

Truth at Any Cost? Law's Power to Name Argentina's Disappeared Grandchildren

MARIA RAE*

Rae, M., 2017. Truth at Any Cost? Law's Power to Name Argentina's Disappeared Grandchildren. *Oñati Socio-legal Series* [online], 7 (2), 324-336. Available from: <https://ssrn.com/abstract=2975420>



Abstract

During Argentina's military dictatorship (1976-1983) more than 30,000 people disappeared including 500 babies who were stolen from detainees and given to military supporters. The Grandmothers of the Plaza de Mayo have been successful in lobbying for laws to reclaim these babies and make perpetrators accountable. This article explores one such law that made DNA testing on these now adult children compulsory. In drawing on Bourdieu's notion of law as a symbolic discourse of power it considers how this law could establish an authoritative reality that, in some cases, was contrary to the interests and experiences of the stolen grandchildren. Finally, it argues there must be caution about legal responses that can have the unintended consequences of continuing similar harms of the past.

Key words

Argentina; Grandmothers of the Plaza de Mayo; Bourdieu; symbolic violence; human rights

Resumen

Durante la dictadura militar argentina (1976-1983) desaparecieron más de 30.000 personas, entre ellas 500 bebés que fueron robados a mujeres que estaban detenidas y entregados a simpatizantes de los militares. Las Abuelas de la Plaza de Mayo han tenido éxito en ejercer presión a favor de una legislación que reclame a estos bebés y responsabilice a los culpables. Este artículo analiza una de estas leyes, que obliga a realizar pruebas de ADN a estos niños, ahora adultos. Basándose en la noción de Bourdieu del derecho como discurso simbólico del poder, considera cómo esta ley podría establecer una realidad autoritaria que, en algunos casos, era contraria a los intereses y experiencias de los nietos robados. Finalmente, se argumenta que se debe ser cauteloso con respuestas legales que pueden causar de forma no intencionada los mismos daños del pasado.

* Many thanks to the organisers and participants of the Oñati workshop for their feedback and encouragement.

Maria Rae is Lecturer in Politics and Policy Studies at Deakin University researching media, transitional justice and human rights. Deakin University, 221 Burwood Highway, Burwood 3125, Melbourne, Victoria, Australia. maria.rae@deakin.edu.au



Palabras clave

Argentina; Abuelas de la Plaza de Mayo; Bourdieu; violencia simbólica; derechos humanos

Table of contents

1. Introduction	327
2. Law as a discourse of power	327
3. The Grandmothers' fight for justice	329
4. Truth at any cost? the controversy over Article 218.....	331
5. Conclusion	334
References.....	334

1. Introduction

Argentina has been considered an exemplar of transitional justice, employing many of the 'tools' from the post-conflict reconstruction kit since the military dictatorship ended in 1983. It has been estimated that up to 30,000 people disappeared during this brutal period in the country's history (Hodges 1991). There has been a truth commission that produced a best-selling report *Nunca Más (Never Again)*, the innovation of 'truth trials', successful claims heard at international courts, the offer of compensation, establishment of memorial sites and top army leaders have faced trial after amnesty laws were overturned (Bonner 2005). These official responses were made following justice demands from the families of the disappeared who organized into human rights groups. As the country transitioned into democracy, these demands have shifted from wanting disappeared children returned, to demanding the truth, to holding trials. More recently, human rights organizations are now reframing the past mass harms to confront present structural violence such as social inequality, or what they have called economic genocide (Burchianti 2004).

This article explores a particular official legal response to justice claims from the human rights group Abuelas de Plaza de Mayo (Grandmothers of the Plaza de Mayo). During the dictatorship an estimated 500 babies were taken from detained pregnant women, who were then tortured and killed. The babies were placed with military families or their supporters and given false names and documentation, growing up without knowing their true identity (CONADEP 1984). The appropriation of babies was part of a genocidal policy, based on the military's conviction that subversives breed subversives. The Grandmothers formed to find these children and have been at the forefront of demanding justice in the restitution of these stolen babies and no impunity for those who raised them. The Grandmothers have been successful in lobbying for laws that create mechanisms to find and identify stolen children. The most controversial of these mechanisms was a law passed in 2009 that amended the criminal code to allow compulsory DNA testing of anyone suspected of being a stolen child. It was passed after a number of these now adult children refused to submit to testing, as it would provide evidence for legal action against the parents who raised them.

This article is concerned with how this law, in aiming to confront past harms, reconcile families and move on, may actually be perpetuating injustice in some cases. The first section discusses sociologist Pierre Bourdieu's concept of law's symbolic power and how this can be drawn on to explore legal discourse in transitional justice processes. The second section outlines the Grandmothers' activism in gaining an official response from the state to the issue of stolen grandchildren and provides the background to the DNA law. The third section discusses in more depth the controversial Article 218 law and the personal impact this had on some of the stolen grandchildren. This article highlights how the state's response was to implement a law that, at times, established an authoritative reality that was contrary to the best interests of the stolen grandchildren. Finally, I argue there must be caution about pursuing forms of legal redress that can have the unintended consequences of continuing similar harms of the past, thus defying the vow of 'never again'.

2. Law as a discourse of power

Sociologist Pierre Bourdieu was concerned with law as a discourse of power that was able to proclaim the truth during social struggles through legal judgments. In his view, 'the judgment represents the quintessential form of authorized, public, official speech, which is spoken in the name of and to everyone' (Bourdieu 1987, p. 838). Once spoken, this judgment can make an authoritative claim on reality. As Bourdieu puts it, 'law is the quintessential form of the symbolic power of naming that creates the things named, and creates social groups in particular. It confers

upon the reality which arises from its classificatory operations the maximum permanence that any social entity has the power to confer upon another, the permanence which we attribute to objects' (Bourdieu 1987, p. 838). So Bourdieu conceived of law as a constitutive force that imposes its own internal norms upon the outside world. In this way, law brings into effect what it utters. Or as Bourdieu (1987, p. 839, original italics) explains, 'such an act is a veritable act of creation which, by proclaiming orthodoxy in the name of and to everyone, confers upon it the practical universality of that which is *official*'.

The notion of law's creative power of representation is well suited to explore legal processes during transitional justice because, as Bourdieu (1987, p. 839) argues, this power 'never manifests itself more clearly than in periods of revolutionary crisis'. In taking a critical approach to transitional justice, with a focus on the defining and translating power of law, Castillejo-Cuellar (2014, p. 53) contends that 'the Law acts as a transliterating mechanism (through the legal process) in which experiences of harm inflicted on the body and on subjectivity, to the phenomenological social space as a whole, are translated into a different language'. In this way, the experience of suffering is confined to how law defines it. Castillejo-Cuellar (2014, p. 53, original italics) explains how this is particularly problematic when transitional justice is applied to countries where there have been historical injuries and law determines who the *official victims* are. Thus, as he writes, 'through the Law's conceptual architecture collective suffering is assigned a name, rendering certain kinds of victimhood visible' (Castillejo-Cuellar 2014, p. 53). This highlights the power of law's discourse to define harm, victims and a collective memory of injustice.

Yet, Bourdieu contends that law cannot pre-empt or predict the transitions that are already in motion. Or, as he put it:

Law's will to transform the world by transforming the words for naming it, by producing new categories of perception and judgment, and by dictating a new vision of social divisions and distributions can only succeed if the resulting prophecies, or creative evocations, are also, at least in part, well-founded previsions, anticipatory descriptions. These visions only call forth what they proclaim - whether new practices, new mores or especially new social groupings - because they announce what is in the process of developing (Bourdieu 1987, p. 839).

Therefore, although Bourdieu is highlighting how law imposes an authoritative and official worldview that creates social relationships and identities, these are not created completely in a vacuum. Rather, as Bourdieu (1987, p. 839, original italics) clarifies, 'It would not be excessive to say that [law] *creates* the social world, but only if we remember that it is this world which first creates the law'. Thus, law's power is limited to what change is already, or on the cusp of, occurring in society and people's lives. Law does not have the omnipotent ability to name or create new social groupings if the transition towards these transformations is not already foreseeable. In the context of transitional justice, we can see how law's power comes to the fore as it names state crimes, perpetrators and victims but it may not do so before the rupture point of when a society is ready to begin the process of reckoning with the past.

Scholars who study legal consciousness have drawn on Bourdieu's work to support their arguments that law and society are mutually constitutive (Ewick and Silbey 1998, McCann and March 1996). Legal consciousness refers to the 'understandings and meanings of law that circulate in social relations...to what people do and say about the law' (Silbey 2008). Many of these studies have focused on how individuals engage with and resist law in their everyday life. For example, Merry researched citizens who engaged in smaller legal disputes, such as property rights with a neighbour, in lower courts. She argued that:

One of the significant ways in which popular legal consciousness shapes the law is by determining which problems come to court. As courts handle problems, they

redefine relationships and identities. The capacity of courts to affect social relationships depends to a great deal on the kind of problems they handle and how often. People's decisions to submit their problems to legal management provide the raw material on which the law works. People only go to court when they feel that they have a problem that the court will consider and in which they have legal entitlement. The way the law constitutes social relationships depends, then, on the way the law is defined in popular legal consciousness (Merry 1992, p. 215).

Therefore, there is a cyclical effect in which new problems are brought to the attention of law to consider, thus constituting what has become a need for legal naming and defining. In turn, the law imposes its judgment on these social problems and provides the authoritative and official response. Through this prism, there is a mutually reinforcing relationship between law and legal claimants.

However, this relationship between Bourdieu's thoughts on law and symbolism and legal consciousness has been challenged. Garcia-Villegas (2003, p. 174) argues that legal consciousness scholars fail to engage with how legal authority is a prime example of symbolic violence that the state produces and practices. Garcia-Villegas (2003) highlights that while legal consciousness scholars aim to investigate how law sustains its institutional power, they are more concerned with taking a bottom-up approach that investigates how participating actors perceive the law. Bourdieu, on the other hand, is more interested in law's constitutive power in order to question political domination in a hierarchical society. From this perspective, citizens who bring claims before the court may appear to be empowered through legal entitlement, but ultimately it is law's authority that is dominant. As Garcia-Villegas (2003, p. 174) argues, 'the possibility that legal workers have to establish essential classification for the social order - legal/illegal, just/unjust, true/false - entails enormous political privilege'. As McEvoy (2011, p. 382) also notes in drawing on Bourdieu to examine the legal profession's role during transitional justice in Northern Ireland, lawyers bring symbolic capital to important social and political debates. Yet, it is not just the law as an autonomous authority that wields political dominance over human agency. Instead, as Bourdieu (1987, p. 838) outlines, 'judicial power, through judgments accompanied by penalties that can include acts of physical constraint such as the taking of life, liberty, or property, demonstrates the special point of view, transcending individual perspectives - the sovereign vision of the State'. Therefore, law becomes part of the construction of the state and contributes to its legitimacy.

In taking an empirical approach to the law's use as a symbolic discourse of power, this article explores how the Grandmothers brought a new problem before legal authorities. That is, they appealed to the law to solve the problem of how a suspected grandchild's identity can be proven if they are not willing to undergo DNA testing. In effect, they wanted law to officially name and create a new identity for these grandchildren. The next section outlines the background to how this appeal to law eventuated.

3. The Grandmothers' fight for justice

Amid the chaotic rule of the elected Peronist government, which was struggling with economic strife, guerrillas from the Left and commandos from the Right, the Argentine military took power on March 24, 1976 in a coup. With a population weary of instability, its armed forces began a crackdown that touched on every aspect of society with support from a number of citizens, agencies, institutions and the media. In an ominously worded Process of National Reconstruction, the regime systematically worked to repress any opposition in a campaign of state terror. The most effective and horrific method the state used was to make those it perceived as subversive - *desaparecido* - to become the disappeared. Those in the firing line were left-wing guerrillas, political dissidents and anyone considered a socialist including trade unionists, students and journalists. The families left behind were

unable to get information about their loved ones from state authorities, even when submitting a judicial writ of habeas corpus.

When the dictatorship finally ended in 1983 the new president Raul Alfonsín established the National Commission on Disappeared People, which collected information about the mass atrocity and delivered its best-selling report in 1984 called *Nunca Más* (Never Again). Alfonsín also demanded trials of responsible military officials under Decree 158. These trials began in 1985, however, following several military uprisings, the Congress passed a law called Final Point in 1986 to restrict proceedings and in 1987, Due Obedience which exempted leaders from prosecution. These pardons were continued under President Menem's authority in 1989 and 1990. Although the Grandmothers were able to pursue their claims through the national courts, other victims and non-government organizations turned to international jurisdictions such as the Inter-American Court, which led to the state paying reparations to former political prisoners and families (Bonner 2005). In 2001, the Federal Court found the amnesty laws were unconstitutional and in 2003 the Kirchner government revoked the amnesty legislation. As of October 2011, the Center for Legal and Social Studies states that 379 cases were under judicial investigation or being tried in court, while of 1774 alleged perpetrators, 749 were facing charges for these crimes, and 210 had been convicted (Human Rights Watch 2012).

The Grandmothers were successful in having their claims heard by the state, which was grappling with a military that rebelled against the prosecution of those involved in disappearances. As Bonner (2005) has observed, the Grandmothers were focused on reuniting the family rather than seeking justice for the disappeared so the state was more willing to respond to their demands. The military was less concerned about the prosecution of those who stole the grandchildren. Therefore, the Grandmothers were eventually able to pursue legal action against those who kidnapped their grandchildren as the crime of stealing babies was exempt from the amnesty provisions. So while the state was able to contain most justice claims, the Grandmothers were able to find a legal space to contest their demands because of their emphasis on family relationships rather than accountability. The Grandmothers initially used the courts to permit genetic testing that would verify the identity of grandchildren. However, the Grandmothers' court cases increasingly began to seek punishment for the kidnappers who stole the children.

This initially contained legal space became gradually prised wider open as it was the only means to pursue justice against perpetrators at a time of impunity. This resulted in high-ranking officers being charged for stealing children (Bonner 2005). The high-profile Poblete case, involving a disappeared grandchild, also became the basis upon which the amnesty laws were initially ruled unconstitutional in 2001. This demonstrates how the Grandmothers have negotiated their justice claims at each stage of the transitional justice process from a contained position to one of wider legal consequences. The Grandmothers also lobbied hard at the international level and were influential in having the right to identity including nationality, name and family recognized by law without lawful interference written into the Convention on the Rights of the Child (United Nations 1989).

The Grandmothers have also been successful in lobbying for laws that create mechanisms to find and identify stolen children. In 1987, the Grandmothers convinced the government to legally establish a National Genetic Data Bank, which stored blood samples of family members that could be used to identify stolen children. In 1992 the state also established the National Commission on the Right to Identity, which worked with the bank and the Grandmothers to reconstitute disappeared children, who by this time had reached adulthood. As of December 2015, there have been 119 stolen grandchildren that have been identified. However, the most controversial extension of this search has been legislation passed in 2009 that amended the criminal code to allow compulsory DNA testing of

anyone suspected of being a stolen child. It was passed after a number of adult children, who the Grandmothers had identified as suspected stolen babies, refused to submit to DNA testing as they did not want to provide evidence for prosecution against the adoptive parents who raised them. The Grandmothers began to take legal action in the courts for compulsory testing as they argued that the grandchildren had 'Stockholm's Syndrome' in which hostages become emotionally attached to their kidnappers and this was perverting their innate psychological need to determine their biological identity (Gandsman 2009).

To resolve the inconsistencies that arose across the court cases, Article 218 was amended to legalize the compulsory extraction of 'minimal amounts of blood, saliva, skin, hair or other biological samples' to determine identity. If a person refused to provide a sample, a judge could issue a warrant for genetic material from a hairbrush, toothbrush, clothing or other objects. Those who have refused have been subject to a court-ordered raid on their home during which police have seized such possessions for DNA testing (King 2011). Once genetically identified, the children are issued with new identity papers with their biological family's name. Since their previous identity papers were falsified, courts require them to change their legal identity. The identification of these stolen grandchildren has also been proof of their parents' disappearance, which has led in some cases to successful convictions (Gandsman 2012).

4. Truth at any cost? the controversy over Article 218

During Argentina's transitional processes there has been tension between personal and collective notions of justice. This tension was most evident in the 1986 split in the leading human rights group Mothers of the Plaza de Mayo. The recovery of bodies was a key issue that divided the group when the Founders' Line accepted government moves to repatriate remains and offer compensation, while the Association held out for accountability. As one mother Senora Amalia said, 'I was happy. It was a triumph. They didn't return him, we rescued him...I may adhere to a political objective but this is personal...if push comes to shove I don't care about politics' (Goddard 2007, p. 87). In contrast, another mother Senora Juanita explained that they had 'socialized maternity – the military had taken all the children for the same reason and the Mothers had fought for a single purpose. All victims of the state were their children' (Goddard 2007, p. 88). The Founders Line is now focused on the past and memorialization while the Association is continuing to make social justice demands for future generations.

The amendment of Article 218 has also staged the battleground for personal and collective notions of justice based on the controversy about the right to truth and knowledge versus the right to privacy (King 2011). The non-profit organization North American Congress on Latin America quoted an Argentine Congress member saying during debate on the law that 'the truth is a collective obligation, not an individual decision' (Richards 2009). Some of those children who were taken from the disappeared have also agreed that learning their true identity should not be a personal decision. One grandchild Horacio Pietragalla said, 'the state cannot leave in the hands of a young person, raised by a member of the military, manipulated by guilt, the decision of whether to not to learn his true identity' (Associated Press 2009). Stolen children have also advocated for retribution, not only against their own adoptive parents, but also other military perpetrators in the interests of collective justice. For example, grandchild Claudia Victoria became a leading public figure when she called for the amnesty laws to be overturned. She said, 'no sentence is going to take away the pain I had to go through. But it is important that these unjust laws are annulled. In order for justice to take place, there has to be justice for everyone' (Gandsman 2012, p. 436).

The case of restituted grandchild Ignacio Hurban, whose biological parents called him Guido, demonstrates how individual justice can be seen as a collective triumph

that enabled societal healing. He was reconnected with his grandmothers in 2014 after 36 years of not knowing his identity. Because one of his grandmothers was Estela de Carlotto, the president of the Grandmothers of the Plaza de Mayo, his discovery became a national event. De Carlotto said, 'I believe Guido has brought us Argentines together. Not because of me, but because there is a person who regained his freedom, his rights (Goñi 2014b). His paternal grandmother Hortensia Montoya called it 'an act of reparation for Argentina' (Buenos Aires Herald 2014). The country's president Christina Fernandez tweeted that 'today Argentina is a more just country than yesterday' (Goñi 2014b). Thus, in Ignacio Hurban's finding, the personal justice of being reunited with family also translates into a reconciled and just nation. However, this legal redress is not seen as a precursor to 'moving on'. As former editor of the *Buenos Aires Herald* Robert Cox noted, 'it seems a very wonderful ending, though it actually is a beginning really, it gives people a lot of hope for the remaining hundreds of still-unfound grandchildren' (Goñi 2014a).

Although the discovery of Hurban appeared to herald a new beginning in the wake of justice being served it has been difficult for him to make a break with the past and his adoptive parents. This tension has been most evident in his refusal to be called by his biological name, Guido, although he is legally required to. He also refuses to denounce the parents who raised him, believing they were tricked by a military supporter to illegally adopt him. He said, 'it was horrible, to be ripped from your mother, but I have no recollection of that. My parents suffered...but I didn't live through any of that. My memories are of growing up on the farm with a mother and a father. And they did everything any other parents would have done (Goñi 2015). Arguably, we can understand this as a resistance against law's symbolic power to officially name and create social groups. Although law has determined this man to be Guido, his lived experience is of being Ignacio. Also, while the law categorizes his adoptive parents as suspected perpetrators awaiting legal trial, he still perceives them as 'mother and father'.

In some cases, this tension between law and experience is not a beginning nor an end but a limbo that emulates the position of many post-conflict societies struggling to shift from an unjust past to a just future. Stolen grandchild Victoria Donda described this personal state of inertia before she was able to forge a new path for her identity:

Throughout that process, I repeatedly found myself unable to move forward, rejecting what had seemed valid to me before, and even at times rejecting myself. I feel able to reconcile myself with everything that brought me here—good and bad, truth and lies...I'm no less Analia than I am Victoria (Donda 2011, p. 196).

Again, we see how naming is a central feature of this tension between law creating an authoritative reality of family and identity that clashes with the experiences of stolen children. For this woman she is both Analia and Victoria. Furthermore, although she believes her adoptive father should face retribution Donda has visited him in prison. Significantly, she names him father in private but calls him her 'appropriator' in public.

The case of Alejandro Pedro Sandoval Fontana is also indicative of the tension between law and experience and how this transitions over time. When Alejandro was first suspected of being a stolen grandchild who had been illegally adopted by a military intelligence officer Victor Rei, he resisted having DNA testing. Knowing that the Reises would face a criminal trial and jail, he decided not to contribute to their prosecution. As he said, 'I weighed everything that I had lived in my 26 years. I thought, what I had received was a real love, a real affection, and so I determined that I would defend them as much as I could' (Forero 2010). However, the judge Maria Servini de Cubría put more weight on the grandmother's right to know than the right to privacy and ordered a raid on Alejandro's apartment during which police collected a comb and toothbrush. On July 14, 2006, authorities announced that the DNA testing showed that his parents were Lilita Fontana and Pedro Sandoval. The

finding started a long phase of Alejandro adjusting to a new reality. As he said, 'I was really annoyed that I could no longer live the life I had' and 'could not deny [the Reis] were good parents' but during their trial he realized that 'the person who raised you was a participant in that situation. You feel everything: pain, anger, sadness, rage. Everything' (Forero 2010). Alejandro has since undertaken further DNA testing that confirmed his biological parents. This finding has meant the personal transition he has undergone is coming to an end. As he put it, 'the only thing now left is to change the identity card to say I am Alejandro Pedro Sandoval Fontana' (Forero 2010).

This case shows how an initial resistance to the action of law can change through the discovery of truth. Once Alejandro became aware of the truth, he became willing in making a legal claim to his former identity. Many of the cases of stolen grandchildren have demonstrated how victims shift from resistance to law and the creation of a legal identity and social relationships to acceptance of this new reality. As Penchaszadeh (2015) argues, 'although initially most victims experienced psychological shock when their true identity was revealed, knowledge of the truth, painful as it was, was emotionally liberating from the perversity, lies, concealment and violence that in many cases had surrounded their rearing'. However, there have been cases in which the resistance continues or takes longer to accept. This distinction occurs 'depending on differences in the circumstances of appropriation and rearing (i.e. whether good faith, concealment or crime played a role; personality of the appropriators), doubts of victims about their identity and their search for answers, age at identification, acceptance or resistance to the action of the law and characteristics of the living biological relatives' (Penchaszadeh 2015). These cases are the ones in which law's power to name, make official and create new social relationships manifests most clearly as symbolic violence.

It is the case of Evelyn Vazquez that can show how, at its most extreme, the law may create this authoritative reality in a way that revictimizes these children and risks recreating similar harms rather than respecting their wish to have no knowledge of the truth and past injustices. After her parents were arrested on kidnapping charges, Vazquez refused to give any DNA evidence that could be used against them. The Grandmothers launched a petition asking for a judge to order a compulsory blood extraction and the state demanded she hand over her official identity documents, which were deemed legally fraudulent. Vazquez stated that, 'it feels as though they are trying to erase my entire existence' while her lawyer argued it would result in a 'civil death' (Gandsman 2009, p. 172). Vazquez also argued that her individual rights should not be compromised in the interests of collective justice:

It's not my job to mitigate other people's pain. I'm not saying that the pain isn't terrible, but I didn't cause it. Is it my fault? I'm a product of having been born at the wrong time; I am what I am. Everyone is concerned with others' rights, but I'm a victim of what happened. That's clear. The state is guilty of stealing me and now the state is out to get me again (Vazquez cited in Lazzara 2013, p. 329).

Although the courts originally concurred with Vazquez, in 2008 a judge ordered authorities to seize objects from her home that concluded she was stolen from her biological parents. During the search she screamed at the officers, 'this is illegal! The court said no! You can't take my blood; you can't take parts of my body (Vazquez cited in Lazzara 2013, p. 330).

This case is an example of how collective justice demands may result in legal redress that impinges on personal justice in a way that can make victims feel they have 'disappeared' twice. For Vazquez, she feels her family is being torn apart again, her existence is being erased, she suffered a civil death and was physically violated when authorities took parts of her body. During the military dictatorship, these actions were indeed illegal. However, in democratic times this reenactment of trauma has been legalized. In this particular case the law has created an

authoritative reality of who Vazquez should be and who her family members are, even though she has no personal interest in knowing.

5. Conclusion

The Grandmothers have been successful at bringing the problem of identifying grandchildren before the courts to be heard and judged. For the Grandmothers, they felt there was a legal entitlement to know the truth about these children. It appears their success is because the state, at that time, was more prepared to officially respond to legal claims that facilitated the reconciliation of families rather than accountability for human rights violations. From the cases outlined above, it also seems the identification of grandchildren became a national project as it was in the collective interests of this post-conflict society to know the truth. In this way, the law and Article 218 became a partner in reconstructing the state into one that is considered just and reconciled. In many cases we can see how law's power to officially name the stolen grandchildren and create new social groups through reconciling families has brought a great sense of healing to this post-conflict society. However, in some cases where there has been a great resistance to law's power we can see how the authoritative reality it creates can cause retraumatization.

What these cases demonstrate is how these legal judgments can constitute new problems and perpetuate historical harms. Transitional justice sees looking back at the past as a way to move forward (Teitel 2003, p. 86). Yet, what these cases show is that not all victims want to 'move on' as they have no experience of the injustice their biological parents suffered. Indeed, it can be a personal injustice to force victims back into the past. Argentina is entering a new phase in the transitional justice process where new human rights organizations are taking up the fight from groups such as the Grandmothers. As Humphrey and Valverde (2008, p. 98) have noted about the historical groups such as the Grandmothers: 'the trauma has been politically contained and managed in commemorative narratives and directed into memorializing activities. Moreover, they no longer even see themselves as protagonists of the state but as its partners'. However, these groups have not moved on from pursuing retributive justice against perpetrators. This quest for accountability is understandable given the context of amnesty laws. It appears that in the majority of cases the victims have been grateful to learn the truth and be reconciled with their biological families. However, the Grandmothers' legal bids to make the biological identities and families of these grandchildren 'official' has at times resulted in perpetuating harm. This raises questions about whether knowing the truth and no impunity at all costs means justice advocates risk becoming partners in more coercive state powers against the individual that risk repeating the crimes of the past. It reminds us that law as a symbolic discourse of power can also be violent.

References

- Associated Press, 2009. Argentina Forces DNA Tests in Dirty War Cases. *NBC News* [online]. Available from: http://www.nbcnews.com/id/34071255/nd/world_news-americas/#.VX54nGSeDGc [Accessed 10 June 2015].
- Bonner, M., 2005. Defining Rights in Democratization: The Argentine Government and Human Rights Organizations 1983-2003. *Latin American Politics and Society*, 47 (4), 55-76.
- Bourdieu, P., 1987. The Force of Law: Toward a Sociology of the Juridical Field. *Hastings Law Journal*, 38, 814-853.
- Buenos Aires Herald, 2014. Guido's paternal grandmother: "It is a reparation for Argentina". *Buenos Aires Herald* [online], 6 August. Available from:

- <http://www.buenosairesherald.com/article/166426/guidos-paternal-grandmother-it-is-a-reparation-for-argentina> [Accessed 10 June 2015].
- Burchianti, M., 2004. Building Bridges of Memory: The Mothers of the Plaza de Mayo and the Cultural Politics of Maternal Memories. *History and Anthropology*, 15 (2), 133-150.
- Castillejo-Cuellar, A., 2014. Historical Injuries, Temporality and the Law: Articulations of a Violent Past in Two Transitional Scenarios. *Law Critique*, 25 (1), 47–66.
- CONADEP, 1984. *Nunca Más (Never Again)* [online]. London: Faber and Faber Available from: http://www.desaparecidos.org/nuncamas/web/english/library/neveragain/neveragain_001.htm. [Accessed 1 February 2016].
- Donda, V., 2011. *My Name is Victoria: The Extraordinary Story of one Woman's Struggle to Reclaim her True Identity*. New York: Other Press.
- Ewick, P., and Silbey, S. 1998. *The Common Place of Law: Stories from Everyday Life*. Chicago University Press.
- Forero, J., 2010. Orphaned In Argentina's Dirty War, Man Is Torn Between Two Families. *The Washington Post* [online], 11 February. Available from: <http://www.washingtonpost.com/wp-dyn/content/article/2010/02/10/AR2010021003662.html> [Accessed 1 February 2016].
- Gandsman, A., 2009. "A Prick of a Needle Can Do No Harm": Compulsory Extraction of Blood in the Search for the Children of Argentina's Disappeared. *The Journal of Latin American and Caribbean Anthropology*, 14 (1), 162-184.
- Gandsman, A., 2012. Retributive Justice, Public Intimacies and the Micropolitics of the Restitution of Kidnapped Children of the Disappeared in Argentina. *International Journal of Transitional Justice* [online], 6 (3), 423-443. Available from: <https://academic.oup.com/ijtj/article/6/3/423/683847/Retributive-Justice-Public-Intimacies-and-the> [Accessed 5 May 2017].
- Garcia-Villegas, M., 2003. Symbolic Power without Symbolic Violence? *Florida Law Review*, 55 (1), 157-189.
- Goddard, V., 2007. Demonstrating Resistance: Politics and Participation in the Marches of the Mothers of Plaza de Mayo. *Focaal European Journal of Anthropology*, 50, 81-101.
- Goñi, U., 2014a. Argentine Musician Finds Out His Biological Parents Were Killed by Country's Dictatorship 36 Years Ago. *Time* [online], 9 August. Available from: <http://time.com/3096122/ignacio-hurban-argentina/> [Accessed 10 June 2015].
- Goñi, U., 2014b. Argentinean president celebrates tracing of activist's abducted grandchild. *The Guardian* [online], 7 August. Available from: <http://www.theguardian.com/world/2014/aug/06/argentine-grandmothers-plaza-mayo-kercher-grandson-guido-disappeared> [Accessed June 10, 2015].
- Goñi, U., 2015. A grandmother's 36-year hunt for the child stolen by the Argentinean junta. *The Guardian* [online], 7 June. Available from: <http://www.theguardian.com/world/2015/jun/07/grandmothers-of-plaza-de-mayo-36-year-hunt-for-stolen-child> [Accessed 15 June 2015].
- Hodges, D., 1991. *Argentina's "Dirty War"*. Austin: University of Texas Press.
- Human Rights Watch, 2012. Argentina. *World Report 2012* [online]. New York: Human Rights Watch. Available from: <https://www.hrw.org/world-report/2012/country-chapters/argentina> [Accessed 1 February 2016].

- Humphrey, M., and Valverde, E., 2008. Human Rights Politics and Injustice: Transitional Justice in Argentina and South Africa. *International Journal of Transitional Justice*, 2 (1), 83-105.
- King, E., 2011. A Conflict of Interests: Privacy, Truth, and Compulsory DNA Testing for Argentina's Children of the Disappeared. *Cornell International Law Journal* [online], 44, 535-568. Available from: <http://www.lawschool.cornell.edu/research/ILJ/upload/King-final.pdf> [Accessed 5 May 2017].
- Lazzara, M., 2013. Kidnapped Memories: Argentina's Stolen Children Tell Their Stories. *Journal of Human Rights*, 12 (3), 139-332.
- McCann, M., and March, T., 1996. Law and Everyday Forms of Resistance: A Sociopolitical Assessment. *Studies in Law, Politics and Society*, 15 (1), 207-236.
- McEvoy, K., 2011. What Did the Lawyers Do During the 'War'? Neutrality, Conflict and the Culture of Quietism. *The Modern Law Review*, 74 (3), 350-384.
- Merry, S., 1992. Culture, Power and Discourse of Law. *New York Law School Law Review*, 37, 209-225.
- Penchaszadeh, V., 2015. Ethical, Legal And Social Issues In Restoring Genetic Identity After Forced Disappearance And Suppression Of Identity In Argentina. *Journal of Community Genetics*, 6 (3), 207-213.
- Richards, J., 2009. New DNA Law in Argentina Will Help Find the Missing Grandchildren. *North American Congress on Latin America (NACLA)* [online]. Available from: <https://nacla.org/news/new-dna-law-argentina-will-help-find-missing-grandchildren> [Accessed on 10 June 2015].
- Silbey, S., 2008. Legal Consciousness. In: P. Cane, J. Conaghan, eds. *New Oxford Companion to Law*. Oxford University Press, 368.
- Teitel, R., 2003. Transitional Justice Genealogy. *Harvard Human Rights Journal*, 16, 69-94. Available from: digitalcommons.nyls.edu/cgi/viewcontent.cgi?article=1339&context=fac_articles_chapters [Accessed 5 May 2017].
- United Nations, 1989. *Convention on the Rights of the Child* [online]. Available from: <http://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf> [Accessed 26 May 2017].