

## I Cried for you, Argentina

*Tom Farer\**

### ABSTRACT

For seventeen days in the fall of 1979, the Inter-American Commission on Human Rights of the Organization of American States (OAS) conducted an on-site inquiry in Argentina. With the grudging consent of the military government, it roamed the country, recording thousands of denunciations of the regime's exterminatory assault on left-wing insurgents and anyone suspected of assisting them, whether materially or intellectually. In the country's formal detention centers, it privately interviewed hundreds of political prisoners and secured testimony from the fortunate few who, having been dragged into clandestine torture centers and found harmless, had been released. It met also with the country's highest officials and most powerful interest groups. From this visit there emerged a report which began the process of regime de-legitimation which culminated in the restoration of democracy four years later. This is the story of that visit and its results. It also recounts in brief compass the subsequent effort of Argentine society to consolidate democracy and secure justice. Among other things, this piece is an effort to identify the circumstances in which naming and shaming can save lives and undermine autocracy. It recalls the fluctuating and divided response of the US government to the Argentine slaughter. I was a member of that Commission, helped write its report, presented it to the OAS foreign ministers, testified at the 1985 trial of the junta leaders, and then returned periodically to appreciate the evolution of Argentina's transition from a terror state to one dominated by a human rights discourse, if not always by ideal human rights practice. This is a personal account, but one which I hope is as coincident with reality as any such account can be.

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\* *Tom Farer*, the former dean of the Josef Korbel School of International Studies (1996-2010), is University Professor at the University of Denver. He served as a member of the Inter-American Commission on Human Rights from 1976 to 1983 and as its President from 1980 to 1982, the first US citizen ever elected to head a principal organization of the OAS. He has also been President of the University of New Mexico and of the Association of Professional Schools of International Relations (APSIA).

## I. BUENOS AIRES, 1985<sup>1</sup>

In the recesses of a massive court building the chief prosecutor, Julio César Strassera, is briefing me. Very shortly I will testify in the criminal trial against nine prominent figures in the military regime which ruled Argentina from 1976 to 1983 and “disappeared” many thousands of men and women, the actual number still unclear. There will be six judges, he tells me, no jury. The chief judge will question you first. Basically, he will ask you about the Commission’s visit and you will have a chance to talk about what you saw and what you concluded. When he is finished, the other judges may have questions. I then can get you to fill any gaps I see. After that, the defense lawyers, all nine of them, will have their chance to question you. It will be a long afternoon.

“Listo?” he asks. “Yes, I am ready.”

## II. BUENOS AIRES, SEPTEMBER 1979

*“Only God gives and takes life. But God is busy elsewhere, and we’re the ones who must undertake this task in Argentina.”* (Captain Beto, an interrogator)<sup>2</sup>

We descend from the plane, seven soberly-suited slightly rumpled men who are not welcome. Still, diplomatic etiquette demands we be welcomed and so, waiting on the tarmac is the Foreign Ministry’s head of protocol. Behind him stand the foot soldiers of the Argentine media bearing essentially a single question: “Why are you here?”

Of course they know, but for three years, while the killing machine has ground up its victims,<sup>3</sup> the media have found it convenient—indeed essential for life, limb, and property—to publish little more than government communiqués from the murder front. “Yesterday, in La Plata’s Providencia neighborhood, in the face of armed resistance, the police arrested a group of terrorist delinquents.” Something like that. We had examples in our files.

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1. I have used the memoir form in an effort to preserve in granular detail Argentina’s experience of state terror under the military regime which governed the country from 1976 to 1983 and to provide insight into the efforts of an intergovernmental body to expose the regime’s crimes against humanity and thereby help bring them to a halt. Certain details, including certain quotations, rely on my memory. The details themselves are consistent with published accounts. Where I have doubts about the actual words used, which is frequently the case, I have paraphrased and captured what I confidently believe is the factual essence and the tone of the speaker.
  2. JACOBO TIMERMAN, *PRISONER WITHOUT A NAME, CELL WITHOUT A NUMBER 31* (Toby Talbot trans., 1981).
  3. See among many descriptions of the operations of the killing system: NUNCA MAS: INFORME DE LA COMMISSION NACIONAL SOBRE LA DESAPARICION DE PERSONAS (1976); IAIN GUEST, *BEHIND THE DISAPPEARANCES* (1990); THOMAS WRIGHT, *STATE TERRORISM IN LATIN AMERICA* (2007).

No names and no follow-up. The word “disappeared” (*desaparecido*)? Almost never.

There had been two notable exceptions. One was brief. In 1976, the armed forces had assumed direction of the state following two years of increasing anarchy as left-wing insurgents and the paramilitary gangs, organized by President Isabel Peron’s sinister Svengali, Lopez-Rega, waged deadly battles conjuring, for those who read history, images of Communist and Nazi brawlers bloodying the streets of Berlin during the Weimar Republic. The sense of an entire country lurching toward an abyss of unfathomable depths had driven even prominent members of the moderate left, like the flamboyant Jewish editor and owner of the newspaper *La Opinion*, Jacobo Timerman, to welcome the coup, despite knowing that the officer corps was one of the homes of deeply conservative sentiment, a sentiment to which anti-Semitism was not foreign. He had assumed, he would tell us,<sup>4</sup> that the armed forces would restore order, organize elections, and then return to their barracks as they always had, eventually, through the decades of the Twentieth Century: The armed forces, a self-appointed Supreme Court with bayonets to enforce its judgments. As months passed and heavily-armed men, usually without uniforms or insignia and driving cars without license plates, seized mostly young men and women largely of the middle classes, and took them to the centers of pain. Timerman had been the one media voice speaking in Spanish to question the military’s methods. He questioned them until the day he too disappeared.<sup>5</sup>

The other exception had been the English-language *Buenos Aires Herald*, a paper edited by an American and read largely by tourists and some members of the small affluent class of Anglo-Argentines. Around the time we arrived, its editor was finally being persuaded that for the sake of his health and that of his family, he should self-deport.

Our leader, Andres Aguilar,<sup>6</sup> addresses the media briefly, deftly offering the necessary anodyne words. “We have come,” he says, without preconceptions, at the invitation of the government, to conduct an objective assessment of the general condition of human rights in Argentina. These general assessments fall within our institutional mandate. We plan to meet with representatives of all sectors and important institutions of Argentine society, as well as with government officials. We will visit centers of detention. We hope to discover the reality behind complaints filed with the Commission and our lawyers are prepared to receive new ones which we also shall investigate

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4. TIMERMAN, *supra* note 2, at 26.

5. *Id.* at 28.

6. Aguilar, at that point the General Counsel of the state-owned National Petroleum Company of Venezuela, had previously served as attorney-general of Venezuela and a leader of the successful 1958 revolt against the US-supported military dictator, Perez Jimenez.

to the best of our abilities. We appreciate the government's assurances that it will facilitate our inquiries and that persons can testify before us without fear of reprisal: Words to that effect. Otherwise, Aguilar gracefully refuses to be drawn beyond our standard arrival script.

What more might he have said? That we had not descended from the moon, nor been kept fed and clothed in a chamber beneath the sea where no news reached; that self-censorship ended at the country's borders; that we like millions of others had read in our national papers and respectable journals about the accumulating numbers of the disappeared, about the Mothers of the Plaza del Mayo standing regular vigil outside the office of the Presidency in Buenos Aires begging for news of their children?

Early in the campaign to exterminate the insurgent Left, the senior commanders of the armed forces had begun working to forestall this visit. A year after the 1976 coup, Argentine diplomats attending the annual General Assembly of the Organization of American States (OAS), held that year in the incongruously festive setting of the little Island of St. Lucia, had proposed a conversation over dinner with Aguilar and the two other members of the Commission including myself, there to present a report on the Commission's work.

At dinner, they were exemplars of suave diplomacy. What we don't want they said, is the sort of hostile relationship you have with Chile. We are going through a difficult time. We are dealing with a grave threat to our national society, to the values we share with you. This period will not last long. Meanwhile, we seek a cooperative relationship and your understanding. When you receive allegations against the government and then, as you must, you ask us for information about the case, unlike the Chileans, we are not going to ignore your requests. On the contrary, we will respond quickly and as fully as possible. Aguilar assured them that we looked forward to their cooperation.

Argentina was not Guatemala. The gross abuse of the most elemental human rights might, as in many countries, be commonplace in the lives of the lower classes, but it certainly was not native to the country's large and well-educated middle class from which many of the persons swept up by the military's campaign of social cleansing were coming. A web of personal and professional relationships connected the members of this class, at least its upper layer, people who imagined themselves as bearers of rights, to the rest of the West. Therefore, unsurprisingly, by the time the Argentine government reached out to us, the international post was channeling a stream of denunciations into our Washington offices. So in the aftermath of that cordial dinner, our lawyers began testing the limits of cooperation.

A typical claim would sound like this:

At four in the morning on the 17th of April, a group of heavily-armed men, identifying themselves only as members of the security services, demanded entry

to our home. When we let them in, they searched the house at gunpoint and then ordered my eighteen-year-old-daughter, Maria Vargas Guevara, to come with them for questioning. I asked to accompany her but they said that was not possible. Where were they taking her? I asked. They said to Police Station Number 9 and, not to worry, they would bring her back within twenty-four hours.

In great fear but with hope, my husband and I waited those twenty-four hours. Maria did not return. We went to Police Station number 9 where they denied any knowledge of Maria. Then we went from station to station all over the city and everywhere they denied all knowledge of her whereabouts, denied any knowledge of her arrest. We hired a lawyer and he brought a writ of habeas corpus before the First District Court. The Government responded that it could not produce Maria because according to their records she had never been detained. The judge dismissed our application. Meanwhile we went to every military headquarters in the city, where we received the same answer, that she was unknown to them. We went to our priest and asked him to make inquiries. He learned nothing. Please help us. She may still be alive.

In case after case, hundreds of them, we would transmit the substance of the letter to the Argentine Foreign Ministry and, after some weeks, we would usually get an answer, a response almost identical in every instance. The first paragraph would remind the Commission of Argentina's historical and unflagging commitment to the defense of human rights. The second paragraph would congratulate the Commission on its fine work. The final paragraph would state flatly that there was no record of a Maria Vargas Guevara ever being detained. If she was in fact missing, perhaps she had left the country or had joined a subversive group and was hiding somewhere.

While some cases came to the Commission's Washington offices by mail, many others were brought to us by two men who discounted fear of death in favor of the possibility of life and a measure of justice. Emilio Mignone<sup>7</sup> and Augusto Conte Mac Donnell, had founded a human rights documentation center, El Centro de Estudios Legales y Sociales (CELS) (Center for Legal and Social Studies), shortly after the killing began. Mignone was the prime mover, a large, well-padded, pleasant-looking man, smooth-faced, always wearing an inconspicuous coat and tie, and armed with carefully-organized case files. He had the placid mien of a senior official in some government agency or perhaps an insurance executive who spent his days calmly negotiating the terms of complicated policies with corporate clients. But I knew one of his three daughters had been sucked into the death machine and I could not hear him speak without picturing behind the calm actuary's façade a boiling rage held at bay by a heroic inner discipline. Like Andres Aguilar, he was a practicing Catholic. From the beginning he served as our principal guide

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7. The only biography is MARIO DEL CARRIL, *LA VIDA DE EMILIO MIGNONE* (2011).

through the Argentine Hell, and he, more than any other single person, helped us prepare for the on-site investigation we finally conducted in September 1979. But Conte Mac Donnell, who had lost a son, also contributed, first to our visit and then to the struggle against military government. Mignone lived to see democracy restored and consolidated, the military shrunk to a fraction of its traditional self and indisputably subordinated to civilian authority. Long before then Conti Mac Donnell, would take his own life.

In September 1979, ostensibly we were indeed there at the "invitation" of the Argentine government. In fact, it was an invitation extracted like an impacted tooth from the high command of the armed forces. More than a year earlier, at one of our periodic gatherings in Washington D.C., we had voted to do a general report on the condition of human rights in Argentina and had so informed its government, which reacted with a show of angry dismay. The decision to do a general report, one of its representatives exclaimed, is equivalent to an indictment. That is how it will be construed. And it is unfair. Have we not been cooperating, just as we promised? The bearer of these complaints, Argentina's Ambassador to the OAS, a professional diplomat called Raúl Quijano, was personally non-committal. Despite what a majority of us thought was going on in Argentina, we found it hard not to like this calm, well-built man of medium height with closely-cropped hair and strong symmetrical features, who did not insult our intelligence by pretending all was well in his country. Although he never quite said it, he left the impression that he was just doing his job of being a communications link between us and the commanders in Buenos Aires.

We replied, a little disingenuously, that the decision to do a general report was not an indictment. There were many unresolved cases before the Commission and, in order to determine whether they were well-founded, we needed to conduct a broad inquiry including an on-site investigation. So, we would appreciate receiving the government's agreement to a visit.

Finally, the government, under pressure from US President Jimmy Carter, sent a special representative. A forgettable man, he told us that his government would welcome a study of the Argentine judicial process. After all, he said with a show of conviction, what institution is more central to the protection of human rights than the judiciary? This was the judiciary whose members had, in most cases, summarily rejected applications for writs of habeas corpus filed by desperate parents, the judiciary which had accepted without question much less independent inquiry government denials of arrest and detention.

After he left, one or two colleagues, the usual suspects, urged the rest of us to accept the crumb, saying it was the best we could get. But I pointed out that two years earlier, before visiting Panama, we had adopted a set of rules for on-site inquiries, rules which gave us *carte blanche* to investigate, by whatever means we deemed necessary, every aspect of the human rights

situation. We cannot, I argued, consistent with the rigid OAS tradition of formally equal respect for sovereign states, treat large and small, important and inconsequential, states differently. This was a conservative principle, and so the conservatives among my colleagues, the instinctive defenders of a state's discretion to choose the means for maintaining order, felt bound by it. So we informed the government that we would require the same broad freedom of inquiry we had previously enjoyed in Panama, El Salvador, and Nicaragua. And we waited.

President Jimmy Carter proved to be an implicit partner. Invite them, he quietly informed the high command of the military, and he would withdraw his veto of an Export-Import Bank loan supporting the construction by Allis-Chalmers, a US corporation, of a plant in Argentina for the construction of turbines intended for use in a vast hydroelectric project Argentina planned to execute in partnership with the dictatorial government of Paraguay. In addition, he would approve a relaxation of constraints on military equipment sales.<sup>8</sup> Permission to enter would have to be by majority vote of the nine-most senior officers of the three services. Over bitter opposition, according to our various sources, from the most notoriously ferocious officers, a majority voted to accept our terms and issue the permission (the "*anuencia*") to enter.

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Whisked through customs as VIPs, we arrive finally in the heart of the city. Our hotel, an aging dowager of a place, anchors one end of the then fashionable pedestrian street, Avenida Florida. The halls are wide and silent, the room is large, tall windowed, a talisman of bourgeois Edwardian comfort. The phone rings as I begin to unpack. The voice at the other end of it is friendly, relaxed, decidedly American. "This is Bruce B. . . , Tom. You remember (he reminds me where we had met briefly years earlier in New York). I'm here in the hotel," he says, "with two Argentine colleagues who are eager to meet you. (Bruce is a corporate lawyer). Do you have time to come by my room for a chat?"

Soon I am shaking hands with two bilingual gentlemen whom I guess to be in their late thirties. They are name partners in a firm specializing in

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8. See WILLIAM MICHAEL SCHMIDLI, *THE FATE OF FREEDOM ELSEWHERE: HUMAN RIGHTS AND U.S. COLD WAR POLICY TOWARD ARGENTINA* 148–50 (2013). According to Schmidli, the decision to leverage the Allis-Chalmers loan was a close-run thing. Not only was President Carter under increasing pressure from the US private sector to avoid actions inhibiting trade with and investment in Argentina (or any other economically consequential country), in addition he faced a national security bureaucracy hostile to risking cordial relations with Cold War allies using brutal methods to repress left-wing opponents.

the representation of foreign banks. The taller one, lean and blond, fine but not showily suited, looks like the sort of fellow you might notice stepping out the door of a tony men's club on St. James Street in London. I will call him Paul with a decidedly English surname. His partner is sleeker, dark-haired, the clothes a bit more elegant, Armani rather than Savile Row. He had studied law in the U.S. and periodically came north to teach a corporate law course at a school in the southwest. I will call him Mario. They are welcoming, flattering, easy to like. We sit. They seem relaxed but concerned. I am on guard. Bruce watches silently.

Mario, it is quickly apparent, will do most of the talking. We wanted to meet you, he says, to help give you a context for your observations. We think it is very hard for anyone from the outside to appreciate what Argentinians were enduring before the armed forces assumed the responsibilities of government. We want to help you imagine the violence, the insecurity of everyday life. Let me just give you one small example, he says, of what was happening. I taught a course on corporate law at the university. Of course, the pay was nothing, but I felt a responsibility and I enjoyed doing it. One day as I was writing on the board, the entire wall crumbled under my hand. Someone had set off a bomb in the adjoining room. That, Tom, was a microcosm of life in this country. We could not go on that way.

You see, he continued, two powerful revolutionary movements had developed. They were filled with mostly young people, often well-educated, students, teachers, and professionals. Whatever their internal differences, they wanted one thing, namely to overturn existing society and to that end were prepared to use very violent means. Their members had penetrated practically all the institutions of Argentine society. When Lopez-Rega organized his own right-wing paramilitary groups to suppress them, the violence intensified. The country was being torn apart. The government was useless. With Juan Peron dead, it was headless. His wife was completely out of her depths. She relied on Lopez-Rega and he was simply a thug.

So, as most people wanted, the military took power and began to restore order. It was not easy. What we had was almost a civil war, but a peculiar one in that one side, the revolutionaries, fought from the shadows. You know that civil wars are very bloody and filled with hate. This civil war was worse because one side was concealed in the heart of public and private institutions. In such a war there are bound to be excesses, abuses of authority, because a war like that is a dirty war, "*una guerra sucia*." So you will undoubtedly discover some of those abuses. They exist. I will not deny it. They would exist in any society under the same circumstances. We want you to see them in context. And those persons who committed them should, of course, be punished. But you cannot condemn the country, the entire society, for the misdeeds of a few. Now we are emerging from this dark time.

Mario impresses as a man speaking with great sincerity, like a very earnest historian lecturing to an audience of one in a learned society. Paul



reinforces his account. I listen intently, like a good student, nodding occasionally to signify . . . whatever Mario wants my nod to signify. Finally, they are finished. I thank them for trying to help me understand the context of events; I concede, without necessarily believing, that an outsider cannot apprehend the reality of a place as fully as its inhabitants, but in my mind I ask myself: "Who can best see the forest? The man living in one quadrant of the forest who depends for his livelihood and respect on the forest's reputation for beauty and as a rich source of timber or the disinterested outsider who consults studies of the forest and examines aerial views, then travels its length and breadth, sees its beauty, but also its lethal snakes, feral dog packs, and criminal bands and who knows that when he is finished studying the forest, he can leave?"

I return to my room, carefully draw the shades (after all, I think, no government has granular control of all its killers), and feel myself preparing mentally for the ordeal I can now more clearly anticipate. I am about to go for a seventeen-day swim in a sea of grief.

### III. THE BEGINNING

Suddenly, after three years of silence, there is sound. Our arrival, our initial schedule of meetings, the address of the temporary office we have established: they dominate the media. We occupy the offices of the representative of the OAS in Argentina, a gentleman who has found it convenient to return briefly to OAS headquarters in Washington. Why risk guilt by association? Buenos Aires is a very comfortable billet and OAS representatives can be declared *persona non grata* if they irritate the government.

The ample accommodations are on a main avenue only blocks from the Casa Rosada in the famous Plaza de Mayo, the center of government, the symbolic heart of Argentine nationalism. Since early in the morning, an orderly line of patient people has extended out the front door of our temporary offices, down the block and the block after that, and three others after that. When we arrive, late in the morning, following our meetings with the Foreign Minister and President Videla, I can't see its end. Are there a thousand people, several thousand? I am not sure. Behind desks in the main reception area, our lawyers and secretaries are receiving and verifying denunciations.

While our lawyers began to record the individual tragedies, our initial task had been to encounter the strategists behind them. Consistent with protocol we go first to the Foreign Ministry. Retired General Carlos Pastor greets us politely in one of the Ministry's plush parlors. Little cups of coffee, *cafecitos*, are delivered. We are all on our best behavior, well-dressed gentlemen carrying out our respective responsibilities. Aguilar exudes his native

charm as he introduces each of us to the Minister, reiterates our appreciation for the *anuencia*, expresses confidence that we will continue to enjoy the government's full cooperation, that it will continue to provide public assurances that there will be no reprisals against people who meet with the Commission or file complaints with it, and so on. Pastor concurs, without any great show either of hostility to or pleasure in our company. All is correct. He then accompanies us to the Casa Rosada to meet President Videla.

I see the great pink pile of a building and imagine the long-dead Evita Peron, standing on the balcony of an upper floor, her arms raised triumphantly above her ecstatic face with its vivid lips which made V.S. Naipaul think of fellatio;<sup>9</sup> burly workers and their families screaming acclaim; Peron looming behind her, shrewd and cynical, comfortably accepting the cumulative power a certain sort of man, positioned by will and providence at the right time and place, can acquire as the focal point of other peoples' dreams.

Ecstasy is not part of Videla's brand. He is a tall, lean, long-faced man with the moist brown eyes of an amiable spaniel and a sprucely-trimmed cavalry-officer's mustache. He wears a dark double-breasted suit, which adds to the impression of a successful Italian politician associated with a party supported by the country's corporate princes and The Vatican. The customary *cafecitos* appear at our chairs. Aguilar is Aguilar, serious but with a smile, disarming, offering assurances of our disinterested desire to understand a no doubt very complex reality, to meet with representatives of every sector of the population, to collect every possible fact relevant to the observance of the country's formal legal commitment to the defense of human rights. Videla, for his part, paints a picture already sketched by the two young lawyers I had met the previous day: The armed forces responding to the call of the people of Argentina to restore order and defend humane values in the face of barbarous assault by subversive terrorists; the *Guerra Sucia*, the terrible difficulties which had to be overcome. But, he adds, the government already has begun the reconstruction of a proper democracy, the restoration of normality. It will take time but a good beginning has been made, as we will see.

Eventually the play is complete and lines properly delivered. Hands are shaken. Aguilar says we look forward to meeting again with the president at the end of our visit when we hope to be able to present preliminary observations. Then it is over. We are chauffeured the few blocks to our offices where, page by page, the terrible individual stories of the *Guerra Sucia* are accumulating on the desks of our lawyers.

The following days are like a journey through dreary flatlands frequently interrupted by dramatic peaks rising steeply from the earth like dragon's teeth.

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9. V.S. NAIPAUL, *THE WRITER AND THE WORLD* 355 (2002).

The flatlands include the uniformly scripted meetings with government officials, mostly cabinet members, and leaders of the wide array of private-sector institutions: the Chamber of Commerce, the Rural Society, the Association of Pulp and Paper Manufacturers, the Federation of Textile Industries, the Chamber of Chemical Industries, the Chamber of Exporters, and the Association of Banks.<sup>10</sup> On cue, they put us in the picture first sketched by Mario and Paul. The armed forces, responding to a popular call for the restoration of order and the protection of the citizenry from terrorist subversives, had assumed the reins of government and been forced to take dramatic steps to achieve the goals all decent people shared. By force of circumstance they had had to fight a *Guerra Sucia*. Perhaps there had been some abuses, but they were inevitable. In war there is always collateral damage. The military had rescued the country and things were gradually returning to normal. And so on. We listen politely, sip our little cups of coffee, assure each group of our desire to capture as best we can the reality of contemporary Argentina, arrange our faces into expressions of sympathetic understanding as they recount the difficulties Argentine society has confronted, and receive assurances about Argentina's historical commitment to the defense of the rights of man.

#### IV. THE RELIGIOUS COMMUNITIES

This narrative of challenge to civilized life and redemption through extraordinary but necessary measures by the armed forces is not the exclusive property of the business community. We hear it again when we meet with the Cardinal Primate of Argentina and the President of the Episcopal Conference of the Church,<sup>11</sup> a smooth reassuring man who has plainly been deputized to handle the Church's side of our dialogue. After listening to the usual script about the country's difficult times, we ask whether the government's emergency measures have inhibited the free exercise of religion. Absolutely not, we are assured. The Church has encountered no difficulties in carrying out its pastoral mission. All is good. The Cardinal nods solemnly from his slightly aloof eminence.

Being fully aware of the close ties between the Church and the Argentina military,<sup>12</sup> we are hardly surprised by the Conference President's remarks.

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10. Organization of American States, Inter-American Commission on Human Rights, *Report on the Situation of Human Rights in Argentina*, OEA/Ser.L/V/II.49 (11 Apr. 1980), at 5 [hereinafter IACHR, *Argentina Report*].
  11. *Id.* at 126.
  12. See HORACIO VERBITSKY, *EL SILENCIO: DE PAULO VI A BERGOGLIO, LAS RELACIONES SECRETAS DE LA IGLESIA CON LA ESMA* [THE SILENCE: FROM PAUL VI TO BERTOGGIO, THE SECRET LINKS BETWEEN THE CHURCH AND THE NAVY MECHANICS SCHOOL] (Sudamericana, 2005). Verbitsky explores the Catholic Church's role in creating the ideological conditions for the takeover, and evidence of its collusion with the jailers of the Navy Mechanics School detention center.

In Brazil and Chile, the leaders of the Church had provided sanctuary for human rights defenders, the only sanctuary available in those countries.<sup>13</sup> In Argentina, the Church is reputed to be an accomplice, its military chaplains providing reassurance to torturers, where needed, that they are defending Christian civilization against atheistic Marxist terrorists.<sup>14</sup>

To be sure, the Episcopal Conference had issued a formal statement in May 1977, as state terror peaked, which could in later years be invoked as an expression of concern, albeit a statement carefully balanced and necessarily somewhat vague. Its key passage, “*Los Caminos de la Paz*” (The Roads to Peace) declared:

We understand what a difficult undertaking it is in practice to watch over the common good, which has been damaged by the terrorist guerrilla which has constantly violated the very elements of peaceful coexistence, and thus the basic rights of man; we also understand how guarding the common good may be in apparent collision with certain individual rights.

We are aware of and appreciate the efforts of governmental leaders and officials, their dedication and selflessness in service to the Nation, which in no small number of cases has meant giving their lives, and in many others has meant anguish and lack of security in their personal and family lives, and a renunciation of personal achievements so that they could devote themselves to the common good.

We have often heard of the Christian imprint that the government wishes to give to its action. . . . It is in the light of these considerations that we make so bold as to report the following facts which, among others, gives us serious concern:

a) The numerous disappearances and kidnappings denounced, while no authority is able to respond to the appeals that are being made; which seems to show that the government does not have an exclusive hold on the use of force;

b) The situation of many inhabitants of our country, who are denounced by families or friends as having disappeared or having been kidnapped by groups identifying themselves as members of the Armed Forces or the Police, while in the majority of cases, neither family members nor the bishops, who have so often interceded, have obtained any information about them.<sup>15</sup>

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13. On the role of the Church in Brazil, see, inter alios, THOMAS E. SKIDMORE, *THE POLITICS OF MILITARY RULE IN BRAZIL, 1964–1985*, at 135–36, 184–85 (1988) (on the Brazilian Church’s progressive stance in defense of the poor, and on its attempts to shelter the targets of the regimes’ wrath); On the Church’s role in Chile, see, inter alios, Stephen Kinzer, *Church in Chile Doesn’t Just Pray for Reform*, N.Y. TIMES, 20 Nov. 1983, available at <http://www.nytimes.com/1983/11/20/weekinreview/church-in-chile-doesn-t-just-pray-for-reform.html> (on the Vicariate of Solidarity, which vigorously protested the violence and disappearances under Pinochet).
14. See FEDERICO FINCHELSTEIN, *THE IDEOLOGICAL ORIGINS OF THE DIRTY WAR: FASCISM, POPULISM, AND DICTATORSHIP IN TWENTIETH CENTURY ARGENTINA* (2014).
15. IACHR, *Argentina Report*, supra note 10, at 125–26.

It was not exactly a statement likely to disturb the equanimity of the high command. Having the prelates of your church celebrate your selfless dedication to the common good is not unpleasant. Moreover, the conclusion that “the government does not have an exclusive hold on the use of force” reinforces two lines of defense maintained by the junta at different points in its campaign. One is that some disappearances were executed by the guerrillas themselves against members of their organizations trying to opt out of the conflict. The other is that the regional commanders acting under the government’s general authority have a very broad discretion to carry out their mission of suppressing terrorism; so if mistakes were made or abuses not entirely prevented, neither the president, nor the members of the junta consisting of the active duty heads of the three branches of the military, nor generals serving as ministers of the central government, can be deemed responsible.<sup>16</sup>

We believe that some priests have been kidnapped and savagely mistreated, Aguilar says when the President of the Episcopal Conference seems to have finished delivering his lesson. The latter assumes a pained expression, his hands moving as if to brush aside a squadron of annoying insects. It is regrettable that, despite our best efforts, a few priests who work in poor neighborhoods became associated with the subversives. They were detained for their political not their pastoral activities.

One of those priests, a tall Irishman called Patrick Rice, had testified before the Commission in Washington.<sup>17</sup> Arrested at gun point one evening by plain clothes police while walking with a young woman who had come to him in the hope that he could help her sick sister; he was taken to the nearest police station where they hooded and cuffed him, sat him in a chair “and then began to beat me about my head, face, testicles and they stamped on my feet. When I cried out, they whistled and made a noise to cover up my shouts.”<sup>18</sup>

Eventually they threw him into a cell, held him there for a brief time, then came and announced that they were transferring him to the military where, they told him, “I was going to see that the Romans who persecuted the early Christians had nothing on Argentine soldiers.”<sup>19</sup> He was crammed into the trunk of a car and taken along with the young woman, Fatima Cabrera, to another location where torture began in earnest.

[O]ne grabbed hold of my head and nose and they began to pour into my mouth from a hose or a kettle until they choked me. Then, after a long time (I don’t know whether I had lost consciousness), they put handcuffs on my feet

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16. *Id.* at 119–20; *see also* e.g. the response to the disappearance of Mrs. Forti, at 95–97.

17. *Id.* at 209–14.

18. *Id.* at 209.

19. *Id.*

as well . . . and they dragged me back to [another] room." When he asked to use the bathroom, they beat and threw water on him. Later in the day they put him on a bed in his wet clothes and connected his hands and feet to some cables. "They took off my hood and put on a very small blindfold and suddenly my body was twitching uncontrollably. . . . It was so strong that I was flung off the bed. Then they tied me down again very firmly and went on giving me electricity and saying that I should tell them what I knew.<sup>20</sup>

Eventually they brought in Fatima Cabrera and gave her the electricity until they thought she had stopped breathing. A doctor was called in to revive her. Then they went back to work on Father Rice. "[They] began to throw water over me and to give me a lot of electricity, and this time on various parts of my body. There was a smell of burning in the room." They brought Fatima back in.

[S]he was very small, and they began to give us electricity together. Then they put one cable on top of my head and I felt as if I were paralyzed. They told me that I was very strong, that I had a lot of resistance, but because of me, they were going to destroy Fatima. After a time, I began to hear Fatima's cries. . . . These cries made me desperate, and I lifted the hood to see . . . and when they saw me, they tied me down with a cord, strangling me.<sup>21</sup>

Later they deposited him in another car's trunk. "While we were in the car, they were talking and whistling and they seemed happy. Before we left, somebody told them that they should bring the hood back because they had been losing a lot of them."<sup>22</sup>

To a degree, Father Rice had been fortunate. Someone had alerted the Irish Ambassador who must have interceded with very senior officials. While it would be weeks before he would be taken to Ezeiza airport and put on a commercial flight to London, the torture stopped and he was moved into the regular prison system. Unlike most of the disappeared, he had survived.

The election of the current Pope, who was already head of the Argentine Jesuits in 1979, has recharged the bitter debate over the role played by the Church hierarchy during the period of state terror. His recent biographers, after apparently careful review of such evidence as they could unearth, claim he did his best to protect priests and others from the remorseless, hate-driven "forces of order."<sup>23</sup> Not all Argentine human rights activists are persuaded.<sup>24</sup>

20. *Id.* at 210.

21. *Id.* at 211.

22. *Id.* at 211–12.

23. See, e.g., Daniel J. Wakin, *Vatican Rejects Claims of Pope's Ties to 'Dirty War'*, N.Y. TIMES, 15 Mar. 2013, available at <http://www.nytimes.com/2013/03/16/world/europe/pope-francis-praises-benedict-urges-cardinals-to-spread-gospel.html?pagewanted=all>.

24. See, e.g., Simon Romero & William Neuman, *Starting a Papacy, Amid Echoes of a "Dirty War,"* N.Y. TIMES, 17 Mar. 2013, available at [http://www.nytimes.com/2013/03/18/world/americas/francis-begins-reign-as-pope-amid-echoes-of-argentinias-dirty-war.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2013/03/18/world/americas/francis-begins-reign-as-pope-amid-echoes-of-argentinias-dirty-war.html?pagewanted=all&_r=0); Jonathan Watts & Uki Goni, *New Pope's Role During Argentina's Military Era Dispute*, GUARDIAN, 15 Mar. 2013, available at <http://www.theguardian.com/world/2013/mar/15/pope-francis-argentina-military-era>.

For undoubtedly different reasons than those of their Catholic counterparts, the large Jewish community's institutional representatives also speak in muted tones. Even in these difficult times, they tell us, there are no impediments to the free exercise of religious faith. One of us notes the availability in the corner kiosks of a lurid magazine, *Cabildo*, filled with anti-Semitic screeds and caricatures of hook-nosed leering men which could have been borrowed from some German Nazi-Party rag of the 1930s. Ah well, they say, anti-Semitism exists in many places in the world, but this government's behavior is entirely correct. They add, however, that although no one is arrested simply by virtue of being a Jew, once in detention Jews are treated more severely and they have complained privately to high officials about this reality.<sup>25</sup>

They speak, probably accurately, for a vulnerable community of more than 300,000, which some say has disproportionate representation in the insurgent organizations and is all the more vulnerable for it, a community like its counterparts in pre-World War II Europe conspicuously prosperous, prominent in professional, intellectual, and cultural life, a community likely to feel particularly exposed in a country which, after World War II, had been a favored bolt hole for Nazi criminals fleeing allied war crimes tribunals.<sup>26</sup> Of course they do not speak for everyone. Certainly they do not speak for Jacobo Timerman, whom we will interview later in the visit. They also do not speak for Rabbi Marshall Meyer, the US citizen resident in Argentina directing South America's only Reform Jewish seminary.

We accept an invitation to his ample apartment in a very comfortable Buenos Aires neighborhood. Marshall is a robust and cultivated man displaying the good-guy charm of a player-friendly American football coach. His exceptionally pretty wife sits tensely off to one side while he sketches a picture of Argentine reality rather different from the official version. He describes a strategy of extermination organized at the highest levels of government. People suspected of being in or assisting or sympathizing with either the Montoneros, the left-wing offspring of the Peronist political movement, or the Trotsky-inspired Ejército Revolucionario del Pueblo or ERP (People's Revolutionary Army), are kidnapped, taken to secret detention centers, tortured mercilessly, then, in most instances, murdered. It is a killing machine. A few, found to have been taken by mistake or to have no more than an incidental connection to suspected activists, are released or occasionally stowed in a regular prison. They are the lucky ones.

As he speaks, I speculate whether his US passport will turn out to be sufficient protection. That his wife has doubts I can see when I occasionally

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25. IACHR, *Argentina Report*, *supra* note 10, at 254.

26. See e.g., Uki Goni, *THE REAL ODESSA: HOW PERON BROUGHT THE NAZI WAR CRIMINALS TO ARGENTINA* (2002).

glance in her direction. She looks petrified. At one point I think I see her arm beginning to rise in an involuntary gesture of warning to her husband as he plunges angrily forward in his description of the *Guerra Sucia*. As we are leaving he asks one favor. In De Voto prison which I know you are visiting is a young Jewish girl, Deborah Benchoam, in a very fragile state. Please, please do what you can to get her released. We promise to try. Years later she will immigrate to the United States and work in the Commission's Secretariat.

## V. THE MADRES DE PLAZA DE MAYO

"No doubt there have been abuses," Mario and Paul and the gentlemen from the rural society, the chamber of commerce, and all the other organizations intent on helping us appreciate Argentine reality had conceded. But for them the abuses did not come with names and faces. Abuses were an abstraction, something to regret, like the sluggish economy or the balance of payments. By the nature of our mandate, we could not see things in quite the same way. Yes, we were authorized to examine the general condition of human rights in Argentina, but for us the general condition was the mosaic formed out of the thousands of individual cases. Even those among my colleagues who instinctively shrank from condemning governments could not take the measure of Argentina from the heights where the general run of great statesmen and admired strategists sit, because like the rest of us their faces were pushed into the pit of misery to which we were brought by the fathers and sons and husbands or wives, the lovers and, most prominent in their inconsolable grief, the mothers of the missing.

The ultimate endorsement of the Commission's devastating report by its most conservative members demonstrated their failure to sustain detachment. Dr. Henry Kissinger, frequently proclaimed as the United States greatest living statesman, would doubtless have regarded their failure with contempt. Meeting in 1976 with the Argentine Foreign Minister of the moment, César Guzzetti, Kissinger told him: "Look, our basic attitude is that we would like you to succeed. . . . The quicker you succeed the better."<sup>27</sup>

If it was not the first, then certainly it was no later than the second day of our mission that the Mothers of the Plaza de Mayo came to see us.<sup>28</sup> Although in the course of our seventeen days in Argentina we often divided in order to cover more ground; for this meeting we were together, packed close, in

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27. SCHMIDLI, *supra* note 8, at 53, drawing on declassified reports he unearthed in the State Department archives.

28. IACHR, *Argentina Report*, *supra* note 10, at 117.



a large space so crowded that I could not really tell how many mothers had gathered to meet us, their last hope. They were women who had walked the dolorous way from police post to police post, from one military barracks to another, through court rooms where judges impassively rejected their pleas and the offices of priests or bureaucratic friends of friends who wrung their hands and shrugged their shoulders or promised inquiries almost invariably fruitless. They had done vigil in the Plaza de Mayo, while other citizens by the hundreds, probably the thousands, brushed by, hurrying to complete the rounds of their normal lives, perhaps harboring something like that vague guilt one feels sitting at a red light while a haggard man with one arm waves a home-made sign saying "I am hungry. Please help me." Of course they were only a fraction of the aggrieved, those who refused to be intimidated either by threats or the hint in some cases that their children were still alive and, depending on circumstances, might someday reappear.

I thought to myself that if we were to sustain their hopes, those who still had hopes, we ourselves needed to appear confident and strong. Yes, very sympathetic, but not lachrymose. But I tell you, in the end it was impossible. A woman of middle age would rise and tell us about the kindness of her missing son, the gentleness of her missing daughter. Some held up pictures of their children. A mother read aloud a poem of love for her missing child. Among so many cries of pain one had such particularly affective power we reprinted part of it in our report.

More than two years ago when what has happened to so many happened to me, I also went to the Plaza de Mayo. My pain was fresh and not yet tempered. . . . Like all new arrivals [I was asked] who my "disappeared person" was and for how long he had been gone. [I answered] "A daughter and my son-in-law . . . four months ago." [One woman replied] "Three of my children, a year ago." [Another cried] "My daughter, an invalid, eight months ago." [Another] "My parents and my sister . . . she was pregnant." . . . When we explained why we were there to people passing through the Plaza de Mayo, [we came to understand that] not even our fellow countrymen understood [that thousands had been disappeared] unless they themselves had been either directly or indirectly touched by it.

Gentlemen, Members of the Commission, the mothers here present beg of you, on behalf of the mothers of every "disappeared person," to find a solution for this problem. . . . We repeat: please take as many measures as you can to bring about a solution to this frightful problem. . . . Every Argentine citizen should know of it. Some of us have become aware of it through pain, others will become aware of it by learning about it. But we have to understand this truth because it is our commitment to future generations. Otherwise a shadow of sadness will remain forever over the descendants of this shattered generation and peace will not come to so many desolate families. They will always be looking around thinking in what unknown place their son continues to suffer

or what tree or what piece of sky attracted his last glance, his last breath, his last thought. They have been denied even the small piece of earth earned at birth for their final resting place.<sup>29</sup>

I struggled for composure, tried to think of myself as the occupant of an eminent position, reminded myself of my ambitions, clung to every emotional strap I could summon, but I failed. Tears began to fall out of my eyes. I looked over furtively at Andres Aguilar, a giant in the Venezuelan elite, a man of wealth and power, first in everything he tried, and I saw one tear after another making their slow way down his cheeks. So it went, on and on, it seemed for hours, until the last story had been told, the last tear shed. "We will not forget what we have heard today," Aguilar said at the end in a kind of benediction for the living and the dead.

I woke up the next morning and thought: sixteen more days? I will drown in this ocean of grief. Then I dismissed my self-pity. Shaved and suited, I began another day.

## VI. SEARCHING FOR THE DISAPPEARED

Although we had a list of names and locations of clandestine centers drawn from complaints filed in our offices and our initial interviews in Buenos Aires, we did not expect to find in them the disappeared themselves or evidence of their earlier presence. By all accounts the military had broken the back of the insurgencies a year probably two years earlier. Denunciations of new disappearances had been dwindling for the twelve months before our arrival.

The government tortured principally to obtain tactical intelligence. And since it tortured, according to our sources, without restraint, it would squeeze its victims dry within weeks if not days. When only a dry husk remained, why keep them any longer in the secret centers which were probably improvised, not set up for long-term incarceration? Either incapacitate them in the regular prison system, perhaps after quick military trials and draconian sentences, or kill them. That, we feared, was the strategic logic of the Argentine military and, as far as we knew when we arrived in Buenos Aires, a comparatively small number of political prisoners (small compared to the number of disappearances) had appeared in the regular prisons after the military seized the reins of government from Isabel Peron, joining those detained during Isabel's violent tenure. Against all logic, however, we hoped to find at least a few. At least we had to try.

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29. *Id.* at 117–19

## A. Police Station Number 12

At the butt end of our first exhausting week, after a long day of interviews, one lawyer, one secretary, and I are the only members of our team still in the office. Hunger and the image of an icy pisco sour are battling with end-of-day lassitude to propel me out of the building when a phone rings in the outer office. Our secretary comes in and says in a rushed, anxious voice: "Someone insists on talking to you; they won't give me their name." I walk to her desk and pick up the phone. "You are Professor Farer?" a conspiratorial whisper, heavily accented English. "Yes," I reply. "You want to know where some *desaparecidos* are held?" "Very much," I say. "Go to police station number twelve, now." "Can you tell me anything else? How many are there? Are they in the regular cells or are they hidden? And can you tell me who you are?" By that time I am speaking to myself.

Is it likely, I or my hunger ask myself, that *desaparecidos* would be held in an ordinary police station? This could easily be some crank call. But, can I be sure? Perhaps these are people who have just been picked up and not yet transferred which I later learned was not, in fact, so uncommon. Could it be a test of our zeal? I know I will have to go and quickly, because I need to assume that our phones are tapped.

I find our lawyer and ask him to call our contact at the Foreign Ministry and say I have decided for the sake of completeness to visit a few police stations. I ask him for all of their numbers—I presume that is how they are designated—and say I want to visit three or four. I pretend to think for a moment, give him four numbers including number twelve. Tell him I want to do this before dinner so I am leaving in fifteen minutes and therefore he needs to act immediately. Ask him to call you as soon as it is done. I will need you to come with me. We will eat afterwards.

About thirty minutes later we are in one of our hired cars heading for station number twelve. When we arrive, it is clear that we are expected. After very brief amenities, at my request I am taken on a tour of the entire scruffy building. We start at the top and work our way down to the cells. Implausibly clean, they house a few obvious drunks and a couple of rough-looking and disinterested characters allegedly held for some misdemeanor. I ask my guide to ask them if they would like to talk to a member of the Inter-American Human Rights Commission. No one shows any interest.

Who called and why? I never find out.

## B. ESMA

Of all the rumored clandestine sites, La Escuela Superior de Mecánica de la Armada or ESMA (The Naval Mechanics School), a school for the techni-

cal training of naval officers, was the most notorious. Sitting behind a high fence in a park-like setting adjacent to a wide, heavily-trafficked avenue, it seemed an unlikely place for conducting industrial-scale torture. While the government had indicated that the Commission's broad authority to go where it wished in the country did not include unlimited access to military bases, since on national security grounds they were generally off limits to all civilians, it did not object when we proposed a visit to the ESMA.

Years later, after a divided, defeated, and dispirited military had returned to its barracks, its elected successors secured evidence confirming our suspicions about the anticipatory cleansing of the site shortly before our visit. I learned that not all the disappeared were already dead in September 1979. A few still being interrogated had been slipped out of the top garret-like floor of the ESMA and stored for the duration of our inquiry on an island south of Buenos Aires, an island owned by the Catholic Church. All we saw on our tour of the facility was innocuous, the conventional spaces of a military educational center with no sign of the blood which must have spattered walls and no echo of the screams of its doomed inhabitants.

The ESMA is now a public site dedicated to memorializing the Disappeared and reminding Argentines of the depths to which a society can sink when its citizens shrink from the defense of its democratic institutions. On a glistening fall day thirty-three years later, I join other guests of President Cristina Fernández de Kirchner for a museum tour. Our guide, a slender dark-eyed young woman of heart-wrenching beauty, stops us in front of an elevator on the ground floor. They used the elevator to take kidnapped persons up to the top floor, she says. I don't recall an elevator, I tell her. You don't recall it, she says, because you didn't see it. Just before you arrived, they covered it with a thin layer of wood so it was effectively indistinguishable from the walls on either side of it unless you looked very closely and had some idea of what you were looking for.

From descriptions provided by a handful of survivors they have recreated the space on the top floor as it existed during the campaign of extermination. In part to soften up the detainees and in part to allow a very few guards to exert total control of the space, the marines had filled it with coffin-like structures in which detainees were ordered to lie flat until they were taken for questioning. Probably it is coincidental that, according to the Senate Intelligence Committee's Report, in the years after 9/11 CIA interrogators sometimes kept suspects in coffins.<sup>30</sup>

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30. UNITED STATES CONGRESS AND SENATE SELECT COMMITTEE ON INTELLIGENCE & DIANNE FEINSTEIN, THE SENATE INTELLIGENCE COMMITTEE REPORT ON TORTURE: COMMITTEE STUDY OF THE CENTRAL INTELLIGENCE AGENCY'S DETENTION AND INTERROGATION TECHNIQUES 54, 122 (2015).

I don't have to imagine what it was like for those who were waiting to suffer and die. I don't have to imagine because I long ago heard the narrative of two survivors of another center which must have been much like the ESMA.

### C. The Falicoffs

One morning, between interviews with organizations, I receive a call from Marshall Mayer. He says he has been approached by a couple who have been in one of the centers and want to testify about their experience. After lunch he picks me up along with a lawyer and my interpreter (I don't entirely trust my Spanish). As we drive across the city, I look back periodically to see if we are being followed. There is no obvious pursuit car, but given the resources available to the military and the police (who have been placed under military command), that is hardly reassuring. We arrive finally at what appears to be a school building, I presume a private one, and go into a small conference room where a man and a woman, seemingly of middle age and the middle class, are waiting for us. From Mrs. Falicoff's testimony<sup>31</sup> I later conclude that she is probably younger than her appearance suggests.

Both Falicoffs are doctors. The husband, Alberto, had practiced for some years in Córdoba at a Children's Hospital and had among his patients the children of parents who had been arrested. Córdoba had for years been a center of leftist insurgency and trade union militancy. When the military seized power, a general who became notorious for his ferocity, Luciano Menéndez, assumed responsibility for the city and surrounding area. At about the same time, the Falicoffs had moved to Buenos Aires where Alberto continued a clinical practice. Whether he had always been a quiet man I, of course, don't know. The defiant account of their agony is entirely his wife's. For his part, Alberto listens like a man from whom there has leaked some part of his vital energy.

I begin with assurances that their anonymity will be preserved, but with a reminder that the Commission cannot enforce and has only limited confidence in the government's pledge of no reprisals against persons who speak to us. So if we were to include excerpts from her testimony in our report, I point out, there would be a risk, since it might allow the government to identify the source. We are not concerned, she says. So we begin.

Mrs. Falicoff sets the scene. At 6:00 in the evening of 25 November, 1976, she is at home with her two-year-old child. The bell of her apartment rings. Looking through a peephole, she sees four men in civilian clothes

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31. IACHR, *Argentina Report*, *supra* note 10, at 74–84.

pressed against the wall. Recognizing that someone is watching them, the apparent leader orders her to open the door or they will shoot. Since her son is sitting in line with the door, she opens it, the men come in and when one grabs her by the arms and she screams, they say "Keep quiet, for the baby's sake." In response to their query, she says her husband is still working at his clinic but will be home later.

They lock her and her son in his room and begin a battering search of the apartment, dismantling the stove, pulling down the venetian blinds, ripping pictures off the wall. After about half an hour, she calls out that her son needs to use the bathroom and they allow her to take him. Then they order her to prepare his supper. At this point they are "courteous" and tell her that they know she has done nothing. They are looking for her husband. When he finally arrives, they take him into the master bedroom and she hears a struggle and blows being delivered.

Eventually two officers in coats and ties, who identify themselves as members of the Army's Intelligence Service, arrive, give sweets to her son, and tell her to prepare clothing for the child because they have decided to take her as well as her husband for questioning. As for the child, they promise to deliver her to Mrs Falcoff's mother. They tell her that if she takes any medicine, she should bring it with her. Despite their nice clothes and amiable manner, they help themselves to the money they find in her husband's pockets and to her jewelry. Two of them get in the back of a car with her and tell her to put on a pair of sunglasses with paper pasted over the inside of the lenses. They put her husband in another car. The paper, she discovers, does not entirely cover the lenses, so she is able to see where they are going until one of the officers realizes that she is trying to track their movement. Then things become less amiable. The officer presses her head down against the legs of his colleague and points his pistol at her.

Arriving at their destination after twenty minutes of high-speed driving, they take her down a spiral stairs to what she assumes is a basement, blindfold her so tightly she immediately has a headache, slap handcuffs on her wrists, and bind her ankles together with sharp-edged shackles. Then she is taken to another part of the building, given an identity number she is told to remember, and questioned about her husband's activities in Córdoba. She says merely that he had patients whose parents were imprisoned and he sometimes gave them used books and clothes and a bit of money. They leave her and she sits exhausted, occasionally sleeping, until she hears through the walls, which she makes out to be almost paper thin, the sound of "a lot of running water and then the cries of my husband insulting them and repeatedly calling them 'murderers.' [On the following day my] legs are so swollen that the shackles begin to cut into my skin." They take her out of her improvised cell and sit her in a narrow passageway. A nurse loosens the shackles and puts cotton around her legs. One of the men who came to her

house approaches her and puts a hood of thick white cloth over her head explaining that because of the hood she will not be bothered. One by one other people sitting in the passageway are taken into a nearby room. Every time this happens she hears, "the noise of running water and the desperate screams of pain [which] could be heard despite the fact that a record player was constantly playing very loud music."

The guards wore rubber boots. . . . They drank a lot of wine . . . [which] I could smell. [A man apparently the chief] came and asked how things were going. They answered that three persons had died, two men and one woman. The Chief told them to be more careful because that was too many for one day.<sup>32</sup>

At some point they seated her husband next to her. Looking through the bottom of the hood, she recognizes his pants and shoes. They take him away a number of times,

and I recognized his screams. Twice I heard his difficulty breathing and it sounded as though he had swallowed his tongue. The music stopped and an urgent call for the doctor came over the loudspeaker. I heard people running, and I heard the doctor say, if they wanted him alive, that was enough for now.

Then they took me to one of the rooms. This time they took off the hood. . . . they now spoke harshly to me and again asked me for information. A torturer entered wearing jeans, a red jacket and rubber boots. He was blond, with a red face, and he told them "I will give [it] to her." To me he said "All right, I'm in a hurry. Tell me whether you know anything, or I will give you the six-pointed cattle prod." The others wanted to hurry me. I cried and said I was telling the truth; I knew nothing; I was not a militant; and since I did not like such things I consciously knew nothing about them.<sup>33</sup>

They take her back to the corridor and after several hours they make the persons sitting there line up, put both hands on the shoulders of the person in front of them and then move. They climb stairs, then take an elevator and are finally led to mattresses, where they are ordered to stretch out. "I was completely exhausted, and I no longer cared what happened to me. I was so exhausted that while they were taking me there they pawed me and I wasn't even startled."

She sleeps, is awakened to eat, then sleeps again. She finally wakes up again and asks to go the bathroom. When she tries to stand up, she hits her head on a beam so, presumably, the mattresses are in a garret. When she gets to the bathroom her guard takes off her hood. She sees he is a teenager, perhaps seventeen. In a kindly voice he asks her age, whether she is mar-

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32. *Id.* at 77.

33. *Id.*

ried, has children. Then he tells her to read what is on her hood. Written in thread are the words "possible release." She asks him why she is there. "He said it was a mistake." Then he tells her about his work.

His only job was to see that the prisoners did not speak, did not take off their hoods, and those who did so he could beat at will until he knocked them out. He and the others [presumably guards] were taught karate and self-defense. They were made to . . . hate the prisoners, about whom the only thing they knew was that they "are enemies of the country who want to destroy it by destroying the army."<sup>34</sup>

All the guards, he tells her, are between fifteen and twenty.

At night they were given bottles of wine and then they became very violent. The guard told me that some of them were taken on raids and sometimes they were given special commendations or merit rewards. They were very proud of that. For example he told me that the previous day he had been assigned to go to a house that someone had denounced. It answered the description, and when the owners tried to escape, they had to shoot them: a young woman with a child two or three years old. Later they learned that the people were not involved. He had felt bad about that, but the persons who denounced innocent people were to blame.<sup>35</sup>

Later that day a person is brought into an adjoining cubicle. She hears him speak in a voice suggesting grave illness and recognizes her husband. When the guard leaves, she moves one of the slabs of cardboard-like material which form the cubicle and manages

to see my husband, shirtless, with marks everywhere from the cattle prod. . . . {H}e had no more than two centimeters in a row of unmarked skin. He breathes heavily and asks for "water, water," but his voice is very weak and it is hard for him to move his tongue.<sup>36</sup>

She manages to slip her hand into his cubicle and touch him. He feels feverish. He tries to touch her hands. The guards refuse to give him water. Apparently they have been told that because of his torture (possibly the electric prod had been jammed inside his mouth or the clip at the end of a current-bearing wire attached to his tongue or laid alongside his gums), water might kill him. Believing otherwise, she slips into his hands a small bottle of water the guards had given to her and he drinks. For several days thereafter he is allowed to recover a bit. The guards give him water and some food. When they cannot hear the guards, she and Alberto whisper to each other. She learns that he tried to escape by telling his interrogators he

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34. *Id.* at 78.

35. *Id.*

36. *Id.* at 79.



would guide them to a rendezvous for militants. While they were driving (perhaps at a light) he threw himself out of the car and began to shout his name to nearby pedestrians, begging them to inform his family. He was quickly subdued and thrown back into the car, after which they brought him back to the detention center and tortured him worse than ever before.

Time passes.

Every day the guards punished two or three persons. They did so for any reason: because [the prisoners] removed their hoods while they were sleeping, because they were not lying right; . . . because the guards suspected them of spying' or for any other reason. The punishment consisted of kicks and punches for hours, until they were left unconscious. The panic is constant. . . . [The guards] called one of the prisoners "peg-leg." He was very near me and by his voice he seemed to be an older person and very weak. One night the guards got drunk and began to bet that they could make him stand on his peg leg [only]. . . . He begged them, said it was impossible, that he was going to fall. Then they began to kick him, punch him, and they stood him up. Of course he fell. They stood him up again, he fell again. [This goes on and on; they stand him up, he falls, they stand him up again, he falls.] The guards went crazy. . . . There was the sound of blows . . . the noise of broken bones. . . . Afterwards he was delirious for two or three days until they called the doctor. The doctor said he had many broken bones and ordered him to be taken away. I didn't hear him again.

In early December a transfer occurred. Apparently they were taking away those who had been there the longest . . . in all some 40 persons. They adjusted the handcuffs, the shackles and the hoods. They assembled them together, were taking them out when the noise of an airplane was heard that seemed to be landing nearby. . . . After a time, the sound of an airplane was heard again, then nothing more. A guard asked another where they [the forty] were being taken, and he answered: "Fish food."<sup>37</sup>

As days become weeks, she grows despondent, convinced that she will never be released because they have exchanged her white hood for a gray one and because some people arrive and depart quickly and she assumes that they have been released. Trying to imagine how to escape, she offers successfully to do menial work. Now she is able to move around the facility. She hears the sounds of very young children and is told that they were brought in with their parents until the authorities could find some place to leave them. She sees several women who are pregnant.

One day she is taken to a box-like room where she assumes interrogations are held. "I looked at the walls of the box and was impressed by the number of bloodstains. Some of them were very high. . . . There are very large stains and there are small splattered stains around them." In the box

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37. *Id.* at 80.

they question her yet again about her husband's activities in Córdoba. She repeats that she knows nothing and the only things in her mind are her husband and child and that she has nightmares of taking off her hood and then being killed. She says she does not know why they are holding her.

At one point an interrogator tells her that

while they knew that I had not taken part in the activities that led to my arrest, considerable time had passed since my arrival at the place of detention, and under such circumstances, I could not leave. I told them that they could not commit another injustice added to the injustice of my arbitrary detention, and after an exchange of opinions among themselves, they proceed to interrogate me exhaustively on all the circumstances that I might have observed during my detention.

Thus I was interrogated on what my opinion was about the treatment the prisoners were receiving, whether I felt that they were tortured there, whether I had any idea of where I was, and under what security authority the procedures there were conducted. To all of these questions I answered that I was totally ignorant of the details they were asking of me and that I felt the treatment was adequate. They asked me what I knew of my husband and I answered that I knew that he was alive, that I had recognized his voice when he spoke with the guards, and I denied that I had seen him.<sup>38</sup>

She is instructed to bathe and change her clothes. Then one of the guards, plainly drunk, comes and tells her that she is going to be released and sent to her mother's house in Resistencia, another city. Then her hands are cuffed behind her and she is returned to her cubicle to wait. In the adjoining cubicle opposite her husband's side, "a girl [also with her hands cuffed behind her back] was having an asthma attack. . . . She was frantic because with the hood she was choking even more. She had an oxygen mask beside her, but with her hands tied she could not put it on." She asks the guards to help. They ignore her pleas.

Finally guards come in, remove Mrs. Falicoff's cuffs and shackles, take her outside where it is raining, and put her in the front seat of a car. "The car went round and round many times. I suppose it was going around in the park of the same building because . . . the car was skidding from side to side . . . and it was turning in the same places. . . . This went on for a while. Then we went on to an asphalt road and drove for several hours until they took off the mask that they had put on me to replace the hood before we left."<sup>39</sup>

She sees that she is alone with the drunken guard.

He told me that I was completely free but not to communicate with my in-laws, never to go to Córdoba, and not to come out in Buenos Aires for several

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38. *Id.* at 83.

39. *Id.*

months. . . . He repeated that all of my movements were going to be carefully watched and to remember that they still had my husband . . . It was 5 o'clock in the morning of December 24, 1977.<sup>40</sup>

Now they are at the airport entrance. He gives her money and a temporary ID with a false name and tells her to go to the Austral counter and say that she has passage to El Chaco [the airport near her mother's house] in the name of Señora Ramos and if there are no seats, she will be allowed to fly in the pilot's cabin. Finally he tells her to buy her son a card for Christmas.

In the airport she notes two men in civilian clothes watching her closely until she departs. For months thereafter she rarely leaves her mother's house; but finally she decides to go to police headquarters to obtain a passport. There she is told that some time previously her disappearance was denounced. If she wants a passport she must sign a statement, "That I had been absent from my home voluntarily and for private reasons."<sup>41</sup> She signs.

Her husband does not offer to elaborate and I never learn when and how he was released. He is fortunate, I am thinking, that he was taken in Buenos Aires, not Córdoba where by all accounts the repression was peculiarly broad and merciless.

We have recorded her testimony. She asks whether we will use it for our report. I am certain we will, I reply, if you agree. I reiterate that whatever of it we use will be attributed to an anonymous person, but since so few witnessed all that she had seen and then lived to tell the story, there is some danger that she and her husband will be identified. She looks at me levelly, this unmistakable paragon of a well-educated, middle-class woman, who in a European country could have lived a calm, productive, impeccably peaceful life among people like herself, taking coffee and patisseries in the afternoon at a café on some broad untroubled boulevard, an occasional opera in the evening, without ever being touched by the violence which runs in larger or smaller streams through the sewers of every society, and she says "you should use our name."

I express concern. She brushes it aside, saying the testimony will have greater impact if it is not anonymous. I can only say that I admire her and her husband's courage, that this is the most valuable testimony we have received, and we will consider the question of anonymity. Then we part.

In the 266 page report we will ultimately write, the chapter on "Disappearances," is the longest. And in that chapter, the verbatim testimony of Mrs. Alberto Samuel Falicoff has pride of place. I cannot summon a picture of her face, but I will never forget her.

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40. *Id.*

41. *Id.* at 84.

## VII. LA PLATA<sup>42</sup>

About a forty-five minute drive from the affluence and elegance of central Buenos Aires lies La Plata, a tired-looking city though, according to Jacobo Timerman, a pleasant place with the feel of a university town when he was a student at the university there some thirty years earlier.<sup>43</sup> I doubt, however, that he strolled around discussing Kant along the now gritty streets surrounding Unidad Nueve [Unit Nine]. In September 1979, it housed one of the largest clusters of political prisoners.

For the Argentine and most other military governments, the category “political prisoner” does not exist. Instead there are subversive terrorists or persons suspected of aiding and abetting them or simply believed to be threats to the security of the state, a catch-all category like enemy of the Proletariat in the former Soviet Union. The Commission employs a different definition, one which embraces all persons charged with or detained on suspicion of crimes against the political order or the security of the state. The breadth of our definition reflects our experience that persons the government accuses of attempting or conspiring to overthrow the existing political order are likely to receive special treatment, especially unpleasant treatment.

On the morning I am preparing to visit Unit Nine, one of our lawyers brings into my temporary office a nondescript man probably in his forties, looking slightly uneasy, and his son. I will call the father “Juan.” He has read in the press that the Commission is going to visit Unit Nine that day and has just learned that I would be going on my own aided by a lawyer and secretary. He has driven up from La Plata in the hope of persuading the Commission to visit the city’s principal cemetery. “I think some of the disappeared may be there,” he tells me. Although he is unable to offer any concrete basis for this hunch bordering on conviction, I have to take seriously any person who takes the time to drive from La Plata and assume the risk of approaching the Commission. He says “The cemetery is near the prison, and I will guide you there.”

Before noon we head for La Plata in a two-car cavalcade. A secretary, one lawyer, and my interpreter accompany me. On most days, tourists in Buenos Aires throng to the cemetery of La Recoleta in one of the city’s wealthiest districts. They wander the avenues of that city of the dead admiring the elaborate, sometimes imaginative marble tombs filled with the corpses of historical notables like Eva Peron, and also the merely wealthy. They read the carved tributes and sentimental epigraphs, study the occasional picture or bas relief of the supposedly worthy internee, and then reaffirm their own

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42. *Id.* at 191–92.

43. TIMERMAN, *supra* note 2, at 54.

vitality with a glass of *tinto* and a chunk of grilled beef at the restaurants waiting enfilade across the little park which serves as the cemetery's foyer.

La Plata's cemetery is like La Recoleta in that you enter through gates in a wall. Death, however, does not dissolve the distinctions of class. La Plata's burial ground is more humble than La Recoleta and the streets around it humbler still. Unlike the streets, it is not ugly. For the most part there are modest tombstones instead of diminutive marble mansions, but the grass is mowed and many graves adorned with fresh flowers. Sentiments of loss and love are classless.

Normally we provide the Foreign Ministry with the next day's schedule so its functionaries can call ahead and, in the name of the junta and the president, secure at least a show of cooperation from the government institutions we choose to visit. Before I leave for La Plata I have one of our lawyers call his ministerial contact and move back the time of my arrival at the prison. He does not mention, because I do not want him to mention, that I will visit the cemetery first.

We park behind Juan's little car outside the cemetery gates, he having ignored my earlier suggestion that he keep driving once we arrive. He looks nervous but determined. "I think we've been followed," he tells me. I stretch and attempt a casual-looking scan of the walls, the sky, the street. At a distance, I see a car which appears to have an occupant while other cars on the street are empty. Who knows? "You don't have to stay," I tell him. "We are safer with you," he says. I make a note to ask Aguilar to talk to a senior functionary at the Foreign Ministry and reemphasize how aggrieved we will be if anything untoward happens to anyone who has spoken with us and I tell Juan to call our offices if he thinks he is followed when he drives home.

Inside the gate a sign directs me to the office of the director, which is embedded in the cemetery's thick wall. The man to whom I introduce myself is a plump little fellow. Am I imagining an increased pallor when I tell him that I am a member of the Inter-American Commission and he undoubtedly knows that the government has given us *carte blanche* to conduct our inquiries and requires the full cooperation of all public servants? He asks how he can help me. I know, I respond, that you record in your ledgers or log book, whatever you call it, the name and arrival date of every person to be buried. I would like to see your ledgers for the past three years. "Agitation" seems about the right word to describe the condition triggered by my request. "But those are official documents," he protests. "Exactly," I respond. And as I noted, I continue, "the Commission has been extended the authority to examine such documents, indeed to collect evidence in any way we deem appropriate and necessary, evidence other than military secrets and obviously your ledgers do not fall under that heading."

There is a moment of silence, which I respect. I look as amiable as possible. The Director looks at the telephone on his desk. Finally, he rises

quickly, says he will have to consult, he does not say whom, and could we please wait, and then plunges out of his dark little office. I think, I tell Juan and the others, this might be a good time for me to tour the cemetery. Leaving our lawyer behind to await our friend's return, I begin strolling down the cemetery's long lanes.

Scattered among the tombstones I notice a not inconsiderable number of crude wooden crosses with the letters "NN" scratched on them. "What does NN?" mean, I ask Juan. "It means no names or names unknown," he responds. I continue strolling until I notice an elderly man in workman's clothes bearing a shovel and observing us with evident interest. After I introduce myself, I inquire whether I am correct in surmising that he works in the cemetery. He acknowledges in tones that seem friendly that he is a gravedigger. I have noticed, I say, the rather large number of crosses with "NN" on them. Presumably you have dug some of those graves. "No," he says, "not any of them. Army people come at night, dig those graves, put in them I don't know who, and fill them up." What a useful stroll this has been, I think to myself.

Eventually I lead my little party back to the Director's office and we wait. I assume he has gone either to the police, the local military commander, or possibly some higher provincial official who may also be an officer. Finally he returns and announces that we can examine the ledgers. My thought, improvised on the drive to La Plata, is that we might find some correspondence between the burial dates of the "NNs" and denunciations we have received about disappearances in the city. The heavy ledgers are organized in columns with captions at the top of their thick pages for the name of the deceased, the date of the body's arrival, the name of the party arranging for the burial, and the cause of death. The NNs are easy to spot. And it is enlightening to see that the party arranging their burial is the army and that, in most cases, a gunshot is the cause of death. We record the details for all of the NNs and thank the director for his cooperation. I thank Juan and his son and remind him to call the office if he is followed home. Then we head for Unit Nine.

The warden is waiting with his senior staff and while they do not envelop us in a blanket of Latin warmth, everyone as usual is what I might reasonably call "correct." The warden offers coffee with baked goods fresh from the prison ovens. The former is strong, the latter surprisingly tasty, as I remark to the warden. I suppose we are intended to assume this is standard prison fare. Then the tour begins like all the prison tours I have had since joining the Commission. We pass through barred checkpoints where guards watch with blank faces, then are shown the exercise field, bathrooms and medical facilities, the chapel.

Unit Nine, like many prisons, is organized into wings called pavilions branching off of a central core. In other countries persons who are the

subjects of cases before the commission may be mixed in with anonymous common criminals. Even if they are not, I like to see the conditions in which all persons convicted or often just accused are held. Generally, I insist that the warden and his entourage leave the pavilion after announcing that I am a member of the Inter-American Commission, which is concerned with the protection of human rights throughout the hemisphere, and assuring prisoners that they should feel free to express any concerns they may have.

Before a tour I ask to see the entire roster of prisoners so that, if there are prisoners who are the subjects of cases before the Commission or have been called to our attention more informally as persons whose rights have been violated, I can locate them. I walk from cell to cell, saying good morning or afternoon, as the case may be, declaring my purpose to be assuring that everyone has been and is being treated decently and fairly, and telling them that I have permission to interview anyone who would like to speak with me. I add that, in any event, I intend to select a few of them at random for private conversations. Meanwhile, I look for a sign that someone actively desires an interview—the suggestive movement of a finger, a nod, a hopeful or plaintive smile. When I detect a desire to meet or someone openly expresses a desire, I ask the names of everyone in the cell and then tell the secretary or lawyer walking with me to put a check beside the name of the person who has self-identified. I also sometimes ask prisoners for their opinion about where in the prison a really confidential interview can be held, although I generally decide provisionally on a place during the facilities tour. Eventually I return to the warden, give him the list, and tell him where I would like to conduct the interviews beginning immediately (and thus, presumably, before his minions can set up listening devices).

In Unit Nine my approach has to be a little different. We know it holds hundreds of political prisoners, far more than I thought it possible to interview. Since we also know they are held in certain pavilions segregated from common criminals, I will necessarily restrict my stroll and the subsequent private interviews to those pavilions. Some subtlety is still needed, I am thinking, since I don't want to single out the prisoners whose names are on my private list.

I start the stroll. Two arms extend through the bars at the first cell I approach. As we shake hands the men introduce themselves. They know why I am here. I conceal my aching sense of the disparity between the hope radiating off of them and the Commission's actual power to mitigate their condition. I ask if they would like to speak in private after my walk through the pavilions. "Every man here will want to speak with you," they tell me, a statement confirmed as I move on down the length of the pavilion where inmates also confirm the chapel as an ideal location. At one cell, its two occupants offer me a tin cup of *mate*, the slightly astringent, mildly stimulating tea native to the region. It is not my favorite beverage. In an unfeigned

show of comradely sympathy, I drink it anyway. The cellmates, almost pressed together by the dimensions of their tiny box, tell me in cheerfully sarcastic tones that conditions have improved dramatically for them in the past week or two, ever since the warden learned that the Commission was coming.

Finally, I return to that gentleman, waiting stoically, not imagining, I am sure, that thirty-four years later he will find himself behind bars for various atrocities, but mainly for colluding with the armed forces who, periodically during the years of the junta, removed a detainee from the prison and murdered him. He agrees to our using the chapel, a very big and rather bare room, which could pass for an auditorium were it not for the large cross at its farther end. I establish myself and my assistants in a little nook in which we arrange a tight circle of chairs and then all the prisoners from one of the segregated pavilions arrive. In my mind I am still struggling with the contradiction between the evident passion of these men to speak and the equally evident impossibility of interviewing all of them, no matter how late we stay.

I explain my dilemma to the assembled prisoners and conclude by saying I will meet with as many as possible. In addition, I can receive denunciations from all of them and while I am conducting an interview, others can, with the assistance of our lawyer, write out a complaint about any deprivation of rights they may have experienced from the time of their arrest on to the present moment and they can denounce the mistreatment of other persons. "Why don't you interview us in groups," one of them says. "We have nothing to hide from each other; our experiences are very much the same." There is a murmur of assent. I ask for a show of hands and it appears unanimous.

I decide to begin with groups of five. My secretary and also my interpreter, a genial motherly woman who has accompanied me to other cursed places, will take notes. I intend to proceed speedily, securing answers to a few standard questions. From my chatting stroll through the pavilions, I know that most prisoners were seized by police or members of other security agencies after Isabel Peron declared a state of emergency but before the military coup. In that sense, they are fortunate. The reasonably probable outcome of seizure after the coup was death following catastrophic torture. But that was not invariable. So a few of the prisoners had in fact been taken by the military to clandestine sites, interrogated, and finally moved into the regular prison system. So they could testify about the sites. Perhaps they had seen persons already on our long list of the Disappeared. Even some people taken before the coup might have spent some time being tortured in secret sites and then turned over to the military for a further interrogation. Some prisoners had been tried by military commissions and they could confirm what we had already heard about their parody of due process.

First I wanted to know about conditions in Unit Nine. On this issue accounts are uniform. The most vicious criminals, the men tell me, including murderers, can spend the day out on the athletic field in the open air, playing football, walking, exercising.



You have seen our tiny cells where it is difficult for two people to stand at the same time. Most of us are in them at least twenty hours a day without books or magazines. If we are allowed to read anything it is the sports and social pages of a local newspaper. And then there are the perverse rules. The first time we are allowed out to shower, we are beaten for walking. "You are supposed to jog," they scream as they smash us with their hands and their batons and kick us. The next time we come out of our cells and immediately start jogging and they scream at us: "Who told you to run?" And they beat us for that.

It emerges that the rules governing every aspect of their daily lives are changed without notice and the resulting "violation" of the new rule becomes the occasion for a new beating or a visit to solitary confinement. "They are trying to drive us mad," one prisoners says, "and if this goes on much longer they will succeed."

Many details of each man's story are similar, virtually identical for purposes of the Commission's effort to grasp the details of the repression and to accumulate a sufficient number of cases to support findings of systematic, institutionalized human rights violations. At the same time, of course, every man's agonizing history is unique. After even a few group interviews, I have pretty much what I need as an investigator except in cases where a prisoner has been in a clandestine center and is able to identify other victims at that center, identifications we can later match with our list of the disappeared, a list now growing quickly as a result of the denunciations we are receiving every day wherever we go. So, with the passage of hours and the stream of prisoners beginning to seem endless, I feel an intensifying desire to race through interviews. I want to ask only whether the person has been held in a clandestine center and is able to identify anyone else there at the time. But stronger than that desire is the realization that my function has changed into a pastoral one. For these suffering human beings I am more a priest than a Hercule Poirot. Not a priest hearing the confession of sins, but one hearing of the sins perpetrated against these men. Whether the Commission can do anything for them, I don't know. What I do realize is that by listening to their narratives, I am doing something right now. In their account of the sins visited on them, there is catharsis. So I must let each man tell his story.

At some point, perhaps around 8:00 PM, the warden sends an emissary saying he must leave and asking when I intend to stop. I decide that my assistants and I can last until 11:00 and that we will return tomorrow. On the way back to the center of Buenos Aires, our little team finds an open *parilla* serving roast chicken. Perhaps it is my imagination, but the skin seems crisper, the meat more juicy than any chicken I have ever consumed. I gnaw the very bones, juice trickling from the corners of my mouth. It is well past midnight before I finally return to my room in the Plaza—my so large, so comfortable room, from which I can come and go at will. The distance from Unit Nine to The Plaza is possibly fifty miles, but at that moment the

distance feels planetary. In my state of emotional and physical exhaustion, sleep comes quickly. We finish the next day at around 10:00 at night. I have interviewed every prisoner.

When I visited Unit Nine, I was forty-four years old, still moving, I thought, toward the distant fog-shrouded peak of my career. I would not return for thirty-three years, an old man leaving back through the pages of his life.

## VIII. TIMERMAN<sup>44</sup>

Tough-looking armed men in plain clothes surround the entrance to an apartment building in a comfortable area of central Buenos Aires. We ascend to a floor where additional guards are waiting. I turn to Aguilar and say quietly in English: "I thought we were meeting him in his own apartment?" The room into which we have been ushered has broken-backed chairs, a long table sagging on a splintered leg, wires dangling from a hole in the ceiling. "Could this be it?" Before he can answer a door opens and another guard enters, followed by a big-framed man with a large head, broad at the cheekbones and curving up to an impressive bald dome. The face's most striking feature is a full-lipped sensual mouth. "Welcome to my home," Jacobo Timerman says.

He looks around the room as if surveying the destruction. "I apologize for its appearance," he says with an ironic smile in which I read the words: "Beating me was not sufficient; they had to beat the apartment too." Actually, he goes on, "it is now more their home than mine." He glances at the guards. "I live in my bedroom," he continues. "Let's go there."

We crowd into the room, which has been prepared with extra chairs, and Jacobo begins the account of his initial seizure, his torture in at least two clandestine centers, and his transfer, finally, into the official prison system. He rightly assumes we know a good deal about his case and of course we do, since he is, at that moment, the regime's most famous political prisoner. To be sure, fame is relative. It is not as if the regime had brutalized George Clooney. But Jacobo had connections among newspaper owners and editors in the US and other Western countries and apparently among important figures in Western Jewish communities and in Israel itself. Moreover, he is close to Rabbi Marshall Meyer who undoubtedly activated his own ties to Reform Judaism on Jacobo's behalf. Add the fact that Henry Kissinger is no longer Secretary of State and Jimmy Carter, a man who had incorporated a concern for human rights into his presidential campaign,<sup>45</sup> occupies the

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44. For Timerman's account of his detention to the Commission, see IACHR, *Argentina Report*, *supra* note 10, at 202–203.

45. SCHMIDLI, *supra* note 8, at 2.

White House, and the US Embassy's emphatic interest in Jacobo's fate becomes predictable.

Jacobo himself, who at times during his torment saw it ending only in his death, attributed his survival in part to his torturers' conviction that, beyond being the only recalcitrant public figure openly critical of the military's extermination-and-reconstruction project and a Jew, he was the principal of a Zionist plot against Argentina and therefore, on the one hand, the key to its details which needed to be exposed, but on the other, the representative of a globally powerful group which might injure the regime if it capped its interrogation by capping him; hence reasonable men could disagree as to whether he was more dangerous alive or dead.

This, according to Jacobo in his book *Prisoner Without a Name, Cell Without a Number*,<sup>46</sup> is his initial interrogation:

*Question:* Are you Jewish?

*Answer:* Yes

*Question:* Are you a Zionist?"

*Answer:* Yes

*Question:* Is *La Opinion* Zionist?

*Answer:* *La Opinion* supports Zionism since it is the liberation movement of the Jewish people. It considers Zionism to be a movement of high positive values, the study of which can shed light on many problems related to building . . . Argentine unity.

*Question:* Then it is a Zionist newspaper?

*Answer:* If you wish to put it in those terms, yes.

*Question:* Do you travel to Israel often?

*Answer:* Yes

*Question:* Do you know the Israeli Ambassador?

*Answer:* Yes

That was the gentle probe, a hint, Timerman eventually concluded, of the fantasies of the *duros*, the hard liners in the military establishment, whom he unhesitatingly labels Nazi. Later during his forty days of clandestine interrogation he gets a taste of the fantastical hatred which has nothing to do with his journalism:

The sensation of the shocks on my head makes me jump in my seat and moan. . . . No questions are asked. Merely a barrage of insults, which increase in

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46. TIMERMAN, *supra* note 2, at 30.

intensity as the minutes pass. Suddenly, a hysterical voice begins shouting a single word: "Jew . . . Jew . . . Jew!" The others join in and form a chorus while clapping their hands. . . . Now they're really amused, and burst into laughter. Someone tries a variation while still clapping hands: "Clipped prick . . . Jew . . . Jew . . . Clipped prick . . ." It seems they're no longer angry, merely having a good time. . . . I keep bouncing in the chair and moaning [from] the electric shocks [until finally I fall to the ground. Now they are again angry] like children whose game has been interrupted, and again start insulting me. The hysterical voice rises above the others: "Jew . . . Jew."<sup>47</sup>

Along with the hatred, however, there is seeming anxiety, crazy ideas about a Zionist plot to seize Patagonia exemplified in another interrogation Timerman recounts:

*Question:* We'd like to know some further details on the Andinia Plan ["Andinia" being the supposed name planned for the Israeli satellite state in southern Argentina] How many troops would the State of Israel be prepared to send?

*Answer:* Do you actually believe in this plan . . . How can you imagine 400,000 Argentine Jews being able to seize nearly 1 million square kilometers . . .? How would they populate it? How could they defeat 25 million Argentines, the armed forces?

*Question:* Listen, Timerman, that's exactly what I am asking you. Answer me this. You're a Zionist, yet you didn't go to Israel. Why?

*Answer:* Because of a long chain of circumstances, all personal and familial. Situations that arose, one linked to the other, that caused me to postpone it time after time.

*Question:* Come on, Timerman, you're an intelligent person. Find me a better answer. Let *me* give you an explanation, so that we can get to the bottom of things. Israel has a very small territory and can't accommodate all the Jews in the world. . . . It needs money and political support from all over the world. That's why Israel has created three power centers abroad.

*Answer:* Are you going to recite the Protocols of Zion to me?

*Question:* Up to now, no one's proved that they are untrue. But let me go on. Israel, secure in these three centers of power, has nothing to fear. One is the United States, where Jewish money is evident. This means money and political control of capitalist countries. The second is the Kremlin, where Israel also has important influence.

*Answer:* I believe the exact opposite, in fact.

*Question:* Don't interrupt me. The opposite is totally fake. The Kremlin is still dominated by the same sectors that staged the Bolshevik Revolution, in which Jews played the principal role. This means political control of the communist

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47. *Id.* at 60–61.

countries. And the third center of power is Argentina, especially the south, which, if it were well developed by Jewish immigrants from various Latin American countries, could become an economic emporium, a food and oil basket, the road to Antarctica.<sup>48</sup>

Timerman agrees with other of our interlocutors that power within the military government is decentralized at least by region and military service. In effect, various commanders function as largely autonomous war lords who seize whom they wish and do with them what they will. Another prominent case demonstrated the extent of that autonomy. While on home leave the Argentine Ambassador to Venezuela had been plucked out of his car on a major street by armed men. When the Ambassador's wife came to plead with President Videla, a social acquaintance, according to our information he had looked mournful, raised his hands in a plea for understanding, and said "I am very sorry, but I am impotent. There is nothing I can do." One theory we heard was that the unlucky fellow had been caught up in a quarrel between two of the services, that he had been connected to the air force or navy and the other service had kidnapped and murdered him as a sign of displeasure. Another theory was that the Ambassador had tried to assist an Argentine doctor wanted for questioning by General Menéndez, the pitiless commander of the Córdoba region, in getting his wife and children out of Argentina. Whatever the reason, the Ambassador joined the ranks of the missing, where he remains to this day.

Overall command did remain with the heads of the three services. There was doubtless some sharing of intelligence and coordination of logistics. And since, according to our sources, the military had been planning the seizure of power and the anti-Left campaign for at least a year, there must have been agreement within the higher realms of the officer corps on the broad outlines of strategy and tactics. The strategy included shared moral responsibility, respect for the discretion of commanders executing the policy of extermination, and a careful balancing of power through collective decision-making on key issues as they arose so that, unlike the Chilean precedent, no dictator would emerge from their midst. The military institution, not a Pinochet-like figure, would rule.

While united on the necessity and rightness of exterminating the insurgent movements by stealthy means unconstrained by law, the institution was divided between fascists (the "*duros*") and Catholic conservatives (the "*blandos*"), a division from which followed disagreement over the extermination campaign's boundaries. In a widely-shared statement of the *duro* view, one of its proponents declared: "First we will kill all the subversives, then we will kill all their collaborators and their sympathizers . . . and then we

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48. *Id.* at 73–74.

will kill all who did not support us."<sup>49</sup> Among those falling presumptively into the last category, it appears, were Jews, psychiatrists and psychoanalysts (Argentine friends claim for the country the distinction of having more of these per capita than any other nation), sociologists, social democrats, and free thinkers of all kinds. *Blandos* were satisfied with members of the insurgent organizations and their direct supporters and sympathizers. For them the war against subversion was essentially over by the time of our arrival. Reconstruction of the political order could begin. For the *duros*, the winking out of subversive thought, whatever might be true of the actions that thought generated, had only begun. For it was not enough to wipe out the Montoneros and the ERP and the lawyers who defended subversives and the teachers and writers and Liberation Theologists who inspired them. No, it was also necessary to wipe the Enlightenment and Freud and Marx and Modernism generally from the Argentine mind. Otherwise the cancer would recur.

His narrative complete for the moment, Jacobo walks us back to the entrance of his ravaged apartment. The blank-faced guards stand nearby. "You have talked to me," Jacobo says to us. "I think it is obvious to you that I am in good mental health, that I have no suicidal tendencies." We collectively assent. "So," he concludes in a loud clear voice, "If you hear that I fell out of a window of this building, you will know that I was pushed." "Jacobo," I respond, "I wager that no more than a year from now you and I will be sitting in a Broadway deli eating pastrami sandwiches." If memory serves, it was a year and two months.

## IX. THE RESPECTABLES

Toward the end of our second week Mario, the elegant lawyer, calls me. "According to the newspapers, you and your colleagues have been working very hard," he says. I concede the point. "You deserve, I imagine you need, a short break. Come to my club Sunday morning. We'll play tennis and then have lunch. I can provide you the necessary kit and a racquet." At this point, I don't need much persuasion.

The private sports clubs of Buenos Aires sit behind walls and hedges deeply indented from the thoroughfare which parallels the Rio de La Plata and from the cells of Unit Nine. In my borrowed whites I join Mario on the

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49. The quote is attributed to General Iberico Saint Jean, military governor of the Province of Buenos Aires; see "First we will kill all the subversives, then we will kill their collaborators; then . . . their sympathizers; then . . . those who remain indifferent; and, finally, we will kill those who are timid." SCHMIDLI, *supra* note 8, at 81.

red clay courts. The great brick clubhouse, the deferential attendants, and the other white-clad figures at play around us on the perfectly brushed courts convey the feel of exclusive playgrounds for the British upper class, which may be the models for this one. After all, the Brits once owned a good bit of Argentina, their presence and power implicit in the English name, the Jockey Club, of the city's iconic watering hole for the upper classes.

Although Mario, as adept on the court as he doubtless is in the boardroom, seems subtly to restrain his game so as not to underscore the deficiencies in mine, I cannot deny a feeling of guilty happiness, such are the joys of tiny sprints around the clay on a crisp fall day away from the sea of grief. Afterwards still in our tennis kit, we go to the grill room. From a fire place Henry the Eighth would have found satisfactory, simmering eucalyptus logs perfume a room filled with people indigenous to that world of privilege I enter occasionally without ever feeling quite at home. Some hail Mario who casually introduces me by name and by role. Since my looks are not remarkable, the curious glances of a few other people may indicate they recognize my face from newspaper photos. Years later I learned that on the following day, Mario received a call from a club officer saying that if he brought me again his membership would be terminated.

Driving back to the Plaza, we chat about tennis and law practice and this and that, the soothing conversation of two successful professionals who have enjoyed a good lunch after a lively game. We stop in front of the hotel and I prepare for a final thank you when he turns off the ignition and says: "Just out of curiosity, Tom, have you reached any conclusions yet about the situation here?" It is the first time since he picked me up that he has mentioned the mission.

Here's why I can't answer that question, Mario. To begin with, my colleagues and I have separated on a number of days in order to meet more people and cover more ground. For instance, when I was in La Plata others were down south in Chubut visiting Rawson Prison. And we're so tired at the end of each day and our days are so long, we don't have time or energy to gather in the evening to compare notes. We will do that on the last day of our visit and then again in Washington. In addition, through our exchange of observations and ideas about what we have seen and heard, gradually a collective judgment emerges. So, at this point, I consciously avoid coming to conclusions.

He seems if not exactly satisfied at least resigned to my refusal and ready for us to shake and go our separate ways. But I decide I don't want to part on this evasive note. Given what I and my colleagues have seen and heard, there can be only one conclusion and here is a chance to prepare this paragon of respectability to accept it.

I want to leave you with this thought, Mario. I know you are an honorable man. I know you resigned from the Bar Association because its executive com-

mittee refused to denounce the detention of defense lawyers in political cases. And for that I admire you. But what you and many other very respectable and influential citizens have not done is openly oppose the overall conduct of the government. You have taken the view that in any internal conflict abuses will occur, that the government cannot fully regulate the behavior of every one of its agents. What you don't want to believe is that the problem is not random abuses by rogue or at the very least excessively zealous security personnel, but rather a centrally directed strategy to exterminate the violent opposition and its supporters and even passive sympathizers, to torture and then murder thousands of men and women without reference to degrees of guilt or the quality of the evidence against them. What you and many others do not want to believe is that the government might be conducting a campaign which defies the basic dictates of the laws and the moral values to which you and I are attached. For if you were to reach that conclusion, which you would if presented with irrefutable evidence, you would have only two choices: You could denounce the government and thus run the risk of disappearing yourself or you could remain silent at some cost to your self-image as an honorable and courageous man. When we met, you asked me to see Argentine reality with an open mind. I ask you to have an open mind when you read our report.

Mario looks at me inscrutably. I raise my hand in a farewell salute and close the door.

## X. REQUIEM

While I was cavorting about on the red clay, Andres Aguilar was helicoptering to a less charming, but in a sense even more privileged place: The Instituto de Resocializacion (Resocialization Institute). Its inhabitants were privileged relative to the transient occupants of other clandestine centers of detention in that, unlike the latter, they were scheduled to live and did not even have to pay for that privilege by the preliminary rendering of their flesh. I don't recall now whether Aguilar or the commanders initiated the discussion between Catholic gentlemen which led to this visit. It could well have been the latter, a way of showing that they were not beasts killing indiscriminately, that they were good and honorable men getting on with a disagreeable yet heroic task: preserving a Christian polity from the atheistic terrorists of the Left. When they could show mercy, they showed it. Without doubt they so viewed themselves and no doubt they saw our leader, Aguilar, as a man who could empathize with them: A committed Catholic, a man who had assumed large public responsibilities in his own country, a Paladin of Catholic political action. (He was a prominent member of Venezuela's Christian Democratic Party, COPEI.) Assuming, plausibly, that was their line of thought, then of course they misread him.



The site had thirty occupants, young men and women including several married couples who had withdrawn from one of the militant groups and submitted themselves to sentencing by the military tribunals. Because of their voluntary submission, they were judged re-educable and so were sent to this center instead of prison or an anonymous grave. Re-education appeared to consist of individual and group psycho-therapy calculated by the military to overcome the pathologies of personality that had made them subversives.

At our debriefing on the visit, Aguilar assures us he had pressed his hosts and their superiors about the existence of other clandestine sites of any kind. They told me, he says somberly, that is the only one. We have no persuasive reason to doubt them, he concludes, since we have visited every place rumored to be a detention center and found nothing. So much for the desperate hope of families, encouraged by the authorities, that disappeared children, spouses, or parents were still alive somewhere and would someday be returned if their families kept their mouths shut. They would, in fact, return only if the dead were to rise from their obscure graves.

On day seventeen of our on-site inquiry, in accordance with our practices, we return to the Presidential Office to present "Preliminary Observations." We have agreed to use the occasion to help the living. As for the dead, could we do more than memorialize them in our final report and in that report lay the foundations for such retribution as might some day occur?

Arguably this is our point of maximum leverage, but it has to be exercised by implication only. We cannot say that if the government takes the steps we recommend the report will be more emollient. We cannot say it because if we did, any severe criticism, any damning conclusions, might be deemed evidence of bad faith, since there are no objective standards of severity against which any promise of mitigation can be tested. The most we can say at this point without subsequent accusations of bad faith is that our appreciation of the government's direction and the prospects for human rights in Argentina is bound to be influenced by the government's actions from this time forward to the time we will complete the report.

For a number of reasons we thought this formulation was likely to have particular weight on Videla and the other *Blandos*. Being rational, they had to know that they had won the *Guerra Sucia* and because they had annihilated their opponents, they need not fear the latter's' return to the field of battle in a few years after some amnesty from a president they did not control. Nor did they need to worry about a new generation of revolutionaries, since the memory of that annihilation and the unspoken promise to renew it when necessary would endure. In addition, the *Blandos* did envision the gradual restoration of civilian government, some sort of limited democracy structured to assure the election of governments committed to a conservative version of capitalism and Christianity. We had heard that aside from Carter's pressure, a principal reason for the vote in favor of our visit was the argument

that, while we were bound to be critical of the anti-subversive campaign, we could, as it were, drop a curtain on the *Guerra Sucia* after pronouncing a hopefully nuanced judgment on the past and then underscore, perhaps even praise, the signs of movement by the junta into a transitional stage determined to arrive finally at democratic normality.

This was not mere conjecture on our part. The process of lowering a curtain on the past in poignant tones recalling the bugled “taps” accompanying the lowering of the flag at twilight in the US Army, had begun well before we arrived. Speaking for the armed forces on the previous May’s Soldier’s Day, General Roberto Viola, Commander-in-Chief of the Army and chair of the junta, had said the following:

This war, like all wars, has a dimension that is different from the value of life. For that reason it is a war. Dams and barriers are broken. Life and death are gambled away in the pursuit of victory. The worst thing is not the loss of life; the worst thing is to lose the war. For that reason, the Army, which today has restored the value of life, can say that we have carried out our mission. That is the only and, we believe, sufficient explanation. The price of this is known to the country and to the Army too. This war, like all wars, had an aftermath: tremendous wounds that time and only time can heal. These wounds are the number of casualties: the dead, the wounded, the detainees, *the ones who are absent forever*. The Army knows it and feels it because it is not inhumane or insensitive. The terrorists, with unbridled arrogance, believed that by assassinations they could break the will to win of the Armed Forces and of the immense majority of the population. Unfortunately, the terrorists were men and women who had been born on this generous soil. They were wrong; they were deceived and they deceived and darkened the land of their birth. They deceived their supporters, whose land of their birth anxiety they provoked which nobody today can legitimately assuage. These circumstances will undoubtedly widen the breach left in the wake of the war, because blameless families, affected by the pain, are also Argentine. The Army knows this and feels this. Its only explanation is the liberty which our homeland entrusted to it for safe keeping.<sup>50</sup>

Consistent with the claim of sensitivity and the virtual declaration that the unaccounted for “are absent forever,” in August the junta approved a law setting out a procedure for persons entitled under existing law to state benefits on the death of a closely-related person to secure those benefits merely by showing that the person had been absent from his or her place of residence for one year and that during that time, the prospective beneficiary had received no news of the absent person’s whereabouts. Then, during the course of our visit, the junta took the further step of promulgating a law on the presumption of death because of disappearance during the period

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50. IACHR, *Argentina Report*, *supra* note 10, at 120.

extending from the Peronist government's declaration of a state of siege in November 1974 to the date of the law's promulgation, 12 September 1979. Any person related to the disappeared person whose interests under civil law were affected by uncertainty about the life or death of the missing person could apply for an official presumption of death whereupon, for instance, a spouse could remarry and spouse or children or any potential beneficiary of the disappeared person's estate could inherit.

Unfortunately it was apparent that not all sectors of the armed forces recognized the war's conclusion. In the midst of our visit, on 13 September, the usual gang of armed men in civilian clothes, some twenty men in this case, kidnapped a mother and her three children aged respectively five, four, and three. Human rights organizations believed that the father had also been seized, although there were no eye witnesses able to confirm his removal. When relatives immediately sought a writ of habeas corpus, the government, as usual, responded to the judge's query with a statement that it had no record of the family being detained. Simultaneously, we ourselves contacted the authorities and expressed grave concern, which we reiterated in our meeting with Videla. Later that day the authorities informed us that the mother, Maria Consuelo Castaño de González, and her children had, in fact, been detained and would be released after the necessary interrogation. They claimed to know nothing about the father who, they asserted, was a Montonero leader. Later we learned that Maria had been sentenced by a military tribunal to eighteen years imprisonment and the children turned over to relatives. The whereabouts of Senor Castaño de González remained unknown.

The continuance of arrest by kidnapping, Aguilar emphasizes to Videla, cannot be reconciled with his admission that the conflict is over and the government has won an absolute victory. The Commission anticipates that there will be a full stop to extra-legal arrests and that persons arrested will be remitted immediately to the regular prison system. Then, speaking for all of us, Aguilar turns to the matter of conditions in the prisons. He summarizes our observations of prisoner treatment in Unit Nine and other detention centers including Rawson in the barren cold far south of the country which is conspicuously worse than Unit Nine, a scene of freezing, malnourished, and frequently abused men many in a state of despair. The beatings, the denial of reading materials, even a bible, the isolation in tiny cells twenty-two or more hours a day of persons many of whom have not been tried, while convicted murderers spend their days playing soccer in the prison's open spaces have no possible security purpose. They are simply acts of gratuitous cruelty.

Videla expresses surprise. The conditions you describe are an abuse of discretion by individual wardens, he insists, and he commits to investigating

the matter. Not long after we leave Argentina, our contacts inform us that prison conditions for political prisoners have improved dramatically.

We disperse to our respective national homes and Edmundo Vargas Carreño, our canny and learned Executive Secretary, begins drafting the report we will review at our next meeting in Washington. The pace is deliberate because we are convinced, after our meeting with Videla, that the junta intends to rein in the extravagances of certain commanders, that the era of extermination is over. What is now at stake is the future of governance in Argentina. We believe that the prospect for the realization of human rights in Argentina will be more favorable if the Argentine people confront their past. The armed forces prefer a certain abstract narrative: Terrible but unspecified things happened, things that were, unfortunately, necessary to preserve Christianity and liberty. Our task is to specify, to write an account so persuasive and detailed that no one can hide from it beneath a blanket of sedative abstractions. So time must be taken to get the narrative right. Meanwhile conflict, torture, and slaughter go on elsewhere in Latin America; Argentina is not our sole concern. Finally in April we approve a 266 page report and, consistent with long practice, send it to the Argentine government for its comments. They come, angry, defensive, and, for the most part, unresponsive to the immense detail we have compiled: We have failed to appreciate the circumstances, the defensive struggle against terrorism, the right of every sovereign government to defend the security of the country, *El Contexto*.

Of course we had anticipated the tenor of their response. I had myself drafted a preemptive little section of the report on the undoubted right, indeed the obligation, of every government to maintain order and defend the state and its people.<sup>51</sup> Many countries in these difficult times, I wrote, face the challenge of armed efforts to overthrow the constitutional order. Their constitutions and the human rights norms which all of them have ratified anticipate the occurrence of conditions threatening the life of the nation and therefore authorize governments to declare states of emergency and to limit the exercise of many rights while the emergency is addressed. The scope of legitimate action is broad, I continued. Freedom of the press and of association can be severely constrained, if necessary. In truly extreme conditions governments can even detain people merely on the grounds of reasonable suspicion of their involvement in illicit activities and hold them for a limited time, of course in humane conditions. In fact, in extreme circumstances, governments can do virtually anything, anything other than convict people without a fair trial much less torture and summarily execute them. Within

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51. *Id.* at 26–27.

those constraints, democratic governments had successfully overcome armed subversion. I cited the case of Venezuela. So, obviously, it could be done. In the end, I concluded, every government had a choice: It could go down the path of lawful repression of subversion or it could chose to violate its own national constitution and the most elementary norms of humanity. From its comments, I gathered that this section in particular infuriated the junta.

As soon as we received the government's response we published the report. Efforts by the junta to suppress it in Argentina were largely unsuccessful. While Vargas Carreño mailed individual copies to various Argentines which may or may not have reached their recipients, Emilio Mignone carried the report back to Buenos Aires and there made and distributed hundreds of copies. The next step was formal presentation of the report at the annual meeting of the OAS General Assembly, a step the junta apparently contemplated with a mix of foreboding and rage. It seemed to fear that formal acceptance of the report by a vote of the hemisphere's foreign ministers would injure beyond repair the narrative of unfortunate yet heroic measures marred, to be sure, by certain decentralized abuses.

I suppose they agreed with my judgment, at least my hope, that their narrative and their legitimacy in the eyes of the Argentine population were perilously connected. Erode one and the other might totter, for Argentina was not Guatemala. The military was not an occupying mercenary force allied with a tiny local elite. Its officer class sprang from, and articulated with, a certain sizeable segment of Argentine society and with institutions like the Catholic Church. Not popular opinion, perhaps, but the opinion of "respectable" Argentines mattered. If support within that sector fragmented, the unity of the armed forces could fragment as well, a unity always a bit precarious since each service had its history, its distinctive association with foreign military services, its taste for eminence on the ladder of social prestige and in the allocation of the security budget, and differences in policy views inspired in part by the ideological fractures I mentioned above. The strength of the military lay in its unity more than its bayonets, because the latter could be pointed inward if divisions within the military institution became sufficiently envenomed. Faced with that prospect, the military would probably avoid it by returning to its barracks and allowing, however reluctantly, the restoration of civilian government.

## **XI. THE GENERAL ASSEMBLY**

During the first decade after its founding in the mid-1960s, the Commission's work had made a perfunctory appearance on the General Assembly's agenda, a few words from its president summarizing the Commission's labors work over the prior year together with an anodyne resolution congratulating

the body on its good work and urging in, very general terms, compliance with its recommendations. But by the mid-1970s, the military's seizure of power in Uruguay and Chile, overthrowing previously entrenched democratic systems and inaugurating reigns of terror against liberal reformists and revolutionaries alike, together with growing popular pressure for change in a region long marked for its peculiarly uneven distribution of wealth, lent the Commission's work an unprecedented prominence in Latin America and made human rights a central agenda issue.

The election of Jimmy Carter accelerated this trend. Suddenly human rights, which meant, in large measure, the work of the Commission, was a key agenda item for the annual meeting of Foreign Ministers and the Commission President, either by himself or with the aid of other members, was granted time to present a detailed account of the prior year's activities. In addition, beginning in 1977 Aguilar, Vargas Carreño, and I began drafting resolutions and quietly offering them to friendly delegations like those of Costa Rica and Mexico, which would then marshal support for their insertion in the Final Act of the Assembly. What we sought successfully were separate paragraphs endorsing each report we had done on the general condition of human rights in named countries and calling on those countries to adopt the Commission's recommendations. What in other words we had achieved, with the backing of the Carter Administration, Mexico, Costa Rica, and various Caribbean governments (and behind-the-scenes support from European diplomats who attended the Assembly as observers), was official "naming and shaming."

"Extraordinary" best describes the junta's campaign to avoid it. Argentine ambassadors were ordered to threaten host governments with an absolute rupture of diplomatic relations if they supported a naming-and-shaming resolution. The junta also threatened to leave the Organization of American States. It acted, in other words, as if the anticipated Assembly approval of a resolution endorsing the Commission's report were a supreme threat to the country's national interests, thus implying a fear going far beyond my hope that approval would undermine the military's ability to govern.

Of course, it began its diplomatic campaign with the support of allied military or military-backed dictatorship in countries like Brazil, Chile, El Salvador, Guatemala, and Uruguay, which in varying degrees shared the generals' world view of an apocalyptic struggle against the atheist Left and employed similar methods to assure the right side won. On the other hand, it could not on its own make headway with Venezuela or Costa Rica or Mexico's single-party regime which veiled its authoritarian grip by masquerading as the legitimate offspring of Mexico's early twentieth century revolutionary actors and maintained amiable relations with Fidel Castro. Nor was it likely to have much success with the Caribbean mini-states or

other possible fence-sitters, particularly if the US vigorously opposed its campaign. But in this latter respect, its timing was fortunate.

As the Assembly approached, Jimmy Carter had rather more pressing concerns. In Tehran, US diplomats remained as prisoners in their own embassy and the US electorate correspondingly thrummed with Jacksonian rage.<sup>52</sup> At home, he struggled ineffectively to tame double-digit inflation coupled with economic stagnation, all the while waging defensive electoral warfare against the Ronald Reagan-led Republican Party hammering him for “losing” our long-time client state Nicaragua to pro-Castro insurgents. When the presidential team is engaged elsewhere, day-to-day foreign policy decisions revert to senior professional diplomats, generally men and women committed by their profession’s ethos to promoting friendly relations with states other than designated enemies.

Even at the height of the Carter Administration many diplomats had reservations about provoking governments by challenging the way they treated their own citizens.<sup>53</sup> And now they could see that the Administration was not merely distracted, it was in its death throes. Coincidentally, the previous year’s invasion of Afghanistan by the Soviet Union, the harsh anti-US turn of the Iranian revolution, and the anti-Imperialist rhetoric and more radical tilt of Nicaragua’s leftist post-revolutionary government undoubtedly contributed to a broad societal feeling that the wagons of the Free World Coalition needed to be circled.

Participating and feeding pessimism about the strategic position of the United States and associating the felt depletion of US power with the policies of the Carter Administration were a coalition of traditional and neo-conservatives who were gradually gaining control over the parameters of foreign policy discourse. The latter did not simply embrace the cynical dictum about right-wing dictators—that “he might be a son-of-a-bitch but at least he is our son-of-a-bitch.” Instead, they insisted that supporting murderous right-wing dictators and opposing left-wing movements and governments was a morally superior option.<sup>54</sup>

It was morally superior, they argued, because the left was totalitarian by instinct and ideology. Its attempt at Orwellian control, they argued, had two consequences. One was that in countries governed by merely authori-

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52. On the division of American attitudes toward foreign policy into Jeffersonian, Hamiltonian, Wilsonian and Jacksonian sentiments, see WALTER RUSSELL MEAD, *SPECIAL PROVIDENCE: AMERICAN FOREIGN POLICY AND HOW IT CHANGED THE WORLD* (2001). He describes as “Jacksonian” the impulse to utterly destroy states, groups and persons seen to insult the country’s dignity or threaten or actually harm American interests.

53. SCHMIDLI, *supra* note 8, at 107.

54. See, e.g., Jeane J. Kirkpatrick, *Dictatorships and Double Standards*, *COMMENTARY*, 1 Nov. 1979.

tarian dictators by definition disinterested in transforming society, people could get on with their accustomed lives—raising children, worshipping their God, running their businesses, tilling their soil—without interference by the state as long as they kept their noses out of politics (Ironically a pretty good description of “Communist” China today.) Conversely, in revolutionary leftist states, the elites by definition did want to transform society and in order to realize their wanton ambitions, they necessarily intervened in daily lives. In short there was more freedom in right-wing dictatorships. A second consequence was that because there was more social space in authoritarian dictatorships, the long-term opportunities to liberalize the regime were incomparably greater.

The principal publicist for what proved to be nonsense—the Soviet Union did implode despite its “totalitarian” character and Maoist China became one-party crony capitalist—was a woman called Jeanne Kirkpatrick who elaborated the neoconservative claim in an article published by *Commentary Magazine*. That article apparently inspired Ronald Reagan to appoint Kirkpatrick Ambassador to the UN after he assumed office in January 1981. I say “apparently” since she had no other conspicuous qualifications.

The ideological atmosphere fostered by the Iranian hostage crisis and the day-to-day economic challenges facing average US families, together with the anticipated electoral defeat of President Carter, sucked energy out of US human rights policy and undoubtedly reinforced the conciliatory instincts of professional diplomats. By the time the 1980 General Assembly convened in late November, Carter was a lame duck, Marxist insurgents were besieging El Salvador’s right-wing regime, and Republican militants were fanning out in Latin America with the message that there would soon be a new sheriff in Washington, more than happy to see old Latin friends take off the gloves Carter had strapped over the brass knuckles they preferred to employ. In short, the political setting for the Commission’s presentation of its Argentine report could fairly be described as “difficult.”

You can’t get much further from La Plata’s Unit Nine than the Pan American building on 17th Street just north of Constitution Avenue, the ceremonial home of the OAS where the Foreign Ministers convened in November 1980. Andrew Carnegie, the turn-of-the-twentieth century’s Bill Gates, provided much of the funding for this elegant, Spanish Colonial answer to the Taj Mahal, a tribute, however, not to love but rather to the much abused and frequently risible ideal of a harmonious hemisphere. It does not take much imagination to picture a Spanish governor strolling with his scribe among the exotic flowers and plants in the building’s rain-forest atrium or wandering its long marble halls speaking . . . well, probably not of Michelangelo, more likely of when to replace his depleted Indian slave population with an African one.



Even on the day when principal agenda items are to be discussed, the atmosphere is casual, somewhat disjointed. The foreign ministers arrive with their Sherpas and take their designated seats at a wide and immensely long table. The Sherpas bunch behind them on less accommodating chairs close enough to whisper information into the minister's ear if needed. But in the normal case, hardly anyone stays seated throughout the session. Ministers may rise to ease their bladder, down a *cafecito*, chat with fellow eminences, or simply stretch their legs. Members of the entourage also may wander about on some mission or, if their minister has no interest in the agenda-item being discussed or is herself on trek, they may do some bladder relieving or intra-mural chatting of their own. At the same time OAS officials are passing to and fro on errands of one sort or another. All the movement and chatter produces a good deal of noise, white noise to be sure, but enough so that the atmosphere is closer to Grand Central Station at the commuter hour than to an Easter Sunday Mass.

But on that November day, when the amiable Secretary-General, Don Alejandro Orfila, scion of a rich wine-producing Argentine family, called me to the head of the table to present the Commission's Report on the general situation of human rights in his country, movement and conversation began perceptibly to diminish. And after I began, it diminished further until, in a very short time, there prevailed a silence unlike any I had ever encountered at a large international meeting.

I opened with perfectly innocent facts. I recalled the Commission's authority, granted fifteen years earlier by these very governments at a previous General Assembly, to conduct broad inquiries as well as to consider individual cases of alleged atrocity. I connected the Commission's decision to conduct a general inquiry into Argentine conditions with the large number of unresolved and troubling cases before the Commission. I conveyed, disingenuously, the Commission's appreciation for the Argentine government's invitation to conduct an on-site inquiry and for its cooperation during our seventeen-day visit. While I warmed up in this anodyne way, I observed not far down the table from me the intent, perhaps one might say "grim" expression on the face of the Argentine Foreign Minister, the aforementioned General Pastor.

Then I described the historical context just as it had been described to us: The emergence of two increasingly powerful clandestine movements determined to change the political and economic order by all necessary means; the rapidly increasing insecurity of everyday life following Juan Peron's death in 1974; the street battles between left-wing insurgents and right-wing gangs; the targeted assassination of military officers; kidnappings and bombings; the widespread call for military intervention to restore order. In this early section I could seem to be channeling the junta itself.

Having preempted the government's defense, I began the transition to our report. Certainly the conditions prevailing in Argentina when the military

assumed the responsibilities of government constituted a grave emergency precisely of the kind anticipated by the drafters of the American Declaration and the American Convention on Human Rights, the documents the Commission had been created by the hemisphere's governments to enforce. I reiterated the many emergency measures authorized by those documents, measures sufficient to enable any government (at least one enjoying the support of the majority of its people, I added) to bring the emergency to an end. Then I noted the very few things no government committed to the values animating those documents could contemplate. Everyone in that now silent room knew where I was headed; the only unknowns were how exactly I intended to get there and how harshly would I paint the scene on arrival.

I had been given enough time to do what was necessary, which was to take the ministers through the evidence in sufficient detail to overcome their reluctance to indict any fellow government. Their faces had to be brought into such intimate association with the facts that they could not look away. So, I described our pre-visit experience: The cascade of denunciations arriving in our Washington offices detailing the seizure and subsequent disappearance of hundreds of Argentine citizens, denunciations that mounted into the many thousands during our visit.

I described the generally rote responses of the government denying any knowledge of the detainees and repeating those denials, even after we presented testimony from the exceptional persons who had emerged from secret detention centers and attested to seeing a number of the disappeared in those very centers. Could it be that all of them had simply fled the country or were able to conceal themselves in a highly urbanized nation under martial law or that persons might have been seized by the broken-backed insurgents themselves for seeking to abandon the cause, as the government's answers to our requests for information often suggested? Moreover, neighbors had in many cases observed the kidnappings, their leisurely pace, the number of men involved. If the kidnappers were not agents of the government, how could these leisurely operations occur without the intervention of the police? I noted that the Argentine government did not deny that a remarkable number of people had disappeared from the national society. The legislation it had adopted, vastly contracting the time required for a presumption of death, implicitly conceded an unprecedented plague of disappearances and also implied low expectations that the absent ones would eventually reappear.

For a long time I had been intending to cap the main body of my exposition with the details of a particular case, a case which captured in a peculiarly vivid way the blatant mendacity, the utter cynicism of the junta's responses to our requests for information, the case of Nelli Forti de Sosa. Though I had never met her, she had been living in my mind for more than two years and there she remains to this day.

But first I wanted to underscore the generals' indifference not only to regional human rights law, but also to the legal order of their own country.

By virtue of their beliefs and passions, right-wing nationalists, of whom there were undoubtedly many in attendance that day, trumpet the supremacy of national sovereignty over international law, which is dismissed as, at best, a tool of statecraft employable when convenient to the national interest. So in all of its reports the Commission seized every opportunity to demonstrate that the international norms it enforced simply mirrored norms embedded in the national constitution.

The junta had declared itself the guardian of the West's civilized legal order threatened by lawless criminals. Consistent with that claim, they had not suspended the civilian courts. And when, before and during our visit, we had complained about the long-term detention of persons on grounds no more specific than suspicion that such persons were threats to the state or plainly had been taken on the whim or personal animosity of an officer, the junta would methodically invoke the article of the Argentina Constitution permitting the suspension of various rights during a state of siege. I wanted an indisputable instance of contempt for the legal order and the case of Jacobo Timerman provided it.

Sometime after the regime had finally acknowledged his detention, the case brought by his wife seeking his release finally made its way to the Supreme Court. Finding that the government had offered no basis for continuing his captivity, the court ruled that he should be released. Its ruling could not have been a complete surprise to the generals since in a previous case the court had declared that the discretion to act in the national interest during an emergency, while broad, was not limitless. It was subject to a rule of "reasonableness." Despite the court's ruling Timerman remained in detention, as we had found him during the visit. Within days of our departure, however, his wife appealed again to the court, noting the government's continuing failure to release her husband. Again the court called for his release, triggering by generally accepted accounts a bitter debate among the generals, with Videla pressing very hard for compliance with the court's decision occurring against the background of the Commission's strong appeal and pressure from the US and other democratic governments. Confronted with the depth of hatred for Timerman among some officers, the *Blandos* negotiated a compromise. Ten days after we left Buenos Aires, the government stripped Timerman of Argentine citizenship, ordered his expulsion from the country, and put him on a flight that would end in Israel.

Then, having underscored the junta's contempt for Argentina's constitutional order, I turned finally to the Forti case.<sup>55</sup> At the time of the military's assumption of power, Nelli Forti along with her husband, a doctor, and their

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55. This account is based both on the IACHR, *Argentina Report*, *supra* note 10, at 111–16; Interview by Author with Alfredo Forti, Buenos Aires (12 Dec. 2011).

five children were living in Tucumán, a city in the interior of the country. Against the background of the accumulating "Disappeared," they soon decided to leave the country. Dr. Forti went first. He traveled openly to Venezuela and quickly secured a position in that country's rural health service. Nelli then moved with their children to stay with relatives in Buenos Aires while she secured exit documents from the government and a Venezuelan family visa. Early in the morning of 18 February, 1977, she and the children took an Aerolíneas Argentina bus which passed through a number of military control points out to the city's heavily guarded international airport.

After completing all the usual pre-embarkation procedures, they boarded the 9:00 flight to Caracas and took their seats. Just as the plane appeared ready to depart, a call came over the loud speaker asking Alfredo, the oldest child, to come up to the pilot's cabin. There he encountered the captain and two officials, one of whom had processed their emigration documents. Asked about the whereabouts of his father, Alfredo explained that his father was waiting in Caracas for him, his siblings, and his mother. Then they asked him to walk back and summon his mother. When she arrived the pilot informed her that she would have to disembark with the children because there was something wrong with her documentation.

They then were required to re-board the bus which had carried them plane-side. Awaiting them inside were a number of armed persons in civilian clothes. The bus took them as far as the airport security fence where they were shifted into two sedans, eventually blindfolded and driven for over an hour, arriving ultimately at a building where they were lodged on the ground floor of a multi-tiered cluster of cells. After several days an officer appeared, denied any knowledge of the details of their case, but declared that they would have to travel back to Tucumán where the problem could be resolved. Nelli would be taken by plane; the children by train.

On the seventh day of their captivity officials tied the children's hands, blind-folded them, bundled them into a sedan, drove what appeared to them a considerable distance, then ordered them out and roared off. When the children finally managed to free each other, they found they were on a street corner within a few blocks of the relative's house where they had been staying. Beside them, wrapped in cellophane, were some of the clothes they had packed for the trip to Venezuela. Shortly thereafter a priest came from Venezuela and escorted them to a reunion with their father. To this day, the whereabouts of the remains of Nelli Forti are unknown.

After exhausting through representatives in Buenos Aires every possible means for locating his wife, on 29 May, 1977, Dr. Forti brought her case to the Commission. We quickly sought an explanation from the Argentine government. Given the availability of witnesses, in addition to the children, able to confirm Mrs. Forti's arrest, we thought the government might respond with something more than the boilerplate "there is no record of such a deten-

tion." The hope proved futile. Fortified by additional details from Dr. Forti, we sent another note to the government, in effect explaining the difficulty we had in accepting the implication ("no record") that Mrs. Forti had not been detained, and we received the same formal denial. Even a third note, underscoring the many proofs in our possession, including declarations of eye witnesses, evoked the same abstract expression of ignorance about the fate of Mrs. Forti, whereupon we formally adopted a resolution concluding that Mrs. Forti had been illegally detained by government officials, that her disappearance constituted a "very serious violation of the rights to liberty, and personal security," and demanding that she be released and the persons responsible for her detention sanctioned.

Only months later, after the Commission's on-site investigation during which, with as much diplomatic finesse as we could muster, we thrust the Forti case in front of senior military officers, did we finally receive a detailed answer. The Fortis, the government's letter alleged, had collaborated in health and logistics matters "with elements belonging to terrorist organizations" in Tucumán, specifically the Montoneros, the armed left wing of the Peronist Party. Then in 1976, "for fear of being discovered," they had decided to end this collaboration and leave the country. Since Argentine officials were not involved in the subsequent detention of Nelli Forti and her children, the only plausible "hypothesis" is that the Montoneros carried out this extraordinarily daring, almost suicidal airport capture posing as government officials, managing even to dupe the chief of the airport and Mrs. Forti herself. Then she must have been transferred to a secret prison maintained for deserters by the Montoneros, hence the testimony of her children describing the place where they had been held. Thus, in one bold move by a desperate organization, it was able to demonstrate to potential deserters that it retained a powerful reach and, coincidentally, to besmirch the reputation of the Argentine government.

In so many words, I repeated the Commission's answer to the government's "hypothesis." To begin with, neither in the government's previous responses, nor even during the Commission's visit to Argentina, had any member of the government proposed this hypothesis. Aside from that, the proposition that, during a state of siege, a group of insurgents could deceive soldiers and police at multiple check points, as well as airport officials, the pilot of the plane, and Mrs. Forti herself, and could maintain undetected, the structure encountered by her children at the place where they were held, was simply incredible. And there was more. During our visit, we had interviewed one of the fortunate persons who had survived a period in a clandestine center. That center was in Tucumán and, unbidden by us, he had volunteered the names of persons held there with him. One of them was Nelli Forti. She was, he told us, in "deplorable" physical condition.

Throughout the great meeting room of the OAS the silence is absolute. In the face of all the evidence, I say, the Commission could reach only one tragic conclusion, namely that of the thousands of people detained and to this moment unaccounted for, virtually all are dead. With that, I thank the Secretary-General for this opportunity to present the report of the Commission.

I gather my papers, rise and turn. Aguilar, Vargas Carreño, and Orfila himself offer congratulations. Behind them appears the stocky, close-cropped figure of Raúl Quijano, who, throughout my presentation had been seated stoically behind his minister. Raúl extends his hand. "You did what you had to do as I do what I have to do," he says, "and you did it well."

## **XII. EPILOGUE**

### **A. Winding Path to Justice**

I seem fated to return episodically to Argentina as one returns by chance or choice to the object of a passionate affair begun decades earlier and never quite completed. The country's turbulent history since 1979 lives in my mind, as it lives in the minds of so many Argentines, because the past is not yet past.

My Argentine friends believe that the Commission's visit and its subsequent report contributed to the progressive unraveling of the military dictatorship. I would like to think so. Certainly once the report or summary accounts of its contents circulated, moderately conservative Argentines like Mario could no longer deny to themselves that, lightly screened from their comfortable quotidian lives, a brutal, pitiless, organized massacre had occurred and that its perpetrators continued to run the country. The end of the illusion, for parts of respectable society had to shrink the military government's legitimacy and, correspondingly, increase the unease of those officers who resisted the fascistic vision of certain elements of the military establishment and a small, but not entirely inconsequential, group of far-right civilians.

Whatever our report contributed to the progressive decay of military rule, I have to believe its effects only supplemented the military establishment's failures in the economic realm and its humiliating defeat in the Falklands/Malvinas War. The latter, the playing of a popular nationalist card in a desperate effort to restore public support, stemmed from the former and no doubt from public appreciation that, with the utter destruction of armed subversion, the military itself and its paramilitary allies in the police constituted the main threat to law and order.

In the wake of the failed operation to displace British control of the Malvinas (the Falklands as they are known in the UK), the military appeared

to many inside and outside the country as clownish, albeit sinister, incompetents. The occupiers of the islands, a force primarily of conscripts shivering in light-weight uniforms never intended for use in the harsh South-Atlantic climate, collapsed rapidly under the assault of the UK's highly trained volunteer force backed by two aircraft carrier groups.

Expert analysts ultimately painted a more complex picture of the operation and of the army's performance. The Argentine high command had reasonably believed it unlikely that the UK government would attempt to reconquer the islands. Their largely rural population was minuscule, hardly more than a village in the UK, and the islands themselves, while enjoying a richness of bird life and seductive vistas for landscape photographers and water-colorists, had no obvious economic potential; indeed, fiscally speaking they were a modest burden. An effort to reconquer them would impose an immodest burden on the British Exchequer.

Moreover, in diplomatic exchanges over the immediately preceding years, the British had seemed (at least from the Argentine perspective) to be ready to find some formula for a fairly honorable and entirely sensible transfer of sovereignty. So it was possible to imagine a scenario in which the British would respond to an occupation by nothing more dangerous than an attempt to secure UN Security Council support for economic sanctions, an attempt which might fail for two reasons: First, sympathy among nonpermanent members from the Global South for an Argentine defense sounding in the rhetoric of anti-colonialism, the UK having seized the islands in the nineteenth century. In addition, the US might abstain out of gratitude to the Argentine military for help in passing on its night-and-fog counter-insurgency skills to lethal anti-communist forces in Central America supported by the Reagan administration. US neutrality was important, indeed very important, for another reason. In the unlikely event the Thatcher government chose to fight rather than complain, its expeditionary force would be severely dependent on logistical and intelligence assistance from the United States.

In the event, expectations of US neutrality proved false, but Washington's commitment to a British victory came only after a struggle within the Reagan administration which pitted a faction led by UN ambassador Kirkpatrick, a fan of the junta and other "merely authoritarian" regimes murderously repressing left wing opponents, against those who gave priority of place to trans-Atlantic relations. When strenuous efforts by the US Secretary of State to mediate a compromise failed, the Atlanticists prevailed, a probably inevitable result in light of the warm, personal, and ideological relationship between President Ronald Reagan and Prime Minister Margaret Thatcher.

In retrospect the decision to seize the Falklands, then evacuate troops leaving behind only a contingent of police and administrators instructed not to apply mainland techniques of control to the local population, was not a completely wild throw of the dice. Nevertheless, defeat underscored by the

fifteen thousand prisoners in British hands, is defeat. Rather than making the body of the nation whole—to use the sort of biological metaphor favored by homicidal regimes in Latin America at that time—the high command had delivered humiliation. The strategist's subtle analysis could not save the Argentine military establishment from public disgrace and ferocious intramural debate over responsibility for the institution's humiliation.

Splits over economic policy, relations with the trade unions, the need for continuing extra-legal repression, and also over the constitutional restructuring of Argentine politics widened into chasms, across which once united allies glared with fixed bayonets. When military establishments fracture, the alternatives are civil war or a return to the barracks. Choosing the latter, Argentina's generals and admirals acquiesced to a rising clamor in civil society for elections and the restoration of authenticate constitutional government. Returning to the barracks had the additional virtue of leaving to civilians the task of cleaning up the economic mess or, ideally, failing in that endeavor and thus offering a new target for the public's anger.

One sign of the exhaustion of its prestige across a broad swathe of the political spectrum was the military's inability to extract as a condition of its relinquishment of power a multi-party commitment to grant amnesty to the armed forces for whatever human rights abuses might have been committed during its reign. Ironically it was the candidate of the Peronist Party, the party the military had banned from the electoral scene for two decades following the 1954 coup d'état against Juan Peron, the party displaced by the coup d'état of 1976, who expressed willingness to satisfy the demand for amnesty. Raúl Alfonsín, candidate of the anti-Peronist coalition centered on the Radical Party, the traditional vehicle of cautious bourgeois sentiment, unequivocally rejected it. When, to the surprise of pundits and Peronists, Alfonsín won, the bill for the Disappeared came due.

### **XIII. ALFONSIN: 1983 TO 1989**

The new president began shrewdly by appointing a truth commission led by a celebrated literary figure, the novelist Ernesto Sábato. Sábato had publicly supported the military's seizure of power in 1976 then become disillusioned by its methods for restoring order. Unlike Jacobo Timerman, however, who also had initially supported the coup, he was not a political pundit or a figure with evident leftist (i.e. Social Democratic) sympathies. He embodied the better angel of the respectable classes now liberated from fear of the revolutionary Left. In photographs Sábato looks like the sort of man one might encounter at El Mirasol, the capital's popular grill, surrounded by three generations of a well-groomed, impeccably polite family.



Five years after the Commission's on-site inquiry, the public summary of the Sábato Commission's 50,000 word report ripped up the tattered remnants of the military institution's prestige. In his unsparing introduction, Sábato, speaking for all eleven members of the Commission declared "that the military dictatorship [had] produced the greatest and most savage tragedy of our history."

And even if we must wait for justice to give the last word, we cannot silence what we have heard, read and recorded, all of which goes beyond what can be considered simply delinquency to reach the dark category of inhuman crimes.

"During the course of our investigation," he continued,

we were insulted and threatened by those who had committed the crimes, who, far from repenting, again repeat the well-known reasons for the 'dirty war.' They talk of the country's salvation and of their Western and Christian values—the precise values that they dragged between the bloody walls of the repression dens. And they accuse us of not propitiating national reconciliation, of inciting hatred and resentment, of preventing forgetting. But this is not so. . . . We believe that reconciliation will not be possible until after the guilty repent and justice, based on truth, is done.<sup>56</sup>

Continuing to move with sure feet, Alfonsín called on the military institution itself to vindicate its honor by trying, in its own courts, the senior officers who had presided over what Sábato called, "the technology of hell." But under legislation the president steered through Congress, if the military failed to act within a specified time, jurisdiction would shift automatically to the civilian courts. When in the event the military refused to punish its own, in accordance with the new procedure, the attorney general initiated prosecution of the nine members of the military juntas which had successively governed the country until the restoration of civilian rule.

It was their trial which brought me back to Buenos Aires six years after the Commission's landmark inquiry. Five police bodyguards in plain clothes led by a very fit-looking sergeant met me at the door of the plane and guided me quickly through the VIP line to a taxi and on to my hotel where I dropped my bag. Then they took me to Strassera's office for briefing by him and his deputy, the then young Luis Moreno Ocampo, a subtle, witty, tough-minded bon vivant who would go on years later to become the chief Prosecutor of the International Criminal Court. When my time came I entered the courtroom at an angle much like that of an actor entering the stage and then faced the court. So I never really saw the defendants. Once I was led to identify myself as a former member and President of the Inter-American

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56. ARGENTINE NATIONAL COMMISSION ON THE DISAPPEARED, *NUNCA MÁS: THE REPORT OF THE ARGENTINE NATIONAL COMMISSION ON THE DISAPPEARED* 1–2, 5 (1986).

Commission, Judge D'Allesio asked me to describe the Commission's observations and conclusions, which I did at very considerable length. A few additional questions from the judge and his colleagues and then Strassera teased out some details I omitted in my original statement.

My anticipation of very harsh cross-examination from defense lawyers proved wrong. Their tone was, I suppose one could, say "respectful." None attempted to extract from me signs of malice toward the defendants or asked questions implying my testimony had been inflected by ideological bias. Their common effort, I quickly saw, was to elicit support for what in essence was more a political than a technical legal defense of the high command. They pressed me to concede the extraordinary challenge facing the high command in its attempts to restore order and to concede as well the inevitability of error and abuses and collateral damage in a war against a clandestine insurgency. I parried, essentially by repeating the Commission's mantra about the broad discretion and powerful instruments available to any legitimate government attempting to suppress a violent political movement limited only by the injunctions not to torture, summarily execute, or otherwise punish without due process. In retrospect, I missed the opportunity to recall for them Ernesto Sábato's stirring invocation of Italian General Della Chiesa's response in the 1970s to a proposal that he authorize the torture of a prisoner believed to have knowledge which would lead the authorities to the kidnappers of Aldo Moro, one of Italy's most important political leaders. General Della Chiesa, later murdered by the Mafia, was quoted as responding: "Italy can permit itself to lose an Aldo Moro, but not to institute torture." In the event, Italy lost Aldo Moro, the one man deemed capable of organizing a reform-oriented center-left coalition able to wrest power from the Christian Democratic defenders of the corrupt and fossilized status quo.

My bodyguards, who resumed their work after I completed the cross-examination and stepped out of the court building, were not a necessary reminder that one could die in Buenos Aires. There was no reason to believe the officer class had reconciled itself to defeat. At this point, its members could not know how far into its ranks the restored civilian government's prosecutorial hand would reach. Some among them, it would only take one, might reasonably conclude that the assassination of a witness, particularly one enjoying a certain transient prominence and a US passport, might discourage others from recounting their experiences. Moreover, police bodyguards were not, perhaps, the ideal guarantors of one's safety. The police, after all, had collaborated with the death squads. It follows, I thought, that the prudent thing would be to return to the hotel, take my meals in my room, and remain there until my night flight back to the US the following day. But how hard it is to be prudent in Buenos Aires. I wanted to stroll down Avenida Florida, linger in its bookstores, feel the city's pulse, sip a dusky Malbec (perhaps one from the Orfila family vineyards) while rending a mixed grill

in a restaurant I knew. So, reassuring myself that killing a former president of the Commission and a US passport holder would be very maladroit, I yielded to the city's charms.

Ultimately, after finding unconstitutional the amnesty the last junta had in advance of its retirement generously granted to all members of the armed forces, the court found six of the nine defendants in this Argentine Nuremberg guilty of assorted crimes long established by Argentine law. Its severest sentences, life imprisonment, fell on Jorge Videla, Admiral Emilio Massera, and General Leopoldo Galtieri (the junta chair at the time of the Malvinas invasion). General Roberto Viola, chairman of the junta at the time of the Commission's visit and by reputation a leader of the *Blandos*, a man who, along with Videla, had tried to protect Jacobo Timerman from execution, received seventeen years. With this precedent in hand, President Alfonsín, moving to expand the net of prosecution to less senior figures, faced the first of a series of open or threatened mutinies by units of the armed forces. Personally courageous—following one mutiny he helicoptered without guards to the headquarters of the defiant unit and negotiated their stand down—he finally concluded that he could not consolidate the restored democratic system without establishing clear and narrow limits to the ambit of criminal liability

In order to be pacified, the great majority of officers had to feel they were safe. So, with obvious reluctance, Alfonsín steered through the Congress a law known as "*Punto Final*,"<sup>57</sup> which set a sixty-day statute of limitations for new prosecutions. That in the wake of this legislation surviving victims of state terror or their families and human rights organizations should sprint to assemble cases against the hundreds of identifiable operators of the terror, was to be expected. What was surprising, even astonishing, was the sight of segments (but only segments) of the normally lumbering, historically conservative judiciary—the judiciary so largely accommodating during the time of state terror, routinely dismissing hundreds of writs of habeas corpus without probing the government's bland denials—should sprint to help them, cancelling vacations and working through normally sacred weekends to receive petitions and inaugurate prosecutions. As a result, no doubt to the dismay and fury of the officer corps, hundreds of new cases beat the deadline. So Alfonsín found it necessary for his pacification project to support passage of the "Due Obedience" law,<sup>58</sup> which allowed defendants to invoke orders from their superiors as a defense for their crimes (they could still be prosecuted for exceeding orders).

At this point the Alfonsín administration's emphasis on issues of transitional justice yielded pride of place to the rapidly unraveling national

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57. Law 23492 of 24 Dec. 1986.

58. Law 23,521 of 4 June 1987.

economy. For decades the Argentine nation had managed to overcome the country's multiple advantages: An abundance of natural resources and a very favorable ratio of people to resources, a rich soil, enormous environmental and ecological diversity, an immensely long coastline, and a highly educated middle and upper class with strong links to the European countries from which they stemmed. The gorgeous late nineteenth and early twentieth century buildings of downtown Buenos Aires testify to the country's wealth at the turn of the twentieth century, when its per capita income placed it among the world's top ten. So many advantages and yet a twentieth century history of unfulfilled potential for reasons debated by economists and political theorists to this day.

For a complex of causes, the absence of a coherent plan being one, the military's ambition in 1976 to arrest the country's slow but steady competitive decline, as well as annihilating the insurgents of the left, came to nothing. The economy it handed over to Alfonsín was declining, like a body being rotted out by a slow—acting poison. Alfonsín and his colleagues, for all their good intentions, could not find the antidote. As the next election cycle approached, the body began to convulse. The country's chronic seepage of private capital morphed into a raging current. Inflation exploded, ravaging the middle classes and injecting desperation into the poorer ones. With food riots erupting, Alfonsín, who had tried to pacify the nation's security apparatus, now had to call on it to maintain order.

#### **XIV. MENEM TO KIRCHNER: 1989 TO 2003**

From economic failure, the electoral one followed: In the election of 1989, the Peronists, led by the odd figure of Carlos Menem, demolished Alfonsín's Radical-Party-Coalition. With the very sinews of civil society seeming on the edge of tearing, Alfonsín, feeling his credibility to be exhausted, agreed to accelerate Menem's inauguration. A diminutive figure packed with brio, a Catholic convert from a poor Muslim immigrant family, the candidate of a party synonymous with Populism, a political program notable for protecting the domestic economy from foreign competition and currying popular favor with unsustainable budgetary largesse, the pragmatic Menem immediately quieted the convulsing economy with an intense dose of neo-liberal economic orthodoxy. To quell inflation, encourage domestic capitalists, and attract foreign investment, he tied the currency to the dollar, heralded an end to unsustainable public deficits, shrunk tariffs, privatized utilities and the national petroleum company, and broadly declared the country open for foreign investment. Responding to a business-friendly government with a powerful electoral mandate, money poured in and the economy seemed to move in an instant from being virtually comatose to having exuberant life.

Menem himself had suffered during the military dictatorship, imprisoned and reputedly tortured. So he was hardly a visceral enthusiast for the military institution. Nevertheless, along with his unorthodox moves (unorthodox for a Peronist) on the economic front, he decided to use a general amnesty to remove the military from the political equation.<sup>59</sup> Not only were all pending cases aborted, in addition, he released Videla and the other convicted members of the three juntas.

Like other promising moments in twentieth century Argentine history, Menem's merely presaged a new calamity. Binding the peso to the dollar had doused the flames of inflation at the cost of fiscal flexibility. The promise of fiscal stability and a business-friendly administration generated private-sector exuberance which included heavy borrowing on terms requiring repayment in dollars. Meanwhile the underlying productivity of the Argentine economy and the efficiency of its institutions did not change radically.

In 1999, a declining economy, a growing aura of personal corruption, and widely construed constitutional restraints conspired to checkmate the bantam rooster's bid for a third term. As in 1983, the Peronists fell to a coalition centered on the staid Radical Party. Hardly had its candidate, Fernando de la Rúa, assumed office, however, when the rainbow-colored bubble long developing under Menem burst. The resulting social and political toxicity exceeded even that of Alfonsín's last days. Actual hunger began haunting a country famous for its consumption of beef. Poverty soared, riots multiplied, and crime metastasized. People were kidnapped off of cinema lines and held for twenty-four-hour mini-ransoms. The country went through five presidents in one year.

Political and economic chaos and social fury intensified the endemic factionalism of the Peronist party, factionalism which proved favorable to Nestor Kirchner, the politically ambitious and, it turned out, adroit governor of an obscure province in the cold Patagonian south. Running in the 2003 election against the irrepressible Menem, still seeking the elusive third term to supplement his various trophies, which now included a former Miss Universe from Chile as his second wife, Kirchner, another lifetime Peronist but one from the party's left-of-center, ran a close second to Menem, with 22 percent to Menem's 24 percent of the popular vote. As they prepared for a run-off, public opinion turned decisively against the former president. Four days before the election, with polls showing Kirchner likely to double Menem's vote, the latter withdrew and Kirchner sailed to victory unopposed, bringing with him into the Casa Rosada his wife and political partner, Christina Fernández.

Kirchner had studied law at the National University of La Plata, Timerman's university, and had been active in the Peronist Youth Organizations

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59. Menem included in the amnesty surviving leaders of the insurgency.

usually identified with the left of the party and from the most radical tranche of which the Montoneros had sprung. So he could have suffered Menem's fate or worse when the military seized power in 1976. That may explain why, on receiving his degree that year and meeting and soon marrying Christina Fernández, who was at an earlier point in her own legal studies, he quickly returned to his remote ancestral province and set up a law practice, which Christina joined when she received her own degree the following year. To be sure, no place was entirely safe for a left-wing Peronist, but La Rioja was safer than La Plata and the Capital.

According to *Porteño* friends, the Buenos Aires intelligentsia at first looked upon Nestor and Cristina as little better than rural yokels not to be taken very seriously, an assessment that Kirchner very quickly dissolved. On the economic front he and his well-regarded finance minister moved decisively to stabilize and reinvigorate the economy beginning, however, with the required but bitter medicine of decoupling the peso from the dollar. The result was a two-thirds devaluation which wiped out a substantial portion of middle-class savings but made Argentine exports and vacations cheap for foreign buyers with more valuable currencies. Coincidentally, facing the same huge debt burden confronting Greece today, like the leaders of Greece's insurgent Syriza Party, he rejected Washington-Consensus orthodoxy. He would not impose austerity in order to repay imminently due debt either to the International Monetary Fund (IMF) or private-sector bond holders. In the end the great majority of bondholders accepted replacement of existing bonds with a new one which, in effect, forced something like a two-thirds loss on them and, together with his defiance of the IMF, essentially cut Argentina off from international credit markets. At the same time, however, a rise in global commodity prices, growing sub-regional trade, and continuing direct investment, together with the export stimulus devaluation empowered the manufacturing and agricultural sectors which then drove the economy forward. Anti-poverty programs added to consumer spending while reducing misery.

Kirchner's moves on the political front were even more dramatic. While Menem had begun his presidential term by appeasing the officer class, Kirchner confronted it. He purged senior officers associated with the Dirty War or deemed hostile to Peronism and democratic politics more generally, seized control of the promotion process, and slashed the military budget. And, having effectively purged the Supreme Court of its most conservative members, he repudiated Menem's amnesty for human rights abusers and initiated new prosecutions whose ambit would continue growing through his administration and then that of his successor, Christina Fernández.

**A. 1998**

In 1998, thirteen years after my testimony in the first war crimes trials, I returned to Argentina, this time as Dean of the University of Denver's Graduate School of International Studies (GSIS), as it was then.<sup>60</sup> While my motive for the trip was establishing ties with Argentine universities and raising the profile of GSIS among Argentine students contemplating graduate study abroad, I also relished the opportunity to view directly the extent of changes in social and political life since the War Crimes trial and to visit old friends, particularly Jacobo Timerman.

Having been tortured pitilessly in part for his self-identification with Zionism, Jacobo's banishment to Israel, where he was immediately granted citizenship, seemed the happiest possible outcome of his torment. The Wandering Jew had found his way home. He settled in and wrote "Prisoner without a Name, Cell Without a Number," a short, powerful, and paradoxically lyrical meditation on his imprisonment and torture which became an international best seller and established him as an iconic figure for Americans and Europeans concerned with human rights. In that role he enraged Americans of the Right-Wing persuasion when he came to Washington and spoke out against new President Ronald Reagan's nomination of Ernest Lefever to be the Assistant Secretary of State for Human Rights and Humanitarian Affairs, the position first established by Jimmy Carter. Lefever, acclaimed by the American Right as an eminent moralist, did not conceal his opposition to Jimmy Carter's policy of meddling in the affairs of other countries, at least those governed by ardent anti-communists. After a furious fight waged in the Senate and editorial pages of leading newspapers, Lefever and the administration conceded defeat.

Perhaps the surest thing about life, other than the certainty of death, is its capacity to disappoint passionate idealists. If they are combative writers, they will turn their disillusion into angry books which will make many people angry. Such writers will not lead quiet lives no matter where they settle, even if they are Zionists settled at last in the Promised Land. Jacobo Timerman's Zionism was the Zionism of the gentle philosopher Martin Buber, not that of the raging warrior Ariel Sharon. It was a Zionism that envisioned the creation of a state which would be the model for humanity at large of a just and egalitarian community. Since the actual state in which he settled after his flight from Argentina was the Sparta of the Middle East, with a subordinated Arab-speaking minority and a relentless colonizing project in

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60. In 2006, to the end of enhancing the school's profile and enlarging my ability to raise funds for it, I navigated the renaming of the school to honor its founder, Josef Korbel, Madeleine Albright's father.

lands acquired through war, its complex, morally problematical reality could not be reconciled with Timerman's cosmopolitan version of Zionism, what others have called "liberal nationalism,"<sup>61</sup> a description which, in practice, has often seemed oxymoronic. So, his Israeli idyll could end only in bitter disillusion and a consequent book which would make many people angry indeed.

The book, called *The Longest War*,<sup>62</sup> was occasioned by Israel's invasion of Lebanon in 1982. An attack apparently authorized for the limited purpose of tranquilizing the border area from which Palestinian organizations had launched occasional sorties into Israel, under the iron will of its commander, Ariel Sharon, it morphed into an all-out campaign to smash once and for all the Palestinian Liberation Organization and to turn Lebanon into a docile and accommodating neighbor. Covering the war as a journalist, Timerman recoiled from the urban devastation wrought by Israeli firepower which seemed to him out of all proportion to Israel's legitimate ends. What fired his outrage to white heat, however, was the massacre of Palestinian civilians—including women, the aged, and the young—carried out by the Christian Maronite militia sent into the Palestinian refugee camps by Sharon while Israeli soldiers held the perimeter.<sup>63</sup>

Timerman's book, a furious indictment of the war and also of the treatment of Palestinians in the occupied territories, produced the inevitable outrage among many Israelis as well as uncritical supporters of Israel in the United States. With Jacobo's blessing, his son Daniel refused service in Lebanon and was imprisoned. After that Israel no longer appeared to Jacobo as his haven in a harsh world.

Accompanied by his life companion, his wife Risha, he went abroad, first to Madrid, then New York. Finally, with Alfonsín in the Casa Rosada, in 1984 he returned to Buenos Aires, testified before the Sábato Commission, and resumed his career in the newspaper business, becoming a director of one of the Buenos Aires newspapers, his own having been gradually liquidated by its military intervenor. His political views unaltered, still the social-democratic critic of right and left authoritarianism and of brutality in all its political forms, he castigated the Pinochet regime in a 1987 book<sup>64</sup> and in a 1990 book on Cuba,<sup>65</sup> condemned Castro's police state but, also criticized Washington's economic boycott.

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61. See Yael Tamir, *Liberal Nationalism* (1993).

62. Jacobo Timerman, *The Longest War: Israel in Lebanon* (Miguel Acoca trans., 1982).

63. An Israeli government-authorized independent Commission found Sharon to be indirectly responsible for the massacre, a finding which did not, of course, prevent him from ultimately becoming Prime Minister.

64. Jacobo Timerman, *Chile: Death in the South* (Robert Cox trans., 1987).

65. Jacobo Timerman, *Cuba: A Journey* (Toby Talbot trans., 1990).



By character and intellectual commitment he was doomed to dissidence wherever he went or returned to. When Carlos Menem pardoned the executors of the Dirty War, Jacobo wrote:

In April 1977, General Carlos Guillermo Suarez Mason ordered my kidnapping in Buenos Aires. A few days ago this man, the cruelest leader of the dirty war, was released from prison, pardoned by President Carlos Saul Menem. Argentina had obtained his extradition from the US, charged with 43 murders and the kidnapping of 24 people who have since disappeared. During those months of 1977, Colonel Ramon Camps, the most brutal torturer of the dirty war, was in charge of the torture I suffered during interrogation. A few days ago he too was set free, pardoned by Mr. Menem. . . . Almost all the torturers were free before this latest batch of pardons, but now the leaders who conceived, planned, and carried out the only genocide in Argentine history are also at large.<sup>66</sup>

One son, Hector, having also returned to Argentina, helped to establish a newspaper called "Pagina Doce," an ideological successor to his father's "La Opinion." Hector's presence and success could not protect his father from the pain of Risha's 1992 death.

By the time I arrived in 1998, the man's enormous vitality had evidently diminished, reduced by personal loss, political disillusionment, and successive physical blows, a heart attack, and a minor stroke. At one point he had moved across the river to Uruguay, but he was back by the time I arrived and I met him for what turned out to be our final dinner together. Although we had not met for at least a decade, we embraced like the soul brothers we were, strugglers against the tide, born dissidents, two wandering Jews, one of whom had almost finished his race. Hector joined us, physically much slighter than his father but with the same crooked, sardonic grin in a photograph of the three of us. We ate, drank, and reminisced and felt, for that moment, the pleasure of simply being in a clean, well-lighted place with men of shared sympathies. A year later Jacobo was dead. Twelve years later Hector was Foreign Minister.

One other dinner in Buenos Aires that year of 1998 retains a grip on my memory, perhaps because it was like a long-delayed epilogue to my lunch with Mario back in 1979. My closest friend, Carlos Fligler, was an expatriate Argentine who had lived in the United States since studying at Harvard Law School where we had met. Among his old friends in Buenos Aires was a prominent financier. Carlos suggested that I visit with him this trip. He could give me a sense of how an important slice of the Argentine

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66. Jacobo Timerman, *Once More Into a Gory Spiral: Now that Menem has Pardoned the Schemers of Genocide in Argentina, Jacobo Timerman, a Victim of the Cruellest Torturers, Predicts that the Peronist Democracy is Well Down the Dictatorial Road Again*, GUARDIAN, 10 Jan. 1991, at 19, (Toby Talbot trans.).

elite understood the country's past and present. Through Carlos' mediation I received an invitation to dinner at his friend's apartment to which he would invite, he told me via the internet, a few other people who would like to meet me.

The day before that dinner I was interviewed by reporters from Hector Timerman's Paper, *Pagina Doce*, and also from *Clarín*, a Buenos Aires broad sheet whose US equivalent at the time would have been a merged version of *The New York Times* and the *Wall Street Journal* before Rupert Murdoch acquired it. One question both asked was whether, in retrospect, I attributed partial responsibility for the political massacres of the Dirty War period to Argentine society as a whole because of the silence of its leading classes. My answer, calculated and more-or-less sincere, was "no." It was no, I said, in part because initially, the very clandestine character of the repression and the surface normality of everyday life obscured the dimensions and exterminatory character of the military's project. And when the fog began to lift, when people began to appreciate the breadth and ferocity of repression, when it became clear that anyone could be disappeared—an ambassador, the personal assistant to a former president and retired general, the original organizers of the *Madres*, anyone—people were fearful. They realized at some level of consciousness that they were living under a terrorist regime. "How many German people spoke out against the Nazis?" I asked rhetorically.

Both papers prominently published the interviews the following morning. Carlos's friend, it turned out unsurprisingly, lived in the most elegant apartment building I had thus far entered in a city marked by the stylish opulence of its upper classes. A servant opened the door and guided me discretely to the living room where at least a half dozen men—uniformly good looking, handsomely suited, and coifed—stood to greet me, their expressions affable. Almost immediately after the host introduced each of them to me, one of the guests said with a pleasant smile: "We read your interview in *Clarín* and, to be frank, we were a bit surprised by what you said about the responsibility of Argentine society. But of course we appreciated it and believe you were fair." After that we ate fine food, drank wines of rare refinement, and talked like old friends. Though we spoke at times of tragedies, at that moment they seemed, I felt a little guiltily, like things that had happened long ago in another country. "What an odd, contradictory life you lead," I thought to myself that night, as I waited for the comfort of sleep.

## **B. 2010**

In 2010, at the height of her personal power and popularity, President Cristina Fernández de Kirchner, elected successor to her now dead husband Nestor, decided to mount a public celebration of International Human

Rights Day. It would culminate with her presentation of the Emilio Mignone human-rights-defender award. Isabel Mignone, one of Emilio's two surviving daughters, had been the moving spirit behind this annual award, which rested formally under the umbrella of the Ministry of Foreign Affairs. Coming to know Isabel, as I had years earlier, was a rich collateral benefit of my service on the Commission. Occasionally, one meets a woman whose unselfconscious intelligence, sweetness, and nobility of spirit are so arresting you feel she deserves your protection from every harm even if she does not need it. That is Isabel.

What protected her from extreme harm, namely the fate of her sister, she once told me, was circumstance rather than a savior. At the time the military seized power in 1976, her sister Monica, slightly older and emotionally close to Isabel, had been a member of a student discussion group which, under the guidance of a charismatic older woman, met regularly to analyze social injustice in Argentina and discuss what to do about it. "I would no doubt have been a member of the group," Isabel told me, "if I had been whole." But, months earlier, while in the passenger seat of her then boy friend's car, she had been hurled headlong through its front window when it had crashed into another vehicle. Her injuries were severe. It took over a year of multiple surgeries for the damage to be repaired. For twelve months she hardly left the house, except for operations. It was in the later stages of her recuperation that they came for Monica.

Arriving without the usual display of unbridled ferocity and declaring openly their service identity, they took her with assurances that the interrogation was to clear up a few points and implied that it would be brief. At that point, civilians did not yet appreciate either the grand strategy behind arrests or the absence of boundaries, did not yet appreciate that neither age nor gender nor even innocence of active collaboration with the insurgents guaranteed survival. True, Emilio was a Peronist, but essentially a skilled technocrat, not a politician, and a good and well-connected Catholic. He had at that point every reason to believe what he was told. But he was wrong. Having been taken by the Navy, Monica probably ended up in the ESMA. Neither Isabel nor Emilio would see her again, alive or dead. The remainder of the discussion group shared her fate.

Along with the chosen recipient of the Mignone award, a handsome woman from Zimbabwe who led that country's beleaguered organization of human rights lawyers, the government had invited me together with a half dozen other persons associated with the international human rights movement, including Martin Luther King's son and Baltasar Garzón, the daring Spanish Judge who had initiated the effort to extradite Pinochet from the United Kingdom, where he had gone for medical treatment. I attributed my inclusion to Hector Timerman, now the Foreign Minister.

Arriving two days before the Mignone award ceremony, which would be accompanied by a presidential address, I was asked by the diplomat assigned to look after me if there was anything I would particularly like to do. Yes, I said, I would like to re-visit Unit Nine in La Plata.

On the following gray morning we leave the Capital in a minibus, a heavy rain gradually diminishing as we struggle through dense traffic along increasingly ragged streets to an auto-route that eventually dumped us into La Plata, a city of one million which seems now just as far from the glamour and hope of central Buenos Aires as it had appeared to me in 1979. Mean empty streets with low, shabby buildings interspersed with dilapidated one-story shops selling the meager necessities of the poor announce the prison's imminence. It suddenly appears, more inconspicuous than I remember it, more forlorn than forbidding, or was it forbidding because so forlorn? I can't decide.

Awaiting us is a small army of photographers, the serious-looking but in the event, amiable Provincial Minister of Justice, a tiny ancient woman as wrinkled as a prune whom I understand to be the Director of the Province's Department of Human Rights, and to my utter surprise a cluster of former prisoners, men who had shared their rage and pain with me thirty years before through the bars of their cells and later in the prison's chapel. One by one the ex-prisoners embrace me, all of us practically shaking with emotion. Just to their left, in front of the prison gates, is a memorial to the men of La Plata who had been executed in 1977 and 1978 and the several families that had been exterminated after arriving to visit detainees.

Among the ex-prisoners two are prominent. One, whom I understand to be the president of the ex-prisoner's association, is a handsome man, clear-eyed, clean-cut features, dressed casually in a V-necked blue wool sweater over a dress shirt, calm, warm, speaking very clearly enunciated Spanish, a man who seems comfortable with his life. The other has longish dyed-blond hair and a rather asymmetrical bumpy face organized around a prominent nose, mournful eyes at odds with the strands of gaiety threaded through his personality as he exposes it in conversation. A musician, it turns out, he says he has written a rock opera about his prison experiences made more indelible, perhaps, by the fact that he was only seventeen when he was brought to Unit Nine. The president of the ex-prisoners group gives the impression of being a professional man, perhaps a lawyer or a successful businessman, on whom the memories of imprisonment bear lightly. The other ex-prisoners make a more collective impression, people who appear neither poor nor conspicuously successful, ordinary men who had survived an extraordinary experience, all of them including the musician and the president still somehow bound together by that three-decade-old descent into hell and bound to me by two days in September 1979.

The present warden greets me in a poorly-lit room which seems familiar and then leads me into the interior, introducing me to various administrators and guards singly as we progress. The wings radiate from the central corridor in left-right pairs just as I recall. The first pair—pavilions 1 and 2, I am reminded, were known among the men as the *pabellones del muerte* (pavilions of death). “My husband was held in a cell there before they murdered him,” says Maria Teresa, the woman in the Foreign Ministry who helped organize this visit. When she had called me at my hotel the day I arrived to tell me that she would accompany me to La Plata, she had introduced herself by saying “I am the widow of a prisoner.” In the minibus she had shown me an old creased snapshot which looked as if she had been carrying it around with her for many years. The photo showed a man possibly in his late thirties, balding, pleasant-faced, playing with their daughter, then a very young child, now an adult who, Maria Teresa tells me, wants to leave Argentina and return to Switzerland, where the two of them spent seven years in exile.

The prison is a sea of raw cement, gray, a place likely to slowly suck the life out of its residents. In the smaller of two exercise areas, at its farther end, is a colorful mural painted across the bare wall, a caricature of five men: One is Videla, unmistakable with his neat thick mustache, height, long slightly triangular face; another undoubtedly General Ramon Camps, a snarling cactus of a man, head of the provincial police during the repression and chief torturer of Jacobo Timmermen; a third is Admiral Masera looking big-faced, furious, incorrigible, and two others I cannot identify, all of them huddled together and made to appear like some animal pack at bay.

Finally, the warden unlocks the chapel. It is even more stark than I recalled. No furniture (for our interviews they had provided a table and a scattering of chairs); recognizable as a chapel only because of the large crucifix on the far wall. Before it, a rostrum. Nothing else. The light is dim, the setting miserable.

At the prison’s gate the cordial Justice Minister bids us farewell. He is a busy man, he tells me, presiding, among other things, over fifty-two prisons of various sizes. By this time it is almost 1:00. We move on to the vast cemetery where, thirty years earlier, I had confronted the palsied little director and wandered through this sprawling city of the dead until I stumbled on the old grave digger who told me the military came at night to dig and fill the graves without names. The rain has stopped but the day remains gray and raw. In my good English brogues I step along the little brick path that wanders among the mausoleums of the bourgeoisie and the simpler graves of the poor. The history of La Plata is there to be read on the walls of the occasional mausoleums and the faces of the headstones. Bunches of flowers almost as numerous as the thousands of graves, testify to the strength of family solidarity in a country where it seems a substitute for the weakness of

the civic kind. Provincial journalists and a cinematographer from one of the two large labor federations, with his lush-lipped blond assistant, trail after us.

Then on to the large echoing city hall at the center of La Plata for a visit with the mayor. Tall, good looking in a fit, big-nosed way, smooth skinned, a youngish man who laughs easily, at home with people, a natural. The woman he had sent to escort us in under the tall faux Romanesque arches of the building with its wide inefficient halls was more young than old, slim, elegantly legged, a face so padded with makeup it was difficult to assess with confidence the quality of its features, tailored clothes, smooth hair hanging almost to the top of her tight skirt, professionally courteous but cool. The mayor speaks airily of the City's commitment to human rights, of how the good times had replaced the bad ones I and my colleagues had recorded back in 1979. He pays homage by name to several of our party who are members of his electorate, gives me a plaque representing the city, and moves us efficiently on our way, which is to the former headquarters of the intelligence unit of the provincial police, now converted into a government-backed NGO dedicated to memorializing the victims of the great slaughter. They are analyzing the abundant records of the police, altogether a carefully documented account of crimes against humanity in the Province of Buenos Aires.

The president of the NGO is a man of middle age, thinning blond hair turning gray, wearing a regimental tie, a serious competent man who explains to me the work of the Commission both in analyzing the documents and in contemporary inquiries into the condition of human rights in the province, particularly in its prisons. The condition, of course, he says, is not good. Then the president of the ex-prisoners association, still with us, delivers a commendation to the Inter-American Human Rights Commission and to me personally. "You were brave," he says, "and you gave us life." "We were not brave," I reply, because we believed that our official status was a shield and that the government was too much in control of its thugs for them to free-lance against us. "You were the brave ones," I say, "because you came forward to testify although I warned you that I could not guarantee your safety." A smiling elderly gentleman radiating intelligence is introduced to me as the "wise man" of the commission. His name is Tanenbaum, a man of my tribe. Finally, I hug many people, we board our little bus, and so the day, now moving toward twilight, is over. On the quiet journey back to the Capitol I find myself hoping that I can hold on to the exalted feelings the day has inspired but suspecting that, in time, they will prove as evanescent as most of life's moments. As I have gotten older, I have made it a habit to repeat each morning the mantra: "Seize this day because it will never come again," a mantra soon lost in the amnesia-inducing details of prosaic life.

The originally planned site for the Mignone award ceremony and President Christina's address was the great open space on which the Casa Rosada

fronts. As early evening approaches on the day following my return to Unit Nine, Monsoon-like rain begins pelting the city. So the president's staff decides to move the event into the Presidential Palace's covered courtyard. The recipient of the award and the other special guests of the government will wait in a nearby room until the audience assembles. Then we will be brought out to a raised platform near the podium.

I welcome the chance to chat particularly with the lawyer from Zimbabwe and Judge Garzón, both of who I had met at the lunch that day hosted by Hector Timerman. The former, perhaps in her early forties, a bit above medium height with a sweet, slightly abstracted air, inclined to smile gently at any reasonable excuse, has finely cut features and smooth dark flawless skin, an appealing woman who for some reason struck me as someone who had long ago ceased thinking of herself as a possible subject of erotic interest. In her discrete and quiet way, she is all business, the business of risking her body, the bones of her face, her very life to defend against hopeless odds the lingering forms of the rule of law in Mugabe's Zimbabwe.

I had imagined Balthazar Garzón, the famous investigating judge, as a figure lifted from the paintings of El Greco, a kind of liberal-minded Torquemada with a long lean body and severe, bearded, tensely inquisitorial face aged by stress, a person sober and dry and distant. Instead I meet at lunch that day a sturdy fellow of youthful middle age, slightly taller than I, with the big Robert-Redford-like head of an actor on which there is stamped a broad, strong-chinned face wearing an unworried expression, the total persona announcing good will, a man ready for casual or any other form of conversation, comfortable with, but not absorbed in, his celebrity.

After the lunch hosted by Hector in the ornate neo-Baroque original Ministry building on the side of a tree-shaded appendage of Plaza San Martín, each of the "dignitaries" is asked to speak a few words for the cameras. Garzón's are unremarkable but apt, delivered without the self-important flourishes or disingenuous modesty not unknown even to "heroes" of the humanitarian struggles when they are suddenly intoxicated by a Wharholian moment of fame. While waiting for President Cristina to send word she is ready, we begin to chat. "They say I am anti-American," he says. "This is absurd. I am very fond of America, have enjoyed all the time I have spent there." Like many Europeans he objects not to the country but rather to many of its foreign policies.

Finally the moment arrives. We are hastened along a corridor toward that thunderous anticipatory hummmm which emanates from any very large and engaged but decorous crowd crushed into an enclosed space. We burst out of the corridor into a densely-packed atrium surrounded by equally-packed balconies from which people seem almost to hang and, following a guide, we struggle to our seats through the ranks of privileged supporters allowed to cluster thickly around the platform from which the president will speak.

Finally, a man walks to the podium, announces through the booming loud-speaker system: "The President of the Republic" and then Cristina is there in the space he has momentarily occupied and the crowd seemingly in one voice begins to chant "CRISTINA! CRISTINA! CRISTINA!"

Evita Perón had been an actress before she became the wife of Juan Perón and then First Lady of Argentina. Adoring audiences seem to fill successful actresses with a preternatural energy; it is as if they become vessels concentrating the individual life forces of the multitudes who gather to see them. By crowds they are exalted. The same is true of populist politicians like Bill Clinton. Evita may not have been a great actress, but she certainly was a great populist politician. It is hard to fake exaltation. At least in her pictures and newsreels of her political performances, her exaltation seems no less real than the tumultuous emotions of her audiences.

Unlike Evita, Cristina does not seem to be channeling the feverish emotions of the crowd. Unlike Hillary Clinton and many other politicians, she does not affect a wide grin, a disingenuous self-deprecatory shrug or point in a simulation of affectionate connection at the audience, so members can individually imagine they have been recognized. The President of Argentina acknowledges the adoration of the crowd with a small movement of her head, a slight smile. She is not aloof, more like a slightly introverted, sympathetic friend with a keen sense of where and who she is. So she stands there for a moment, a slender woman at most of medium height, with large dark eyes, full lips, slightly flaring nostrils in a finely shaped nose, her very darkly colored beautifully-cut hair brushing her shoulders, wearing perfectly-tailored but quiet clothes, little jewelry, perhaps not a stunning woman, but certainly a memorable one. She signals for quiet. Silence quickly descends and she begins.

There is no teleprompter. A single page of notes is consulted only at the very end of her address when she moves to announce the award of the Mignone prize. Sentences, entire paragraphs spill torrentially out of this slender vessel. She speaks as a flamenco dancer dances, with an electric passion that seems to ascend, not as if channeled from the audience, but from the core of her being which, as in the case of the dancer, remains unknowable. She represents human rights not as the honeyed essence of human goodness, not as a universal formula for reconciliation among old foes, but as a fighting faith. Her message, as I recall it, is that Human Rights Day is a day to remember the unspeakable abuses of the Dirty War and to celebrate the retributive justice whose time has finally come. She speaks in the spirit of the Old Testament not the New one.

Finally, she finishes. The dense throng roars approval. Certain well known human rights activists but not others are among the adulatory crowd of privileged guests surrounding the podium. The human rights movement is split between those who have identified with the regime and those who, as a



matter of principle, stand apart from it, arguing persuasively that identifying with any government undermines the movement's credibility as an impartial judge of human rights compliance.

Among the crowd shouting its acclaim is the head of the Grandmothers of the Plaza de Mayo, the group now known for driving the search to identify the men and women born in the torture centers and handed over clandestinely to supporters of the junta to be reared as their own children. I am told that the Grandmothers was one of the human rights groups which leaped to justify Cristina's special tax on agricultural exports on the grounds that the money would be used to advance the economic and social rights of the Argentine people. Critics I have spoken to roll their eyes and speak of gross corruption. I see also a successor to Emilio Mignone as Director of CELS, the eminent journalist Horacio Verbitsky, who has written an unsparing three-volume work on the long-running liaison between the Argentine Catholic Church and the armed forces. His Jewish intellectual's face is split by a radiant smile as he holds up his little grandson the better to see and remember this day of vindication for Verbitsky's commitments which, not so long ago, were dangerous to hold. I try to maintain a distance from the crowd's triumphalism, to be an observer not a participant, but find that I too resonate to the evening's mood. It will pass, I think, when the president and her supporters and I return on the morrow to the details of daily existence, whether those involved in running a government or just one's own potty little life.

There are three more people I want to see before I leave Argentina, possibly for the last time. Two are retired officers, one a former army general, the other a captain in the navy. The former, still in vigorous middle age, whipcord lean like a man who runs three miles and does one hundred pushups before breakfast each morning, meets me in his large light-filled office. He now runs a business-supported non-profit institution with very respectable credentials. Two arresting modern paintings adorn the walls.

A mutual acquaintance has vouched for my bona fides and arranged the meeting. The general knows that I am hoping to understand with his help how the current officer corps and retired military men like himself feel about Christina's government and more generally about political developments since the military ceded power almost thirty years ago. Whether by chance or intention, he was abroad during the four years of the massacre, so the new round of prosecutions should not place him at risk.

The man takes evident pride in his successful transition from senior officer to CEO. After we talk he gives me a tour of the building, noting the sophistication of its technology and the elegant modernism of its layout and furnishings. In our talk he conveys a feeling of candor not entirely unalloyed by caution. "Of course there were serious abuses," he says, "and one could

easily make the case for prosecuting a certain number of people." He suggests sixty as a round number. That said, he continues,

the present round of prosecutions exceeds all reasonable bounds. The cases are almost three decades old. The evidence in many instances is sketchy. There is reliance on faded memories. Except in a limited number of gross cases where there is abundant evidence, the passage of time makes it hard to have due process. There is a feeling among ex-soldiers that, if accused these days, you are assumed to be guilty and if the present government sees you as unfriendly, there is a much greater danger of being accused.

His other issue with the Perónist governments of the last seven years is the depletion of the armed forces. Their budgets have been slashed, their numbers reduced. There is no more national service. "Does Argentina really need a professional military any more," I ask, rather than simply a paramilitary force like the Italian Carabinieri, to combat organized crime, maintain order in the event of a natural disaster, and prevent large-scale entry of undocumented persons? After all, I point out,

you have resolved all the lingering issues which used to poison Argentina-Chilean relations. Now you are reconciled; you are like France and Germany, war between you is no longer thinkable. Similarly you now are chummy with Brazil, linked in the MERCOSUR free trade area. If you have no present or prospective enemies, what is the role of the armed forces?

"One needs to look at the long term," he replies. "Argentina is a big country, thinly populated for its size, and full of natural resources. The world is getting more crowded while distance matters less than ever before. How can we be sure that down the road a big powerful congested country won't look at Argentina and feel temptation?" Seeing I find that far-fetched, he adds: "The military in any country, certainly in ours, is a symbol of the nation. That by itself is a reason to preserve it and treat it with respect."

Late that sunny afternoon, I stroll along Avenida Florida, by day still full of people despite its reduced circumstances, to the busy corner where it is pierced by Avenida Córdoba. A multi-storied faux baroque edifice with a rounded front looks aloofly down on the contemporary bustle of Florida and Córdoba's hurtling traffic. Here at the Centro Naval, a private club founded by naval officers early in the twentieth century, I am scheduled to meet retired Captain Francisco Silvera (not his actual name). Being early, I cross Córdoba with the light and as people brush quickly by, I snap a few pictures of the Club's imposing façade, then wander further along the avenue, stopping to browse in a crowded book store which on its second level is exhibiting, by coincidence, a large collection of books related to the Dirty War.

At the appointed time, I pass through the club's high-arched doorway and enter a dim alcove where I state my business to an elderly retainer who ushers me into a very large, also dimly lit room in which clusters of

comfortable looking leather chairs are scattered. In the precise middle of the room is a long rectangular table covered with periodicals. The place, with its slightly antique furnishings and feeling of remoteness from the busy exterior world, has very much the feel of London men's clubs of an earlier time. Standing by the table is a tall, handsome man with a fine head of silver hair which he inclines toward me as I approach with my guide. We acknowledge each other by name and I accept the captain's invitation to sit where reading lamps on the long table cast a peripheral light. A still older retainer appears out of the surrounding dimness and takes the captain's order of coffee for the two of us. Aside from us the room is empty.

In the email exchange through which we had organized this meeting, I had described my project as an informal, memoir-like description of Latin America's internal conflicts during the Cold War period. Elaborating now that we have met, I say my goal is to illuminate the actors and circumstances of that period, partially as I had viewed them from my perch on the Human Rights Commission, partially as actors in each national drama remember them, and then to say something about how the countries I knew best had evolved in the aftermath of their fratricidal battles.

Captain Silvera had gone into the navy directly from a military secondary school and had made his entire career in the service. "During those years," he says, referring to the time of the *Desaparecidos*, I was out of the country in a European capital doing work of an essentially diplomatic character. Of course, he adds, "I knew officers who were involved to one degree or another." Like the retired general I had interviewed earlier, he concedes that there were abuses of authority under the junta, that there were actions outside the law and that prosecution of the senior officers who had conceived and directed the repression was appropriate. What he objects to is the unending condemnation of the entire military institution. The society has forsaken us; we are all treated as if we were murderers. "My son," he says with great feeling, "when he was in high school did not want other students to know that his father was an officer." "To have devoted your life to the service of the country and then to become an outcast, that is hard to take. The government acts as if all abuses were committed by the military. What about the ERP and the Montoneros? What about their bombs and assassinations. There are no prosecutions against them." He speaks with quiet intensity, his dark eyes gleaming with accumulated resentment. "It is hard," he concludes.

We talk a bit about his life in retirement, his wife, his children, and grandchildren. We come from different mental places. He is a practicing Catholic, a man of inherited conservative instincts. I am not. In Argentina he has ended up on the losing side of history. In the America where Henry Kissinger is still hailed as a great statesmen and according to polls a majority

believe that torture is all right when needed to protect the nation's security,<sup>67</sup> perhaps it will turn out that I am on the wrong side too. That remains to be seen. I thank the captain for his candor and express with sincerity the hope that we will meet again. Then I debouch into the twilight avenue growing quieter with the approach of night and walk back to my hotel past the ornate early twentieth century government buildings, which are a reminder that once Argentina was a country which in its smaller way held out to southern Europeans, disheartened by the poverty and rigidities of their own societies, the same promise of opportunity and national success they saw in the United States.

The flight back to the United States departs from Ezeiza at midnight the following day. I have time for a final interview, one I have long anticipated. With the assistance of Debora Benchoam I have been able to contact Alfredo Forti, eldest son of Nelli Forti, long dead. Alfredo, once a helpless prisoner, is now the Deputy Minister of Defense. He has agreed to come to my hotel room at 2:00 in the afternoon.

He arrives punctually. The sixteen year old boy has grown into a stocky pleasant-looking, energetic man of forty-six years who greets me by my first name and we embrace like old friends meeting after the passage of years. "It is ironic," he says, that "I who was once the prisoner of the armed forces, of the institution that housed the murderers of my mother, now helps the minister decide who will be promoted and who discarded. That is what we were doing last night. We are building an officer corps appropriate to a democracy." I suspect that the general I interviewed had Alfredo, among other people, in mind when he complained to me that the Ministry of Defense is now populated by people who know nothing of strategy, an accusation which, in the course of my conversation with Alfredo, I conclude is unfair, but a sign of the gulf between the Kirchneristas, as supporters of Nestor and Cristina are often called, and present and past members of the armed forces.

I tell Alfredo about his mother's permanent place in my imagination and ask him about her. "She loved literature," he tells me, "as she loved life. She was such a vivid person." In speaking of her his mood darkens, but his natural ebullience gradually returns. Thirty years have passed since the Commission's visit, more than thirty since Nelli and her children boarded the plane to Venezuela. We reminisce like old friends about people we both know and about the histories of our respective countries. A couple of hours

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67. Bruce Drake, *Americans' Views on use of Torture in Fighting Terrorism Have Been Mixed*, PEW RESEARCH CENTER, (9 Dec. 2014) <http://www.pewresearch.org/fact-tank/2014/12/09/americans-views-on-use-of-torture-in-fighting-terrorism-have-been-mixed/>. According to Pew polls in 2011, 53 percent of Americans believed torture to be "often or sometimes justified." As of 2013, Pew reports half of Americans still hold this view.

pass swiftly. Alfredo promises to send me photos of his mother. We embrace and part. As I ride to the airport a few hours later I think of Nelli Forti riding to the airport thirty-seven years ago and recall, with a feeling akin to pain, the words of the former prisoner who had been held in Córdoba: "I saw Nelli Forti in a lamentable physical condition."

Every time I visit Argentina I am told that The Commission saved lives. And every time I am told that, I think only that we saved so few.