counter prevailing memory narratives and gain recognition as agents with political and socio-cultural ideals.

The Escrache thus symbolically targets the collective consciousness and even in times of impunity provided activists with a tool to scrutinize political legitimacy of governments. It thereby provides an example of the continuity of resistance that is based on the idea of justice shared across generations. According to my informants, the Escrache can only be understood if connected with the ideals of the disappeared

generation and the wider context of anti-fascist activities. Before and during the last military dictatorship, young adults and activists who were made victims or disappeared during the terror regime maintained a struggle against unjust repressive structures. The Escrache as a practice of resistance and lived continuity of political activism gives back political agency to the victims and established *hijos* as active agents of their identity.

With the Escrache H.I.J.O.S. has taken the meaning of civic protest in Argentina to a new level. Unsatisfied with governmental policies and the lack of prosecutions of the perpetrators, they aim to break the political trauma that ruled society. By shaming those ‘responsible’ directly in their own neighbourhood, *hijos* empower themselves through active participation in the historical narrative construction, the rehabilitation of their parents’ ideals, and the demand for legal justice. Foucault once declared trials to be the ‘producer of truth’ (Foucault 1993). As long as amnesty laws prevented trials in Argentina, this desired truth that derives from testimony, evidence, and subsequent judgements was missing. The strategy of ostracizing unpunished perpetrators by handing out flyers that display their photographs, names, and deeds, as well as marking their houses in bright colours served activists as an alternative representation of truth about the ‘presence of absence’. The visibility produced and the knowledge transmitted allowed activists to reverse shame symbolically and rebuilt social trust that was lost during the ‘*proceso*’. To this effect, the Escrache can be described as a small-scale public awareness building that puts responsibility in the right place.

## **Chapter 5: The Politics of Genocide:**

### **Representing the Past, Creating a Future**

#### **Introduction**

The auditorium of the Federal Court of Buenos Aires is filled with people attending the ESMA trial of the perpetrators of the 1976–1983 military dictatorship. Today we will hear the testimony of Ricardo. His parents were disappeared and killed in 1977 and, aged just 14-months, he too was kidnapped and given to a military family. Beside me are approximately 40 of Ricardo’s friends, the majority of whom are the children of disappeared and activists in the association H.I.J.O.S..

During Ricardo’s moving testimony various people in the audience burst into tears, and an atmosphere of grief and companionship fills the room. Towards the end of his testimony, after more or less two hours, Ricardo becomes increasingly forceful. He directs his words to the audience, turning his testimonial into a political performance. Ricardo speaks of the perpetrators in derogatory terms, as ‘*ratas*’ (rats) and ‘*mierdas*’ (shitty people). To my astonishment he is allowed to talk on like this, without interruption, as if testimony should allow for traumatic relief. He concludes by asking the judges: ‘How can a society live with this injustice? – Because we have to live together with these types in one society! – How, as they are responsible for a genocide?’ (Fieldnotes 2010)

The 20th century has been called the Century of Genocides (e.g. Bauman 1989), one that has seen the violent destruction and annihilation of millions of people. Anthropologists, historians, psychologists, and sociologists have produced a high number of texts on the topic of violence, state terror, war and mass destruction of ethnic, national, racial, religious, social, cultural, political and other groups (Jones 2011). In these publications, anthropologists have discussed ‘genocidal practices’ (Feierstein 2007) along different theoretical lines and with examples from Armenia to Cambodia (Hinton 2005), from Rwanda (Burnett 2009; Mamdani 2001; C. C. Taylor 1999), the European Holocaust and Guatemala (Bauman 1989; Sanford 2003), to

historical/cultural genocides such as the Slave trade or the invasion of the Americas. Argentina with its state terror and estimated 30,000 disappeared has been analysed widely, but is still viewed with surprise when referred to as genocide.

When I first started telling people about my PhD research on the Argentine Genocide, I was often looked at in bafflement and repeatedly confronted with the same question: ‘How many people died in Argentina?’. Certainly, when defined by quantity, the atrocities of the civil-military dictatorship have little in common with the annihilation of six million Jews by the National Socialists or the 800,000 Tutsi and moderate Hutu who were killed in 1994 in ‘the quickest genocide’ of our recent global history. But while ‘numbers matter’, as Hinton and O’Neill remind us, it certainly is not the sole or even the most important criterion for atrocities to be classified as genocide (Hinton & O’Neill 2009; Kuper 2002).

Ricardo, whose statement introduced this chapter, is an activist or *militante* of H.I.J.O.S.. His testimony given during the ‘mega-trial’ ESMA1 (Verdict 2011) is one of the first I participated in during my fieldwork in Argentina. In it Ricardo showed a wide range of emotions, stretching from hope to despair. He spoke of doubts, posed questions and showed his own and his generation’s ideology and self-empowerment. But he also represented ‘history’, a history remembered as ‘genocide’.

That time, in spring 2010, I was still astonished by the frequency with which I encountered the term genocide in the streets, the newspapers, in many recent publications, and even within the justice system. Recalling my knowledge of Rwanda, Cambodia, and the European Holocaust, I was initially puzzled by the uneasy relation

between the concept 'genocide' and the signified event, namely, Argentina's last military regime with its 30,000 political disappearances. Nonetheless, the longer I stayed in the field the more I realized the importance and ever presence of the genocide narrative. So I started to wonder: Why do people speak of genocide? What does it mean to represent the violent past as an act of genocide? How did the discourse of genocide come about in Argentina and what are the arguments used to classify the human rights violations as genocide? And, finally, how does such an understanding of the past influence the current struggle for justice and the protagonist group of H.I.J.O.S.?

This chapter attends to multi-vocal aspirations of genocide as a contested discourse by which to address political mass violence. In it, I bring together cosmopolitan law and human rights legislation with local interpretations and enactments. Approaching the relationship of the experience of genocide and its correlating narrative and legal foundation from multiple subjectivities of legal experts, human rights activists, victims, and the second generation, I unpack how the presence of absence of violence makes use of and subverts universal regimes.

In other words, this chapter engages less with the faculty of law itself but with the ways in which actors, situated in concrete cultural and socio-historical temporalities and political contexts, find law useful to think and act with. Deconstructing Argentina's genocide narrative as a multi-layered discourse of different people in different places concerned with the aftermath of the civil-military dictatorship thus allows for a complex discussion of the productivity of repression. Engaging the discourse of genocide through the lens of legal as well as socio-political narratives, I

attend to the way in which memories of genocide brought (and still bring) to life new ontologies of groups and memory, severity of trauma, and the need for justice, as well as an imagined future based on assumptions of an activated past.

For the sake of clarity and given the length and complexity of this topic, I split this chapter into two parts. In part one, I discuss the transformation of historical narrative representations in Argentina and critically examine how the term genocide was imported into society's collective memory. In part two, I attend to the ways in which Argentina's nascent genocide narrative is activated for and subverted by the legal struggle in practice. Unpacking H.I.J.O.S. active participation in the process, I exemplify the productivity of absence and violence and analyse the meaning and impact of the novel genocide discourse.

## **Part 1: Thinking through/with Genocide**

### **The Past as Genocide: H.I.J.O.S. and the Meaning of a New Frame**

Members of H.I.J.O.S. tell me that they have always been aware of the magnitude of violence perpetrated by the military regime. From the beginnings they opposed explanations of the violence as 'excesses of war' or acts of defence and instead pushed for a representation that exhibits the systematic and organized extermination of a part of its population in order to economically, culturally, and politically transform society. For example when I asked Valeria, whose father and mother were kidnapped and disappeared at the same day and even the same hour but in two different places, about her understanding of the extent of violence, she told me:

Let's see, in my brother's and my case, we knew all about my mother's story. So we had it perfectly clear that it was not an isolated case. Or, that there were

only two prisoners for political reasons. [...] We always understood [...] but well, clearly, to know if what happened was genocide or a crime against humanity that has come with the years. But we knew perfectly well ... that the case of my father, or of the father of Emilio or María, or those of other comrades whom I knew, were not just 15 cases that happened in Tucumán. No. They were 15 out of thousands. Or say, the fact, that the violence was an attack against a collective that we understood perfectly well! (Interview Valeria 2012)

As a group, H.I.J.O.S. entered the political arena at a time when silence and ignorance largely dominated the socio-political context. Nonetheless, initial transitional justice mechanisms had left their traces in society. Especially the widely read truth report ‘Nunca Más’ left no doubt about the systematic practices of violence and terror employed by the de-facto military state. Additionally, the trial of the Juntas was still cited often and with its concluding judgement again recognized and emphasized ‘the organized plan of extermination’ (Sentencia 1985).

But even though *hijos* ‘always knew’ that these depictions of the past were a form of systematic and intentionally organized political violence directed against a specific collective, genocide did not enter the verbal repertoire in the beginning. ‘The terminology to give a name to what happened is part of the struggle for the meaning and significance of the past’ (Jelin 2002 cited in Alonso 2010:99). At first, members of H.I.J.O.S. conversed about their experiences, read books and learned about the historical implications and context of the genocidal practices of the state violence. That way, they learned about the manifold examples of Argentina’s genocide narrative that today facilitates their discursive representation.

One of the first of these came from Eduardo Duhalde and the Argentine Commission of Human Rights who in 1977, at the height of the Junta’s genocidal violence, published ‘*Argentina Proceso (al) Genocidio*’ (Duhalde 1977). In it they were the first

to declare that genocide was the most appropriate term for what had occurred in Argentina. The text opens with a citation of Manuel Saint-Jean, that-time Governor of the Province of Buenos Aires, emphasizing the arbitrary power of the dictatorship: ‘First we will kill all subversives, then their collaborators, then the sympathizers, then those who are indifferent and finally, the timid ones’ (Duhalde 1977). The same year, in a newspaper review, Manuel Sanabria called the 328 pages text, ‘an indispensable document for understanding the magnitude of the tragedy that the Argentina people live through in current circumstances’ (Sanabria 1977).

Furthermore, and probably most importantly, many human rights organizations had started early on to use the term genocide in their struggle for justice. Already during the first human rights marches on 24 March, participants used a song that became the emblem of activists’ understanding of justice and accountability: ‘*Como a los nazis les va a pasar, a donde vayan los iremos a buscar*’ (Just like to the Nazis it will happen to you, wherever you go we will come looking for you!). Even today the ‘mantra’ is probably the most significant symbol to express society’s feelings. Every gathering of human rights organizations, every protest march or courthouse meeting, and most flyers and information material make use of the widely known slogan.

At its core the ‘*Como a los Nazis...*’-song calls for justice and expresses society’s willingness to follow and find the perpetrators no matter where or how long it will take. But the song is more than just an expression of people’s demands. Drawing on comparisons between the Argentine state terror and the genocidal practices of the Holocaust carries symbolic capital for accountability actors. Calling the state terror a ‘Holocaust’, just as Guillermo Aignasse repeatedly did in our encounters, immediately



evokes horrific pictures of innocent Jewish victims, a meaningful alignment that equally places Argentine victims into the realm of innocence.

Furthermore, the song re-establishes the power of survivors, human rights activists, and the second generation as active political agents who are unwilling to surrender and instead promise their active pursuit of justice and punishment. And so, even though most activists would not have known how to argue the legal figure of genocide, the early comparisons between the Argentine dictatorship and the Nazi Regime proves the ‘popular sensation’ that exists until today and by which, without knowing exactly why, they managed to change the ‘sense of understanding the past’ (Interview Feierstein 2010).

In 1987, a few years after Argentina returned to democracy, Alipio Paoletti grounded this popular feeling in his famous book ‘*Como los Nazis, como en Vietnam*’ (Paoletti 2009). In the book, Paoletti comparatively draws a line between the National Socialist regime, the War in Vietnam, and the genocide in Argentina. With his detailed analysis of Argentina’s secret detention centres, violent practices, and individual perpetrators he wrote an account of the past that – just like the CONADEP truth report – is informative and detailed but additionally manages to counterbalance the two-demon theory that was partially established by ‘Nunca Más!’ (Osvaldo Bayer cited in Paoletti 2009:forward). The accuracy of calling the military regime genocide is, according to Paoletti, established by the similarities drawn and exemplified in hundreds of case examples. And so, the author adds, it gives authority to the popular promise that the perpetrators, even if they are old and sick, will not go unpunished but will be brought to court.

Evoking retributive juridical practices, the 1985 trial against the main protagonists of the Junta displays another record of early vindication of a representation of genocide. During the preparation leading to the trial, Eduardo Barcesat and the *Liga Argentina de Derechos de Hombres* used the term genocide and pointed out that this would be the most correct figure to be used. During the trial, the public prosecutor Julio Strassera and his assistant Luis Moreno Ocampo were the first to use the term ‘genocide’ before a court. And so, at the end of months of hearings, Dr. Strassera ended his closing statement with the following line:

The Argentine community but also universal juridical consciousness have entrusted me with the just mission to present myself before you to claim justice. Technical and practical reasons such as the absence of a specific type of penalty law within our national legal rights which fully describes this form of delinquency that we are judging here today and the impossibility to consider one by one the thousands of individual cases, have induced me to exhibit over a period of 17 dramatic weeks of hearings only 709 cases, which by no means exhaust the appalling number of victims, which caused what we could denominate the worst genocide of the recent history of our country. (Strassera quoted from documentary in: Arias & Cortés 2004)

The judgement of the ‘Argentine Nüremberg’ (Arias & Cortés 2004) as it has been called at times, did not conclude in ‘genocide’, but neither did its ‘big brothers’, the Nuremberg Trials against the Main Perpetrators in 1945. However, the judgement legally confirmed that there was a ‘systematic plan’ behind the crimes committed by the armed forces that was based on the intention to economically and ideologically reorganize Argentine society. Additionally, Strassera’s closing statement symbolically offers a juridical proclamation of lasting importance and influence.

But while some people already understood the violence as genocide in the early years after the Argentine dictatorship, dominant terms representing the 1976-83 period were still caught between 'Dirty War', 'Anti-revolutionary war against subversive delinquency', 'Excesses of War', and 'State Terror'. Certainly, the 1985 judgement and the CONADEP truth report proved the systematics of the state terror and the disproportionality of the violence used by state-controlled institutions in response to the so-called 'guerrilla threat'. However, these transitional justice mechanisms did not free the cultural memory from the prevailing belief and common saying '*Por algo sera*' (It must have been for something), implying that those murdered and killed were partly to blame for what had happened to them.

To understand the progress of the genocide discourse and the shifting representations of memory narratives in Argentina it is therefore useful to examine the year 1995 as a 'critical juncture' (Lessa 2013). In that year, Adolfo Scilingo's confessions about the death flights once again confronted the average Argentine citizen with the horrors of the dictatorship. Citing his superiors, he legitimized these killings of so-called 'subversives' as 'acts of humanity' (Verbitsky 1995b).

Scilingo's confessions unintentionally suggested comparisons with the Holocaust, in which the National Socialist leadership also evoked 'humanity' as the excuse to legitimize the quick and 'clean' solution of the gas chambers and gas lorries once the mass shooting of people became too burdensome on young German soldiers. When on 3 March 1995, Horacio Verbitsky, the journalist who had conducted the interviews, published the first of a series of articles on Scilingo's confession in Pagina12, he tellingly titled the article '*La Solución Final*' ('The Final Solution') (Verbitsky

1995b). In so doing he triggered the terrifying symbol of the National Socialist regime's plan of the annihilation of the European Jewry that established the systematized extermination by means of the gas chambers.

Soon, news about the confessions reached Spain, where Judge Baltasar Garzón, using the principle of universal jurisdiction got the ball rolling for the international prosecution of the perpetrator. In the indictment of the case, Adolfo Scilingo was accused of terrorism, genocide, and torture. Argentine human rights advocate Carlos Slepoy as the prosecutor in the case, told me in our meeting in his home in Madrid: 'Originally, we included genocide because this was the only way to try him' (Interview Slepoy 2012). But soon the legal necessity that made the lawyer press charges for genocide became an important symbolic groundwork. Soon, further investigations convinced Slepoy of the correctness and importance of the term genocide. Today, Carlos Slepoy is one of the strongest proponents advocating for the legal recognition of Argentina's military violence as a crime of genocide.<sup>48</sup> Explaining why the recognition of genocide is important to Argentina he said,

It is necessary to legally recognize the existence of genocide and to deliver judgements for the crime in order to show the transcendence that it implies. Not only from a social point of view that seeks a better understanding for the deeds, but also because genocide carries an idea. The idea to construct a novel society that, in opposition to the principle of territoriality of those cultural political groups, excludes these groups from partaking in this new nation that has to be built. What the dictatorship proposed is what we determine a 'reorganizing genocide'. Precisely this is what the Argentine dictatorship was; it even calls it 'the process of national reorganization'. So that means that the nation has to be

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<sup>48</sup> Dr. Carlos Slepoy exiled from Argentina to Madrid after surviving two years in secret detention himself. Known for his work in the Scilingo and Cavallo cases he is currently involved in the 'Franco case', in which an Argentine Judge Servini uses the principle of universal jurisdiction to try Spanish perpetrators of the Franco regime as a way of 'returning the favour' of Spanish juridical efforts during times of impunity in Argentina.

reorganized and therefore all those groups considered to be damaging to this new nation have to be eradicated and eliminated from the Argentine society. A typical case, just like the Franco regime, right? (Slepoy 2012)

The trial and conviction of Scilingo that was held in Spain under the principle of universal jurisdiction received intense media coverage in Argentina. With it, Slepoy's legal classification of Argentina's violent history as genocide entered the hearts and minds of the Argentines, this time through the legal realm.

Additionally, at the critical juncture of 1995, the post-terror generation announced its organization H.I.J.O.S.. Starting soon thereafter, their regular use of the term '*genocida*' in their publications and announcements as well as during Escrache events additionally directed Argentina's historical memory. 'Feeling' that what had happened to their parents was an organized destruction of a people and their respective ideas, they intuitively called the murderers '*genocidas*' in their acts of social condemnation. Turning 'genocide' into a subjectified term for mass murderers they managed to address more than the criminal acts of individual perpetrators. '*Genocida*' included the context and intention of the acts of torture and killings and pointed out that the violence was directed against a group. Thereby, H.I.J.O.S. transmitted to the wider public not only the violent crimes of the accused person but also imported a new context into Argentina's societal discourse.

When members started to meet regularly and exchanged their family histories, the post-terror generation learned about the full scale of the genocidal practices of the late 70s, including the systematic, clandestine methods of disappearing and killing people, which increasingly assured them of the 'accuracy' of their terminology. But with this growing pool of knowledge *hijos* not only learned about the way in which the armed

forces implemented mass destruction and terror, but also that the genocidal practices had started long before the military coup. Many of *hijos*' family members had already been kidnapped, imprisoned, and murdered before the official coup d'état. Using the same patterns of clandestine violence the 'Argentine Anti-Communist Alliance' or *Triple A* intended to annihilate their political adherences already before 1976, as 1971 born Nahuel from H.I.J.O.S. Capital explained to me:

My parents were both in Montoneros, and my father was an activist in the *Juventud Peronista* in Quilmes, where he worked in the Chemical firm. When I was five we went underground because they already persecuted my parents. [My father] had survived two violent assaults, one time, in Trelew, where he went to with two companions to commemorate the assassination of 1972. There they were kidnapped by the *Triple A* from a pizza place. His two colleagues were killed and he himself survived the attack with 14 bullets in his body. [...] After that, most companions went into exile, but my parents stayed in Buenos Aires where he recovered from his wounds. According to witness testimonies, in 1975, the *Triple A* finally killed him. That's all I know. (Interview Nahuel 2011)

The paramilitary organization *Triple A* is a 'rather strange organization, nothing official, no clear structure', Nahuel continued to explain and, 'it is difficult to know who the people are, who participated, and whom to accuse in the trial. It's all very concealed' (ibid.). Thus, because of the lack of knowledge about individual perpetrators it is quasi impossible to prosecute those responsible for Nahuel's parents violent deaths. However, on a different register, Nahuel's case exemplifies that the Argentine Genocide and the systematic persecution and annihilation of political and social opponents had started years before the official instalment of the military dictatorship.

With their knowledge about their parents' unlawful detentions, disappearances, and/or murder before the coup d'état, *hijos* increasingly felt that the term 'state terror' failed

to address parts of Argentina's remembrance of violence. 'State terror' refers to the organized violence employed by the military Junta that started on 24 March 1976 with the coup d'état that officially brought the armed forces into power. The destructive and indeed atrocious persecution of 'subversive delinquency' did however not start in 1976, but years before with state sponsored, paramilitary interventions. Hence, according to H.I.J.O.S. it would be favourable to use the term genocide, as this terminology enables a historical narrative that encompasses the many atrocities committed against their parents before the actual coup d'état.

Built on these insights and convinced about the need for the social and juridical recognition of the Argentine genocide (H.I.J.O.S. 2000a:29) members of H.I.J.O.S. consciously changed their strategies and activism. In the year 2000, they collectively decided to push their understanding of the past. The recognition of 'genocide', they reason, would allow them to bring to court not only the perpetrators directly responsible for the killings but also those, who supported and profited from the regime, including judges and members of the Catholic church. And so, in the protocol on the 5th National Congress of H.I.J.O.S., published in the journal HIJOS they presented to their fellow members the decision and goals for 'trials for genocide' and 'to promote a political campaign which establishes within society a debate about the possibility to bring to justice a trial for genocide against those responsible for the state terror' (HIJOS 2000a:29).

Over the years the nascent genocide discourse was increasingly reflected by H.I.J.O.S. in semantic shifts in the language used in direct interactions, in texts, publications, and demonstration marches, or in the visual material distributed during Escrache events.

Nicolas, member of H.I.J.O.S. Madrid, underlined the importance of a changing language in the justice discourse by explaining the importance of the new vocabulary for memory and the recognition of suffering:

What previously was referred to as ‘clandestine detention centres’ or ‘*Lugar de Reunión de Detenidos*’ (meeting place for prisoners) is today more often heard of as ‘*campo de concentración*’ (concentration camps). And what previously was referred to as the 1976-93 ‘military dictatorship’ is currently more often called ‘*dictadura civico-militar*’ (civil-military dictatorship). This allows for the recognition of the collaboration of civilians, church members, and judges in the great tragedy that is the Argentine genocide. (Interview Nicolas 2012)

Symbolically, H.I.J.O.S.’ activists also translated their understanding into the way they performed the Escrache. Starting 2000, H.I.J.O.S. and the *Mesa de Escrache* amplified their target subjects and in addition to ‘*genocidas*’ started targeting ‘accomplices’. And so, H.I.J.O.S.’ social practices such as the Escrache and the discourse of genocide mutually reinforced each other and developed *hijos*’ own understanding of themselves and their cultural past and heritage.

### **From Memory Narratives to the Ownership of Justice**

It’s a poor sort of memory that only works backwards. (Lewis Carroll)<sup>49</sup>

In the second edition of ‘Genocide: A Comprehensive Introduction’, Adam Jones asks an uncomfortable question: What is destroyed in Genocide? (2011). To answer this question he points to Daniel Feierstein and what he calls the ‘emerging *school* of genocide studies’ in Argentina (Jones 2011:29). Daniel Feierstein, social scientist at the *Universidad de Tres de Febrero* in Buenos Aires is a ‘norm entrepreneur’, as Kathryn Sikkink calls those agents whose words are so influential that they change the

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<sup>49</sup> Lewis Carroll; author of ‘Alice in Wonderland’ or ‘Through the Looking Glass’ (cited in Barahona de Brito 2001:35)



course of our understanding of history (Sikkink 2011:27). Known for his comparative work between the European Holocaust (Feierstein 2000) and the Argentine Genocide (Feierstein 2007), Daniel Feierstein's analysis of genocidal practices in Argentina and the National Socialist Regime has become crucial to the growing understanding of Argentina's violent past as genocide. When we discussed the topic and his role in the construction of memory narratives, Feierstein told me,

What I do is a small support, I think, but it's what I can do: to analytically show why the popular sensation [that what happened in Argentina was a genocide] was appropriate, it wasn't a fantasy, it wasn't an error, nor was it a lack of knowledge about the legal concept; but to the contrary, it was a profound popular intuition. (Interview Feierstein 2010)

In *'El Genocidio como Práctica Social: Entre el Nazismo y la Experiencia Argentina'* (2007), Feierstein argues that genocidal practices in both cases intended to destroy and reorganize existing social relations. In his work, the author explains that the 'connecting threat' among and essence of cases of genocide is the destruction of social power and existential identity of the targeted group (Feierstein 2007). What results from the 'denial of the other' and the 'physical destruction of victim groups' is intended to have profound effect on the survivors: It aims to suppress their identity by destroying the network of social relations that makes identity possible at all, meaning that 'the main objective of genocidal destruction is the transformation of the victims into 'nothing' and the survivors into 'nobodies', that is, their social death' (Jones 2011:29).

Similarly, Martin Shaw emphasizes that genocide implies not only the physical destruction of people but also the eradication of memory, underlining thereby the importance of understanding groups as social constructions. 'The aim of 'destroying'

social groups is not reduced to killing their individual members, but is understood as destroying group's social power in economic, political and cultural senses [...] (Shaw 2007:34). Termed 'memocide', the extinction of remembrance of the ideas, ideals and identity of the annihilated 'group' is thus a crucial purpose of genocidal violence.

In Argentina, the realization of the Junta's 'Plan of National Reorganization' is a vital example of such analysis of genocide. With the practice of disappearing people and the systematic use of denial, rumours, and doubts, the military regime inflicted a culture of terror in which silence served the annihilation of the social existence of its political opponents. If genocide is achieved by the extermination of ideas, socio-cultural power, and political ideals of those annihilated, then 'to win' as Guillermo put it, the perpetrators have to successfully erase memory as well. Hence, to combat genocide means to gain back the ownership of justice, which in turn implies the need to gain back memory and to participate in the collective historical narrative construction.

As I have mentioned in the theoretical outline (Argenti & Schramm 2012; Foucault 1994; Jelin 2003; Rosenblum 2002), the on-going struggle for justice and accountability is intimately connected with contested memory narratives, in which collective memory is made up of individual experiences and official narratives and their transformation into societal discourse. Thus, the question is less between memory and forgetting but more between conflicting memory narratives. Such an analysis connects with the interrogation of the legitimate struggle over memory: Who has what right to determine what should and what should not be remembered? Who belongs, who is left out, and how to incorporate new generations (Jelin 1998)? These

questions show, that justice as a social process is connected with what agents imagine for themselves and with their own understanding of themselves as individuals and collectives. Viewed that way, memory and truth are best understood when analysed through agency and power.

In Argentina, memory about the objectives and ideals of the ‘disappeared’ was largely silenced by the two-demon theory and official memory politics of ‘national reconciliation’ throughout the 1990s. H.I.J.O.S. felt these silences as being in contradiction to the presence of the ideals and aspirations of their absent parents’ in their lives. And so, feeling a trans-generational belonging and the wish to continue their parent’s project of battling injustice, H.I.J.O.S. started their own activities and counter-discourse, which provided them with the means to win back an active role in the discourse formation as part of the ownership of justice.

Furthermore, analysis of memory, discourse, and the question of who gets to have a voice in the process, is connected with the power of representation (see Hinton & O’Neill 2009:4). Looking at H.I.J.O.S.’ active participation in pushing the case for genocide simultaneously created their own belonging to repression by which they subvert the very reason that brought about their narrative. Taussig examines the conditions of truth-making and culture-making in collective narratives and representation with reference to Foucault, who writes, ‘Seeing historically how effects of truth are produced within discourse which are in themselves neither true nor false’ (Taussig 1989:8). Evoking Foucault, I am reminded about the importance of seeing anew or of ‘counter-memories’ that are constructed in the process of the active practice of remembering. Thus, rather unexpectedly, official politics of repression

activated a renewed struggle of activists who felt connected to a political group or 'gens' that were born by the genocide they now try to depict and represent in public.

In Argentina, the memory narratives constitute a contested discursive field with a great variety of agents and historical narratives. In these negotiations over the representation and understanding of the past, agents involve in debates about responsibility and political agency. At the centre of these debates is the struggle over the 'ownership' of historical memory, meaning, from an actor's perspective, how the collective 'we' that remembers the past is constituted.

The active engagement of H.I.J.O.S. in historical reconstructions of violence and terror and the increasing talk about genocide is thus embedded in a holistic reconstruction of agency, political subjectivity and trans-generational ideals. With their creative participation in the process of creating collective memory, agents from the post-terror generation seek a truth that serves their own future, confirming Lewis Carroll's saying that 'memory is poor if it only looks backwards'. Viewed this way, memory and the construction of collective narratives is a powerful act with symbolic capital and the potential for social renewal.

In their analysis of genocide's aftermaths, Hinton and O'Neill start by stressing the importance of socially, historically, and culturally situated analyses of practices that construct 'post-genocidal contexts'. Insight into these dynamics can help foster an understanding of what is at stake for individuals, groups, governments, and institutions when they 'map out a narrative of the past that legitimates their agendas and desires for justice, assert or reject the right to legal redress for and moral outrage

about ‘the crime of all crimes’, and disavow memories, experiences, suffering, and losses linked to mass murder’ (see Hinton & O’Neill 2009:5).

Contextualized analysis of the importance of the genocide discourse in Argentina displays the social and symbolic capital inherent in ‘politicizing victimhood’ (Burnett 2009; Fassin & Rechtman 2009). When it comes to the punishment and penalties of accused perpetrators, a comparison of ‘crimes against humanity’ and ‘genocide’ shows no difference. Classifications as either crime are internationally recognized, do not fall under the statute of limitations, and allow for the prosecution of crimes such as murder, torture, the appropriation of children, and other human rights violations. However, qualitatively speaking and with emphasis on historical consciousness building or symbolic capital gained for collective memory during retributive justice, they display an unequal impact for the victims of state terror.

As the Argentine military still presses for a representation of the violence as a necessary war against subversion, which happened to produce ‘excesses of war’ (Fieldnotes 2011), the recognition of the state terror as genocide, labelled by the International Tribunal for Rwanda as ‘the crime of crimes’ (Schabas 2004:37), provides precious social capital in countering these arguments. Just as Judge Rozanski writes in his judgement: ‘What happened in the 70s was without doubt a genocide, and therefore it is right to denominate it correspondingly’ (Rozanski 2011:185). Depicting the last state terror as genocide thus provides social and symbolic capital for H.I.J.O.S. and equals a crucial source of power with impact on the present and future, both symbolically and by concrete effect. In the beginning of this chapter, I explained that H.I.J.O.S.’ understanding of genocide goes beyond the 1976-83 period and

includes genocidal violence employed with intention to destroy social and political power of ‘the enemy’ throughout the late 70s. A narrative of genocide that exceeds the limited period that started with the ‘*golpe*’, as the coup d’état is called more colloquially in Argentina, therefore allows the inclusion of violent persecutions and genocidal acts throughout the 1970s. With that, it does justice to the experience of loss that in many cases hit the victims before the official beginnings of the dictatorship.

Over the years, the post terror generation learned and understood more about the past and constantly reflected upon and actively participated in the socio-cultural creation of its historical narratives about the violence. Thereby its members contributed to the transformation of a representation of war and the two-demon theory, to notions of state terror and genocide. Genocide is now becoming the dominant understanding of the past and is supported not only by social scientists, survivors, and human rights organizations but also by the legal apparatus and juridical judgements. With it, the children of the people who for their political, social, or ideological actions were persecuted as ‘subversives’ in the 1970s, have turned into a group of accountability actors who are best described as ‘gens’ of genocide.

Most analyses discuss ‘victim’ groups as constructed by the perpetrators. While this is a true and important insight from the studies of violence, my research brought about an additional perspective regarding the constitution of particular groups through the concept of genocide. Just as Jelin and del Pino, resembling Foucault’s insight, write:

Violence has a productive potential [that is] constitutive for meaning. [...] Situations of political and social violence, with all their negative weight of pain and suffering, also offer and permit the existence of a new terrain of resignification of identities and local struggles. And even though it isn’t easy to

explain it, we suggest here that one key for analysis is to look for these institutional and symbolic mechanisms that permit violence and repression to impact and transform, via the construction of memories, the meaning of community and collective identity' (Jelin & del Pino 2003:4).

Resembling Foucault's repressive hypothesis (Foucault 1990), repression of memory produced an unexpected activism. In the aftermath of mass violence, accountability agents in Argentina have learned to understand the past as genocide. This reconstruction of an 'artificially' constructed victim group lead to the emergence of an affective 'kin'-group. What connects the 'gens' of the Argentine genocide is the continuity of the struggle for justice albeit by other means. Justice understood as a meaningful signifier for absence produced by violence is therefore a driving force for the trans-generational project in Argentina in which terror and violence not only brought about trauma and destruction but also bore a 'people' who collectively engage in the project of justice.

### **Political Narratives and the Subversion of Genocide**

Much has changed since the early attempts of bringing genocide to the forefront of Argentina's juridical, social, and historical understanding of the past: Books on Argentina with 'genocide' somewhere in the title have multiplied; street manifestations and popular symbolic representations increasingly opt for 'genocide' or '*genocida*' as their literal tag; judgements arguing for the context of genocide are by now habitual.<sup>50</sup> Still, not everyone in Argentina agrees upon a depiction of the

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<sup>50</sup> In Argentina the notion and uses of genocide have gone far beyond their juridical acceptance. Not only has the term become established as a description of the mass murders committed by state terrorism, but it is now also used to describe the current economic policies and their effects of increasing poverty, marginalization, and structural violence. Locally, Lorenzetti cautions about 'trivializing' genocide, a tendency he observes in Argentina, where not only the human rights violations of the last civil-military dictatorship are considered 'a case of genocide', but also consequences of economic policy and environmental destruction. Declaring these to be cases of genocide, Vezzetti

violent past as a case of genocide, with discontentment deriving mainly from concerns about reconciliation.

Social scientist's critiques point to the dangers inherent in such Manichean narratives. Recent insight by genocide scholars and their empirical research shows that a narrative of genocide runs danger of repeating genocidal practices on a symbolic level through its clear categorization of victim and perpetrator, leaving little to no room for people from the 'grey zone' (e.g. Burnet 2009; Sanford & Lincoln 2009; Feierstein 2009). Just as clear Manichean pictures are constructed during genocide by categorizing people as 'friend' and 'enemy' of 'us' and 'them' groups, a narrative of genocide also strengthens group belonging in the aftermaths of atrocious crimes. In a recent critical analysis of genocide as the latest narrative in Argentina's contested multi-directional field of memories Robben pointed out the concern about such a representation that additionally hinders inter-group reconciliation in already divided societies (Robben 2012).

Working on Rwanda, Jennie Burnett (2009) discusses 'grey zones', identity, and the dangers inherent in 'representations of truths about the past'. In the article, Burnett critically analyses Rwanda's official politics of remembrance and citizenship and shows how official state commemorations of the 1994 genocide dangerously draw a clear boundary between victim and perpetrator. Over the years the attribution of 'genocide victim' came to be equivalent with Tutsi, leaving out all victims from the grey zone (Burnett 2009:88f.). Thus, just as clear good and bad pictures are

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argues, not only implies ignorance of the concept, but also, more seriously, signifies an unjustifiable trivialization of the historical experiences of the mass crimes of the 20th century, including the massacre in Argentina (Vezzetti 2002:160; 2012).



constructed during genocide by categorizing people along perpetrator's own arbitrary criteria, a narrative of genocide that refurbishes group-belonging in the aftermaths of these atrocious crimes failed to represent the complexity of Rwanda's reality and eradicated 'grey zones' yet again from the picture. That way, official politics in the aftermath of genocide excluded all other victims from the historical memory, silently re-victimizing parts of society and denying subaltern voices the space for political subjectivity.

But while it is important to stress concerns about and injustices developing around genocide remembrances, my own research on the representation of genocide, approached through the eyes of those who suffered from mass violence, proposes an additional conclusion. The discourse of genocide opens questions about participation and group identities and evinces deep connections between power relations and memory, which, in the aftermath of violence, can even be used as political tools (Barahona de Brito et al. 2001). Understanding the past as genocide not only changes the way people remember the severity of the crime but also transforms the way people perceive political subject positions and aspirations for the future. Remembering the past as genocide productively creates group belonging, especially for the second generation that, as the bearer of a collective, socio-political heritage, constructs political belonging as a means of acting in the present to summon a nascent future. In this process of the continuous struggle for the recognition of counter memories in Argentina, justice agents reconstruct political subjectivity in practice. Thus, the commodification of victimhood in the discourse of genocide turns absence into a productive presence, in which H.I.J.O.S. and other accountability actors seem to regain their 'ownership of justice'.

## **The Making of Memory Communities in Argentina's Struggle for Justice**

The memory of hateful violence and responses to it stand in dynamic relation to one another. The influence of one on the other is mutual, and operates in both directions. (Rosenblum 2002:4)

Nancy Rosenblum reminds us that memory is the important connection between original acts of violence and the responses posed to it, adding that the way we remember is constitutive for both, violence and its consequent reactions. With the discourse of genocide, however, this version of memories-turn-history takes on specific relevance for the 'memory community' of those who create their belonging and collective identity vis-à-vis a narrative of genocide.

In chapter 4, I have presented the centrality of the parents as referential figures for *hijos*. I have explained how Raina (2012) stresses the referential aspect of *hijos*' belonging to their parents in her analysis of post-terror identity constructions through the use of '*hijos de...*'. Additionally, I showed, Raina emphasizes the importance of their connection with their own generation and all those others 'directly affected by the genocide' (Raina 2012).

The dictatorship's 'Plan of National Reorganization' that brought about genocidal violence in Argentina, aimed at the destruction of their enemy's bodies, ideals, and identities. Members of H.I.J.O.S. therefore intend to recover their parents' political subjectivities from this intended absence and to make them visible in the present. To do so they counter the eradication of memory or 'memocide' with their practices and the discursive reconstruction of a historical narrative of genocide. In that process, the post-terror generation not only attempts to recreate its parent's political agency but

also simultaneously creates its own belonging to a group that is motivated by a trans-generational political activism ‘for a better Argentina and the world as a whole’ (Fieldnotes 2010; various Interviews).

An example of this ‘belonging’ or affective kinship associated with a political project rather than genetic blood ties comes from Emilio in Tucumán. In 1977, when Emilio was one and a half years old, he was abducted with his parents. While this in itself is not unfamiliar, the fact that he was ‘returned’ to his granduncle ‘under rather unclear circumstance’ is indeed unusual. His granduncle, a military officer at the time, send him to Tucumán to live with the most conservative part of his wider family. But ever since their abduction Emilio’s parents remain disappeared. All Emilio knows is that they were secretly detained in various clandestine concentration camps.

In 2007, when Emilio was called to testify about his parents’ disappearance in Buenos Aires in the ABO trial, he had hoped for some clarifications. But the situation worsened. His granduncle, who was asked to testify and to provide information, refused to give testimony or to answer any questions about the case. Thereby, he brought suspicion upon him and his involvement in the deaths of Emilio’s parents. Thus, today, his granduncle is being investigated and formally accused for false testimony and supposed collaboration in Emilio’s parents kidnapping. And so the difficult and painful family history, in which even the closest of kin participated in the murder and disappearance of his parents, reassured Emilio that ‘justice doesn’t know blood nor surname’ (Gascó & Cúneo 2011) and underlined his emphasis of active agency and belonging to ‘absence’.

For a group to be constituted, a shared feeling of belonging to an ‘imagined community’ (Anderson 2006) includes a shared understanding of its own history. The memory, upon which *hijos* build their understanding of violence and terror, is, however, particular. Having been too young to remember their parents and their parents’ activism first hand, they engage in a process for justice that is built on ‘memories of memories’, as Susana Kaiser (2005) writes:

Memory is more about what we believe happened than about what actually took place. Indeed the value of actual facts is relative if they are not perceived as truth. Hence, memories of the dictatorship may be subject to distortion but, ultimately, they [...] reveal what this period meant for them [*meaning the children*]. (Kaiser 2005:10)

Thinking with Kaiser reveals a curious contradiction with contemporary legal proceedings. In legal proceedings in Argentina memories and victim testimonies are the main source for current criminal convictions. Kaiser argues that even if memories of the dictatorship ‘may be subject to distortion’ they express what the violent period ultimately meant to the second generation (Kaiser 2005). Trials as the space for the production of truth are ought to be based on facts and evidence. Hence, there exists a contradiction between ‘objectives and understandings’ about past experiences and ‘factual accounts and evidence’. Nevertheless, legal procedures in contemporary Argentina are activated to bring the project of memories to fruition (for further discussion see chapter 6).

So what does it mean to remember the past as genocide? While it can be argued, that an insistence on genocide repeats the essentialization of groups, the historical narrative of genocide also bears a productive quality. *Hijos*, as well as the parents (*Madres/Padres/Abuelas*) of the disappeared, refer to themselves in kin-terms. But, as

my analysis showed, this ‘kinship’ is anything but restricted to real blood ties. Instead it is activated in a post-genocide subversive evocation of group belonging.

Taking her insight from Guatemala, Rachel Sieder notes that ‘grass-roots memory politics have become a central part of the search for new collective identities in the post-war dispensation’ (Sieder 2001:186). Especially the collective effort of organized exhumations and the construction of local monuments have unexpectedly prompted the creation of new trans-regional communities of survivors in the post-genocide era. Discussing exhumations and the politics of memory that emphasize the idea of accountability and rights and the narrative of genocide, Sanford shows how the process allows for victims to voice their experiences, give testimony and to commemorate their dead (Sanford 2003). In these events, family members and survivors hence strengthen their self-perception as individuals and communities with rights and regain partial ownership of justice.

No less so in Argentina. During collective initiatives such as the *Escrache*, commemoration marches, and in the participation in trials, accountability agents of the new generation contributed to the politics of memory that allow for the building and reconfiguration of ‘communities of belonging’ (Sieder 2001:189). With a historical narrative of genocide, this ‘community of belonging’ is again strengthened, as the children now understand themselves as the offspring of the ‘gens’ of a legitimate moral and social political activism.

Viewed this way, the violence of the 70s – notwithstanding the terrible suffering it brought to the Argentine people – has a productive quality in the presence. The power

of genocide not only annihilated a generation and their ideals but, in an unintended way, also gave birth to a people in its memory. Thus, while the military ‘constructed’ their enemy group by including people as diverse as students, unionists, armed guerrillas, housewives, social workers, Jews, Marxists, and politicians into the category of ‘subversives’, the post-terror generation builds its belonging itself. With all the inner heterogeneity typical for any group (Barth 1998), they refer to their shared heritage of a violent history and subvert their trauma through activism as a defining moment of their collective identity. Positioned as a group that is morally legitimized by a felt trans-generational struggle for justice, H.I.J.O.S.’ members hence gain social and symbolic capital, counter the genocidal destruction of memory and transform Argentina’s struggle over power.

## **Part 2: Political Practice**

### **Genocide in Argentina’s Courts**

The life of the law has not been logic: it has been experience.  
(Holmes, O.W. The common Law; 1886;1)

Apart from the increasing symbolic and social representation of genocide, the most influential development comes from current judgements that include ‘the frame of genocide’ as the contextual truth for the ‘crimes against humanity’ tried before court. Nationwide trials are the current high point of Argentina’s long struggle for truth, justice, and memory. Starting 2001, Judge Cavallo of the Inter American Human Rights Court first declared ‘unconstitutional’ the laws Final Point and Due Obedience (Oberlin 2011:205; Yanozon 2011:145). In 2003, and this time in Argentina, Judge Lorenzetti again declared the unconstitutionality of the amnesty laws. The same year,

President Kirchner officially pushed for the derogation of the amnesty laws, and the Argentine Congress followed due shortly thereafter. In 2005, Lorenzetti's judgement was confirmed by the Argentine Supreme Court of Justice that also declared unconstitutional the presidential pardons. With that ruling, all crimes of the 1976-83 state terror committed by state-related perpetrators were given the status of crimes against humanity, allowing thus for the (re)opening of trials and cases that had been shelved for years. Since these juridical advancements, accountability agents pressed for hearings and the lifting of these cases to court. So far, approximately 1500 military and other state-related perpetrators of the last civil-military regime have been processed and achieved close to 520 convictions for crimes against humanity in federal criminal courts all over Argentina (MPF 2010, 2013).

As described in the historical and conceptual chapters of this thesis, remembering the past is a contested practice and everyday experience in Argentina. The reopening of the trials for crimes against humanity under the Kirchner administration in 2005 thus made the courts the locus for these historical contestations. With survivor-victims, lawyers, judges, defendants, accused and accusers debating the character of the crimes on trial, the federal courts all over Argentina have taken on a decisive role in the construction of past and future of its society. Who is responsible for the violence of the 70s and 80s? What is the role of the trials? In what way do they transform current memories of the past? Why are there still no judgements for genocide? What are the challenges? What are creative alternatives and how does it influence the global level of human rights?

## **Genocide: Defining Groups and Crimes**

Talking about the struggle for justice in the context of crimes against humanity and genocide in Argentina, it is important to spend some time on the core definition of genocide and the distinction between genocide and crimes against humanity.

In 1944, Raphael Lemkin, a Jewish Polish jurist, first coined the term in his groundbreaking book 'Axis Rule in Occupied Europe' (Lemkin 1944). Deeply troubled by the genocide committed against the Armenian people in the 1920s, Lemkin intended to create a term and legal concept for those atrocious crimes that supersede the killing of individuals as destructive forces are forged against members of groups (rather than their individuals) for their specific characteristic of belonging to that group. Replacing his own terms 'acts of barbarity' and 'acts of vandalism' (Lemkin 1933), that he believed were too weak to convey the horrors that needed to be described, he introduced 'genocide' by putting together the Greek term '*genos*' (race, tribe, kin) and the Latin verb '*cide*' (killing) (Hinton & O'Neill 2009:2). 'Genocide', he hoped, 'would send shudders down the spines of those who heard it and oblige them to prevent, punish, and even suppress the carnage' (Power 2002; cited in Ishay 2007:456).

Strongly leaning on Lemkin's work, the official definition for genocide was approved in 1948 by the General Assembly of the United Nations, with Argentina ratifying the document in 1956. Today, the definition of genocide both in Article 2 of the *UN Convention on the Prevention and Punishment of Genocide* (UNCG 1948) and in Article 6 of the *Rome Statute* (Rome Statute 1998) reads as follows:



In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- a. Killing members of the group
  - b. Causing serious bodily or mental harm to members of the group
  - c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part
  - d. Imposing measures intended to prevent births within the group
  - e. Forcibly transferring children of the group to another group
- (UNCG 1948; Art.2).

For a juridical applicability of the figure for a committed crime, the crucial and also the most challenging part is to provide evidence for two aspects of the definition: Firstly, the ‘intention’ of annihilation has to be proven as a necessary condition for the recognition of violent practices as cases of genocide. Secondly, as a constitutive element of genocide, the act must have been committed against one or several individuals specifically because they belonged to this group. Thus, as the International Criminal Tribunal for Rwanda declared, ‘the victim is chosen not because of his individual identity, but rather on account of his membership of a national, ethnical, racial or religious group. The victim of the act is therefore a member of a group, chosen as such, which, hence, means that the victim of the crime of genocide is the group itself and not only the individual’ (ICTR 1998:paragraph 521).

### **Intention**

Most legal scholars affirm that proof of ‘intention’ is crucial for a distinction between crimes against humanity and genocide, meaning that murder, extermination, and other atrocities are directed against members of a specific group with the ‘specific intent to destroy in whole or in part that group as such’ (Schabas 2004:39). Ways to demonstrate the intention of annihilation vary and include analysis of the media, predictive hate speeches and other aspects of ‘genocidal priming’ (Hinton 2005). In all

totalitarian regimes the question of legitimizing violent and repressive acts against parts of its population arises for government agents. Various strategies of ‘genocidal priming’ (Hinton 2005), such as hate speeches, instrumentalization of historical prejudices, propaganda and indoctrination, dehumanization, ‘Othering’, the spreading of rumour and myth, the restructuring of a society, and the creation of legal as well as pseudo-scientific foundations are employed, in order to make the persecution of certain groups a seeming necessity for the security and health of the nation and its people.

The use of biological analogies to deprive a persecuted victim group from its humanity is extremely common to genocidal regimes. Propagandistic agents regularly make use of allegorical comparison between the state and a sick body that has to be cured from a ‘bacillus’, ‘germs’, or ‘diseases’, referring to the ‘threat and danger’ that is imposed by the marked social group. A language is introduced that stresses the cleansing and curing of the nation that takes Mary Douglas’ concept of ‘Purity and Danger’ to the extreme (Douglas 2002). Douglas’ analysis links bodily symbolism and social structure and, as the author argues, just as ‘dirt is a matter out of place’, so are marginal human beings who are presented as a chaotic source of contamination and potential danger that threatens the purity of the societal order. What results from this form of bodily analogies is that the killing of individual people is not a criminal act or matter of moral ethics but solely a question to ‘cure’ the sick national body or to clean society from its contamination (Hinton 2002:19).

Many examples of such bodily analogies can be found in Argentina. Talk about collective violence and thousands of disappeared citizens during the seven-year-long

dictatorship between 1976 and 1983 was metaphorically presented, expressing the necessity to fight and murder individuals in order to save 'the nation'. In 1976, Rear Admiral Guzzetti articulated it this way, echoing the Nazi-germ theory:

The social body of the country is contaminated by an illness that in corroding its entails produces antibodies. These antibodies must not be considered in the same way as [the original] microbe. As the government controls and destroys the guerrilla, the action of the antibody will disappear. [...] This is just the natural reaction of a sick body. (Feitlowitz 1998:33)

As complete analysis of the topic would exceed the intention of this thesis, I will limit my remarks to the analysis of one more, namely the way in which inauguration speeches by the new leaders of a regime predict the political intentions of the new rule. In her essay on the character of totalitarian propaganda, Hannah Arendt remarks that predicting their political intentions in the form of prophecy is a strikingly common habit of totalitarian dictators. To exemplify her point she quotes Hitler's famous speech at the German Reichstag 1939: 'I want today once again to make a prophecy: In case the Jewish financiers [...] succeed once more in hurling the peoples into a world war, the result will be [...] the annihilation of the Jewish race in Europe' (Arendt 1962:349). In the end, she leaves the reader with a simple analysis, stating that 'translated into non-totalitarian language this meant: I intend to make war and I intend to kill the Jews of Europe' (ibid.).

Similar predictive speeches can be found in Argentina. For example Jorge Rafael Videla announced in 1975, 'To be precise, in Argentina have to die as many people as necessary in order to reach peace for the country' (Videla cited in H.I.J.O.S. 2006). Furthermore, on the day of the military coup, the new Junta announced its 'Document on the Process of National Reorganization', in which it, amongst other

announcements, declared the suspension of all political parties and activities of workers unions, the dissolution of the Argentine Congress, and the removal of all members of the Supreme Court (Plan of National Reorganization in Sentencia 2010). A few days later, another announcement more plainly documents the activities planned in order to reorganize the Nation. In it the new Junta proclaimed to,

Restore the core values that underpin the comprehensive management of the State, emphasizing the sense of morality, competence, and efficiency necessary to rebuild the content and the image of the nation. Eradicate subversion and promote economic development of national life based on balance and responsible for different sectors to ensure the subsequent establishment of a republican, representative and federal democracy, adapted to the reality and demands of settlement and progress of the Argentine people. (Acta Junta 29.3.1976; Art. 1; cited in Sentencia 2010: 223)

Previous judgements in Argentina (e.g. Sentencia 1985, 2010) have already proven the systematic plan that was announced in the ‘Process of National Reorganization’ and realized by the promoted war against subversion, with all the practical implications of systematically organized secret detention centres, death lists, torture, and other forms of persecution of apparently ‘subversive’ men, women, and children. As such, the Junta’s ‘intention’ behind the terror is hard to deny and seldom an obstacle when it comes to juridical discussions of genocide.

## **Groups**

A more controversial aspect is concerned with the narrow definition of the persecuted subjects. Victims addressed by the convention have to belong to either ‘national, ethnical, racial or religious groups’, which limits its applicability to clearly defined entities, excluding the right for criminal prosecution for genocide in cases of the persecution of political or social groups as well as other societal collectives such as

tribal entities. Hence, even though genocide is the ‘destruction of people on the basis of their group identity’ (Jones 2011:424), the definition of group identity is regularly a central obstacle in trials for genocide just as it is for lawyers and judges who aim to convict perpetrators for genocide in Argentina.

If linked by anything at all, the persecuted individuals said to form part of the ‘subversive’ group during the 1970s in Argentina are connected by shared socio-cultural and political beliefs and revolutionary ideology in a just and more equal distribution of economic power and political rights. As these demands are of a political nature, the international convention does not encompass the case. However, as I will show in the following examples, the definition of group membership recognized in the convention has been met by other criteria (such as ‘a national group in part’) (Interview Feierstein 2010) and might be countered by the evolution of the term or by other legal precedents.

Historically the definition and especially the question of ‘groupness’ were subject to long and politically heated discussion. Based on Lemkin’s definition of genocide as a crime to involve ‘a coordinated plan of different actions aiming at the destruction of essential foundations of life of national groups, with the aim of annihilating the groups themselves’ (Lemkin 1944:79), the UN General Assembly first passed Resolution 96(I) of 11.12.1946, the first international draft document on the crime of genocide (Hinton & O’Neill 2009:2). This document still included both, ‘political groups’ and persecution for ‘political motives’ (UNGA 1946).<sup>51</sup>

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<sup>51</sup> Genocide is the denial of the right to existence of entire human groups, as homicide is the denial of the right to life of individual human beings. [...] Many instances of such crimes of genocide have

By the time the United Nations General Assembly agreed upon the wording of the Genocide Convention, only four, namely national, ethnic, racial and religious, groups remained in the text, restricting thereby drastically the scope of potential victims to whom the figure of genocide is applicable. Political groups or social collectives were excluded from the treaty for reasons that can be attributed to political motives of some countries (such as the Soviet Union) nervous about the potential application of the Convention to Soviet Crimes (see Jones 2011; Schabas 2000, 2007 for a differing reasoning; Shaw 2007). The exclusion of political groups is to many genocide scholars ‘the Convention’s greatest oversight’ (Jones 2011: 15).

The restrictive definition of groups laid out in the Genocide Convention has been criticized from a variety of angles. Legally, scholars, advocates, and judges have largely questioned the compliance of the convention with the juridical principle of equality, which demands that ‘all are equal before the law and are entitled without any discrimination to equal protection of the law’ (UDHR 1948:Art.7). Daniel Feierstein explained to me the problem of the restricted definition of groups this way:

It would be like saying [what classifies as] murder is the killing of tall people but not that of small ones. Or the killing of fat people, but not that of the thin. It is a legal absurdity, you cannot do that, no judge is allowed to accept it, right? Because it violates the principle of equality before law. So it is wrong, even though it says so in the convention. The annihilation of a group is a crime, no matter which group is being annihilated. (Interview Feierstein 2010)

While the Convention is drafted in a way that does not comply with the basic principle of equality, juridical persons are obliged to bring evidence that makes their accused

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occurred, when racial, religious, political and other groups have been destroyed, entirely or in part’ (Kuper 1981:23).

crimes recognizable as one of those recognized in the definition (or else to effectively argue against the definition itself). Hence, as is characteristic of cosmopolitan law, the question of whether genocide is *a* – or even *the* – legitimate term for a crime is object to effective judicial interpretation.

For the last quarter of a century, academics have repeatedly addressed the question and presented alternative definitions for groups and group persecutions. One of them, first coined by the historian Steven Katz in 1994 and later adopted by Adam Jones offers a definition that responds to the above-mentioned critique but at the same time manages to keep close to the international definition of the UNCG: ‘[Genocide is] the actualization of the intent, however successfully carried out, to murder in whole or in part any national, ethnic, racial, religious, political, social, gender or economic group, as these groups are defined by the perpetrator, by whatever means’ (Jones 2011:18).

Just as the definition put forth in the UNCG, this alternative one recognizes the intention as the core characteristic of genocide, referring to an organized and systematic plan of persecution of a group or collective, but also makes use of a more fluid and experience-near approach to identify the affected collectives.

The discipline of anthropology with its ability to address the individual as well as the collective is specifically well facilitated with analytical tools to examine the topic of ‘groups’ by adding to the discussion knowledge concerning the fluidity, openness, inner heterogeneity and the need for a recognized ‘other’ to successfully establish a ‘we’ (Baumann & Gingrich 2004). Equally, Alexander Hinton argues that ‘anthropologists’ insights about the construction of ethnicity and other group identities

are of direct relevance to our understanding of mass atrocities' (Hinton 2002:10), an insight that I stress with my argument on genocide.

From the point of view of genocidal regimes and perpetrators of mass murder 'an identifiable group as victim' (Kuper 1981:67) is of central importance to the performance of intended annihilation. Genocidal regimes that aim at the destruction of an apparently hostile group therefore need to construct, essentialize and propagate socio-political categories. This process of formally homogenizing and stipulating (collective) identity – or 'manufacturing difference' (Hinton 2005) – thus crystallizes disparity as it methodologically and imaginatively eradicates all kinds of what normally are more complex and fluid forms of identity (see Hinton 2005:211).<sup>52</sup> From this analysis one can conclude that any prosecuted 'group' is, just like Adam Jones explains in his definition of genocide, not a natural entity but constructed as such by the perpetrator.

A rare case example from Rwanda shows, that the possibility of the recognition of genocide on the grounds of a new definition of groups is possible if only willingness is given. In a judgement from the International Criminal Tribunal for Rwanda (ICTR) Judge Laïty Kama argued that the Genocide Convention excludes the fluidity, openness, and constructed character of ethnic and other collective identities and fails to recognize the fact that all too often 'membership' and 'identity' are defined as such by the perpetrator (see ICTR 1998).

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<sup>52</sup> Most genocides are characterized by at least three key primes: First, a deep structural division of the society that maintains or constructs a clearly identifiable group of victims. Second, a legitimizing hate-ideology. And third, a severe breakdown in moral restraints (see Kuper 1981, Hinton 2002:14).



To support their argument, judges from the ICTR point to the influence the media had in the process of what Hinton has described as ‘genocidal priming’ (Hinton 2005) before and during the attempted annihilation of the Tutsi-minority in Rwanda. This process includes the stereotyping, marking, organizing, mythmaking and the bodily inscription of difference (Hinton 2005:211). A clear distinction between good and evil, friend and enemy, true citizen and traitor has to be drawn by genocidal regimes in order to ‘justify’ and ‘legitimate’ mass persecution and extermination. This provocation of a ‘Manichaeian discourse of cultural differences’ (Robben 2010:6), that draws a strong division between good and evil, can also be found in Argentina built upon the term ‘subversion’. For example, the qualities attributed to ‘subversives’, Ferreira informs us, ‘were as diverse as: atheist, stateless, Freudian, pro-abortion, enemy of the family institution and, in general, anyone lacking in national spirit (an enigmatic trait potentially applicable to anyone)’ (Ferreira 2013:5). What results from this analysis is the somehow ironic insight that a totalitarian state that intends to destroy a ‘group’ first has to create and make visible the very group they target. Taking this insight yet another step further, the case of H.I.J.O.S. shows that this intention is now subverted by the second generation in Argentina. And so, the violence that targeted a ‘supposed group’ ended up creating one in its aftermath.

### **Argentina and the Frame of Genocide**

While social scientists and many legal scholars agree upon the flaws and irregularities of the Genocide Convention, the definition of ‘groups’ is still the most common obstacles in trials for genocide. Within the discussion, Argentine courts contribute to the discussion in new ways, and creatively offer alternative possibilities for ‘trials of genocide’.

Starting 2006, nation wide trials for human rights violations give some legal support to the awareness and classification of the genocidal character of the violence in Argentina. With the precursor of the ‘Argentine Nüremberg’ in 1985 and the important trial against ex-naval Captain Scilingo in Spain, many current trials in Argentina evoke the legal figure of genocide. So far, no trial resulted in a conviction for the crime of genocide, but the sentences repeatedly recognize the genocidal character of the crimes and incorporate the context of genocide into their reasons and explanatory statements<sup>2</sup>.

Especially the case of Miguel Osvaldo Etchecolatz and Christian Von Wernich brought about a juridical novelty. Hearings of both cases held at the Federal Court of La Plata were the first two trials that reached judgements after the derogation of the amnesty laws. The judgements showed the new role of tribunals in writing history, putting responsibility into the right place, and changing the course of collective memory in Argentina. With their ruling, the judgement had decisive impact on subsequent legal developments and was since repeated in a number of trials all over Argentina (e.g. see the ‘Videla Case’ in Cordoba in 2011; Sentencia 2011).

So what had happened? On 20 June 2006, the trial against Miguel Osvaldo Etchecolatz, former Argentine Head of Police in greater Buenos Aires and commander of various clandestine detention centres, opened at the Federal Criminal Court Nr.1 of La Plata. This was not the first trial against the former police commander. In 1986, Miguel Etchecolatz had already been sentenced to 23 years in prison. But the judgement, together with those of many other convicted perpetrators, was vacated in June 1987 by application of the Due Obedience Law (Méndez & HRW

1991:36+37). Now, in 2006, Etchecolatz was accused of the crime of wilful homicide, illegal deprivation of liberty, and the application of torture. The tribunal, comprising of Judge Carlos Alberto Rozanski, Norberto Lorenzo and Horacio Alfredo Isaurralde, delivered its verdict three months later.

The judges held 77-year-old Miguel Osvaldo Etchecolatz legally responsible in all cases and sentenced him to imprisonment for life in a public prison. Additionally, the judgement constituted a precedent, when it stated about the crimes, ‘All of these [are classified as] crimes against humanity committed in the frame of the genocide that took place in the Republic of Argentina from 1976–1983’ (Verdict 2006, Sentencia 2006).<sup>53</sup>

On a societal level, this judgement was remarkable. And so, on 20 September 2006, the daily newspaper *Clarín* wrote: ‘For the first time, a jury constitutes, that these crimes were committed ‘in the frame of the genocide that was perpetrated in Argentina between 1976 and 1983’. This means, that these crimes were part of a systematic plan of extermination’ (Lara 2006). In order to understand how the tribunal arrived at the sentence, it is necessary to look at the reasons given for the judgement, wherein the judges devote a large part of the text to the discussion of genocide and group-consciousness, with arguments ranging from legal documents and former trials to social scientific and philosophical understandings of genocide.

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<sup>53</sup> In both, the trial against Etchecolatz and Von Wernich, the judgements reads: ‘...these crimes were committed ‘in the frame of the genocide perpetrated in Argentina during the years 1976 and 1983’’ (Verdict 2006, Sentencia 2007)

Judge Rozanski starts with Resolution 96(I) of 11.12.1946, the first international draft document on the crime of genocide, which still included both ‘political groups’ and persecution for ‘political motives’ (UNGA 1946). He then devotes two pages on the trials initiated in Spain by Baltasar Garzón, who that time argued for the recognition of the Argentine state terror as genocide. Subsequently, Judge Rosanzki recalls the 1985 Trial against the Juntas (Sentencia 1985), in which the system that was put in practice was legally recognized as substantially the same throughout the Argentine territory and as being prolonged in time and enacted in a generalized form right from the very start (Sentencia 2006: 262). In the judgement he also makes use of other sources such as the CONADEP truth report (CONADEP 2011) and the ‘trials for truth’ to give credence to his main argument: The crimes committed in the context of the military regime all form part of a systematic and organized plan of extermination of a specific part of the Argentine society with the attempt of reorganizing society economically and socially. Seeing history that way, the judges conclude that accordingly it is an ‘ethical and juridical obligation to recognize that a genocide took place in Argentina’ (Sentencia 2006: 256). Therefore, they insist that the legal recognition of that ‘context’ in the judgement as a truth ‘is of decisive importance for the construction of the collective memory’ (Sentencia 2006: 256).

For H.I.J.O.S. the Etchecolatz trial was a fascinating experience and one that showed that their understanding of the past was finally recognized officially. As an important figure, Miguel Etchecolatz was always on H.I.J.O.S.’ radar. At various times, the children had organized Escrachas against the perpetrator and thus shed light on the unjust state of impunity that protected the former head of police. These protest marches were met with repression and violent resistance and thus showed the still

intact power of the murderer. To them, the conviction of Etchecolatz was therefore of particular importance. Additionally, the symbolic condemnation of the crimes of the armed forces encouraged the young generation to pursue their goal of trials for genocide.

But even though the trial and its judgement gave hope and encouragement to H.I.J.O.S. and human rights groups to further pursue justice, the process equally brought about the worst of H.I.J.O.S.' experiences with the continuity of violence. Activists have expressed at various times why it is important to bring to justice those former repressors and torturers. A true democracy, they say, can only build upon justice and efficient punishment of crimes. Otherwise the patterns of violence will continue. The Escrache against Etchecolatz that was met with extreme violence by the police forces had already exemplified the continuity of terror and the unbroken power of the armed forces. But now, the trial against Etchecolatz was the first legal event to demonstrate the continuity of genocidal practices. On 17 September 2006, Julio Lopez, former detention victim and one of the main witnesses did not attend the hearings. Since that day, Lopez – for the second time – is disappeared. With no knowledge of his whereabouts, Lopez has turned into an important symbol for human rights groups who still demand his 'alive appearance' and investigations about his destiny. With Lopez' disappearance, the trial was the first to show the continuity of repression in its most feared way.

But let me return to the frame of genocide. Judge Rosanzki who on 19 September 2006 had delivered the verdict against Etchecolatz repeated his judicio-symbolic compromise of the 'frame of genocide' in the 'von Wernich' judgement (Sentencia

2007). In 2007, the Catholic priest Christian von Wernich was convicted for his complicity in the crime of torture, arbitrary arrest, and extra-judicial execution. To bolster their conviction that these crimes had been committed ‘in the frame of the Argentine genocide’, the judges this time used the work of the Argentine social scientists Daniel Feierstein and Mirta Mántaras. The argument concludes that the persecuted ‘group’ in question, ‘did not in fact exist beforehand, but was constructed by the agents of repression themselves to include any individual who opposed the economic plan brought in by the military or was suspected of seeking to obstruct the aims of the government’ (Sentencia 2007 cited in Soledad Catoggio 2010:16). In this way, the anthropological theoretical notion of ‘manufactured’ or ‘constructed’ group identities as an alternative way of defining groups in genocide entered the juridical proceedings in Argentina.

The declarations of ‘the frame of genocide’ in the Etchecolatz and Von Wernich judgements are valid for the historical memory. Juan Méndez, former political prisoner and victim of torture in Argentina from 1975 to 1977 and today President of the International Center for Transitional Justice and UN Special Adviser to the Secretary-General on the Prevention of Genocide, commented on the La Plata judgements with enthusiasm:

The ‘Etchecolatz’ and ‘von Wernich’ judgements represent a good evolution. They were not found guilty of genocide but of crimes ‘in the context of a genocide’. For the penalty this ‘context’ will not affect anything. But the judgements achieve recognition of the character of the repression in Argentina. To give it the name genocide, valid within the Argentine law although not for international law, will amend a tendency, and one day, one will be able to use it. (Méndez in Pagina12, 4.11.2007)

But while Méndez points out the symbolic importance and juridical potential of the judgement, others are more critical of the sentence. Coming from a juridical background, for Carlos Slepoy the judgement is less than satisfying. When we met the topic in our talks in Spain, Carlos Slepoy asked me, ‘What does that mean, a ‘frame of genocide’? Genocide is not a frame, it’s not a context: it is a crime!’ (Interview Slepoy 2012). If what happened in Argentina was a case of genocide, a belief Slepoy is convinced of, then legal institutions are responsible to recognize its criminal character. And so he concluded, ‘So why not try them for genocide?’.

### **How to Argue Genocide? Obstacles and Advances**

The ‘Etchecolatz’ and ‘von Wernich’ judgements already display a number of arguments that legitimate an understanding of the past as genocide and made Argentine trials the locus for contesting historical narratives. The topic of genocide is high on the list of the historical ambiguities negotiated during post-transitional retributive justice efforts. Since the important precedents of symbolic historical truth making in the Etchecolatz and Von Wernich cases, genocide has regularly been an integral part of current legal proceedings in Argentina. Judges, plaintiffs and lawyers fight for trials and convictions for genocide, just as H.I.J.O.S. had wished for with their announcement in the year 2000 (H.I.J.O.S. 2000a). Nowadays, most judgements and verdicts of the trials dedicate specific sections to the topic of genocide. These sections are substantial in the cases I followed in my research and reach from 30 to 80 pages, with patterns of arguments throughout these different juridical rulings. So why, one could ask, are there still no judgements for genocide? What are the legal obstacles that hinder these convictions?

## Legal Premises

The technical explanation most commonly recited in answer to these questions stresses the absence of ‘genocide’ from the Argentine penal code (1984). In 1956, Argentina ratified the UN Genocide Convention and, with the 1994 revision of the Argentine Constitution, international law (including explicitly the Genocide Convention) has reached official status as given ‘higher hierarchy than laws’ (Constitution 1994; par. 22). However, the international crime of genocide is not as yet translated into the national penal code, making it ‘risky’ to use the figure in national criminal proceedings (Interview Iud 2011). But while this is true, it would not make it impossible to convict the perpetrators for genocide.

Calling the crimes genocide or crimes against humanity does not change the deeds for which they are tried. They don’t change. They have their classification in the penal code, for example homicide. So they don’t change. What changes are the criminals that we can include and convict, those who contributed, who supported the crimes – such as the church, Judges, or the big economic firms. (Interview Judge 2011, Sentencia 2010a)

Secured in the Vienna Convention, international law and the principle of universal jurisdiction are directly applicable, and national criminal courts can exercise trials for genocide (equally to crimes against humanity). Thus, because the Genocide Convention is included in the Argentine Constitution, it could potentially serve as a viable instrument (Constitution 1994). Research has shown that genocide is however not the only legal figure excluded from Argentina’s Penal Code, but that crimes against humanity are equally absent from the document. What differentiates the two is the Congress’s classification and Judge Cavallo’s ruling in 2005 that declared crimes of the last military dictatorship as crimes against humanity (Sentencia 2005). This gives legitimation to the application of the figure, but it does not change the



regulations of the Panel Code, in which are neither included crimes against humanity nor genocide (Argentine Penal Code 1984). Thus, technically, it is possible to open trials for genocide, even if the specific crime is not detailed in the national penal code. Why then would judges classify these crimes as crimes against humanity rather than genocide?

Crimes against humanity treat individuals, whereas genocide attempts to annihilate a collective or group, making it more complicated to argue and work the trials. ‘Genocide trials would imply arguing for crimes against a collective, something of little custom in Argentina. It is more secure to aim for convictions in specific cases than to try for a crime of that magnitude’ (Interview Judge 2011).

Set aside the ‘risk’ in striving for such convictions, the definition of groups that already formed part of Rosanzki’s argumentative foundation is still the central obstacle for those willing to apply the international convention of genocide in Argentina. Let me recapitulate briefly the definition of genocide before I go into discussing further specific examples to illustrate current judicial conversations:

In the present Convention, genocide means any of the following acts committed with intent **to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:**

- a. Killing members of the group
  - b. Causing serious bodily or mental harm to members of the group
  - c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part
  - d. Imposing measures intended to prevent births within the group
  - e. Forcibly transferring children of the group to another group
- (UNCG 1948; Art.2).

Restricted to ethnic, national, religious, and racial groups, the Convention excludes any other (social, cultural, or political) affected group from the right to call on the Genocide Convention in order to try the crime inflicted upon them. To nevertheless use the Genocide Convention, judges and lawyers argue in a variety of ways: One way is to classify the affected victim group as a ‘political group’ and to argue historically with earlier writings and documents in which political groups and ‘political reasons’ were still considered legitimate grounds on which to judge a crime as genocide (such as has been done in the Etchecolatz judgement). Such strategy however is complicated as the current phrasing of the Genocide Convention fails to provide grounds for possible convictions.

Those who seek recognition of genocide as a crime rather than a context therefore more often argue that the group annihilated was ‘part of the national group’ which ‘did not exist beforehand but was ‘as such defined by the perpetrators’. To follow this argumentation, what needs to be proven is that the ‘part of the national group’ that was annihilated was ‘substantial’. Substantial, in turn, is not necessarily judged by quantity but rather by the impact of the (intended) extermination. And so H.I.J.O.S. lawyer Emilio argued in the Jefatura trial,

What they were looking for was not the elimination of Montoneros, ERP or other determined political organizations. They were looking for the elimination and demobilization of an entire generation of Argentines, who, even though they did not share an ideology, were united by commitment to solidarity, the inclusion of all Argentines, and a critical thinking towards the course the country was taking. [...]

With these lines we want to reaffirm our position that the real group of victims of the genocide in Argentina was the national group of Argentines who suffered a substantial modification of the national group via the elimination of one part of its members and the shadow of terror that befell the remainder. In this the practice of forced disappearance played a most important role, as we will show

in relation to the psychosocial effects of the practice. (Final speech Querella 2011)

Seeking convictions for genocide sometimes imply yet another legal obstacle. The mega-trial ‘Plan sistemático – Robo de Bebés’, with its opening session in March 2011, treated the illegal abduction and theft of children of the disappeared. Months earlier, H.I.J.O.S. Capital already announced on its website: ‘This systematic plan of appropriation of minors, which took place during the bloodiest dictatorship that Argentina had to endure, is one of the motives, even though not the only one, to confirm that in Argentina took place a genocide’ (Hijos-capital, 5.4.2011).

Article 2/e of the Genocide Convention states, ‘(Genocide means) e. forcibly transferring children of the group to another group’ (UNCG 1948), which gave me the confidence to prominently see the trial once again display genocide during its hearings or in the judgement. During my interview with Alan Iud, one of *Abuelas*’ lawyers, I was cautioned about my expectations.

Certainly, what happened was genocide. But to reach judgement for genocide, in this case, you also have to prove the perpetrator ‘group’. The convention reads, ‘from one group to another’. So who is the other group? It’s very complicated. (Interview Iud 2011)

As can be seen, the Argentine legal situation displays many complex and contradicting reasons of why judges, the ‘*querella*’ (private attorneys), lawyers and prosecutors do or do not plead for genocide. Thus, while the National Federal Courts continue to be the locus of negotiations about justice, convictions and the recognition of genocide, judgements, recordings, and separate opinions of these proceedings continue to enrich the materiality of juridical evidence, widening thereby the historical demand of responsibility. Thus, the struggle to obtain judgements for genocide is still

on-going in Argentina and the practices, proceedings, and experiences gained for the hearings and judgements delivered so far show that current legal negotiations have a wider impact not only locally but also on the international level.

### **Challenging International Definitions**

In Argentina, judgements, accusations, and separate juridical opinions continue to contribute to national historical re-construction. However, the local (or national in this case) context is not the only one of relevance and concern. In 1992, Sally Engle Merry opened her influential article ‘Anthropology, Law, and Transnational Processes’ with the following line:

In the past, anthropologists looking at legal phenomena tended to restrict the context of analysis to the local situation. Now, however, national and international contexts are increasingly important in developing theoretical understandings of local situations, particularly as research demonstrates how the law of the nation-state and even international regulations have penetrated and shaped local social arenas. (Merry 1992:357)

Doing anthropological research 20 years later, I want to emphasize and support the above said and direct my own work from an investigation into the local towards the incorporation of international phenomena and places influential to the Argentine situation.

Due to the effects of customary law, current developments in Argentina’s juridical practice also impact legal norms and practices on an international level. The Genocide Convention is a good example of that. The definition of groups, as I have explained before, provides recurring obstacles to the use and application of the convention. Political discussion over the inclusion or exclusion of social and political groups, as well as the question of redefining the term ‘group’ itself is thus a persistent global

phenomenon. Argentina, currently ‘the biggest criminal tribunal of the world’ (Interview Ollé 2012) also contributes to these discussions with its variety of innovative judicial practices.

A good example to illustrate these connections is the case of Ricardo Miguel ‘Angel’ Cavallo, who was detained in Mexico, accused in Spain and tried in Argentina. In autumn of 2000, Carlos Slepoy was on vacation in Almería when he received a call from Mexico. On the phone was a survivor of the secret detention centre ESMA: ‘We identified Cavallo!’. The survivor who suffered under Navy officer Ricardo Miguel ‘Angel’ Cavallo, a perpetrator actively involved in death flights, torture, murder and in the kidnapping of babies in the secret detention centre ESMA (Garzón & Romero 2008), had recognized the perpetrator when he appeared on television in Mexico as representative of RENAVE, the powerful *Registro Nacional de Vehículos* (National Registry of Vehicles) that he was working for. After contacting the advocate Slepoy, the Spanish-Argentine lawyer immediately took a train to return to Madrid to contact Judge Guillermo Ruide Polanco in order to issue an arrest warrant.

A few days later, after days of intense work and constant fear that Cavallo would leave Mexico, Carlos Slepoy finally sent an arrest warrant to Mexico based on a long list of crimes that Cavallo was accused of. By good fortune and yet another legal trajectory, Ricardo Cavallo, who had intended to flee from Mexico to Argentina, was arrested in Cancun by INTERPOL. Once detained, a three-year juridical process and negotiations with Mexico started, in which accountability agents pleaded for the extradition of the torturer to Spain. There a trial was initiated against him under the principle of universal jurisdiction. Finally, in 2003, as an important precedent, the

Mexican Supreme Court agreed on extradition and Ricardo Miguel Cavallo was transferred to Madrid to stand trial (Extradition Cavallo 2003). At that point, members of H.I.J.O.S. Madrid presented themselves as one of the prosecuting parties of the trial. In our group discussion they told me,

It was amazing, because it was a possibility to support [the justice process]. [Some of us] had personal links to the case, but even if there weren't any, we would have participated in the trial anyways. Because to seek justice is part of the objectives of H.I.J.O.S. (Interview Peer Group H.I.J.O.S. Madrid 2012)

With the help of H.I.J.O.S., *Abuelas*, and hundreds of individuals, who gave testimony and gathered evidence, the trial was opened in 2005. But even though everything was prepared, Cavallo was never convicted in Spain. With national criminal prosecutions starting in Argentina, Argentine advocates and judges again asked for the extradition of the perpetrator. Hence, after five years of preventive detention in Mexico and Spain, the torturer Cavallo was yet again transferred, this time in order to stand trial in his own country. In Argentina, Ricardo 'Angel' Cavallo as one of 18 perpetrators accused for gross human rights violations, was included into the Mega-Causa ESMA Nr.1 where he was tried for illegal deprivation of liberty, homicide, torture, and theft. In 2011, after nearly two years of hearings, the tribunal delivered its judgement. It considered Cavallo to be the legally responsible co-author in all cases and convicted him to imprisonment for life, lifelong occupational ban and for legal accessory and costs (Verdict 2011). Today, Ricardo Miguel Cavallo serves his sentence in a public prison in Buenos Aires.

Far from reducing the case to a national criminal proceeding, the 2000 pages long judgement of the ESMA trials additionally, and probably less expectedly, showed its intention of reworking the global, as the judges pleaded:

‘Liberating: A petition to the Supreme Court of Justice, enclosing a certified copy of the grounds of this judgement, to the effect that they send applications to the other branches of the government, before the relevant international organizations, postulating the inclusion of political persecution as grounds for genocide in the respective Convention.’ (Verdict 2011; Sentencia 2011)

With the conviction of Ricardo Miguel ‘Angel’ Cavallo, his extradition from Mexico, the use of universal jurisdiction, and the potential impact of the judgement on the international Genocide Convention, the legal proceedings came full circle. Believing in justice and the important role of the trials unfolding in Argentina, judges announce their wish to rework the international Genocide Convention. And so the judgement of the ESMA trial announced what was later repeated in the national newspapers:

Another piece of data, maybe less expected, was a petition asking the National Supreme Court of Justice to promote before International Justice Organizations the inclusion of the figure of those politically persecuted into the international crime of genocide. (Pagina12, Dandan 27.11.2011)

Another example of that kind comes from the Romero Niklison trial, that I followed in Tucumán. There, Emilio, son of disappeared parents, lawyer and member of H.I.J.O.S. Tucumán, as the counsel for the prosecution pleaded for a conviction for genocide. In the end, the sentence by the vote of two to one was for crimes against humanity. But the reasons for the judgement devoted 53 pages to the topic of genocide, explaining in detail the tribunal’s decision against a judgement of genocide. In conclusion, the judges state that the crimes committed are *Conductas genocidas no tipificadas* (Non-typified genocidal conducts) and wrote:

This tribunal recognizes the degree of the reproach of the committed crimes against the victims to be the same as that of those activities that are classified in the UN Convention with the international tipification of the crime of genocide. In that sense they constitute genocidal practices and, similarly, its immediate authors are clearly *genocidaires* in the frame of a non-juridical definition of genocide. But, [...] the tribunal understands that the victims cannot be included

into any given category of the groups, which are typified in the legal figure.  
(Sentencia 2011a)

While the recognition of genocidal practices is a symbolic judgement in itself, the tribunal did not leave its remarks on the issue there. Instead, the Judges continued that, ‘it would be highly recommendable if a formal amendment to the Convention would take place to include political groups. [...] Such strategies would especially in Latin America allow to legally reconstitute in a more just range the crimes committed in the course of its dictatorships of the last third of the 20th century’ (Sentencia 2010: 381).

Argentine trials, their judgements, separate opinions, and witness testimonies impact the way international law is implemented, understood, and applied. As such, the court proceedings and law understood as social process (Dembour & Kelly 2007) take impact on the global flow of justice in the expanding *judicioscapes* of cosmopolitan law and pose an example of what the Comaroffs called ‘Theory from the South’. The ‘periphery’ from the global South (in this case Argentina) with its discussion and redefinition of political groups and genocide creates a new form of cosmopolitan law and global proceedings of international justice. Thus, very local practices enmeshed with global regimes of human rights have the power to change the space of justice and – understood as social practice – show the transformability of international human rights law through concrete practices. Whether or not the Argentine recommendations will be taken up by the international community or whether finally there will be a judgement for genocide in Argentina is still to be awaited. But precedents have been made and it will be fascinating to follow these processes in the future.



## Conclusion

People often say that the past should be left in the past. But the past is not history, it is 'our history', and those responsible are not 'disappeared'. They live amongst us. (Fieldnotes 2011)

H.I.J.O.S., civil society and human rights movements, writers such as Alipio Paoletti, and lawyers like Carlos Slepoy all contribute to the growing historical narrative of genocide. National courtrooms as the most recent locus of justice currently show the strongest impact in changing Argentina's understanding of its past, as these local juridical proceedings contribute to the historical truth production by means of a specific representation of the past. In an interview in the newspaper Pagina12 Daniel Feierstein argues, 'Law is as much the possibility for punishment as it is the possibility to construct a discourse of truth' (O'Donnell 2007). In so doing he repeats Foucault's notion of the law as the 'producer of truth' (1993), a claim that was supported by the sentence of the federal court of La Plata in 2006 where 'genocide' first appeared in a national judgement against the military dictatorship (Verdict 2006). This and other judgements and the many juridical opinions that discuss the classification of the crimes on trial have now given the social struggle a legal foundation.

Following Daniel Feierstein's work on the social practices of genocide, I provided insight into the political operation of human rights discourses on a local level. Much has been written on the 'construction of groups' as a necessary means of genocide. Some investigations and publications have pointed out the dangers of a genocide discourse (both in the social context and in jurisdiction). The difficulties of painting black and white pictures, that exclude people from the grey zone and eliminate all dynamic and fluid positions, often fail to satisfy a nation's need in reconciling with

the past. In this thesis I attend to yet another effect emerging from the claims of justice in the frame of genocide.

Even though legal constraints arise from the definition of genocide, the recognition of the past as genocide is important to H.I.J.O.S. for two reasons: Firstly, legally this recognition will allow for prosecutions of collaborators, supporters, and other perpetrators involved in the genocide. This representation of the past therefore provides social and symbolic capital for the post terror generation and allows turning their traumatic memories into productive social struggle for justice. Secondly, H.I.J.O.S.' project to recover their parents' political agency and the ideals that guided their struggle is supported by a discourse of genocide that recognizes them and *hijos* themselves as a group with the same heritage. In the process the new memory narrative diverts the focus on 'subversives' or armed guerrilla fighters and puts their social struggle in the middle. The new frame of genocide and the connected reinvention of political group identities thus impact the second generation's belonging.

These aspects of transitional justice only become visible during research into the long-term effects of practices of justice and memory politics, where members of H.I.J.O.S. show all signs of 'groupness', or even 'ethnicity' or 'kin'. They managed to build belonging through their collective and sustained activism. While the Military Junta with its genocidal practices has annihilated a 'group' that has not existed beforehand and was determined by the perpetrators, the active formation of collective belonging through practices and counter narratives enabled the political kin-group to claim ownership of justice.

The practices of justice that I presented in this chapter have shown the flexible use and ‘vernacularization’ of resistance strategies in Argentina. The dynamic and changeable application of international juridical tools and legal human rights documents are in that sense to be seen as tools that are employed if, and at times when, it is suitable (or possible), and in cases where their applicability strengthens the practices of the struggle. Furthermore, such analysis showed the moral discourse of responsibility does not depend on these notions. Justice, as described with the metaphor of ‘the mirror’ by Clarke and Goodale (2007), is not as a normative concept but a way of discursive meaning making that draws on social practice and is best understood as an expression of the ‘presence of absence’ that provides the motor for Argentina’s continuous struggle for accountability and a better future.

## **Chapter 6: Taking Justice to Court.**

### **Performance and Contestation in Determining Guilt**

#### **Introduction**

H.I.J.O.S.' ambitious goal has always been the legal punishment of those responsible for the state terror and genocide in Argentina. Involved in post-transitional justice efforts, the organization has employed a variety of practices in order to make visible and hold accountable those responsible. At first, the post-terror generation played a crucial role in keeping up the momentum for legal punishment and jurisdiction when it used the *Escrache* as a way to socially condemn and 'out' the repressors in public. This 'street-theatre' of justice served as an alternative for as long as amnesty laws prevented agents from bringing their cases to court. Since 2005, with the reopening of nationwide trials against state-related perpetrators under the Kirchner government, members of H.I.J.O.S. changed their activities and brought their energy to court. Accordingly, *hijos* now actively participate in the legal proceedings and continue their struggle for justice as lawyers, witnesses, and plaintiffs, but also as social activists, who with the help of flyers, the Internet, and public events work towards making visible the knowledge produced during the trials.

The children of the victims produce an important part of this 'knowledge'. As central agents of current criminal proceedings and the trials in Argentina, members of H.I.J.O.S. therefore attempt to recover from absence not only justice but also their parent's political identities and their own belonging to a trans-generational 'memory community' of justice. In chapter 5, I already engaged with the topic of groups and

genocide that form a crucial part of current day judicial retributive justice efforts. I discussed the symbolic, social, and juridical effects produced in judgements, in dissenting opinions, during testimonies, and in the final speeches of the hearings of Argentina's trials for human rights violations of the last civil-military dictatorship. In this chapter, I assess the impact and on-the-ground performance of the trials and analyse the ways in which members of H.I.J.O.S. and other 'justice agents' produce a collective 'we' and group belonging in a concrete case example. Expressing the importance of this trans-generational bond in the *Jefatura Trial* – the second and so far biggest trial to have taken place in Tucumán – Emilio, lawyer for the private attorneys, opened his final speech by referring to his professional representation in this way:

It is indispensable to refer to the fact that these lawyers are the Children of a generation. A generation of people from Tucumán, who thought out a different country for us, their children.

Who, coming from different spaces, believed in politics and participation as the motor for change, for the fight against inequality and injustice, and for the construction of a better world.

Because that Tucumán, the Tucumán of our parents, was a mobilized Tucumán, a Tucumán of important trade union and guild organizations, of politicized workers, of dedicated and considerate professionals. Today we represent the voice of our parents, because we believe that to fight for Justice is a way to bring them back to memory, and to remember that these abhorrent crimes, which they and the rest of Tucumán's society fell victim to, did not happen because of the caprice or the excess of two or three demented or crazy men. They were the product of a systematic, organized plan that was thought out in all details in order to wipe out from the memory of the Tucumán people that another form of citizenry was possible; so that we were afraid to think that by participating we could change the world. (Closing statement Querrella 2011)

Then he went on, changing the temporality of his speech:

It has been an honour for us to participate in this process that already is a historical landmark for Tucumán. An honour, because this is a process with all the guaranties of the law, guarantees that the 30,000 did not have. Here today

the destiny of those four accused will be decided, those four who [...] represent the horror of the CCD Jefatura and the intricate responsibilities of the military and the police forces.

And we want to say that if this tribunal makes justice and condemns those four convicted oppressors, we would feel that it would also condemn those *verdugos* of a whole generation, because this trial is the trial of

The parents of Solana: Adriana and el Hipie

The father of Joaquin: Joaquin

The parents of Fernando: Diana and Raul

Of the mother of Pablo: Graciela

Of the father of Irene and Martin: Ramon Atilio

But it is also the trial of each and every single one of our parents. [...] And because of that we can feel that they are starting to make justice!

(Closing statement Querella 2011)

Implicit in Emilio's speech is a collective trans-generational understanding of justice.

But more than that: It also expresses a new 'we', a newly felt belonging to a memory community of victim-activists in current and former Argentina that subverts the arbitrary 'group-construction' of the military Junta. Thus, it is interesting to ask about the way this 'we' is constructed, to interrogate its similarities and differences with the group annihilated during the state terror, and to question the kind of justice that is produced as a narrative of genocide in contemporary trials in Argentina.

For my analysis of the construction of identity and memory narratives, Argentina's court proceedings, and their impact on the post-terror generation, I go to Argentina's periphery and present an example from Tucumán - the Romero Niklison trial – in which I carried out participant observation in 2011 from the opening session till the verdict. Based on that example, I argue that the trials are crucial in their transformative power, which turns the culture of terror into a space of justice, in which the human rights regime not only enables the conviction of mass murderers but also, by means of testimonies, establishes collective memory as a historical narrative in which political activists turn into a 'memory community' for their own historical

legitimacy. Furthermore, I present how the trials negotiate the contested construction of truth and justice, in which the post-terror generation engages with making visible the ‘presence of absence’ as central components of their action. In order to arrive at a contextualized understanding of the case and its impact, I additionally present Isabel’s story and experience with terror, intimately connected with the case, and ask: What are the social practices involved in the consciousness and awareness-building of responsibility, truth, memory and belonging? And, in what ways do these understandings of responsibility, guilt, and accountability translate to women like Isabel?

### **Tucumán: Place and Context**

Tucumán is the smallest Argentine province, located in the North of the country, towards the Chilean boarder. Politically, it has always been an important province, not least because the Declaration of Independence was signed in its capital, San Miguel de Tucumán, in 1816. Unfortunately, by today the province is better known for its reputation as the ‘laboratory of the dictatorship’ in which the persecution and eradication of ‘subversion’ had its starting point. The ‘annihilation decrees’ signed by Isabela Martinez de Perón in 1975 initiated the bloody ‘Operation Independence’, as the military operation against ‘terrorist bands’ was called in the North of Argentina (Recording Menendez 2011). This military operation is the reason why Tucumán was the ‘first to have housed secret detention centres even a year before they initiated the dictatorship’ (Gascó & Cúneo 2011).

Armed guerrilla forces in Tucumán were largely wiped out when the military coup d’état overthrew Isabel Perón’s government in 1976. But the new dictatorship

continued and even intensified its violent repression with disappearances and terror. For the first two years after the coup, General Domingo Bussi, who had already lead the violent 'war' against armed guerrilla movements in 1975, officially governed the mountainous area with an 'iron fist'. Under his regime, as the prosecutor in the Romero Niklison case stated, the persecution concerned all those who, 'did social work, engaged as students, workers who claimed their rights, professionals who did volunteer work for the underprivileged, liberation theologians; and then the mothers who searched for their children and those exiled who asked and plead for the end of the terror' (Final Speech 2011). Or, put another way, as the example of Isabel will show, the terror regime allowed the persecution of potentially every Argentine citizen who became suspicious to the governing Junta.

The sugar industry as the province's main means of production especially suffered economically and socially from the restructuring process and the selling-off of the nation's assets to foreign capital (Interview Gerardo 2011). Thus, the machinations of the civil-military dictatorship produced a general demographic shift, most visible by the complete disarticulation of any form of national opposition. And so, after the dictatorship and to the horrors of H.I.J.O.S. Tucumán, General Bussi was again elected as Governor in 1995, showing the strong division of a society in which terms like 'subversive' and '*zurdo*' (derogatory term for leftist) are still part of the everyday colloquial and in which '*desaparecido*' is viewed as a bad word (Fieldnotes 2011). For the children's organization, these socio-political circumstances created an unbearable context, as I illustrated with the massive threats against its members after the Escrache against the Governor/repressor Bussi (see chapter 4). It is thus not surprising that fear, ambiguities, and silence as remainder of the culture of terror are



still present in the everyday life-worlds of the citizens of Tucumán and that family members of the disappeared enduringly hesitate to make their denunciations or even remain silent about a missing loved one (Fieldnotes 2011).

Looking at the process from the outside, it is quite clear that military, paramilitary, and police forces are responsible for the terror, disappearance, and murder of thousands of Argentine citizens. Nevertheless, memories of guerrilla threat and violent attacks by revolutionary forces – such as the assault on General Viola and his family in 1974 – continue to exist as unattended but still present layers within memories in Tucumán (Interview Terraf 2011; Fieldnotes 2011). And so, in these circumstances of contradicting historical narratives and distrust in the aftermath of the *'proceso'* in Argentina, agents continue to ask the question: 'Who is responsible?'. The impact of the trials as places of certainty-production is therefore of particular importance in Tucumán as they help to excavate the memories of those, whose voices, experiences, and life stories have been concealed for a long time (see also Sanford 2003).

Since the annulment of the amnesty laws and at the time of my fieldwork, three trials had reached the hearing phase in Tucumán. The Vargas Aignasse Case was the first one with hearings starting in August 2008. Domingo Bussi and Benjamin Menéndez were those indicted in the trial, in which the general prosecutor Dr. Alfredo Terraf accused General Bussi for the illegal detention, disappearance, and murder of the politician Guillermo Claudio Vargas Aignasse (see also Guillermo's story in introduction). With the successful trial, Bussi was convicted for murder and the sentence started the process of changing the collective memory in Tucumán

(Sentencia 2008). Furthermore, the trial is of particular importance, because two years after its delivery it was the first sentence to have been confirmed by the Supreme Court (Interview Terraf 2011).

One and a half years later, the so far biggest trial held in Tucumán followed. Called ‘Jefatura 1’, it heard the crimes perpetrated in the secret detention centre, in which hundreds of ‘subversives’ were detained, tortured, and subsequently killed. Six representatives of the armed forces (both, from the police and the military) were accused in the case. In the *Jefatura* trial was also included the case of the illegal deprivation of liberty and disappearance of Dante Bordón in 1977, Isabel’s disappeared husband and close friend of Alejandra Romero Niklison, whose murder was subject of the third case in Tucumán.

When the sentence was read, only three of the defendants remained in the trial. Two alleged perpetrators had died before the proceedings came to an end and a third, Domingo Bussi, was medically unfit to stand trial (Interview Terraf 2011). And, even though Bussi is the ‘figurehead’ of political violence and terror in Tucumán, his successful exclusion from the trial did not trouble the official state prosecutor Dr. Terraf too much, because, as he said, his guilt was already determined when he was convicted a year earlier.

### **The Romero-Niklison Case**

The denominated Romero Niklison Case was the third trial for human rights violations with hearings at the Federal Criminal Court (TOF 1) in San Miguel de Tucumán. Alejandra Romero Niklison, lawyer and daughter of María Alejandra

Romero Niklison, one of the victims in the case, had brought the case to court. Compared to trials treating the crimes of secret detention centres such as ESMA1, Jefatura1, La Perla or D2 with hundreds of cases and dozens of indicted perpetrators, the Romero-Niklison Case was a small trial, in which the subject was the assassination of five Montoneros in a private home. Classified as crimes against humanity, Benjamin Luciano Menendez and Heriberto Albornoz were those accused for indirect authorship (Roxin 2006) legally responsible for the assassination of five activists in 1976.<sup>54</sup>

In a nutshell the description of the case (also obtainable at the court secretary's office) presents the following information:

On 20 May 1976, close to midday, personal of the 5th Brigade of the Infantry together with police forces launched a breach of domestic disturbance in a private house in San Miguel de Tucumán where lived María Alejandra Romero Niklison and Gerardo Alfredo Romero (parents of the plaintiff). Moments before the unlawful entry, five militants of the political-military organization Montoneros of Tucumán had met in the house, where they participated in a planning reunion for the East Zone:<sup>55</sup> María Alejandra Romero Niklison, Fernando Saavedra Lamas, (a) 'Pepo'; Juan Carlos Meneses (whose false name was Miguel Angel Gonzalez Cano, from the province of Santa Fe), Atilio Brandsen and Eduardo Gonzalez Paz, (a) 'Tomas' o 'Martin'; Joint military forces and the provincial police took the house in an assault, before that they threw explosives, entered the place, faked a violent

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<sup>54</sup> To date, Luciano Benjamin Menendez has been handed down seven life sentences for crimes against humanity on 24 July 2008, 28 August 2008, December 2009, 9 July 2010, 22 December 2010, 23 March 2011, and 5 December 2011. As former chief of the Third Army Corps and Chief of the Police in Tucumán he was the one responsible for the disappearance and murder of thousands of people in the Northern Provinces of Argentina. When he appeared in the Romero Niklison trial on 22 February 2011 he had already been convicted five times, making some members of H.I.J.O.S. question the use of renewed trials: 'I would prefer this rat stays in Jail. Why bring him to the courts all over again? He is guilty and he should stay in prison' (Interview Loli 2011). In the light of hundreds of other accused perpetrators, this, Loli concludes, would speed up the process and save resources. Nevertheless, Menendez was once again brought to court in 2011.

<sup>55</sup> In 1976 all reunions of Montoneros were clandestine as the organization was officially forbidden by governmental decree.

confrontation and assassinated all residents with shots fired from pistols. One of the occupants managed to escape the house, but he was assassinated by the same aggressors close to the nearby church; later he was identified as Fernando Saavedra Lamas. In front of the house were placed vehicles of the army, police vehicles, a large number of personnel from both forces, and many neighbours of the area.

The dead bodies of the victims were taken to the 'Jefatura' [the local Police Station] of Tucumán and from there four (three male, one female) were interred in mass graves at the Northern cemetery of this town. (Causa Romero Niklison 2011; document in the possession of the author)

More detailed, Alejandra, Gerardo, and Isabel, the only three who had actually experienced the shooting that day, recalled the whole story during their testimonies.

On 20 May 1976, in my house, my mother had met with her companions. And also my father and I were at the house. Close to midday, my father had to leave our home to meet with a companion and – well, from what he told me – I was very clingy with him. And because it was a very quick errand, he decided to take me with him. (Testimony Alejandra 2011)

So at around midday, Gerardo left the house to quickly visit a friend, taking with him his daughter Alejandra. When he returned to the house about fifteen minutes later, police and military personnel already blocked the street, and, according to his testimony, made it impossible for him to return to the house. 'Past midday, when he was returning to the house in his car, a person, a women from the barrio Etchevaria, stopped him and begged him not to commence further because, as she told him, police and military had taken the house in an assault and had killed everyone who was there' (Testimony Alejandra 2011). Describing the scene during his testimony, Gerardo recalled,

I returned, driving up the street to the North. There I saw a large quantity of soldiers. When I reached the street where I lived, a block away from my house I already saw a big group of people who were standing around. [...] So I continued and took a turn to approach my house from the other side. But there I met a soldier, in uniform, but I continued and he didn't stop me. I wanted to observe the scene, and assured myself that it really was my house. There was a

big group of neighbours standing around. I saw many soldiers and police forces (who were in civil) and I saw my house. They were taking stuff out of the house, I didn't see what, but I figured that they were taking things, stealing things. And so I left quickly. This is all I was able to observe at the place at the time. (Testimony Gerardo 2011)

Once Gerardo had verified the attack, he was overwhelmed by sadness and fear and fled the scene. 'I did not see what had happened directly, but according to what I heard, it was an execution, where they (his wife and companions) had no possibilities to defend themselves' (Testimony Gerardo 2011). Not knowing where to go for hiding, he went to the house of Isabel and Dante, who had become his trusted friends over the past years. That afternoon he sought refuge in their house in order to save his own life. Given her role in the case, Isabel was also called to give testimony and to describe her connection with the Niklisons.

I got to know the two of them when they moved to Tucumán from Santa Fe. And so we started a wonderful friendship, María Alejandra had that little baby of 18 months and I was pregnant, so we cooked together and exchanged cloths. It was a very beautiful friendship. She was at my house and we talked. But I didn't know anything about their political activism. [...] That day, past midday Toti – this is how I knew Gerardo – came to my house. He told me that they had killed Alejandra. And I didn't understand anything. And so he told me that they were members of Montoneros. (Testimony Isabel 2011)

That afternoon, when Gerardo and Alejandra were hiding in Isabel's kitchen, a helicopter circled the area constantly calling for Fitipaldi, Gerardo's undercover name. Later that day, at the break of dawn, Gerardo and Alejandra left Isabel and her family, never to return. After the assault Romero was left alone with his daughter. For the next few months they stayed undercover in Tucumán. Then it became too dangerous for the little one and so Gerardo decided to send her to her aunt in Santa Fe, where Alejandra grew up without him until the age of five when they finally met again.

But not only Gerardo's and Alejandra's lives had changed. Isabel, her three children, and her husband Dante were also caught in the violence and terror of the regime. Upon being questioned about her life after the assault, Isabel recalled in her testimony: 'After that day, I didn't hear anything about them anymore. I haven't seen them or heard from them. We were so afraid. When I heard about Alejandra's death everything changed. There was a before and an after. I was afraid and knew that we were in danger.' And then she continued,

They had killed Alejandra in 1976. And in 1977, the 7 July 1977 at two o'clock in the morning, they 'disappeared' my husband. But before that, I was the one to ask him to go to see commissar Bordón (whom she considered a distant relative and who had repeatedly offered his help), to tell him everything and to ask about Toti and Alejandra. So he went and when he returned after a long time, he told me I should not worry, everything would be ok. But that night, on 7 July 1977, they came to take him away. We were not activists; we had no political affiliation or any involvement in activism. [...] A few days after they took my husband, they came and searched my house and they also asked about my baby. They asked if my baby, the creature, my baby, was mine. Only years later I realized that they had been looking for Alejandra. (Interview Isabel 2011)

### **Questions and Verdict**

Central objectives of and questions to be answered during the trial consisted of three aspects: Firstly, it had to be determined, whether or not the killings were a 'shootout' between armed guerrilla and the military or if what happened was a deliberate assassination of five people. To answer this question, members of the court undertook an additional investigation and went to the house itself to survey the place; they read out police reports of the time and newspaper articles that claimed that a violent confrontation had taken place and large amounts of arms were found in the Romero Niklison house. Upon being asked about the apparent *enfrentamiento* (confrontation),

Gerardo said: 'It was a confrontation. But one of words and ideas, not of weapons and guns' (Testimony Gerardo 2011).

Soon, testimonies and evidence showed the lack of foundation for the claims about weapons and the apparent shootout. On the contrary, they even revealed the propaganda uses of both the media and the police reports at the time. Furthermore, medical reports clearly established that all of the victims were shot in the head or breast, turning the apparent 'shootout' into an execution. No evidence was brought to court to prove any injuries to police or military personnel nor was evidence brought to substantiate the existence of the alleged 'weapon arsenal' stored in the Romero Niklison home.

And so, the answer to the first and most important question was conclusive. The second issue concerned the question of whether to legally classify the crimes as crimes against humanity or as genocide. With a dissenting vote, the judgement was for crimes against humanity and not genocide. However, the crimes were acknowledged as of genocidal character, but due to the lack of judicial compliance with the Genocide Convention's definition of groups, the tribunal voted against a conviction for 'genocide' (for detailed analysis of that point see chapter 5/2).

Finally, and probably more important to those participating in the trial, there was the matter of the kind of conviction that the perpetrators would receive. The relevant question was whether the accused perpetrators, Albornoz and Menéndez, would have to serve their sentence in a public prison or whether they would be allowed to remain under 'house arrest'. During the Jefatura trial, Menéndez (amongst others) was

sentenced to life imprisonment in a public prison, where he stayed for seven months. However, in 2010, a review of the case before the Higher Court (*Corte de Casación*) overruled the sentence and allowed Menéndez to return home for medical reasons, where he now ‘has a good life again’. Thus, Natalia put it this way: ‘This is what we try to achieve – to put him back into prison, where he belongs!’ (Interview Natalia 2011).

As the guilt of both Albornoz and Menéndez had already been established in earlier trials, the goal was less to obtain a general conviction and more to have a judgement that would return the mass murderers to a ‘real’ prison. Conviction for ‘house arrest’, where they already spent their time during preventive detention, meant that the convicted would serve their sentences in their ‘countries’, as the luxurious houses of the upper class in Yerba Buena were called colloquially in Tucuman -- an idea less than satisfying to my informants.<sup>56</sup>

Seven weeks after the hearings had started and one day after the final piece of evidence was handed in, the tribunal delivered the verdict. In the end, the sentence delivered by Judge Gabriel Eduardo Casas, Carlos E.I. Jimenez Montilla, and José María Pérez Villalobos convicted Menéndez and Albornoz declaring,

IV) Condemn. Luciano Benjamin Menéndez of the personal conditions described in the report, to life imprisonment and absolute and perpetual disqualification, legal accessory for the time of the conviction and all costs, for being the perpetrator criminally responsible for committing crimes of violation of domicile ... double homicide aggravated by treachery and premeditated of two or more people ... typifying them as crimes against humanity

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<sup>56</sup> Yerba Buena is a quarter of San Miguel de Tucumán located at the bottom of the green mountains in the West of the city.



V) Condemn. Roberto Heriberto Alborno of the personal conditions described in the report, to life imprisonment and absolute and perpetual disqualification, legal accessory for the time of the conviction and all costs, for being the perpetrator criminally responsible for committing crimes of violation of domicile ... double homicide aggravated by treachery and premeditated of two or more people ... typifying them as crimes against humanity. ... Defer determination of the legal accessory for when it the conviction is firm, as is regarded. (Sentencia 2011a)

Much to the disappointment of my informants the judgement further declared ‘house arrest’, meaning that the perpetrators would remain in their own homes, serving their sentences until further notice.<sup>57</sup>

### **H.I.J.O.S., Trials and Justice**

(Both, truth telling and trials) can be cathartic, but they can also perpetuate conflict. They may create an ‘us v. them’ mentality, perpetuating social conflict, as in the ‘game without end’ described by Malamud-Goti (1996). (Barahona de Brito et al. 2001:36)

Set aside the juridical question and the sentence spoken, other aspects make the Romero Niklison Case specifically interesting for this research: Firstly, given the victims’ political affiliation and their assassinations without witnesses, the trial exemplifies society’s existing controversies probably more plainly than some others that could illustrate contemporary judicial processes in Argentina. Secondly, the momentum behind the trial derives from the children of the victims and demonstrates the ways in which the second generation contributes to current retributive jurisdiction and memory making. In the hearings, their testimonies formed an important part of the trial. With their narratives *hijos* discussed and recounted their experiences with

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<sup>57</sup> ‘The decision on the form of execution of the sentence of imprisonment imposed on LUCIANO BENJAMIN ROBERT MENENDEZ and HERIBERTO ALBORNOZ for the implementation phase (Book V of the C.P.P.N.), the time remaining until the method of compliance with the current preventive detention; provided the custody of the Federal Police’ (Sentencia 2011a).

‘absence’ that determined their lives. Thereby they made visible their trauma and through post memories eventually made law the locus for the creation of a new memory narrative.

In Argentina justice is certainly connected with legal accountability and punishment, or maybe the felt need ‘to determine who are the culprits and who are the victims’, as H.I.J.O.S. once put it (Fieldnotes 2011; Testimony Adolfo 2011). But even if H.I.J.O.S.’ sense of justice would not transcend the judicial verification of culpability (which in fact it does), looking at justice understood as punishment of someone’s crimes would insufficiently explain the practices and activities provoked by the term. If justice is part of the contested socio-political struggle over the past and its redemption then the question arises: Who gets to participate in the process? And, what practices are understood as just? Close analysis of place and space, voices, representation and participation help illustrate the less visible but highly effective aspects of Argentina’s post-transitional justice efforts, in which absences show their productive power.

### ***The Hearings: Performing Memories and Belonging***

Hearings of the Romero Niklison Trial started with a two hours general reading of the facts of the case, circumstances, accusation, and, based on former cases held in Argentina, some general information about genocide and crimes against humanity.<sup>58</sup> At that point, I still expected the hearings to be the presentation of evidence, with focus on eyewitnesses and material proof. But while over the next seven weeks many

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<sup>58</sup> After that the ‘private prosecutor’ brought in a complaint about Judge Lopez, asking for a vote of confidence and impartiality, the judge was later replaced by Judge Villalobos.

witnesses (none of whom had been present at the scene) told their stories and knowledge about the case, it dawned on me that very little of these testimonies really intended to provide ‘evidence’ in the strict sense of the word. What seemed to be of greater value were the emotional, personal, and contextualized stories told during the trial. These details contributed little to fact-finding, but concentrated on people, memories, and incompatible political ideals. It is therefore legitimate to ask how ‘witnesses’ give testimony and how their narratives influence the judicial process. To illustrate that point, I document some examples in detail.

For example Alejandra, daughter of one of the five victims, lawyer and main plaintiff in the case was the first to give testimony in the trial. She began with, ‘I am the daughter of Alejandra Niklison. On 20 May 1976, my mother was killed in our house here in San Miguel in Tucumán. I, in this moment, was one year and eight months old, which is why, all I will tell in this room in reference to the deeds, is product of the reconstruction that I have done during all these years thanks to the valuable testimony of my father, of neighbours, of friends, and companions who with a lot of trust told me all their memories and knowledge’ (Testimony Alejandra 2011). After that, and before recording the ‘facts’ about the sequence of events, Alejandra decided to continue her testimony with a question that surprised the Judges.

Alejandra: If you allow me, Señor Presidente, before I start conveying about the facts of the case per se, I would like to have the permission to tell in this hearing about who my mother was.

Judge: Yes?

Alejandra: Because I understand that it is necessary for us in order to comprehend what really happened that day in that house. My mother was born in Santa Fe in 9 October 1948, in a family with quite a wealthy economic background. This allowed her to undertake her studies in a private Catholic college in the city of Santa Fe. She was very diligent, very intelligent and finished her studies with a golden medal. Also, she very much liked the English

language, which is why she studied it. This allowed her to go to the United States for a year, where she bettered her English and got to know other cultures. When she returned from that journey she began her studies in pedagogy and history in Santa Fe and starting there, she approximated her militancy in the Ateneo, which was a political organization with affiliation with workers organizations and liberation theologians. At this moment, within that militancy she engaged strongly with street work. After that, she decided... ehm... well, her friends, who told me about her in this period, they wanted to tell me how she was by character: They said that she was a little bit shy, with a great sense of solidarity, who always tried to help those who needed a helping hand. But that she always did it in a subtle way, so that people wouldn't much notice that someone was helping them, was aiding them.

She got to know my father in 1972. [...] My father told me that she had very white skin, with blue eyes, and blond hair. And with these physical features she walked the streets and helped people in the strike that was expanding all over the Northern provinces. Later she started to work more locally in Tucumán, where she started numerous supports in terms of documenting and for the media of the militancy that they pursued. Also, I want to tell that they recalled from this epoch that she was a very sensitive and intuitive woman, and that she always prioritized a maternal attitude towards the people whom she was in charge of. And that she always prioritized the human condition.

But Alejandra was not the only 'child' to use this occasion to present her image of her parents. When Paula, daughter of another victim in the case, was called to the witness stand in order to speak about the influence the violence and the experiences of 'absence' had on her life, she told:

We lived together my mother, my father, and my brother Lukas. My father went to a reunion, and they said that I should stay calm and that everything is fine. And – well, he never returned. And from that moment on the family experienced persecutions, because we knew that at any time something could happen to us. And – well, I was a baby of eight months. And shortly thereafter, in a night of July – we were in one bed all three of us – and in the night they produced an '*operativo*'. They broke into our house – of course all of this my mother told me – they interrupted the intimacy of our house. They were looking for my mother, took her and carried her away. They took her that night. And, I guess, rather violently, that night, I, I don't remember, I don't remember in words. But I, I suppose I very well remember with the body, because I cannot talk about it and it hurts to imagine it. [*Crying*]

This invasion of intimacy in that night! Apart from the effect it had until today. We had never imagined it. I don't know with whom we stayed. We saw my

mother again six months later in prison. We don't know what happened these years until today. [...] My mother was imprisoned in many places, and we went to see her, regularly, until 1983, when she got out. [...] We never recovered my father's body. We still don't know where he is. For me, Tucumán is a myth, a legend. It ended to exist for me, it returns to exist now. (Testimony Paula 2011)

At the end of each testimony, Alejandra, this time in her function as legal advocate, asked the witnesses the same question: 'What do you expect from this trial?'<sup>59</sup> María, daughter of Juan Carlos answered the following way:

Most importantly, that they sanction the crime! Because it was an assassination. That's the most important.

In second place, all of this has allowed me to recover my father's picture. Because they ripped him from me. They ripped my father from my life. I suffered. I was searching all my life, so that I can begin to grasp my origin. So it's also for myself. That I can put my father in the place where he belongs, in my story and in my life. Because that is my right and they ripped that from me. And furthermore, that this will be a true proceeding, that they will write it in the books of history. That it stops being a question of opinions, of what one believes about what had happened and somebody else who is of a different opinion. I want that they judge the deed, because it was an assassination!

And I want to add something personal, that I was able to recover from letters that my father wrote, and that allowed me to recover the image of my father, his personality. Because of these letters I learnt what kind of person he was, and how he talked to his colleagues and how he thought. I was able to understand things about my father whom they ripped from me. And what I discovered in these letters is that he was an animated, blithesome person, conscious of what happened, and preoccupied about the future. Sensible, who cared about others, who was not only looking after himself. And in one of the letters to my grandparents he wrote that for all his life he would be dedicated to the cause of peace, love and justice. And for that they killed him. And this I want to see sanctioned! (Testimony María M. 2011)

The hearings of the Romero Niklison trial legally established the guilt of the perpetrators. But far from dry, purely objective legal justice, the hearings provide room for very personal testimonies. These testimonies paint pictures of the characters

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<sup>59</sup> For another example, given by Adolfo, see Chapter 1.

of the victims and *hijos*' experiences with 'absence'. Thereby, they establish political subjectivity, moral beliefs, and trans-generational belonging to a just and righteous socio-political project through testimonies. Alejandra's long description of her mother's personality and social background shows the importance of bringing back to presence the victims of the dictatorship, with all their ideals, objectives, and personalities. These kinds of reconstructions of their political and moral subjectivity help the children and those who survived to connect with those 'absent'. Furthermore, they intend to put them into a realm of 'innocent revolutionaries' whose project of a socio-political struggle for a different future is kept alive by the next generation.

In 'History on Trial' Jean and John Comaroff discuss the new connection between history, memory, and legal verifications of the past. Belonging, they argue, is established in the production of historical accounts (Comaroff & Comaroff 2012). In Argentina, the construction of partial memories as 'history writ large' equally includes testimonies and judicial sanctioning as integral aspects of truth making (see chapter 5). Various authors have so far written about the effect of testimonies, truth commissions, and trials for the belonging of victims and survivors (Comaroff & Comaroff 2012a; Sieder 2001). With the recognition and legal verification of their experiences, counter-narratives potentially turn into historical truths that, by means of the 'legal verification process', are given more weight than any other forms of memory (Robben 2010: 186).

But the children are not the only ones who take memories of suffering and trauma and turn them into evidence for recapturing a 'true' history that is ought to be remembered in Argentina. The crimes under review in current trials in Argentina took place 30

years ago. Therefore, the trials not only want to establish the truth about a specific crime, but at the same time investigate a whole epoch, a profound transformation of society, that took place during the last civil-military dictatorship. For example Isabel in her testimony put much focus on the aftermath of Alejandra's assassination, describing the effects the murder had on her and her family's life. And, even though those narratives of suffering do not provide concrete evidence, they are clearly accepted as part of the juridical testimonies and illustrate the wider impact of the 'organized plan' of the Junta.

### **Spatial Performance of Justice**

The Romero Niklison trial for human rights violations in Tucumán started on 22 February 2011. At around 11 o'clock, with the average one to two hours delay, we found ourselves inside the courtroom and the hearings began. Seated in the front were the judges presiding over the tribunal. At the centre of the room there was a chair for the witnesses, to his or her left two benches, one for each of the accused with his particular defence lawyer (even though the accused only physically attended the hearings on the first and the last day of the trial). To the right the benches for the plaintiffs, headed by the state prosecutor sitting closest to the Judges. Furthermore, the bench included the lawyers from the *querrela* (private attorneys), and their inclusion represented an optional choice of the plaintiff.

Finally, behind the balustrade that separates the room, there are rows of benches offering seats for the audience. Sitting up on the 'media' gallery behind glass in the first floor, journalists (and me the anthropologist) were allowed to record the hearings

and write notes about the proceedings. From that position, I had a good view on the spatial distribution of those who came to the hearings.



**Figure 13: Courtroom TOF1 in San Miguel de Tucumán; Romero Niklison Trial @ Seidel**

The courtroom of the Federal Criminal Court in Tucumán was already filled with people. With two rows, one behind the defence lawyers and one behind the accusers, the place turned into a spatial ‘performance of justice’ in which only one part of the story is told and only clearly defined victims are given legitimacy: The benches at the victim/accusers side were packed with people all holding photographs of the disappeared, showing their pride in ‘belonging’ to the accusing party. On the other side, the left rows, imaginary ‘reserved’ for those supporting the defendants, were completely empty.





**Figure 14: Audience of Romero Niklison Trial at TOF1 in Tucumán @ Seidel**

Throughout the next seven weeks, no one would cross the imaginary line that divided the room and was clearly ‘visible’ to anyone who participated in the hearings.<sup>60</sup> Thus demonstrating their support, the audience shaped the court into their place of ‘condemnation’ and belonging, not only verbally but also expressed in the spatial dispersion of the audience.

Additionally, two separate entrances to the courtroom further underlined the performance of ‘sides’ and ‘belonging’. The front door entrance served the general audience but also the general prosecutor, the plaintiffs and their lawyers, as well as the witnesses who all collegially share the same space in the Tucumán federal criminal court (TOF1). With the house placed at a corner, the back door is clearly separated

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<sup>60</sup> The picture was disrupted only on the day that the verdict was read. With far too many people eager to listen to the judgement, the whole space was needed and thus symbolic performative divisions were replaced by sheer amount of human rights supporters.

and furthermore made inaccessible directly by metal barriers surrounding the building's corner. Entrance to the guarded backdoor is granted only to defence lawyers, the accused, journalists (and anthropologists).

The trial's audience was made up of family members and friends of the victims, H.I.J.O.S., *Madres*, and *Familiares*, representatives of various human rights groups, employees of the *Equipo de Acompañamiento* (Team of psycho-social accompanying assistants), and journalists, as well as family members of the victims and survivors of the civil-military dictatorship. Family members and supporters of the accused, however, were far and about throughout the trial. For the whole seven weeks, this situation remained the same, with the exception of one day, when the historian Carlos Acuña arrived in Tucumán to testify about the historical context of the violent past. That day, nine relatives of Benjamin Menéndez came to listen to the hearings. With their participation, the significance of spatial separation and essentialization of 'friend' and 'enemy' categories of belonging clearly was displayed. Unlike the 'general' audience, the small group of Menéndez relatives entered the court through the backdoor, the one reserved for the accused and the media. Once in the room, the group took seats on the far left on a very small row of benches that I had not even noticed during the first few weeks of the hearings. Seating only two people at once, these rows of seats, generally associated with those belonging to the defence, are even further to the left than the large empty row that is closer to the 'human rights-supporters' rows.

The spatial performance provoked me to think about the therapeutic effect of the trials. Certainly, as I have demonstrated, the trials are '*sano*' (healthy) and many

children of the victims as well as survivors express their sensation of some kind of reparation. In terms of reconciliation between ‘victims’ and ‘perpetrators’ or those associated with either one of those ‘groups’, conclusions are to be drawn more cautiously. Too far from each other in this spatial separation, the agonistic groups of society have no common space to interact with each other or to engage in discussions of each other’s opinions. Furthermore, having to enter the courtroom through the backdoor, a relative of Menéndez told me, makes her feel like ‘an accomplice’ (Fieldnotes 2011). Hence, even with their bodies each group is forced to symbolically display its collective subject position and socio-political standpoint.

The spatial ‘performance’ and representation of justice that I exemplified with the Romero Niklison trial is not exclusive to the case or to Tucumán as such. For example trials held in Buenos Aires equally keep the imaginary division, categorizing people’s belonging to a ‘side’. The most extreme case is the AMIA courtroom, in which I did participant observation both during the ESMA trial and the trial ‘Robo de Bebés’. In it, human rights groups, survivors, witnesses, friends and families of the victims are seated in one room, which, separated by glass, is placed on the same level as the court’s participants. However, a second level or balcony above the general audience provides space for family members of the accused. Having to enter the place from a different floor of the building, the spatial separation prevents contacts and clearly marks the ‘belonging’ of everyone who intends to participate in the trials.

The symbolic line of apparent ‘victims’ and ‘perpetrators’, or morally ‘right’ and ‘wrong’ sides of history that is displayed in the courtrooms, extends into the communicative realm even outside the court. As an anthropologist interested in

learning about ‘both sides’ of the story, I thus became aware of the pitfalls of current day retributive justice efforts in Argentina. In South Africa, the Comaroffs write, the TRC was a ‘passion play in which ‘We, the People’ sought rebirth by together confronting painful memories’ (Comaroff & Comaroff 2012a: 133). In Argentina – although by juridical rather than non-judicial mechanisms – post-transitional legal proceedings resemble the promise of ‘rebirth’ and ‘reparation’ in that they constitute and legitimize a collective ‘we’ from testimonies of torture, pain, and absence. But the comparison poses questions about reconciliation and society’s ability to move forward. Compared to South Africa, the Argentine ‘We’ constitutes legitimate belonging to the ‘culture of justice’ as an exclusive category of the ‘gens’ of genocide and excludes all those ‘others’ who ‘belong’ to the military and its accomplices.

### **The Courtroom: Healing Effect or Revenge?**

The first day of the hearings I was very excited, knowing that it would be the first trial I attended from start to finish. At nine in the morning (the official opening of the trial) I arrived at the federal criminal court in Tucumán, expecting large groups of people and visual representations of human rights groups. But apart from the already prepared, separated area, I found myself alone with one soldier waiting behind the fence. I was surprised. From my experiences in other trials I had expected crowds of people demonstrating in support. Especially the organization H.I.J.O.S. with its credo, ‘The court judges them, but we all condemn them!’ regularly passes out flyers asking people to join the trials and to participate in the historical construction of justice through memory. With it they also emphasize the importance of promoting knowledge produced during the trials and propose to collectively change history through judicial findings and narratives created in the hearings.

But this time H.I.J.O.S.' activists arrived only slowly at the Federal Criminal Court. Amongst them not only H.I.J.O.S. Tucumán, but also a group of four members of H.I.J.O.S. Santa Fe, who – dressed in their 'Juicio y Castigo' T-Shirts – came to show their support. With various human rights groups present, some banners were unrolled and presented, but still, overall, no more than 50 people made up the group of the interested audience. When I later discussed my astonishment about the lack of participants with my friends from H.I.J.O.S., they told me that by now many trials had already happened and that it was getting harder to mobilize the average citizen to participate. 'When the Jefatura trial had its opening session everything was different. Hundreds of people attended the hearings' (Interview Florencia 2011). Thus, a general tiredness already occurred in society. But there was also another reason for the low participation in the trial. As Florencia pointed out, 'This trial is different: it is much more controversial. The case treats the assassination of five individuals, known to have been part of Montoneros. And Montoneros is a term still badly viewed in Tucumán' (Interview Florencia 2011).

Today, in Argentina, the recognition of the disproportionate use of violence by the military government is widely recognized on a socio-cultural level, as can be seen in street demonstrations, human rights organizations' speeches, and in the media. Newspapers using headlines such as 'The Argentine Genocide' (O'Donnell 2007) or 'Prison is the only possible place for a genocidaire [*genocida*]' (Pagina12, 8.11.2010), help underline that view. However, even though not publically treated, memories of guerrilla violence are still alive in Argentina and especially in Tucumán. And so Luz, a journalist working at 'Periodismo de Verdad', a web site labelled 'pro-military' by human rights organization in Tucumán, told me:

Unfortunately, in Argentina today you find a society completely divided. I experienced it from one side different from other people. I was a child of 16 that time but I experienced threats, there were kidnappings, bombs, fear. I think it was a war that was very sad, very violent for all of Argentina. And I think Argentina needs to reconcile. All of Argentina! I doubt that the trials will achieve that. (Interview Luz 2011)

Current local trials facilitate a narrative of the past in which are tried only and exclusively those crimes committed by state-related agents. While legally the classification is legitimate, on an emotional/personal level the differentiation between one murder and the other is felt by parts of the population as injustice and instrument of a bigger political agenda. A paradigmatic example that prosecutor Alfredo Terraf had first brought to my attention is the case of General Humberto Viola, who was attacked and killed in 1974 in Tucumán in front of his house by guerrilla combatants of ERP. With him was murdered his three year old daughter María Cristina. The family has never received condemnations, nor is it allowed to bring its case to court. Built on this often-cited case from Tucumán, Luz explained her position:

[The trials] should be for both equally. It's not just. These people think that their dead, their pain is not recognized. They never received compensations or even acknowledgment for their pain. (Interview Luz 2011)

This one-sidedness of Argentina's historical narrative and rehabilitation for victims brings up a lot of tensions and discontent and equally affects the second generation. When family members of Benjamin Menéndez came to the hearings of the Romero Niklison case, I was invited to join the group for lunch. Talking to Benjamin Menéndez' nieces Ana and Luciana, both 36 years old, they told me: 'We are the only ones alone in Tucumán. In Tucumán we don't have an organization for the children of the military. We are completely excluded; and we are tired of hearing the same stuff since 30 years' (Interview Ana 2011).

For juridical reasons, and because of the statute of limitations, no trials are held against guerrilla perpetrators. It is important, for the sake of balance, to attend to their violent behaviours and the crimes committed on their behalf, in order to produce a full ‘truth’ based on a complete picture, but these aspects are completely excluded from current legal proceedings. The testimony given by Maria Estella, ex-wife of Juan Carlos Meneses, one of the victims, shows these unexploited possibilities. In her testimony, Maria Estella presents her husband as ‘too extreme a militant’ a reason she gives for their eventual separation. Maria Estella puts it this way:

When I got to know him, he was affiliated with the Ateneo, where all the militants were in strong contacts with the liberation theologians. People in this group were very much in solidarity, all were Christians, and really, the people were very helpful, people who really were worth it. [...] After we got married, things changed. Montoneros began to form and there were arms, and assaults. When Adolfo was born, my husband took me to my mother’s house so that my parents could help me with the baby. And my husband left for a couple of days. Later, I learned that they had participated in an assault, because they needed to organize arms. Then they had meetings at our house [...] I was never part of that. I didn’t really agree with it, I had to take care of my children; I had to protect my children and my work. And I did not agree with what they did and that is - I think – why I was never in Montoneros.

In 1970 he participated in an attack in a hospital. And he was imprisoned. I know that they were not even aware of what they were doing, they were like children. I remember when he was training with his pistol, in front of our mirror: This is an assault! As if he was playing. They were so stupid, like small boys. I don’t think they knew what danger they were in.

However, while he was in prison I got to know my current husband and because I did not agree with what Carlos did I left. When he left prison, we separated but he returned regularly, clandestinely to see his children, whom he loved very much. But after a while I realized that my house was under observation.

In the middle of 1975 he came and brought presents for the children. He told me that for a while I wouldn’t see or hear from him, because he was leaving for Tucumán. And the next information we had was that he was killed. (Testimony Maria Estella 2011)

Listening to her story, I wondered why the defence lawyers did not ask her any questions, even if this would have facilitated a more complete picture of the past. Why was no one interested in the activities of Montoneros? What about the other part of the story? Where are the voices of those in opposition?

Contrary to the state prosecutor or the lawyers of the plaintiffs, who always push for stories that give insight into the emotional context of the case, the ‘other’ part of the story seemed to be of no relevance. Thus, when critically examined, questions arise about the therapeutic effect attributed to this sort of retributive justice. The trial highlighted the historical context but also showed the many contradictions and silenced aspects of Argentina’s violent past. With the Romero Niklison trial, witnesses and lawyers show a truth, or their truth about the past. The only one to openly contradict the witnesses’ version of the past was Luciano Benjamin Menéndez, who, as one of the accused, took his chance to speak out during the trial. Pointing to the irreconcilable narrative and beliefs about the past, 84-year-old Menéndez, contrary to Heriberto Albornoz, who refused to declare before court, told his version of truth worth citing in some length. After declaring the court incompetent, he thus administered his right to defence:

I have to speak up against these abhorrent lies. Because even the judges, not only in this case, make themselves into echoes of the lexicon of the terrorists and repeat in their sentences and comments the most grossly lies; and all of this they repeat textually a thousand times in each one of the trials with which they follow us. [...] He who is the enemy and his allies by force of circumstances lead a feud and repeat to infinity their falsehood. I realize that we must also feud and repeat to infinity our truths ... Let’s see if between truth and lie in the end prevails justice. [...] I came to declare because these trials are unconstitutional!’ *More and more people in the audience start making noises, showing their anger, laughing at Menéndez; in reaction Menéndez continues: ‘it seems that the*



reiteration of arguments only is of one side. I cannot repeat my reasoning, or at least I am interrupted.'

Judge: 'I order the audience to abstain for making manifestations. He is purely exercising his right of defence - Señor Menéndez.'

Menéndez: '... But apart from these (legal) irregularities, today we see a grotesque paradox. The Marxist-terrorists, who have sprung up in Argentina in the 60s and 70s, because they didn't believe in our democratic institutions, things they declare today. They declare it because they already feel triumphant and they don't conceal themselves in democratic behaviour but demonstrate their Marxist militancy. And they use those same democratic institutions - in which they do not believe - to try and judge those who defended them. [...] Contrary to our way of living and to our constitution. And even with these trials they still do the same: Usurping power to change our way of life. ... While the constitution says that God is the source of all reason and justice, communism negates God. While the constitution says that private property is untouchable, communism negates property. ... Communism promotes slavery, servitude and constant conflict. This is their offer. And I don't speak of the past. This is their offer of the Marxist terrorists!

The terrorists defeated by the military forces ended at that point their armed fight. But not their political fight. Nor subjectively. ... I will not offer myself to this game of the terrorists who yesterday put bombs and killed to transform the country into communism and who today pretend to be democratic citizens. Ours is the first country, and that's a world record! – The first country in the world, that tries its victorious soldiers, who fought and won for the Argentina nation! It's incomprehensible. Really, I don't comprehend ... that the institutions of the republic that we defended and that exist today because we triumphed, put us to judgement today! And even worse, they do so to facilitate the goals of those who wanted to destroy them. ... I will not be another puppet in this armed and manipulated theatre of yesterday's guerrillas. Nothing else, Señor Presidente. (Statement Menéndez 2011)

Menéndez statement was interrupted at various times by people laughing at him, grinding with discontent and even outrage expressed loudly. As an extreme position towards the past and present, told by a six time convicted mass murderer, who defended the violence as a just war, his testimony shows the division of political beliefs and further delegitimized the 'other' side and their opinions.

The example however illustrates the contradicting ‘truths’ presented in the courtroom and gives insight into the unresolved viewpoints, the contradicting ways of understanding the past. The Romero Niklison Trial plays on the division of opinions. Quite literally however, even before the hearings, it seems already clear to everyone, which version will win over history. Discussing the case with one of a judge in the middle of the hearings, I was told:

‘What happened in the Romero Niklison Case are the typical practices that the military conducted. These attacks on private houses against a determined group of society. This held up the terror, and the fear. Nobody was allowed to talk: Don’t see anything, don’t hear anything, and don’t talk! [...] Those guys who wanted to change the world, who fought against the military and the political apparatus, they were killed. They didn’t fight with weapons. They wanted change. [...] So it wasn’t a war we are talking about, what happened was genocide!’ (Fieldnotes 2011)

Hearing the judgement before the hearings ended got me to thinking about the justness of the process and reminded me of what Luz had said:

People wonder about the ‘piloto automático’ (auto-pilot) of the trials. How is it possible to set a date for the verdict if the hearings truly are considered the place for new knowledge? That’s what people wonder about. I don’t think that the trials are healing. (Interview Luz 2011)

Concerned specifically with the question of how to critique ‘just practices’ void of culturally situated and socially positioned moral judgement, legal anthropologist Werner Zips wrote a ‘*Theorie einer gerechten Praxis*’ (Theory of Just Practice) (Zips 2001). In it, he combines Bourdieu’s ‘Theory of Practice’ with Habermas ‘Rational Discourse Analysis’ and post-modern feminist theory (Wernhart & Zips 2002; Zips 2001). The following idea, which he developed with the example of the Maroons in Jamaica, expresses the essence of his theoretical toolkit: ‘The result of any process

can only be just once all people potentially concerned by the outcome were included participatory in the process on equal terms' (Zips 2001: 135).

He thereby offers a praxeological approach for analysing the process of (consensual) decision-making in its context of a given field of power. Just as Jürgen Habermas states when commenting law and other socio-cultural regulations: 'Exactly those regulations have the right to lay claim to legitimacy, to which all potentially concerned participants of the rational discourse can agree/consent' (Habermas 1996:299f.). Using Habermas' theoretical approach, Zips shakes off the concept's enlightened/Western premise by the use of feminist and anthropological theory of plurality and an approach that takes into account ethno-historical analysis on power and repression. In so doing he offers a useful methodology for theorizing justice in discursive process and practice.

Zips' theoretical frame indeed works as a suitable approach for analysing the justness of Argentina's justice practices by taking into consideration silenced truths of parts of its population or social power-relations expressed in its representation of the past. The idealist groups, including H.I.J.O.S.' promise 'We don't forgive, we don't forget, we don't reconcile' produced in the trials puts into question the supposed healing effect of trials said to be necessary for societies to move forward after gross human rights violations. Using Zips' approach, the exclusion of one part of the violence under the symbolic narrative of genocide must be criticized for the lack of participation of all those concerned, whereby the judicial narrative constructions fall danger of putting a further hold on the attempt to achieve reconciliation and the healing of social bonds (Daly & Sarkin 2007; Huyse & Salter 2008). Equally, in a recent article, Antonius

Robben looks at the changing representation of Argentina's historical past. Concerned with 'collective trauma' rather than the 'social trauma' of only one group of Argentina's social universe he points to further divisions fostered by the latest memory narrative and argues that 'the memorialization and continuous narration of past massive violence in Argentina did not advance the coexistence of adversarial groups but intensified their enmity and revived certain repressive practices' (Robben 2012: 1).

With history being a 'regular experience in the present', the multidirectional, multi-authored politics of memories of the violent past is an on-going process. Since 2006, groups like CELTYV (*Centro de Estudios Legales sobre el Terrorismo y sus Víctimas*) work for those, left out of history:<sup>61</sup>

The world only knows one part of the story of what had happened in Argentina, and not the other one. So we are exactly working for the part that has been obscured. Because there are victims of the terrorism, who suffered and whose family members were murdered, and who have not received any compensation, who cannot bring their cases to trial and who are completely discriminated by current politics today. (Interview Villaruel 2011)

Collecting data and struggling to obtain the right for trials for crimes committed by former guerrillas against Argentine citizens, Victoria Villaruel and her team demand justice and acknowledgement for the '18,000 directly affected civil victims on the other side of history' (Villaruel 2011). Thus, subjectively, for the victims of state terror, justice is achieved with the trials and the reconstruction of memories and belonging. But if the justness of the process is analysed according to its healing effect for 'all those affected', reconciliation must be put into question.

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<sup>61</sup> <http://celtyv.blogspot.co.at>; 3.3.2014

We work for those who have no rights. We work to help them to receive their rights. ... Our work is very difficult, because there is no support of the state at all. The state has no interest in knowing about these victims. The state exclusively looks at one part of the problem. Which means that the state discriminates between victims. The state considers some victims to value more than others, and that is why one part gets all the rights and the others non. And so the victims of terrorism are explicitly disappeared from memory. They are the 'socially disappeared'; the state specifically eradicates them from memory. (Interview Villaruel 2011)

Listening to 'both sides' in the aftermath of violence in Argentina shows a lack of equality and reconciliation together with the contested construction of historical memory. Given that this thesis focuses on victims of state terror and members of H.I.J.O.S. with its clear statement against reconciliation, I have to limit my analysis of this topic to these brief considerations and leave more detailed elaborations of the issue for another time.

### **Changing Ambiguities: Isabel and the 'Culture of Justice'**

A historical event can only be understood within its context, just as its significance can be grasped only at some historical distance. (Bartov 2000:6)

With María Alejandra's assassination, a new era started for Gerardo and little Alejandra. For some months they stayed in Tucumán in hiding. But knowing that the regime was still searching for Gerardo, the two separated after a few months for the baby's security. Gerardo sent Alejandra to live with her aunt in Santa Fe and the two only saw each other again some years later, when she was already five years old.

Equally, for Isabel, life had changed completely. When Isabel, a delicate sensitive woman in her 60s gave testimony at court, she only told a small part of her personal story. After we regularly talked to each other at court over the next few weeks, I went to visit her in her house. There, at the wooden table in the living room she allowed me

insight into her life and feelings and from a still very vulnerable position told me how the terror affected her life. Over a cup of tea she told me about the story of how her husband disappeared.

And well, then he (Gerardo) came at midday with the baby in his arms and he tells me: ‘You know that they killed Alejandra?’ ‘But how, they killed Alejandra?’ And he says, ‘In a shooting in the house they killed her’, Toti tells me. And you can imagine I wanted to die, because now my family, my children were in danger. In these days that we had that time. And so he says: ‘I didn’t want to compromise you, because I would have never thought that this could happen.’ ... And so he tells me, and Alejandra looked at me – now I had her in my arms, Alejandra, the little one. And he tells me: ‘Can I stay?’ And I say, ‘Yes’. What should I have said? No? With the baby in my arms? It’s just that I ... how should I say, no, no ... I didn’t know what could happen to us. No, I didn’t know.

And so he stayed and then in the evening he left. And when he left, he said: ‘And please forgive me. You forgive me all that I have brought on to you in these times’ ... and I looked at the little one, and they left. And I waited in the backyard and looked at them. Till that moment I understood nothing, not even what Montoneros meant, I knew nothing. (Interview Isabel 2011)

When Gerardo and the little one had left Isabel’s house on 22 February 1976, Isabel and her husband were devastated, constantly worrying about their friends’ fortune and especially about the baby. Being non-political, working class people Isabel knew little to nothing about the military regime. About a year later, in hope for some relieve from rumours, ambiguity and fear, they finally decided to talk to the local police office and to talk to a superintendent, who claimed to be a distant relative of theirs, asking them for help and information about the whereabouts of the Romero Niklison family. So her husband went and told everything he knew about Alejandra to the police. When he returned that evening, he promised his wife that everything was fine, that they told him not to worry. That same night, in front of her and her children’s eyes, men broke into her home and kidnapped Dante. Ever since then he remains disappeared.

After her husband's disappearance Isabel's life turned into hell. She went to look for her Dante everywhere, searching 'earth and sky' as she put it. She lost everything as agents of the dictatorship came to rob all she had in her house the following night. Six months later she was expelled from her house, as she was no longer able to pay the rent. Her children were relocated and lived with different relatives of her family. She was left with the youngest and over many years had to work for the military regime, bound by fear and overwhelming control of the power apparatus, feeling 'like a slave'. She was followed around, observed, abused, raped, and terrorized. The fear she felt was all consuming and repeatedly got her to thinking about committing suicide. 'I could not talk to anyone, to no one -- to no one. I was completely alone' (Interview Isabel 2011).

Linda Green describes 'fear' in her book about Guatemalan widows this way: 'Fear destabilizes social relations by driving a wedge of distrust between members of families, between neighbours, and friends. Fear divides communities through suspicion and apprehension, not only of strangers, but also of each other. Fear thrives on ambiguities' (Green 1995: 105). When Isabel told me about her life, she repeatedly said: 'I didn't know. I didn't know'. Because of her innocence and the commotion with police, she still feels guilty for her husband's disappearance. And so she told me this particular part of her story that has hunted her for decades:

Isabel: 'We were so worried about them. And so, one evening, I asked Dante. I asked him: Dante, why don't you go? Why don't you go and talk to this Bordón? And you tell him all about the problem that has happened. And then we will be better covered, knowing that the police can protect us. I [*sent him*]'

Katja: 'Mmh... one thinks that way.'

Isabel: 'Of course. Because, eeh, of course, in my ignorance of everything I, I was the one who sent him. I!'

That was the moment, when very suddenly she started to cry and, putting her head into her arms, she repeated:

Isabel: 'I am responsible. I was the one who sent him! ... I always said that I was guilty [*sobbing*].

Katja: [*whispering*] no [*calming*] (...) (...) but no.

Isabel: 'And well, that's what happened. That day, he went and told them. He left at around four in the afternoon and returned very late. And I asked if he told everything. 'Yes, yes! Don't worry.' And, well that day, that day he went and told them. At around four and he returned very late. So I asked: 'But why did it take you sooo long?' and he tells me 'Because... we were talking' 'But how was it' 'Good' he tells me 'they have told me not to worry, to live, to stay calm and that nothing will happen' 'But sure they told you so?' 'Yes, and they have also brought me home and said no, no, nothing will happen to you. You stay calm with your family.' That night they came and took him. That same night, because I sent him on 6 July and they took him on 7 July. In the night they took him. So, obviously, I was the jinx who told him to go there. That is what I told myself – it's this thorn, this guilt. I [*am guilty*]!

Maria Estella, ex-wife of another victim of the military, recalls similar experiences:

So I left and hid the children at their grandmothers. I was very afraid, all the time. ...At the time there were bombs in Santa Fe, all the time, every night. So I was always afraid, to lose my children, to lose my job [...]

When I heard that my husband was dead, I was interested to receive documentation because I wanted to finalize the divorce because I wanted to get married again. So I tried to get all the documents, went to the police, talked to the military. Imagine how innocent we were. So we went to the Police station. And they were already searching for us. So we stayed for a day, but then they let us go because they realized that we had nothing to do with anything. And the functionaries told me: 'Madame, you have two small children and work, so just leave it there, best don't make a fuzz'. I had no idea that I was in the lion's den (*boca de lobo*)! (Testimony Maria Estella 2011)

It is these ambiguities that made life so difficult for Isabel and other survivors in Argentina. For many years, Isabel could not talk to anyone about her situation, she did not know whom to trust, and – being the widow of a disappeared man – she was ignored and left alone, being associated with 'terrorists' and 'danger'. And while her husband was disappeared because of his solidarity to their friends and the mere



believe that the police and military's duty was to protect its civilians, she was still frequently confronted with the sentence: *'por algo sera'* (it must have been for something), assuming that her husband must have been a 'terrorist'. Disconnected from political activism and social justice movements, Isabel found no answers to her sorrow, and no way to reconnect with a peaceful everyday life, even in the aftermaths of the dictatorship. Worst of all, Isabel found no way out of feeling responsible for her husband's disappearance.

Even five years after the reopening of the trials and with Domingo Bussi officially convicted as a mass murderer in 2008, society only slowly comes to rethink its history. Even for Isabel, whose husband was disappeared in 1977, and for whom fear became a way of life (Green 1999), guilt and responsibility remain and only disseminate slowly.

Michael Taussig described silence, rumours, ambiguities and fear as central characteristics of the 'culture of terror'. The 'pact of silence' of the military and amnesty laws prevented society to address these questions and to openly talk about their experiences and belonging. 'I saw nothing, I heard nothing, and I said nothing'. For years the three monkeys had not turned into a symbol of resistance but sadly described the still prevailing consequences of the terror regime. Even the trials show that fear is still present, keeping neighbours and other witnesses from speaking about what they saw or knew. The Romero Niklison trial provides a striking example of that truth. With no survivors from the shooting and none of the accused present at the scene, it was the neighbours who provided the biggest hope for clarity. But even though two neighbours came to testify before the court, no answers were found. 'I

didn't see anything. I haven't heard, I really don't know.' In our interview about the trials and their potential impact, Judge Villalobos told me:

This is why it is important for society to see that we all come for the house inspections – including the judges and the plaintiffs. It brings back security, it shows that the judicial system is intact. This rebuilds trust. (Interview Judge 2011)

Equally, in my talk with Isabel, who for 34 years had never told anyone, not even to her own family and children, about the violations she suffered after her husband's disappearance, confirmed:

So if the trial [meaning the Jefatura trial] would not have happened, this secret would have died with me because I, I didn't want to. I was so embarrassed. And that's why I understand the women who were raped. ... And even worse, Dante, he went to be honest, that's why he went. That's why I say, in our ignorance of everything we didn't know eh, who they were; we didn't know the kidnappers. And it was them, because now, with this trial, it is worth so much for clarifying so many things that I now understand, this comes with the trials; that I understand it with all the documentation that is presented, where they were detained ... all these things eh ... have spiked me with guilt, because I said, I sent him. Only now, with the trials I started to understand ... what really happened. And only now, 35 years later, I can say without fear that my husband was disappeared. (Interview Isabel 2011)

In that sense, the trials are '*sano*' (healthy) for society, they help re-establish security, allow to talk about the 'disappeared'. Even though there are flaws and weaknesses the trials with their production of justice, memory communities, recovering the victim's political agency and putting guilt and responsibility in the right place certainly help move Argentina from the 'culture of terror' to the 'culture of justice' in which those victimized can now say with proud where they belong.

## **Conclusion: The Transformed Character of Legal Practices in**

### **Argentina**

Despite the political obstacles along the path to the International Criminal Court, there is growing international understanding that conflict resolution requires psychological closure that, in turn, is conditioned upon collective satisfaction that justice is seen to be done. Sleeping dogs must not be left to lie, for sleeping dogs are not dead dogs. (Samuels 2009: 264)

My investigation on the trials revealed the changed character of the criminal proceedings. When the first wave of transitional justice was implemented in 1984, Malamud Goti and Carlos Santiago Nino argued for preventive justice, a strategy that would, as they claimed, allow for exemplary punitive measurement while at the same time avoiding military rebellion that would put at risk the newly established and by its nature still fragile democracy (Malamud Goti 1996; Nino 1996). The trial against the Juntas became the most important trial realized during these early years after state terror. But even though it displayed an example for the possibility of justice and legal convictions, it also is an example that trials often fail to serve reparatory purpose for the victims. During the trial, victims and survivors were not allowed to voice the political position or socio-political goals and beliefs. Thereby reduced to ‘victims’, they were ripped of the political agency, just as Laplant and Theidon had convincingly demonstrated in the case of Peru (Laplante & Theidon 2010). Taking their insight from members of the Shining Path, they argue that the exclusion of parts of their version of the past led to the denial of political subjectivity of parts of those involved in the process.

Furthermore, apart from some, many other perpetrators were spared from any judicial prosecution. Void original enthusiasm, impunity laws in 1986 and 1987 and finally general amnesties in 1990 put an end-point to prosecutions and showed the lack of

achievement of these first transitional retributive practices. General amnesties, a veil of silence, and ostensible national reconciliation left human rights groups, victims, survivors, and their kin, unsatisfied and with the widespread feeling of unjust treatment of the past.

Contrary to judicial proceedings during the first wave of transitional justice in Argentina, the legal procedures unfolding today start from a different political context and have a different purpose and outcome than those of the '80s. In the post-transitional justice period, trials take serious the need for a victim centred approach. The Romero Niklison Trial, with its many emotional testimonies and little focus on criminal evidence is a good example for that argument. Taking their ideas, memories, hopes and dreams they take their activism and performance of justice to the courtrooms and turn the experience of 'absence' into remembered presence with a future.

Trials with their focus on individual perpetrators have long been said to lack the ability of serving the victims and their need for truth, contextualized memory and the victim's right to tell their version of history. Based on my findings I argue that the current trials for crimes against humanity in Argentina incorporate this purpose and thus are characterized differently than those early proceedings during transitional justice. With hundreds of survivors, experts and witnesses, the trials re-construct the past and attempt not only the conviction of the perpetrators but also produce a historical narrative in which the victims regain their political subjectivity. The proceedings support the process of building presence out of absence, just as the children so convincingly showed in the Romero Niklison trial. From the proceedings

arise moral lessons, social capital and recognition of the victims, and a new collective historical memory narrative. *Hijos* as central agents reporting on their parent's ideals, personalities and lives bring to the present testimonies about who these people were. The story of Isabel that exemplifies the patterns of impact the trials have on individual lives and life-worlds, in which the trials finally allow agents to admit to and proudly talk about their 'disappeared'. The trials, hearings, and judgements now serve the rehabilitation of victims and Argentina's understanding of itself as a nation that provides global precedence for justice and in the process established a new 'we'-belonging to the memory community of justice.

As an imperfect act, the trials highlight how and why some agents are also critical of these trials. While the hearings provide rehabilitation to survivors and the victims themselves, current politics of justice in Argentina are one-sided and the discourse of genocide, spatial separations, and lack of confidence in the impartiality of the courts renewed the Manichean distinction of essentialized categories, opening questions about reconciliation and the future of Argentina's 'imagined community' (Anderson 2006). In relation to this Mark Osiel states, 'If collective memory can be created deliberately, perhaps it can be done only dishonestly, that is, by concealing this very deliberateness from the intended audience' (Osiel 1995:467).

In the case of H.I.J.O.S., I therefore call the continuous struggle against impunity, informed by a shared meaning of justice, a discursive certainty production of responsibility in which members of H.I.J.O.S., together with judicial agents and institutions, win the moral discourse over memory and truth. Justice in that sense

acknowledges truth in a way, that women like Isabel can walk the streets and admit without fear or guilt, that their husbands were disappeared.

# **Conclusion: ‘They can Carry away the Most Beautiful Flowers, but they will not End Spring’**

## **Introduction**

‘They can carry away the most beautiful flowers, but they will not end spring.’ To me this quote is the perfect metaphor for the continuity of the struggle for justice and for the spirit I found in H.I.J.O.S.. Even though the military Junta has exterminated and disappeared thousands of ambitious people who fought for a different country, more social justice, and a different future, they did not succeed in destroying the objectives, ideals, and hopes. These live on (and are recreated) in a new temporality by their descendants. *Hijos* as their descendants have created new forms of politics, sociality, even legal reasoning using ‘justice’ as a signifier. Using human rights instruments, social condemnation, popular justice, and the legal apparatus they make sure that ‘...they [the perpetrators] get punished, that they will be held responsible for their crimes and that everybody knows it’ (Interview Alina 2012).

## **Descendants of Trauma**

Thirty years have gone by since Argentina started its long struggle for justice. As an exemplary for transitional justice and with a truth commission that served many other countries as the example par excellence of a new mechanism for ‘coming to terms’ with violent regimes, the Argentine experience with mass atrocities has been analysed widely. Yet, despite the scholarly attention paid to both the transitional justice process and the human rights movement in Argentina, little analytical research has been

conducted on the later stages of transitional justice and even less on the post-terror generation and its organization H.I.J.O.S.. Journalists and researchers have analysed the impact and lasting effects of ‘collective trauma’ unleashed by the last civil-military dictatorship, but very few have explicitly concerned themselves with those who grew up in the wake of violence.

This dissertation, with its starting point in 1995, the year in which the second generation’s association H.I.J.O.S. was called into being, increases the visibility and analytical body of literature on post-terror generations and the later stages of transitional justice. It thereby brings to our attention the long-term effects of violent memories and asks about theoretical concepts of absence, justice, memory, and political subjectivities of human rights practices in post-transitional Argentina. These concepts are instantiated in the nascent discursive and legal representation of Argentina’s violent past as genocide. Taking the cue from Foucault’s approach to repression as a productive force, this thesis examined violence and absence as forces of power for activism and the creation of novel political subjectivities in practice. Analysing the impact of the ‘frame of genocide’ in these complex interfaces of law, political activism, and discursive meaning making, this thesis thus explored *hijos*’ active participation in the reconstruction and creation of memories and justice that bore a new memory community and affective kin from ‘genocide’. In so doing, this thesis has expanded and even contested prevailing transitional justice insights and genocide studies by adding the second generation’s point of view.

One of the main themes of this research surrounding H.I.J.O.S. and genocide explores this question: How do *hijos* compose the meaning of absence and justice and what



does it mean for their own identities and belonging? And, if members of H.I.J.O.S. construct memories, how – in yet another step – do they construct justice? In Argentina today, the struggle for justice seeks not only the conviction of the perpetrators, but also a reconstruction of memories and the restoration of political ownership. For long, their historical narratives of the 1970s were built on ‘absence’, mainly the absence of the disappeared, but also the absence of justice, absence of political subjectivities, of memories, or, of a participatory process and the voices of those affected by the violence. With their active participation, both by means of the *Escrache* as well as their contributions to contemporary trials, they eventually changed that picture.

In the long process of justice efforts in Argentina, H.I.J.O.S. has seen the changing legal and political landscape, from the ‘theory of two demons’ or ‘false reconciliation’ to a representation of the dictatorship as a case of genocide. Human rights groups such as the *Madres de Plaza de Mayo* or *Abuelas*, international legal institutions, and activists from the second generation have facilitated continuity in the struggle against impunity and brought about a historical memory that made its way from marginalized narratives to public political and juridical recognition. Current trials in Argentina, in which over 500 perpetrators have already been sentenced and that in their judgements display genocide in their verdicts and separate opinions are examples of that development.

The collective trauma of unresolved crimes of ‘disappearing’ people has left people with open wounds and the impossibility to properly mourn the dead (Robben 2005). This created a society in which memories were not put into the past but in which

trauma turned into an on-going experience of the everyday. The children of the victims, who often were too young to remember either their parents or the violence, have to cope with the legacy of violence and the feeling of ‘absence’ that shaped their lives. But, as I have demonstrated, ‘absence’ is better understood when seen not in opposition to ‘presence’ but instead as an interrelated and connected part of it. Conceptualized as the ‘presence of absence’, a term I borrow from Bille, Hastrup and Sørensen (2010), I argued that trauma and absence have become the driving force for human rights activism. Expressed via ‘justice’ as a meaningful signifier for this felt absence, *hijos* seek to continue their parent’s struggle in their own temporality but also as a trans-generational project for a different society and future. Thus, violence and repression that created a continuous desire of ‘something not there’ activated unexpected resistances and visibilities in the present (Foucault 1998, Kierkegaard 1987). I demonstrated that analysis with the example of the Escrache and the local human rights trials currently taking place throughout Argentina.

Connected with post-transitional justice activities are narrative shifts, in which memories are recreated in a representation of the state terror as genocide. The recognition of the crime of genocide, both on a legal and on a social level, is a desired goal for my informants. With their constant use of the word *genocida* during their outings and court-proceedings they intend to shape the collective consciousness. Remembering the 70s is still contested within Argentine society. However, talking about the last dictatorship as ‘the Argentine Genocide’, even though as a contested and sometimes disputed narrative, is nowadays increasingly repeated in public and legal discourses. This new discursive frame provides social capital for *hijos* and the re-construction of their parents’ political agency. This therefore legitimizes their own

belonging to an affective kin-group and in the process produces a politics that add novel cultural content to what were once contested terms for the generation of the 1970s.

While most of what I have written focuses on the connections between H.I.J.O.S., the changing discursive context, and local/national practices of justice, I have also brought attention to the international level of current justice processes. Carina Perelli calls Argentina a ‘has been’-country in which the memory of the past became the salient factor of people’s strength to face the future (Perelli 1994). As much of society’s self-esteem builds on the memory of its country’s glorious years of tango, workers rights, and proactive migration politics to mention but a few, it is all the more difficult for people to cope with the terrible status that was forced upon it by the last civil-military dictatorship. Since the early 1970s Argentina’s reputation has been dominated by the ‘*memoria de sangre*’ (blood memory), imposed by the violent actions of the military forces who with their practices of disappearing and *chupar* (sucking) people imposed a culture of terror upon the country’s citizens (see Perelli 1994).

Perelli’s article on the ‘*memoria del sangre*’ or blood-memory is written in 1994. It captures the status quo of memory politics and human rights groups’ struggle at the end of the first period of transitional justice in Argentina, in which, after initial successes in the aftermaths of Argentina’s state terror general amnesties, the ‘theory of two demons’, and a culture of impunity and oblivion dominated the country. Starting in 1995, with the military officers’ public confessions, the Spanish judicial

impeachment, and the emergence of the post-terror generation's organization H.I.J.O.S., the 'has been' country again transformed its self-image.

### **New Forms of Seeing and Practicing Justice**

'Today, Argentina is the biggest criminal tribunal in the world', said Spanish advocate Ollé. National Argentine juridical practices and the reasoning and arguments put forth by social scientists, judges, and lawyers in their allegations and judgements, needs to be recognized as a potential contribution to the discussion on and support for a revision of the restrictive legal definition of genocide as put forth in the Rome Statute and the UNCG in the near future. As such, the innovative adoptions of cosmopolitan law in Argentina reflect a localization of international legal instruments, as the Argentine justice system now makes use of but also challenges international conventions and definitions. Thereby, they offer possibilities for emancipation from international organizations, which all too often act according to the political will of powerful countries. In that sense, the continuity of a model of truth and reconciliation to the framing of the Argentine state terror as genocide provides a remarkable example of legal subjectivity and shows the changing practices of 'local justice' in Latin America.

A rather uncomfortable question that emerged in this study on post-transitional Argentina is: Is it just what happens in Argentina today and how the past is to be understood? The processes unfolding in Argentina since 1995 and especially since the Kirchner government began its human rights politics, evidences a lack of completeness in the process. Especially the emerging discursive frame of genocide, with its clear distinction of 'morally right and wrong' sides, excludes the 'other' from

participating in the historical narrative construction. Putting all victims of state terror into the realm of 'innocence', the narrative negates some part of historical experiences and puts into question the power of trials for reconciliation. These disquieting developments already called scholars to write about the danger current transitional justice efforts pose for possible national reconciliation (Robben 2012). I have indicated a critical theory (Zips 2001) that allows for a critical investigation into this question. An interesting future research project or collaborative work between various scholars would be to research and analyse the process from both, the children of the military/police and the children of the 'victims' point of view.

In this sense, H.I.J.O.S.' struggle for justice in post-transitional Argentina also opens interesting question about reconciliation and closure. 'The Holocaust has taught us that no closure can be possible without serving rehabilitation, justice, and memory' (Samuels 2009:269). H.I.J.O.S.' statement stands in contrast to that belief. 'We don't forgive, we don't forget, and we don't reconcile'. So, one might ask, what will happen after the trials and when all perpetrators died? How will members of H.I.J.O.S. transform their activism and in what way will they continue their parent's ideals? Will the solidarity, even the affective kinship, based on the practices around justice that I have analysed in this work be transmitted to subsequent generations? To the extent that memories and memory narratives of Argentina's past are constantly reactivated, recreated, and transformed in the present how will a new present be interpreted, contested and, probably, again subverted by the generation that grows up in the 2000s.

## **Last Word**

In summary, this thesis attended to the social construction of memory, justice, and collective belonging in the frame of what is called the Argentine Genocide. I discussed various practices employed in post-transitional justice Argentina and the historical narrative that people developed in the socio-cultural space of justice in Argentina. Contemporary political and legal practices provide the frame in which a discourse of genocide shaped novel identities, identities that resemble gens of political activism. In this political activism various accountability strategies have been employed, some legal some non-legal. This project is political as much as private. It changes the historical narrative and the way in which past violence is remembered. Furthermore, it changes the understanding of belonging -- from political activists to a certain form of 'gens' of a shared future.

And so, while it is important to stress concerns about and injustices developing around genocide remembrances, my own research on the representation of genocide, approached through the eyes of those who suffered from mass violence, proposed an additional conclusion. The discourse of genocide opens questions about participation and group identities and evidences deep connections between power relations and memory, which, in the aftermath of violence have turned into political tools. Understanding the past as genocide not only changes the way people remember the severity of the crime but also transforms the way people perceive political subject positions and aspirations for the future. Remembering the past as genocide productively creates group belonging, especially for the second generation, who, as the bearer of a collective heritage of their parents' project and socio-political goals, act politically in the present to summon a nascent, even uncertain, future. In this

process of the continuous struggle for the recognition of counter memories in Argentina, justice agents reconstruct political subjectivity in practice. The production, exchange, and mutual evaluation of victimhood in the discourse of genocide turns absence into a productive presence, in which H.I.J.O.S. and other accountability actors seem to re-gain their 'ownership of justice'.

By following how people in concrete social and historical circumstances make law useful, I thus deconstructed taken for granted assumptions of transitional justice and the globalized regime of human rights aspirations. Genocide is said to rest on high numbers of victims and the intention of annihilation of a group as such. But while this is certainly true, the Argentine case with its comparatively low quantity of victims brought about a high reaction in justice efforts in return. Making Argentina's violent history a case of genocide with high numbers of prosecuted per victim brings up questions that exceed easy assumptions of existing scholarship of genocide and transitional justice activities. Thereby, it exposes the uneasy relationships between memory and the law while pointing to novel ways in which both individual and political subjectivities are imagined and publicly mobilized in practice.

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