

Elusive Justice, Changing Memories and the Recent Past of Dictatorship and Violence in Uruguay: An Analysis of the 2012 Public Act in the Gelman Case

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This article examines the Public Act of Acknowledgment of International Responsibility and Recovery of the Memory of María Claudia García de Gelman held in the Uruguayan parliament on 21 March 2012 through a theoretical framework of memory narratives. The Inter-American Court of Human Rights ordered Uruguay to hold the Public Act as part of its February 2011 ruling in the *Gelman v. Uruguay* case, which condemned its failure to investigate and prosecute individuals responsible for disappearing María Claudia García de Gelman and illegally adopting her baby daughter Macarena, while denying her knowledge of her true identity for over two decades. The Public Act was a memorialising event intended as an act of reparation, which also triggered irruptions of memory in Uruguay, resurfacing memory debates and discussions about the recent past of dictatorship and violence. The Public Act exposed once again the continued antagonisms between memory narratives of violence and justice that have existed in the Uruguayan political and social landscape since 1985. While the Act was an expression of the “state terrorism” narrative, its unfolding resulted in the resurfacing of narratives of “war” and “two demons” in the social and political arenas and of new interpretations of these narratives in light of events and politics in 2012.

This place is the only physical connection with history
It is the only place where I was with my mother [...] ¹
It is the only little piece of truth I have.

Macarena Gelman uttered these words on 21 March 2012, when Uruguay publicly and officially acknowledged its responsibility for the crimes committed against her and her family: the illegal detention in 1976 and later disappearance of her Argentine mother, María Claudia García Iruretagoyena de Gelman, and the cover-up of her own fate for over twenty years. In fact, Macarena recovered her real identity only in March 2000, at the age of twenty-three, after a relentless search by her grandfather, Argentine poet Juan Gelman.

In 1973, Uruguay fell to the wave of military takeovers that had engulfed most of South America – starting in 1954 with Paraguay – and that were ideologically inspired by the national security doctrine dominant in the region at the time. The Uruguayan dictatorship remained in place until 1985. The crimes perpetrated against the Gelmans were not isolated acts, but formed part of a systematic policy of repression and human rights violations unleashed against Uruguayan citizens – targeting them even outside of the country through Operación Cóndor.² The Uruguayan dictatorship penetrated people's public and private lives, submitting society to terror and installing a culture of fear

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¹ All translations from Spanish are the author's own unless otherwise stated. Words by Macarena Gelman cited in “Este lugar es el pedacito de verdad que me queda”, dijo Macarena Gelman”, 21 March 2012, <http://www.presidencia.gub.uy/Comunicacion/comunicacionNoticias/macarena-gelman-placa-homenaje-maria-claudia> (accessed 31 December 2013).

² Operación Cóndor (Operation Condor) was a secret transnational network of intelligence agencies and counterinsurgency operations set up in the mid-1970s by the military dictatorships of Argentina, Chile, Uruguay, Paraguay, Bolivia and Brazil to target political opponents who had sought refuge or gone into exile in neighbouring countries. For more information on Cóndor see Dinges (2004).

(Sondrol 1992). The regime used brutality and violence on a massive scale to repress the guerrilla group known as the Movimiento de Liberación Nacional-Tupamaros (MLN-T, Tupamaros National Liberation Movement) as well as all forms of social and political opposition. Repression had a very high human and social cost, with approximately two hundred people disappeared, an estimated six thousand long-term political prisoners, twenty-six extrajudicial executions, thousands of exiles, and countless instances of torture and illegal detentions (Rico 2008).

This article focuses on a recent occurrence, the 2012 Public Act of Acknowledgment of International Responsibility and Recovery of the Memory of María Claudia García de Gelman (Acto público de reconocimiento de responsabilidad internacional y recuperación de la memoria de María Claudia García, hereafter the Public Act), which was ordered by the Inter-American Court of Human Rights as part of the 2011 *Gelman* ruling. The article discusses how this act of remembrance and reparation for the victims, held in the Uruguayan parliament, triggered the resurfacing of memory debates relating to Uruguay's recent dictatorship and violent past.

Memory studies scholar Alexander Wilde identified “irruptions of memory” in Chile with “public events that break in upon [...] national consciousness, unbidden and often suddenly” and evoke a political past still very much “present in the lived experience of a major part of the population” (1999, 475). According to Wilde, these irruptions brought to the fore the existence of “an arena of deeply divided public discourse, shot through with contending and mutually exclusive collective representations of the past” (1999, 475). Wilde's notion can be applied to Uruguay where over the past three decades the memories of the country's recent past continue to be very much present and generate long-lasting societal discussions and debates. This article analyses how the Public Act caused the irruption into public discourse of latent and enduring tensions between diverse memory narratives of the dictatorship and its atrocities.

Numerous scholars have studied questions of memory in Uruguay (Achugar 2005; Allier 2010; Fried 2006; Marchesi 2002; Roniger and Sznajder 1999), analysing a range of

themes relating to the recent past including the social and cultural aspects of memory at the level of the state and civil society, the construction of the dictatorship's collective and historical memory by different social and political actors, and the debates surrounding remembrance on dates of particular significance such as 20 May or 14 April. In this article, I propose a theoretical framework based on the notion of memory narratives that enables the identification and analysis of different interpretations of violence in Uruguay from their emergence in the 1970s and through their subsequent evolution. I then apply this theoretical framework to the case study of the Public Act to demonstrate the endurance of memory debates in recent times.

Before and after the Public Act, the public arena and political discourses in Uruguay were replete with conflicting memory narratives which were actualised and (re-)articulated within the contemporary political context. Although the Public Act expressed the “state terrorism” narrative, other memory narratives of “war” and “two demons” also circulated in the public sphere, with the political opposition to the current government utilising them to reassert its own understanding of the past. The Public Act vividly recalled the pattern of crimes perpetrated in Uruguay. The Gelman case has played a particularly important role in the development of accountability in Uruguay since the late 1990s, as it deeply challenged the official state discourse of denying the atrocities by publicly exposing their real extent (including illegal detention of individuals, transfer of pregnant women and illegal adoption of their newborns). The brutality of these acts forced several reluctant Uruguayan presidents to confront the issue of past crimes. In the words of one survivor of Operación Cóndor crimes, the Gelman case was “fundamental”:

From the first moment, I could see that this case would change the history of Uruguay on these matters, because it was the case of a foreigner, of a child, and moreover of a person as famous as Juan Gelman ... I said this will change everything, and so it did.

(interview with Sara Rita Méndez, Montevideo, 8 October 2013)

1. Memory Narratives of Violence

During and after traumatic events such as dictatorship or violent conflict, individuals as well as social and political actors endeavour to make sense of and communicate these

distressing circumstances through narratives. There is never just “one memory, or a single vision and interpretation of the past shared throughout society” (Jelin 2003, xviii). I therefore use the term “memory narratives” to describe the numerous interpretations, understandings, and evaluations of often contested facts within a country’s past (Lessa 2013, 19). Memory narratives emerge through the conscious and sustained efforts of their creators – particular individuals, institutions and organisations such as victims’ associations, politicians, armed opposition groups or the security forces – whom Argentine academic Elizabeth Jelin has labelled “memory entrepreneurs” (Jelin 2003, 33–34). The existence of different memory narratives presupposes that social and/or political actors first enunciate and then fight for them; these agents seek social recognition and political legitimacy – if not hegemony – for their own interpretation of a contested past (Jelin 2003). Paraphrasing John Gillis, we can think of memory narratives as “things we think *with*” rather than “things we think *about*” (Gillis 1994, 5).

Memory narratives exist at the individual and collective levels; while originating from specific individuals and/or other actors, they later come to be shared by collectives and groups. These narratives acquire varying levels of legitimacy and appeal within society depending on how compellingly and convincingly they portray the past, how well they explain the often diverse and complex facets of agency and responsibility for events, and how effectively they promote a particular vision of the future. Memory narratives are extremely dynamic. While remaining true to a core of constitutive elements, they evolve flexibly and adapt to new contexts over time. These narratives generally endure across decades and generations, often as long as events remain subject to dispute. The initial portrayal of events is frequently re-examined at later moments, as the contested facts become more distant in time; moreover, memory narratives of traumatic events are likely to persist for substantial periods given their profoundly emotional connotations.

At any one time, some memory narratives may predominate while others may be confined to more marginalised positions within society; previously dominant

narratives can later find themselves relegated to outlying sectors of society, while those initially least accepted may achieve a more dominant status and even displace previously hegemonic ones. Memory narratives are often latent within society but can be reactivated as a result of specific political or societal moments such as the Gelman Public Act, which prompted the resurfacing of contestations between different narratives and exposed the endurance of societal and political debates over the recent dictatorship in Uruguay.

War, Two Demons, or State Terrorism?

Issues of memory in Uruguay – as in most countries confronting a contested past – cannot be simply reduced to a tension between forgetting and remembering. Instead, there is a multifaceted landscape of multiple memory narratives that coexist and share the same social and public space, offering diverse interpretations and understandings of the dictatorship and human rights violations. Elsewhere, I have identified and examined six memory narratives that claim to provide convincing interpretations of the recent past in Uruguay (Lessa 2013, chapter 6); here, I focus on the three that are most relevant in the context of the Public Act: “war”, “two demons” and “state terrorism”. These narratives originated four decades ago and have since flexibly adjusted to new political and social contexts; they have had varied and plentiful authors over this time, including the armed forces, the Tupamaros, leaders from across the political spectrum, human rights activists and victims. They are briefly described below.

The *war* narrative surfaced in the early 1970s, when some political actors perceived Uruguay as engulfed in a conflict (Marchesi 2002, 105–106). This narrative was enunciated at various moments by the armed forces, political leaders and the Tupamaros. Although the war possessed different connotations depending on who related the narrative, generally the picture was of a nation threatened by internal communist subversives – the Tupamaros guerrilla – while the military was protecting the fatherland. This narrative was commonly used throughout the Southern Cone to justify actions before, during and even after the dictatorship. In the context of the Cold War, the Uruguayan armed

forces saw themselves as the “guardians of the fatherland”, which needed to be protected against a subversive threat (Achugar 2005, 36). The military depicted the coup d’état as a consequence of armed subversion and political vacuum, pointing to the weakness of political parties and liberal democracies in responding to communism (Heinz and Frühling 1999). The war narrative contended that the armed forces had no alternative but to confront a brutal enemy in a “dirty war”. Human rights abuses were excused in this context as inevitable during conflict. This perspective has held enduring appeal for several actors. For instance, in an open letter in 1997, some Tupamaros leaders – including current President of Uruguay José Mujica – declared how they carried “with pride the wounds incurred in combat” (Allier 2010, 158). More recently, in September 2012, well-known torturer and retired colonel José Gavazzo justified his past actions in terms of safeguarding “the security of the fatherland and of his compatriots” (La República 2012a).

The *two demons* narrative was a prevalent interpretation that initially emerged in Argentina in the early 1970s to explain the events leading to the dictatorship there (Vezzetti 2002). Political violence was depicted simply as a fight between two demons – the military and the guerrillas – while society was caught in the middle and suffered the consequences of this confrontation without being an active participant. In Uruguay, this narrative appeared in the early 1980s and has been since adopted by many political and social actors (Demasi 2003, 67–74). The traditional Colorado and Blanco parties deployed the narrative strategically to evade scrutiny of their role (whether action or inaction) in the coup, presenting the political class as helpless in this violent context. Importantly, broader society also endorsed this account, since it allowed people to demonstrate their misfortune and exonerate them from any responsibility – even though many had endorsed the military takeover as a solution to disorder and social unrest. Left-wing parties championed this narrative, given the lack of alternative discourses and the fear of institutional destabilisation in the

mid-1980s. Even the Tupamaros employed it, as it elevated them to “demon” status and painted them as protagonists of important events that had actually occurred after their defeat.³ The two demons narrative became the official version of the first government of President Julio María Sanguinetti (1985–1990) and was particularly instrumental in justifying the adoption of parallel amnesties for political prisoners and military officers in the mid-1980s. The government skilfully used the narrative to substantiate its approach of looking to the future, given that society “had nothing to do with the fight between two intransigent demons”.⁴ The narrative’s appeal continues into the present, especially for the military and some political leaders, including former presidents.

Victims and human rights groups developed an alternative narrative of atrocities that interpreted political violence not as war but as *state terrorism*, that is, a systematic policy of human rights violations perpetrated by the state. This violence unsettled the victims’ world, causing the loss and/or imprisonment of loved ones, forever rupturing family relations and producing a world of fear, horror and misery, particularly for the relatives of the disappeared, but also society as a whole. The state terrorism narrative refuted in particular those discourses that presented atrocities as inevitable during war. Human rights activists drew attention instead to the harshness of repression, emphasised that armed organisations had been dismantled well before the 1973 takeover and highlighted how only a few of the victims had in fact belonged to guerrilla organisations. The state terrorism narrative was innovative in deploying the language of human rights, which was used by activists to articulate their demands and denounce atrocities inside and outside Uruguay (Markarian 2005). This narrative focused on disappearances (Perelli and Rial 1986), and stories of disappeared children, such as Macarena Gelman, whose identities had been illegally changed and who had been denied links with their biological families, had a particularly profound emotional impact on society. Since the electoral victory of the coalition of left-wing parties known

3 Interview with historian Carlos Demasi, Centro de Estudios Interdisciplinarios Uruguayos, Facultad de Humanidades y Ciencias de la Educación, Uni-

versidad de la República, Montevideo, 28 August 2008.

4 Interview with historian José Rilla, Departamento de Ciencia Política, Universidad de la República, Montevideo, 26 August 2008.

as Frente Amplio in 2004, the state terrorism narrative has also been promulgated by politicians; for example, the text of the reparations law of September 2009 acknowledges the illegitimate conduct of the state and makes explicit reference to systematic practices of torture, forced disappearance, illegal imprisonment and homicide.⁵

2. Truth, Justice, and Reparation in the Shadow of Operación Cóndor

Argentines María Claudia García and her husband Marcelo Gelman – aged nineteen and twenty – were detained at their home in Buenos Aires by Uruguayan and Argentine military officers on 24 August 1976, and subsequently held in the Automores Orletti clandestine detention centre, Operación Cóndor's operating base in the Floresta neighbourhood of Buenos Aires. Marcelo's remains were discovered in 1989 and identified by the Argentine Forensic Anthropology Team. In October 1976, María Claudia was secretly transferred to Uruguay in the so-called *segundo vuelo*⁶ (second flight) in an advanced state of pregnancy and kept captive at the headquarters of the Defence Information Service in Montevideo; in late October or early November 1976, she gave birth to a baby girl in the military hospital. The fate of María Claudia remains unknown; she is likely to have been taken to another military site, the Valparaíso Base, where she was murdered and buried in a clandestine cemetery (Dutrénit Bielous 2012, 85).

Juan Gelman, Marcelo's father, spent over two decades looking for his disappeared grandchild. Gelman followed several leads about the baby's possible fate and location, concluding that he or she was in Montevideo. A team of Uruguayan journalists from *La República*, including Gabriel Mazzarovich, undertook a parallel investigation that led them to the same conclusion. In May 1999,⁷ Gelman requested the cooperation of Uruguay's government in his pursuit, meeting with Elías Bluth, the secretary of President Sanguinetti, but received no help (Demasi and Yaffé 2005). Some months later, in October 1999, Gelman

wrote an open letter to Sanguinetti asking why he was remaining silent regarding the disappeared child, while thousands of intellectuals and Nobel laureates across the globe also lobbied Sanguinetti in support of the poet's request. Sanguinetti remained obstinate and claimed that, despite investigations by his government, there was no indication that either Gelman's daughter-in-law or his grandchild were in Uruguay; Sanguinetti even asserted that no child had disappeared "on Uruguayan soil" (La República 2000). President Sanguinetti also accused the poet of running a campaign to portray him as "indifferent" and "insensitive" to humanitarian demands (Allier 2010, 187). In March 2000, newly elected president Jorge Batlle (2000–2005) announced that Gelman's granddaughter Macarena had been found in Montevideo where she had been raised by the family of a police chief.⁸ Macarena and her grandfather were finally reunited.

The Gelman case constituted a "turning point" in accountability, amounting to a "brutal first rupture in the collective imaginary of the past in Uruguay" according to journalist Mazzarovich:

The discourses of impunity and all the lies crumbled, the truth turned out to be much worse than the activists' claims: the armed forces had even stolen babies! The logic of war was destroyed. How did the kidnapping of babies fit into the scenarios of battle depicted by the security forces?

(interview with Gabriel Mazzarovich, Montevideo, 1 October 2013)

The explosion of the Gelman case enabled further investigations into the past, especially the realisation that Uruguayan citizens previously thought to have disappeared in Buenos Aires had in fact been kidnapped by Uruguayan armed forces, illegally returned to Uruguay, and disappeared. Juan Gelman and Macarena have since focused their efforts on locating María Claudia's remains and obtaining justice. Batlle's government proved unsupport-

5 Ley N. 18.596 de 18 de setiembre de 2009. http://basejuridica.cgn.gub.uy/WEB/Enlaces/Ley_%2018596.html

6 Uruguayan nationals detained in Buenos Aires were secretly transferred to Montevideo on clandestine Uruguayan Air Force flights on 24 July and 5

October 1976. While all those transferred on the first flight survived, those on the second did not.

7 Interview with journalist Gabriel Mazzarovich, Montevideo, 1 October 2013.

8 Ángel Tauriño – a high-ranking police chief – had strong links with the Colorado party and in par-

ticular with President Sanguinetti, who had nominated him as head of police of the Department of San José (R. Rodríguez 2012).

tive; in June 2002, Gelman filed a criminal case in Montevideo concerning the detention and disappearance of María Claudia, the abduction of her newborn daughter, and the illegal alteration of Macarena's identity. The case was closed in November 2003 when the executive applied the amnesty law to end proceedings.⁹ In June 2005, Gelman's attorney attempted to reopen the investigation by providing new evidence but again this did not prosper. Despite these failed endeavours, Macarena also sought to have the criminal investigation reopened in August 2008 but, even after it eventually resumed, progress was extremely slow (Peralta 2011).

As a result of these denials of justice, Macarena and Juan Gelman lodged a petition against Uruguay with the Inter-American Commission on Human Rights in May 2006, represented by lawyers from the Center for Justice and International Law (CEJIL). The complainants deplored that their right to access to justice had been violated and emphasised the personal suffering caused to them by Uruguay's failure to investigate the facts and prosecute and punish those responsible through the systematic application of the *Ley de Caducidad*. In July 2008, the Commission recommended that Uruguay investigate and punish those responsible, pay full reparations to the victims, and render the *Ley de Caducidad* without effect. By December 2009, Uruguay had yet to comply with these recommendations, and the Commission thus referred the case to the Inter-American Court in January 2010. In line with its previous jurisprudence,¹⁰ deeming amnesties for human rights violations to be incompatible with obligations under the American Convention on Human Rights, the Court in February 2011 declared the *Ley de Caducidad* invalid, because it was incompatible with the American Convention on Human Rights and the Inter-American Convention on Forced Disappearance of Persons since the law obstructed the investigation and possible sanctioning of

individuals responsible for grave human rights violations. Among the judgement's recommendations, the Inter-American Court requested Uruguay to conduct a public act of acknowledgment of international responsibility, which was to address the violations dealt with in the judgment and "take place in a public ceremony carried out by high-ranking national authorities and in the presence of the victims" (IACtHR 2011, para. 266).

3. The 2012 Public Act

On 21 March 2012, in the Uruguayan parliament, President José Mujica (2010–15) appeared before senators, deputies, the commanders of the armed forces, judges of the Supreme Court of Justice, government ministers, Juan and Macarena Gelman, as well as representatives from civil society and victims groups, to acknowledge Uruguay's international responsibility in the Gelman case in a public ceremony. Mujica read out a carefully worded text, drafted and agreed by the government together with Macarena and her lawyers. The Act was limited to the events of the Gelman case, in line with the judgement and as agreed between the parties (López San Miguel 2012; Mazzarovich 2012). The president, as the only speaker in a short ceremony lasting less than 20 minutes, acknowledged Uruguay's responsibility and the need for reparations for the abuses suffered by the Gelmans.

At a press conference held immediately afterwards, Uruguay's foreign minister Luis Almagro labelled the Public Act "a milestone in the history of the country", since it reaffirmed Uruguay's commitment to the full applicability of human rights and to the recovery of memory, truth, and justice.¹¹ Macarena Gelman stressed how the ceremony was neither "the beginning nor end of anything" but marked an important point from which "something better could be built". She asserted that "the path ahead" was uphill, since much remained to be done (Montevideo-Portal 2012a).

9 Law 15.848 of December 1986, *Ley de Caducidad de la Pretensión Punitiva del Estado*, ended the possibility of judicial proceedings against military and police officers accused of human rights violations during the dictatorship. For more information on the law see Lessa (2012).

10 See for instance verdicts such as those in the Case of Barrios Altos v. Peru. Interpretation of the Judgment of the Merits. Judgment of March 14, 2001. Series C No. 83 and the Case of Gomes Lund et al. ("Guerrilha do Araguaia") v. Brazil. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 24, 2010. Series C No. 219.

11 See "Esta ceremonia no marca el principio o fin de nada pero hace más fácil el camino", 21 March 2013, <http://presidencia.gub.uy/wps/wcm/connect/Presidencia/PortalPresidencia/Comunicacion/comunicacionNoticias/conferencia-prensa-macarena-gelman> (accessed 31 December 2013).

CEJIL, which had litigated the case at the Inter-American level on behalf of the Gelmans, emphasised that the Public Act constituted “a definite step forward on the path towards truth, justice and redress” not only for the Gelmans but for all the victims (CEJIL 2012). Most politicians regarded the Public Act as “correct”, with Senator Francisco Gallinal stating that it was “simple and without fuss” in addition to being “fair and necessary” (Montevideo-Portal 2012c).

The Public Act was carefully planned and organised by the government, in an attempt to bring together different political and social actors – albeit eventually unsuccessfully. The president’s speech emphasised that the Public Act was carried out to “strictly comply with the international verdict”.¹² Unlike the emotional delivery of President Patricio Aylwin, who asked for forgiveness for dictatorship crimes in Chile in his inaugural speech in 1990, President Mujica hardly displayed any emotion and strictly observed the agreed protocol of the event.¹³ The “decorous, adequate, yet cautious”¹⁴ act fulfilled the requirement of taking responsibility for the crimes requested by the Inter-American Court and was also a tribute to Juan Gelman’s “tireless struggle”.¹⁵ The governing Frente Amplio coalition contended that, while the Public Act was directly linked to the specific case of the Gelmans, “it should be interpreted as having a broader scope”, assuming responsibility for the darkest period in Uruguay’s history and calling on people to work together “in the search for truth and justice” (Montevideo-Portal 2012b). Some scholars and human rights activists nevertheless saw in the Public Act further proof of the government’s faltering and timid policy when dealing with the crimes of the recent past.¹⁶ For instance, historian Aldo Marchesi highlighted the approach of “doing less than what could be done”¹⁷ that has characterised the last several years of Frente Amplio governments and their reluctance to engage with the issue of accountability for past crimes. Others underscored how the

government could have taken advantage of this opportunity to acknowledge all of the dictatorship’s human rights violations and not only the Gelman case. Civil society groups were also dissatisfied. For example, Valentín Enseñat from HIJOS Uruguay (an association of sons and daughters of the disappeared) questioned the state’s attitude of just “complying with an international obligation” and hoped for further reflections and discussions within the government and the political system. According to Enseñat, the government lacked the political will to commit to the search for truth and justice and called for a different mind-set from the executive to replace endeavours “to close down the matter as soon as possible” (Zecca 2012).

3.1. Acknowledgment or Forgiveness?

The Public Act triggered the resurfacing of memory debates well before the scheduled date, and speculation abounded in the media between January and March 2012. The act produced an irruption of memories in Uruguay, reactivating and re-evoking decades-old tensions and arguments about a recent political past still very much present within society. The Act related closely to a controversial period in the country’s history and provided a significant backdrop for potential memory struggles. Was it going to be – or should it be – an expression of forgiveness? Where should it be held? Were the military commanders and former presidents going to be invited? Would the Act relate to the Gelman case only or to all victims of the dictatorship?

One of the issues that attracted particular media attention and generated much discussion was whether or not the state should ask for forgiveness for the crimes committed. Some newspapers reported that Alberto Breccia, President Mujica’s secretary at the time, had raised the question of forgiveness. However, Breccia criticised the media for labelling the event “a forgiveness act” (Montevideo-Portal 2012d). In early March 2012, President Mujica made it

12 Interview with José Luis González, lawyer for the Gelman family, Montevideo, 22 March 2012.

13 Videos of the Public Act (<https://www.youtube.com/watch?v=s9osFrV2cVk>) and Aylwin’s message (<https://www.youtube.com/watch?v=V6cRI75IBBI>) are worth comparing.

14 Interview with members of the Peace and Justice Service NGO (SERPAJ), Montevideo, March 21, 2012.

15 Interview with José Luis González, see note 12.

16 Interview with Pablo Chargoña, human rights lawyer, Montevideo, 12 March 2012.

17 Interview with historian Aldo Marchesi, Centro de Estudios Interdisciplinarios Uruguayos, Facultad de Humanidades y Ciencias de la Educación, Universidad de la República, Montevideo, 14 March 2012.

clear in his typical down-to-earth style that he did not like the idea at all because forgiveness was a subjective territory of things inside people (L. Rodríguez 2012, 10). Mujica underlined how the Act was not going to mark a definitive moment, “neither a before nor after”, and that it just meant complying “in good faith” with a juridical verdict that Uruguay was obliged to obey (Cajal 2012). The Gelman family also entered this discussion with Juan Gelman noting that “no victim” had delegated to third parties “the power to forgive in their name” (Montevideo-Portal 2012a); Macarena declared that forgiveness was never contemplated in the Gelman ruling and was something mainly discussed in the media. In her opinion, forgiveness was “an individual and voluntarily matter”, and she doubted that “a top-down imposed act of forgiveness” would have any value (Mazzarovich 2012). Macarena said that “she had not seen any sign of repentance from those responsible for horrors and therefore an act of forgiveness would be meaningless” (El Observador 2012b). The lack of cooperation and provision of information about the crimes in question, she pointed out in a TV interview, clearly demonstrated the absence of the preconditions for forgiveness.¹⁸ Victims’ and human rights organisations shared Macarena’s view. Valentín Enseñat asserted that forgiveness was inappropriate at that particular moment since “the state continued to perpetrate the crime of disappearance” and “some form of repentance by the material authors” was yet to be seen (La Diaria 2012, 12). The head of the National Human Rights Secretariat, Javier Miranda – the son of a disappeared person – underlined the complexity of forgiveness, especially for the victims’ relatives: “[I]t is not that we are unwilling to forgive, but it is an individual, subjective decision in each case” (L. Rodríguez 2012, 10). These statements make it clear that the Gelman family and the broader group of victims of human rights violations in Uruguay concur that the prerequisites for a genuine process of forgiveness are still lacking: the state and the direct perpetrators of atrocities have yet to show genuine remorse for their actions and, in particular, take the steps necessary to shed light on the fate of victims of enforced disappearance.

3.2. Enduring Memory and Justice Struggles

Several factors, relating both to the Gelman case and to broader issues of memory and accountability, created a context in which the Public Act easily reactivated memory struggles about the recent past. First, the Public Act took place in an emotionally charged context: a few days earlier the remains of a disappeared person had been found buried in a clandestine grave on the grounds of the 14th Infantry Battalion in the province of Canelones, just outside of the capital Montevideo. Such discoveries always have a profound impact on Uruguayan society. The remains were discovered within the context of ongoing investigations into María Claudia’s disappearance and were later identified as being those of Ricardo Blanco Valiente, disappeared in 1978. Furthermore, in October 2011, Judge Pedro Salazar had begun the prosecution of five policemen and military officers held responsible for María Claudia’s murder.

Second, memories of the recent dictatorship remain fresh within society despite the passing of time. For over two decades, governments attempted to silence discussion of dictatorship crimes and restrict it to the sphere of human rights activists, victims and relatives. Sanguinetti’s signature slogan “no hay que tener los ojos en la nuca” (you should not have eyes at the back of your head), exhorting people to focus on the future rather than looking back to the past, epitomised this endeavour (Lessa 2011). But the memories of state violence could not easily be suppressed and endured within society, waiting to resurface at any moment. During the 1980s and 1990s, victims’ memories were politically invisible but persisted in the intimate spaces of private homes and families (Fried 2011). Despite the absence of any space in the political and social spheres for talking about past horrors, memory narratives persevered and could easily be activated at specific instances such as the Public Act and anniversaries such as the annual march of silence on 20 May that commemorates slain Uruguayan politicians Zelmar Michelini and Héctor Gutiérrez-Ruiz as well as all victims of enforced disappearance. The

18 Entrevista a Macarena Gelman, 5 March 2012, Monte Carlo TV Channel, https://www.youtube.com/watch?v=03Hzj_WP0Q8

endurance of these traumatic memories is an unintended outcome of the intrinsic features of state terrorism and the institutionalisation of fear during the dictatorship. Uruguayan psychoanalysts Marcelo and Maren Viñar have highlighted the consequences of state political terror on victims and society: the tearing apart of the social fabric and the alteration of culture, social interactions, and communities (Viñar and Viñar 1993).

Third, the Public Act took place in the aftermath of the first ruling against Uruguay by the Inter-American Court. Furthermore, the verdict came against the backdrop of an intense political situation: throughout 2010 and 2011 the government and the political establishment had been endeavouring to respond to past crimes, albeit ultimately unsuccessfully. Since the late 1990s, the question of coming to terms with dictatorship crimes had slowly begun re-emerging in Uruguay after many years of official silence and denial. Unlike Argentina or Chile, Uruguay had, after the transition to democracy in the mid-1980s, embarked on a path of impunity whose clearest embodiment was the *Ley de Caducidad* (Lessa 2013, chapter 5). Every president between 1986 and 2005 systematically applied this amnesty law to obstruct all investigations into past atrocities, including in the Gelman case. Eduardo Galeano famously labelled Uruguay “a paradise of impunity” (La República 2008). Yet a vibrant and heterogeneous coalition of civil society groups – ranging from the relatives of the disappeared to the students’ federation and the trade unions – pushed incessantly and creatively for more accountability and challenged the institutionalisation of impunity.¹⁹ Eventually, in August 2000, the government of Colorado president Jorge Batlle (2000–05) established the first mechanism to investigate disappearances, a type of truth commission named the Comisión para la Paz (Peace Commission), which officially acknowl-

edged the perpetration of atrocities by state agents (Allier 2006).

In March 2005 the left-wing Frente Amplio coalition, which had previously championed accountability, took over the government. Civil society and victims’ groups have exploited the fact that the new government has been slightly more receptive to their demands. Important progress was achieved under the governments of Tabaré Vázquez (2005–10) and José Mujica (2010–15), including reparation policies for victims, excavations at military sites leading to the identification of four bodies of disappeared persons in 2005, 2011 and 2012; a partial opening of state archives, with information disseminated and used in criminal proceedings; a new interpretation and application of the *Ley de Caducidad* that at last allowed prosecutions for past crimes to move forward;²⁰ and the overturning of the amnesty by parliament in October 2011 (Lessa 2012). Between 2009 and 2011 debates surrounding the overturning of the *Ley de Caducidad* resulted in tense political confrontations with the opposition, but they also exposed disagreements and different perspectives on the matter within the government. The governing coalition’s fragmentations and divisions on what to do with the *Ley de Caducidad* were already evident in the 2009 plebiscite on whether or not to annul the amnesty as well as in the unsuccessful attempts between 2010 and 2011 to have parliament pass a law reinterpreting the amnesty to avoid the looming condemnatory verdict by the Inter-American Court (Lessa 2013, chapter 5).

By the time of the Public Act, the governing Frente Amplio coalition had been internally weakened and divided by this complex process of removing the *Ley de Caducidad* from the statute book. The twists and turns of efforts to overturn the amnesty law had exposed the government’s lack of a

19 These included a referendum to overturn the *Ley de Caducidad* in 1989 and a plebiscite in 2009; the 1989 *Nunca Más* report on the dictatorship’s crimes compiled by the NGO SERPAJ; a constitutionality appeal to the Supreme Court of Justice in 1986 (and again in 2008 and 2009); civil cases against the state for damages suffered by victims of detention and disappearance in the early 1990s; public street mobilisations since 1996 – *marchas del*

silencio – to commemorate the disappeared; and in 2002 the first successful criminal prosecution against a dictatorship-era foreign minister Juan Carlos Blanco (Lessa 2013, 138 ff.).

20 For up-to-date information on judicial investigations into dictatorship atrocities see the website of the Observatorio Luz Ibarburu: <http://beta.observatorioluzibarru.org/reportes/>. Events in the early months of 2013 – the transfer by the Supreme Court

of Justice of criminal judge Mariana Mota who was investigating almost fifty cases of past crimes to a civil jurisdiction and several sentences by that same court closing down investigations applying a statute of limitations – constitute worrisome developments deeply questioning the country’s commitment to accountability (Lessa and Le-Goff 2013).

clear-cut and consistent policy on accountability. The immediate context of the Public Act was thus characterised by the aftershocks and consequences of these recent events. Moreover, the Public Act and the president's speech must be placed in a long-term context of sustained struggles against impunity by civil society groups on the one hand and an often reluctant political establishment having to respond to these pressures on the other. The Public Act quickly reignited the embers of the political and memory debates.

3.3. Memory Narratives and Contested Visions of the Past

The symbolism of the Public Act was inescapable and, because of that, it had the potential to trigger heated political discussions. The main speaker, President Mujica, had been a Tupamaros leader in the 1960s and 1970s; at the time of the Act, he was Uruguay's head of state and, in that capacity, also the commander of its armed forces – his old “enemies”. Mujica led the Act in an emblematic place, parliament, whose closure had signalled the start of the dictatorship on 27 June 1973, after which it remained shut for twelve years. Mujica acknowledged state responsibility for the crimes committed against the relatives of Juan Gelman, who was also a member of revolutionary armed groups in Argentina. Juan Gelman highlighted the historical paradox embodied in the Public Act, since President Mujica – himself a victim of the dictatorship – had to recognise in the name of the state the responsibility of his victimisers; Gelman underscored the president's “moral courage” (La República 2013, 7).²¹

President Mujica's speech at the Public Act clearly reflected the state terrorism narrative. Although he was a reluctant participant, the text he read out marked an unprecedented step when compared to the language employed by his predecessors – none of whom had used the term “state terrorism”. Mujica used this expression several times, and also cited other constitutive elements of that narrative, such as explicit mention of “enforced disappearances”, “illegal

detentions”, and “rights” (Scagliola 2012, 2). He recounted in detail the crimes perpetrated against María Claudia and Macarena and also recalled the historical context of the time, underscoring how hundreds more people were also victims of state-sponsored atrocities analogous to those suffered by the Gelmans:

[U]nder the aegis of the so-called Doctrine of National Security, a systematic policy of repression of social and political organisations, as well as the trade unions was carried out along with the persecution of its members and the control of the whole civil society, all expressions of so-called “state terrorism”.

(Mujica cited in SERPAJ 2012, 57; emphasis added)

Furthermore, the president acknowledged the existence of Operación Cóndor, which resulted in the persecution, detention, murder and disappearance of citizens of Argentina, Brazil, Chile, Bolivia, Paraguay and Uruguay even when in exile in South America. In a clear reference to the state terrorism narrative and the emblematic crime of disappearance, it was acknowledged that the whereabouts and fate of many people remained “unknown”, while their “remains were yet to be found” (SERPAJ 2012, 57).

Uruguay's failure to fulfil its obligations to investigate and punish these crimes was not limited to the authoritarian period, the president admitted, but stretched into the democratic era when impunity was consolidated in the *Ley de Caducidad*. Mujica highlighted how the interpretation and application of that law had resulted in the violation of judicial protection and judicial guarantees for the victims because of the absence of effective investigations and the lack of prosecutions of those responsible for the crimes (SERPAJ 2012, 58). In addition to recognising its international juridical and ethical responsibility, Uruguay condemned the atrocities and reaffirmed its commitment to justice and to avoiding any repetition of such events; the government vowed to continue looking for the body of Macarena's mother and to prosecute those responsible for her murder.

²¹ Mujica was one of several Tupamaros leaders detained as hostages for over a decade by the dictatorship, remaining under constant threat of execution throughout his imprisonment.

The carefully crafted speech attempted to build a political consensus in the aftermath of very tense months in 2010 and 2011. In particular, Mujica stated that he “did not want to go a millimetre beyond” what would be bearable for those who had a different opinion (Scagliola 2012, 3). However, as the following examples illustrate, the president was unable to bring Uruguayans together and generate a consensus. Instead the Public Act produced a flurry of criticism and elicited abundant political polemics from media outlets and opposition politicians, who took advantage of this opportunity to reaffirm and rehearse their contending memory narratives of the past, especially the war and two demons narratives.

An editorial in the conservative *El País* newspaper in January 2012 called for the adoption of a complete vision, encompassing “all human rights violations perpetrated in our country both by the military and the Tupamaros” (El País 2012; emphasis added). The editorial underlined the impunity enjoyed by many guerrillas and listed crimes they committed such as robberies and kidnappings for ransom, cold-blooded executions of their enemies as well as traitors in their own ranks, illegal detentions, and use of torture by joint military and guerrilla task-forces during a phase of cooperation, labelling them “sinister episodes”. The editorial condemned state terrorism but also pointed to the responsibility of “those who sinned with impunity to impose on their compatriots a socialist Cuban-style regime” and inaugurated an “era of violence that undermined our democratic system” (El País 2012).

An editorial in the Colorado weekly *Correo de los Viernes* similarly drew on the war and demons narratives to categorise the military takeover as a “dramatic culmination of a process of political violence begun by the Tupamaros in 1963”; equating the violence perpetrated by state agents with that of non-state armed groups served to justify the existence of parallel amnesty laws covering political prisoners and guerrillas in 1985 and the *Ley de Caducidad* for military and police officers in 1986. The editorial argued that the guerrillas renounced democracy to gain power through armed struggle and warned against falsifying history by talking of “one form of violence without making reference to the other” (Correo de los Viernes 2012). Recal-

ling the (ab)use of memory and forgetting, it accused the former guerrillas of wishing to hide their “tragic conduct and their responsibility for the country’s destabilisation”, to install “a formidable historical misrepresentation involving moral hemiplegia, a dual ethic that both exposes and hides” (Correo de los Viernes 2012). In a similar vein, former ambassador Adolfo Castells Mendivil, in a note entitled “The Forgiveness’ Show”, accused the government of taking advantage of the opportunity offered by the Public Act “to misrepresent history, by ratifying the lies printed in some textbooks” and considered it “surreal” that a state whose government was composed of former guerrillas would assume responsibility for crimes of the dictatorship that they caused, without ever having acknowledged their own responsibility (Castells Mendivil 2012). An article in the weekly Blanco magazine *La Patria* likewise called on President Mujica and “his Tupamaros” to ask for forgiveness for attacking the state, “kidnapping, torturing, and murdering people to impose their ideas” (Patrón 2012).

Three former presidents (Sanguinetti, Lacalle and Batlle) turned down their invitations to attend the Public Act and went to extreme lengths to condemn it. Batlle used the war narrative to contend that “the Tupamaros guerrillas should be the ones asking for forgiveness”, arguing that “if there had been no guerrillas, there would not have been a military dictatorship” (El Observador 2012a). In an interesting twist of the two demons narrative, Batlle proclaimed a “one demon” narrative, attributing responsibility for what had happened exclusively to the Tupamaros: institutional breakdown, dictatorship and state terrorism (Guillot 2012). Former Blanco president Luis Alberto Lacalle (1990–95) employed the war interpretation to affirm that “Tupamaros authorities [...] that attacked national democracy from 1963 should ask [...] for forgiveness for the murders, kidnappings and thefts that they perpetrated” (Lacalle 2012). Former president Sanguinetti went even further, accusing the government of “witch-burning” and of being the “Inquisition”. He highlighted the existence of a partial vision of the past that condemned “the excesses of the military” but ignored “the crimes of the guerrilla”, even though the latter were responsible for plunging the country into violence and “forcing the army out of their barracks” (Sanguinetti 2012).

Colorado deputy Fernando Amado acknowledged a “terrible crime committed by state agents”, but also remarked that Mujica could contribute to reconciliation by publicly admitting his mistakes (Rodríguez and Rómboli 2012). The voice of the armed forces was also inevitably present. The president of the Military Club, Guillermo Cedrés, resorted to the war narrative to assert that the military had been following politicians’ orders and had no reason to apologise. While any “errors or crimes” perpetrated would be prosecuted, “all the actors involved” in the events should ask for forgiveness, pointing to what he labelled Mujica’s “double character, as president and former terrorist” (Ultimas Noticias 2012a). Finally, the NGO Madres y Familiares de Uruguayos Detenidos Desaparecidos (Association of Mothers and Relatives of the Disappeared) underlined the persistent lack of recognition by the army of the events that occurred during the dictatorship and criticised the way many military and political actors continued to employ the war logic and the two demons theory to interpret the past (Ultimas Noticias 2012b).

The analysis of debates surrounding the Public Act exposes continuities but also changes and reinterpretations of the three memory narratives. Regarding the state terrorism narrative, the transnational coordination of terror through Operación Cóndor occupied a central place in the Public Act’s speech. This is an important change that came about not only because the crimes perpetrated against the Gelmans occurred within that context, but also because substantial information on this terror network has been emerging over the past ten years. This information – in particular on the use of clandestine flights to return Uruguayans detained in Buenos Aires to Montevideo – clearly questions earlier accounts of Uruguayans that had been disappeared on Argentine soil by the dictatorship there, pointing instead clearly to Uruguay’s direct role in their persecution as well as its active participation in the transnational network of repression. The war and two demons narratives were also re-actualised in the current political context. In particular, there has been a move towards a

“one demon narrative”, over-emphasising the role played by the Tupamaros in the onset of the dictatorship, the attacks against democracy, and the perpetration of violent crimes. This attempt to shift the blame from the two demons to focus almost exclusively on one of them is intentional and serves political goals, since the main party within the governing coalition is the Movimiento de Participación Popular, established in 1989 by ex-Tupamaros leaders. This spotlight on the guerrillas and calls to integrate the responsibility of armed groups into the historical narrative are instrumentalised by the opposition to criticise the government and its policies in dealing with the past. Taking advantage of President Mujica’s past as a former Tupamaros leader, the opposition launched into a broader critique of the governing party’s approach to accountability, accusing it of partiality and of championing “hemiplegic visions” of the past that do not correspond to reality. This reinterpretation of the war and demons narratives purposely avoids any discussion of the difference between terror coming from the state – which is tasked with protecting human rights – and that coming from non-state armed groups. In Uruguay, thousands of guerrilla members were in fact prosecuted by military tribunals during the dictatorship and spent time in prison, while only a handful of state agents have been tried since the transition in the mid-1980s.

4. Conclusion

La oveja negra
pase en el campo negro
sobre la nieve negra
bajo la noche negra
junto a la ciudad negra
donde llovo vestido de rojo.²²

(La República 2012b, 6)

Juan Gelman read this short poem, written decades earlier by his son Marcelo, at a private ceremony on the day of the Public Act during which a memorial plaque was unveiled in the Defence Information Service building in Montevideo to commemorate María Claudia and Macarena, as

22 The black sheep/grazes in the black field/on the black snow/under the dark night/next to the black city/where I cry dressed in red.

well as all others incarcerated in that clandestine detention centre during the dictatorship. Marcelo's poem sounds like a sinister foreboding of his own death and of the dreadful fate suffered by his wife and unborn baby daughter, while also forewarning events on a national and international scale, as Argentina and Uruguay both lived through "the dark night" of dictatorship and state terrorism.

The Public Act ordered by the Inter-American Court in the Gelman case symbolically commemorated the victims and constituted a form of reparation, since Uruguay officially acknowledged its responsibility for atrocities. The organisation and unfolding of the Act had reverberations and repercussions in the wider society and political landscapes. The Public Act triggered the re-emergence of latent struggles between competing memory narratives relating to the dictatorship and the human rights violations as well as their re-interpretation within the contemporary setting. The state terrorism narrative and interpretation of past events has over the past several years achieved a more dominant position within the social and political landscape. This memory narrative was expressed and reaffirmed in the speech by President Mujica during the Public Act, when he utilised some of the narrative's essential elements such as the systematic policy of violations imple-

mented by the state and the emblematic crime of enforced disappearance. In spite of its recently acquired dominant status, the state terrorism narrative did not go uncontested. Rather, the Public Act triggered numerous irruptions of memory in Uruguay, reactivating and reaffirming competing memory narratives that interpreted the years of the dictatorship as a time of war fought between the two demons. These narratives were mainly articulated by opposition leaders from the Blanco and Colorado parties; two former presidents offered a new interpretation, amounting to a "one demon" narrative, shifting the focus exclusively onto the Tupamaros guerrillas and holding them alone responsible for the dictatorship and ensuing violence.

Four decades on from the 1973 coup d'état, there still are conflicting and diverse memory narratives in Uruguay that compete to interpret and explain the violence before and during the dictatorship. The Public Act in its reparative and symbolic connotations worked as a trigger to reactivate quiescent memory narratives in Uruguay. Despite the passing of time, the dispute over the past remains very much alive and is likely to persist into the future, along with the enduring search for justice by Juan and Macarena Gelman. As William Faulkner famously asserted (1953): "The past is never dead. In fact, it's not even past."

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