

European Master's Degree  
In Human Rights and Democratisation

Awarded Theses  
of the Academic Year  
2013/2014

"Memory, Human Rights Films and Symbolic Reparations.  
A case study on the New Argentine Cinema"

Thesis *by* Nurzia Olivia





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## FOREWORD

The *European Master's Programme in Human Rights and Democratisation* (E.MA) is the first Master's course in human rights and democratisation launched and financed by the European Commission that later served as model for establishing other Regional Master's around the world. Since January 2013 these are all connected and managed by the *European Inter-University Centre for Human Rights and Democratisation* (EIUC) under the *Global Campus of Regional Master's Programmes* (GC).

E.MA is a one-year master's course aimed at preparing professionals to respond to the requirements of daily work in international organisations, field operations, governmental and non-governmental bodies, and academia. The programme offers an action and policy-oriented approach to learning about human rights, democratisation and international relations from legal, political, historical, anthropological, and philosophical perspectives. This interdisciplinary nature and wide-ranging scope of E.MA reflect the benefits of true European inter-university cooperation in human rights education. It is an interdisciplinary programme that reflects the indivisible links between human rights, democracy, peace and development.

During the first semester in Venice, students have the opportunity to meet in a multi-cultural environment and be taught by leading academics, experts and representatives of international and non-governmental organisations. During the second semester students relocate to one of the *participating universities* in the various EU Member States to follow additional courses in an area of specialisation of their own choice and to write their thesis under the supervision of the E.MA Director or other academic staff. After successfully passing exams and completing a Master's thesis, students are awarded the European Master's Degree

in Human Rights and Democratisation jointly conferred by a group of EIUC/E.MA universities.

Each year the E.MA Council of Directors selects five theses which stand out not only for their formal academic qualities but also for the originality of topic, innovative character of methodology and approach, and potential usefulness in raising awareness about neglected situations or issues and capacity for contributing to the promotion of the values underlying human rights and democracy.

The E.MA Awarded Theses of the academic year 2013/2014 are:

- Mihailescu, Laura, *Blasting into Fame. Female Terrorists Make a Statement*, Supervisor: Prof. Maria Teresa Beleza, New University Lisbon.

- Nurzia, Olivia, *Memory, Human Rights Films and Symbolic Reparations. A Case Study on the New Argentine Cinema*, Supervisor: Prof. Luz Maceira Ochoa, University of Deusto.

- Schrempf, Tessa Antonia, *The Satanic Mill. Human Rights and the Responsibility to Counteract*, Supervisor: Prof. Jan Klabbers, University of Helsinki.

- Storaas, Guri, *Surviving Independence. South Sudan's Contested Constitution-making Process*, Supervisor: Prof. Véronique Dudouet, University of Hamburg.

- Venturi, Denise, *The Prominence of the Body as an Instrument of Border Control. Assessing the Age of Unaccompanied Migrant Children in the European Union*, Supervisor: Prof. Marie-Claire Foblets, Catholic University of Leuven.

This volume includes the thesis *Memory, Human Rights Films and Symbolic Reparations. A Case Study on the New Argentine Cinema* by Nurzia, Olivia, and supervised by Prof. Luz Maceira Ochoa, University of Deusto.

#### BIOGRAPHY

Prior to obtaining her MA in Human Rights and Democratisation at EUIC, Olivia earned a BA (Hons) Degree in Modern Languages from the University of Kent, UK with a focus on Spanish and French Literature and Cinema. In 2014 due to her specific research interest

in memory and films, she attended several human rights films festivals in Europe and also participated to the Cinema, Human Rights and Advocacy Summer School at The Irish Centre for Human Rights and the Huston School of Film & Digital Media, NUI Galway, Ireland.

Before her MA Degree, she taught English during a voluntary internship in Dhandhuka, India, where she gained practical insights into the human rights related aspects that specifically concerned gender, development and education.

#### ABSTRACT

The overall objective of this thesis is to analyse from a theoretical point of view, the potentiality of human rights films as an effective means of symbolic reparations. Since the late 1980s human rights films emerged as an independent strand in the field of cinema and became a powerful tool for the promotion of human rights. Human rights films influence the public opinion and encourage the participation in relevant debates for the society. Ultimately, human rights films represent a significant support for the construction of social memory which is a process vital to a well-functioning democracy. The thesis will draw on the specific context of Argentina and it will illustrate, through the analysis of two films, the relationship between social memory with a gender perspective and human rights films.

Like past editions, the selected theses amply demonstrate the richness and diversity of the E.MA programme and the outstanding quality of the work performed by its students.

On behalf of the Governing Bodies of EIUC and E.MA and of all participating universities, we congratulate the author.

PROF. FLORENCE BENOÎT-ROHMER  
EIUC Secretary General

PROF. RIA WOLLESWINKEL  
E.MA Chairperson

OLIVIA NURZIA

MEMORY, HUMAN RIGHTS FILMS  
AND SYMBOLIC REPARATIONS  
A CASE STUDY OF THE NEW ARGENTINE CINEMA

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BAFICI	Buenos Aires International Festival of Independent Film
CELS	Centro de Estudios Legales y Sociales
CONADEP	Comisión Nacional sobre la Desaparición de Personas
ESMA	Escuela Superior de Mecánica de la Armada
HR	Human Rights
IACHR	Inter-American Commission on Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
INCAA	Instituto Nacional de Cine y Artes Audiovisuales
NGO	Non Governmental Organisation
TJ	Transitional Justice
UDHR	Universal Declaration of Human Rights
UN	United Nations

Key words: *Argentina, Human Rights Films, The New Argentine Cinema, Social Memory, Gender, Transitional Justice, Symbolic Reparation, Memorialisation, Desaparecidos/as.*

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1.

INTRODUCTION

1.1. CONTEXT AND JUSTIFICATION OF THE TOPIC

Cinema has always been used as a space to reflect on historical and political processes and more recently it has provided a space to denounce human rights abuses. Almost three decades ago, Human Rights Watch set up the first human rights film festival<sup>1</sup> in New York widening the tools of advocacy for the education and the promotion of human rights values to bring about social changes. In a growing visual culture context, the power of images, on and off screens, that swirls in contemporary times envelops the viewer and drags the audience into new realities in a journey of discovery. Seemingly, human rights films represent “transparent windows towards other people’s life<sup>2</sup>,” they drag the spectator in other worlds, documenting different realities in which regrettably, abuses, poverty and violations constantly occur. From professional documentary-makers to ordinary citizens with basic mobile phones, video is increasingly used to highlight human rights issues<sup>3</sup>. Human rights films can have a direct impact on the audience raising awareness on wrongdoings around the globe and can serve as a vehicle for the spread of education and the protection of human rights values.

One of the countries that has actively been involved in a social and juridical fight for the defense and the promotion of human rights is Argentina. In the aftermath of the dictatorship, human rights movements

<sup>1</sup> The Human Rights Film Network, Human Rights Watch Film Festival-London, Description, available at <http://www.humanrightsfilmnetwork.org/festivals/human-rights-watch-film-festival-london> (consulted on 4 July 2014).

<sup>2</sup> Tascon, 2012, pp. 869-870.

<sup>3</sup> Gregory et al., 2011, p. 10.

and the civil society call for justice through punitive actions and collective memory of victims. Amongst different initiatives, in the context of Argentine cinema, partly influenced by the progressive development of human rights films around the world, a new cinematic phenomenon sparked: the “New Argentine Cinema.” The current embodied new perspectives on the recent social and historical circumstances of the country. Besides, it began to challenge the previously established cinematographic language adopting visual effects as metaphors for critical denunciations on violations occurred in the recent history<sup>4</sup>. The new engagement of Argentine cinema with its controversial past and present, highly contributed to the spread of human rights issues in films, raising popularity not only amongst Argentinean spectators, but also amongst international viewers addressing a global audience<sup>5</sup>. Drawing from the origin of the New Argentine Cinema and through the analysis of two specific human rights films, *Los rubios* (The Blondes) and *La mujer sin cabeza* (The Headless Women) it is possible to remark different relationships between cinema and social memory. In addition, it can be argued that human rights films are a powerful tool for the education, the promotion of human rights and can also serve as potential means for reparation, because of the interaction between the visual art and the communication format examines, interrogates and theorises human rights purposes in a way that does not result mechanical or purely instrumental as on the contrary other communication tools tend to be<sup>6</sup>.

The aftermath of the Argentinean military dictatorship, carried out by the General Videla, produced a significantly growing number of documentaries and fictions addressing human rights violations which occurred in the country. Argentinean cinema went through a transitional process in its representation of past events, subjected to political manipulation, from an extremely traditional patriarchal and codified view to a more realistic and reflexive perspective. The shift produced a phenomenon at the beginning of the 21st century that is referred to as the “New Argentine Cinema.” The phenomenon finds its origin in the cultural political and social changes of the country as well as in the *Ley de Cine* (also known as *Ley de Fomento de la Industria Cinematográfica*) of 1994, which entitled the Instituto Nacional de Cine

<sup>4</sup> Andermann, 2012, p. 27.

<sup>5</sup> Andermann & Fernandez Bravo, 2013, p. 2.

<sup>6</sup> Tascon, 2012, p. 865.

y Artes Audiovisuales (INCAA) to additional sources of film funding<sup>7</sup>. The state had some success at distributing grants to Argentinean filmmakers and strengthening the film development<sup>8</sup>. The new wave also benefited from the emerging of film festivals such as the Buenos Aires International Festival of Independent Film (BAFICI) which has its first edition in 1999. The new trend marks a deep rupture with what was previously officially and morally accepted to represent in films around the nation's past history. In addition, amongst the innovative approaches a particular focus was given to the representation of women who became important agents of change in both the fiction and in real times. Moreover, the films have drawn a significant attention and recognition not only at national level, but also internationally in several renowned film festivals across the globe giving a new shape and significance to the past national classical cinema. How can social processes, seeking for the construction of memory, be entrenched with cinematographic style?

Films use distinctive symbols and narratives which convey hegemonic meanings, underpinning a sense of collectivity and mutual recognition that can ultimately produce a compensatory effect and represent a symbolic means of reparation in a society affected by historical traumas and experience of loss regrettably shared. The result of cultural, social and political traumas from the dictatorship produced questions of civil unrest over memory and identity becoming core topics of the new cinematic wave. Following the sense of lost identity and the feeling of not belonging to the society as it was, Argentinean felt the progressive need to reflect and debate on a new collective memory of past events so to re-establish and to ensure a sense of cohesiveness of the community. Cinema represented a space of recollections of memories which firstly preserved the past from oblivion and secondly offered a variety of different perspectives aiming at promoting discussion for a renewed identity narrative.

The thesis will illustrate how cinematographic work helps the transmission of memory and becomes a space for victims of violations to be represented in the Argentinean case. Even with the extremely difficult theme of the representation of the *desaparecidos/as*, whose absence/presence continues to haunt the society, films could restore their dignity

<sup>7</sup> Falicov, 2008, p. 272.

<sup>8</sup> Ibidem.

to a certain extent by showing their limbo status on screen, as well as aiming to promote the not repetition of massive violations illustrating in several ways the endless horror and sufferance.

The camera as the tool of a narration was also subjected to technical shifts and from the typical male dominated gaze, women subverted the traditional canons and opted for a new female gaze as a response to the societal changes<sup>9</sup>. The transformation influenced human rights films in their approach on gender violations and in particular on the question of the body, as a site of memory. Parrini states that memory stays deeply engraved into the body, yet it remains silent<sup>10</sup>. Communicating memory can be a complicated matter<sup>11</sup>; especially when the memories held contrast with consolidated dominant narratives. In view of this problematic, the thesis aims at analysing how human rights films contributed to create a space for counter-narratives. The transformation of Argentina in the last three decades unhinged and released the conventional representation of women and the New Argentine Cinema gave an entire generation the possibility to be an important powerful testimonial. Questions around the female body as a site of physical as well as psychological memory are raised, and women were fundamental in the operation of recuperating what could not be told or talked about before<sup>12</sup>. The New Argentine Cinema created a space for women to express themselves and to contribute to the recuperation of a more complete memory of past events where what had been repressed for years finally found its way to be released and become visible.

To analyse this issue it is necessary to reflect, from a theoretical point of view, on the potentiality of human rights films as an effective means of symbolic reparations, which represent an object of interest for the education and the promotion of human rights. Furthermore, the analysis is also relevant to understanding the process of commemoration for strengthening social fabric and ultimately to reinforce democracy. Moreover, it contributes to questioning some of the theoretical debates in different fields of knowledge.

<sup>9</sup> Maria Luisa Bemberg was one of the promoter within the Argentinean context to implement the shifts, but the radical changes occurred in the mid 1980s with the first feminist gaze theory.

<sup>10</sup> Parrini, 2011, p. 240.

<sup>11</sup> Grever, 2008, p. 262.

<sup>12</sup> *De eso no se habla*, the film of Maria Luisa Bemberg was a first attempt of showing what could not be represented in Argentinean cinema before 1990. It marked a turning point for the latent cinematographic phenomenon.

Amongst those, the theoretical framework, in which the aforementioned overall objective of this thesis will be examined, will combine a discourse on human rights and studies on social memory with a gender perspective as well as with cinematographic perspective.

The extremely original combination brings along different disciplines which do not merge frequently nor dialogue between each others<sup>13</sup>. Through the cinematographic analysis of the films, the investigation also follows an explorative approach. I will start exploring the intersection of cinema and human rights in Chapter 2. The concept of human rights film will be explained following their origin, and how memory articulates itself on cinema screens and in which way.

In Chapter 3, I will draw on the theoretical context of memory and transitional justice. I will therefore illustrate the role of memory and demonstrate the development on memory fields and concepts as collective and social memory. Secondly, I will introduce the memory boom. Thirdly, I will emphasise memory in the process of transitional justice in section 3.3, before moving onto symbolic reparation and memorialisation.

Eventually, this will lead the thesis to Chapter 4: the case study of Argentina. I will provide an historical context and show how transitional justice took place after the dictatorship. I will discuss further memorialisation in Argentina, drawing from relevant examples, and illustrate what has been done in terms of symbolic reparations.

Lastly, drawing from the New Argentine Cinema, I will introduce a case study of two female Argentinean film directors: Albertina Carri and Lucrecia Martel. The analysis is based on the following two films:

1. *Los rubios* (Carri, 2003);
2. *La mujer sin cabeza* (Martel, 2001).

In Chapter 5, I will draw to the conclusion of the thesis starting from a general recapitulation of the main problematics and finally I will give a reflection as to why human rights films constitute potential materials for symbolic reparations.

<sup>13</sup> Moreover, the literature sources that have been revised, include different mainstreams of thoughts by worldwide authors so that the reflection on the subject results more complete.

## 1.2. METHODOLOGY

In order to develop this work, the methodology consisted in a meticulous documentary investigation through the revision of specific literature in the different fields of knowledge previously mentioned. The construction of the conceptual and analytical framework was further developed in order to proceed with the analytical development of the case study and as well as the suggested theoretical reflection.

Furthermore, I relied on my notes from seminars, lectures and group work from the Summer School of Human Rights and Advocacy in Galway (attended from 25 June to 7 July 2014), where it was possible to encounter extremely actualised references. Moreover, participation in group discussions, enhanced and expanded the reflection process. The revision of literature also played a key role in order to contextualise the analysis of films in their socio-political and juridical context in Argentina.

This investigation is situated, in methodological terms, between the instrumental case studies, which are those of the case, and more than exploring them in an exhaustive manner, the thesis is useful to explore elements which draw from the reality so to illustrate certain themes and debates which can further contribute to an analytical and conceptual reflection over some of the ideas illustrated or on the theoretical construction<sup>14</sup>.

With respect to the procedure on the development of the case study, I relied mainly on the analysis of the films, but I also considered other secondary sources, such as the catalogue of the BAFICI (English: Buenos Aires International Independent Film Festival), cinema and Argentina newspapers and interviews with film directors (available online media channels or internet).

The case as mentioned earlier is composed of two films. The criteria according to which the films have been chosen are:

- a) they are Argentinean human rights film productions of the New Argentine Cinema of the last decade, i.e. 21st century;
- b) they rely on truthful matters;
- c) they have contributed to create relevant discussions among inter-

<sup>14</sup> Stake, 2005, p. 455.

national and national audience regarding the approach to memory in Argentina<sup>15</sup>;

d) the main characters as well as the directors are women: the relevant presence of feminine roles and their personality will be an essential component for the gender analysis of memory;

e) the films focus on the absence/existence of *desaparecidos/as*. A crucial matter in the reconstruction of the memory in Argentina, that continues to produce social unrest;

f) their innovative cinematographic language is used as a symbolic means to denounce a political and social reality as a result of the oppressive regime.

Once the films were selected, an assessment was designed to narrow down the focus of the analysis. The questions taken into consideration include mainly cinematographic language (camera movement, visual effects, etc.). Moreover, an in-depth reflection will be provided on the theme of memory including the engendered memory through the main protagonists Albertina Carri and Verónica who will be examined considering the following questions:

- a) How does the narrative style explore the theme of memory?
- b) What kind of women do they represent in the real society?
- c) What kind of power do they encounter around them? Are they manipulated?
- d) How does the body affect the process of memory? How does this apply to camera movements?
- e) What human rights violation occur when the society neglect their past?
- f) What memory is allowed to women?
- g) Is there a space for oblivion?

In other words, cinematic analytical tools were combined with other elements for the investigation, an example is the development of a list of key categories and concepts that help to answer the questions

<sup>15</sup> The films participated in the Human Rights Watch Film Festival across the globe. Furthermore, the film *Los rubios* won several awards around the world amongst which the FIPRESCI Argentina in 2003 and the Clarin Entertainment Awards in 2010 for the Best Argentinean Documentary within the 2000s decade. Whereas to *La mujer sin cabeza* won the Argentine Academy of Cinematography Arts and Sciences Awards in 2008 and won the Lima Latin American Film Festival 2008.

considered. For instance, according to every issue above listed, themes within the cinematographic narrative which could express or allude to the above mentioned list were identified: therefore the “theme of memory,” could be explored through the direct allusion, between the dialogues of the fictional characters of Veronica and the aunt Lala, or the way Carri develops her narrative all along the film, as well as other issues such as the military dictatorship, the truth, the *desaparecidos/as*, the grief, the sense of guilt and the theme of forgetting. In this way, situations that were related to that were taken into account and became a “cue” so to analyse the different ways in which the films presented themselves (*Los rubios* is a documentary whereas *La mujer sin cabeza* is fictional) and ultimately comply with the overall objective of the investigation.

2.

CINEMA AND HUMAN RIGHTS

To remember is more and more, not to recall a story but to be able to call up a picture<sup>16</sup>.

In section 2.1 I will provide the historical background of human rights film festivals where human rights films were first inscribed as the Professor Emma Sandon suggests, human rights films exist because of the context in which they were promoted. I will then follow explaining the notion of human rights films. Section 2.2 will shed light on the notion of human rights films and on the relation they intersect with memory.

2.1. HUMAN RIGHTS FILMS

In the late 1980s and 1990s, together with the spread of human rights organisations, new advocacy tools were conceived and began to be implemented: documentaries, and later other film genres, were used to empower and raise awareness on violations of human rights. The first human rights film festival was set up in 1988 in New York by the Human Rights Watch NGO and it established a fresh and innovative public space for discussion among experts and the general audience. The movement significantly and successfully expanded since then, counting more than 38 film festivals around the globe nowadays<sup>17</sup>.

The HR festivals aim to exhibit and promote the distribution of films

<sup>16</sup> Sontag, 2002, p. 94.

<sup>17</sup> See The Human Rights Film Network, available at <http://www.humanrightsfilmnetwork.org/> (consulted on 8 July 2014).

in cinema and in different media channels available today<sup>18</sup>. With the rapid advances in technology and global communications, the visual media are playing an increasingly important role in the evolution of international dialogue on human rights. Consequently, a debate arose on the effectiveness of the human rights promotion through films. To which extent, if at all, can films be seen as a place for human rights subjects? In her essay *Regarding the Pain of Others*, Susan Sontag notes that the effect of “shocking” pictures is very hard to predict and varies greatly with individual, societal and cultural characteristics<sup>19</sup>. The main critique made about human rights films concerns the “effectiveness” of real changes beyond their screenings. In other words, to which extent can the power of an image, or better to say a sequence of images, engage a non-acquainted audience to become actively involved in human rights issues after having been exposed to it through a screen? If on the one hand, HR films can have the intention of educating people about a historical period or event or aim at sensitising the audience on issues of cultural diversity, equity, and fairness, triggering out debates suitable for positive social initiatives and transformations, on the other hand the message does not lead, in the majority of cases, the spectator to take concrete actions to transform the situation<sup>20</sup>. The personal internalisation of those political and social messages from films most of the times are not followed by attitudes that would actively support human rights and social reforms<sup>21</sup>.

But what are the rights concerned and how is a human rights film defined? In the view of Bronkhorst, human rights respond to films which reflect “the actual state of human rights violations, or the visions and aspirations as to the ways to redress those violations<sup>22</sup>.” With respect to the rights, to which HR films are addressed to, these are the ones which contribute to the support of the human dignity and which are enshrined in international legal instruments referring namely to the civil and political rights as well as to the economic, cultural and social rights.

Human rights films might be realistic or utopian; they may show

<sup>18</sup> Television, internet channels, broadcasting, etc.

<sup>19</sup> Sontag, 2003, p. 94.

<sup>20</sup> Danziger, 2014.

<sup>21</sup> D'Sa, 2012, p. 3; see also, Brett et al., 2007, p. 20.

<sup>22</sup> Bronkhorst, 2004.

harsh realities or denounce and convey an emotional message. They may appear as documentaries or fictions. Nevertheless, the primary condition that distinguishes a human rights film from another kind, according to Bronkhorst, is represented by its *truthful* nature. The film must correspond to true facts. In other words, the message must be delivered with accuracy and honesty which also entails the need to be true. Furthermore, the message must be in accordance with a normative system which enables the audience to generate a relevant discussion on the topic in the aftermath of the screening<sup>23</sup>.

Fiction films can be considered truthful given that they remain honest and avoid manipulation of events. A human rights film should broaden the intellectual and emotional understanding of human rights issues, but should not promote stereotypes nor support a precise propaganda campaign.

Despite the recent spark of human rights films festivals, Bronkhorst argues that human rights films existed throughout the whole of the last century and that the human rights films history can be set prior to the Universal Declaration of Human Rights. Films like *The Battle of the Somme* by Geoffrey Malins and J.B. McDowell in 1916, or *Spanish Earth* by Joris Ivens are examples of early human rights documentaries, and Charlie Chaplin's *The Great Dictator* is a representative feature film<sup>24</sup>. Nevertheless, the discourse is equally applicable to the context of human rights and according to the different debates and perspectives existing on the birth of HR; different schools of thoughts have developed their theories and set a beginning according to what suits their vision most.

In recent years, especially in the light of the 60th anniversary of the Universal Declaration of HR, an increased production of HR issues presented in films have been released as the *Story of Human Rights* (2008) which provides a deep insight on the history, the development and the situation today representing a unique and complete film in its genre. Nevertheless the film shows the appalling reality of widespread human rights abuses in contemporary times and it advocates for a social change that strikes for better circumstances around the globe.

In general, human rights cinema gradually develops into a separate stream as well as a part of the modern cinema stream, calling attention

<sup>23</sup> Sandon, 2014.

<sup>24</sup> Bronkhorst, 2004.

to its multifunctional task: as a protective, restorative (reparation), educational, didactic and even punitive one<sup>25</sup>.

In addition, human rights films provide a fruitful material to draw on for educational purposes. In fact, Novelli and Gómez in the “Cinema, Communicative Competence and Full Citizenship” argue that the right to education nowadays should be supported by visual means as a powerful support in the learning processes<sup>26</sup>. As we will see in the next chapter the notion of memory comes from the ability of the human being to recall or to create images in the mind which seemingly activates while learning. Nevertheless, there are different genres of human rights films, namely, animations, feature films, short movies, fictions, newsreels, reportages, essay films, etc., nonetheless the most significantly employed genre is the documentary. Within the documentary genre four main categories can be distinguished as follow: the “explanatory” documentary, which films a particular situation, country or theme with critical impressions; the “denunciatory” documentary, which demonstrates specific abuses and their responsible abusers; the “search” documentary, in which the audience is dragged into a quest that may explore critical human rights issues, as in the case of forced disappeared or assassinated people for political reasons mainly; and lastly the “testimonial” documentary, which shed light on histories of rights violations from a personal or collective perspective revealing all the sorrow and the sufferance of the past abuses as in the case of war’s survivors<sup>27</sup>.

The approach to the analysis of a human rights film is extremely broad and it may vary according to the subject. There are different approaches which deal with the type of the narrative structures, in terms of plot and stories, of the place and of location, the dialogues, the sounds, the camera movements and the characters. These are the technical aspects, but when having a closer look at how the human right subject is treated one might look at the type of narration and how victims and perpetrators represent violations of human rights.

Human rights films represent a valuable instrument to depict injustice. The flow of images presented in films is mostly informative, helping to reflect, create and raise awareness. HR films grew exponentially around the globe and continue expanding raising standing and spreading

<sup>25</sup> Bihun, 2012, p. 5.

<sup>26</sup> Novelli & Gómez, 2011, p. 44.

<sup>27</sup> Bronkhorst, 2004.

knowledge of human rights. As Andrew puts it “films make palpable collective habits and a collective sensibility. In their inclusions and exclusions, in their scope and style, films project cognitive maps by which citizens understand both their bordered world and the world at large<sup>28</sup>.” Thus, films can be seen as a mind opening source not only necessary for the spread of human rights values, but as Tascon suggests, films should also become a tool for the promotion of human rights<sup>29</sup>. Human rights are the search for global ethics that communicate values of human conditions and obligations for protecting these rights. To conclude, all tools used for the promotion of ethical and moral values require thoughtful attention on behalf of the audience in order to question what they watch. The representation of human rights has to be specifically addressed in fora in order to avoid misuse “as they pertain specifically to “the human” in visual images<sup>30</sup>.

## 2.2. CINEMA AND MEMORY

In 1895, a major cultural shift occurred which changed the perception of memory<sup>31</sup>. For the very first time in history human experiences, and therefore memory, could be reproduced on a screen by working artificially with stories, data, metaphors and allegories<sup>32</sup>. Through the movement of images, through colours and sounds the illusion of a new reality came alive and became tangible. Human kind ultimately created a time machine on screen. Bayón illustrates that cinema can be considered a support of memory, not only because its audiovisual language allows the transmission of an artificially reconstructed memory through fiction, but also because during the years, cinema was able to create forms and possibilities of memory that without the audiovisual support, could not have existed. Deleuze was amongst the first ones to highlight the intimate relation between memory and cinema<sup>33</sup>. The philosopher considered the relation between the cognitive mechanisms of the brain with the moving images

<sup>28</sup> Andrew, 2006, p. 25.

<sup>29</sup> Tascon, 2012, p. 865.

<sup>30</sup> Ibidem.

<sup>31</sup> For more information see *La sortie de l'usine Lumière à Lyon*, Frères Lumière, 1895.

<sup>32</sup> Bayón, 2006, p. 352.

<sup>33</sup> Deleuze, 1987, p. 155.

of the screen and distinguished between the moving images in the mind and the moving images on the screen<sup>34</sup>. Furthermore he distinguished between different categories of images in motion: the perception-image, the effect-image and the action-image. While watching a screen the images in motions influence the human mind and become “input.” Therefore, Deleuze argues that a film not necessarily has to be a “memory film” in order to be connected with social memory, because as in Proust’s<sup>35</sup> acceptance of memory, remembrance can spark when not expected in a completely different context from which the person experiencing the memory finds himself/herself. Diametrically opposed is the view Erll argues that cultural memory is based on communication through media. Shared versions of the past are invariably generated by means of “medial externalization<sup>36</sup>.”

Yet, according to Erll, memory films can be “memory films” only when they place at the center of the film historical events directly linked to memory, remembrance or memorialisation<sup>37</sup>. Memory films are not to be considered as a genre itself, but rather as a *phenomenon* which may refer to different genres of films representing a way of dealing with socio-cultural context of a defined cultural space. With defined cultural space the authors alludes to the fact that the topic of memory film must address the cultural memory of a nation or society. A memory film can therefore, span over the entire pool of different genres from a historical documentary over musicals or love stories to fiction<sup>38</sup>. However, memory in film can only be re-constructed and contributed to collective memory when it is viewed by a community. Films that are, despite the most powerful images of memory, not being watched will not have an effect in memory cultures. “The specific form of reception which turns fictions into memory-making fictions is not an individual, but a collective phenomenon. What is needed is a certain type of context, in which novels and films are prepared and received as memory-shaping media<sup>39</sup>.” A film about history may become a support to the reconstruction of memory as a “tight network of medial representations” preparing ground for the films, and leading

<sup>34</sup> Deleuze, 2001, p. 37.

<sup>35</sup> For more insight see Proust *À la recherche du temps perdu*, the episode of the *Madelaine*.

<sup>36</sup> Erll, 2008b, p. 397.

<sup>37</sup> Erll, 2008a, p. 8.

<sup>38</sup> *Ibidem*.

<sup>39</sup> Erll, 2008b, p. 395.

to public discussions, exploring the film's "memorial meaning<sup>40</sup>."

Debates on questions of memory in cinema in terms of up to which extent it can be considered legitimate to recall and screen traumatic events of past wrongs are largely present in societies. The risk is to re-victimise a person who suffered a violation of human rights. Where can one draw the line between respecting human beings' dignity and his/her private grief and on the one hand, and the duty to not forget in order to avoid repetition on the other hand?<sup>41</sup> Erll refers to the exemplary case of the Holocaust which recalls memories of those who suffered and survived, and gave a base for those who denied the Holocaust<sup>42</sup>. Therefore, not every memory film may remain objective or truthful. One has to remain objective and free to evaluate one's own judgment. Discussions on the subject of cinema as a site of memory are opened to further critical debates.

<sup>40</sup> Ibidem, p. 396.

<sup>41</sup> Erll, 2008a, p. 9.

<sup>42</sup> Erll, 2008b, p. 392.

3.

MEMORY AND TRANSITIONAL JUSTICE

This chapter covers the sociological and human rights theoretical framework of the thesis. In this chapter I will provide an introduction to memory and show the role of memory in the field of human rights with a specific focus on transitional justice. In the first section 3.1 I will draw from the theories of collective and social memory. Secondly, in section 3.2 I will refer to the process of the *memory boom*. Section 3.3 will follow an explanation on the relevant work of TRC and I will highlight the relationship with the re-construction of memory. Finally in section 3.4 I will deepen the notion of symbolic reparation and memorialisation.

Who wonders whether the antonym of “forgetting” might not be “remembering,” but justice?<sup>43</sup>

3.1. WHY PAST MATTERS? THE ROLE OF MEMORY

What to remember, what to forget, why do we remember? The interest for the past is rooted in all cultures for its strong connection to the identity of a group<sup>44</sup>. The reality we live in is surrounded by the past and the comprehension and the knowledge of it represents the basis for a common social cohesion, as Carretero states:

The past is found in every space, both public and private. It is omnipresent to the point in which we fail to discern it, so exposed to the view that escapes the order of the visible. Its presence prowls the streets and names every corner [...] in our house it greets us, sibylline, from a calendar marked with celebration

<sup>43</sup> Yerushalmi, 1989, p. 26.

<sup>44</sup> Carretero, 2007, p. 33.

dates, festivities or reminders, even if we don't exactly know of what<sup>45</sup>.

The heritage of the past represents the structure of a present society and both history and memory have the task to create narratives over former events which shaped the identity of the community. In order to avoid misleading beliefs, it is important to notice that history and memory have two distinct approaches towards the presentation of past events. Nonetheless, they are often interdependent on one another and memory represents a significant source for history. However, whereas memory acts in the present, retrieving past events and reshaping them, or transforming their meaning, history investigates in circumstances of the past that are impossible to bring back into the present<sup>46</sup>. Memory re-elaborates events constantly, adopting a subjective, dynamic, selective and fluid approach in exploring the past. On the contrary, history acts on the basis of a scientific method<sup>47</sup>.

History pursues the construction of a narration that must be coherent, plausible, fixed and it must draw on reliable and codified sources in order to “inscribe the singular lived experience in a historical global context, examining the causes, the conditions, the general structural dynamics of a specific past event<sup>48</sup>.”

Memory lays at the core of human existence for its support to define one's identity, for its ability to create continuity over time, and for its consequent function of keeping alive the past, which all together contribute to the defense of human's dignity<sup>49</sup>. Individual memory consists of laborious processes, on the one hand it operates by recalling fragments, experiences, images and past emotions, and on the other hand it reorders thoughts with the intention of constructing a re-elaborated narrative. Furthermore, the retrieval of stored information has to deal

<sup>45</sup> Ibidem (author's translation from Spanish).

<sup>46</sup> Candau, 2002, p. 56.

<sup>47</sup> Cuesta, 2008, p. 35.

<sup>48</sup> Traverso, 2006, pp. 18-20.

<sup>49</sup> Together with the basic principles of equality and non-discrimination the concept of human dignity lays at the core of the human rights framework and it “implies that human beings are to be treated as ends in themselves and not as mere means to an end” (United Nations Commission on Human Rights, Sub-commission on Prevention of Discrimination and Protection of Minorities, “The Main Types and Causes of Discrimination: Memorandum submitted by the Secretary General”, UN Doc. E/CN.4/Sub.2/40/rev.1, 1949). The notion of dignity is invoked in the first Preamble paragraph of the Universal Declaration of Human Rights (UDHR) and in the second Preamble paragraph of both the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) as well as in the International Bill of Rights.

with an opposite process, the “double” counter of memorisation, namely the oblivion which is responsible for forgetting substantial material of the past<sup>50</sup>. According to Assmann the definition of memory is the perpetual interaction of remembering and forgetting<sup>51</sup>. In fact, whether consciously or not, memory operates through principles of exclusion based on a continuous selection of material that can be forgotten or can be preserved. Nonetheless, it is important to underline that oblivion is not a default of memory; on the contrary it is a necessity<sup>52</sup>, as it would be impossible for the human mind to remember every single detail of any perceived, dreamt or even just imagined reality<sup>53</sup>. Memory is in constant construction within time, it weaves together the thread of past, present and future and overall, as Jelin puts it, individual memory is a storytelling process that gathers material on past events that have a potential meaning in the present and which must be preserved for future times<sup>54</sup>.

At the beginning of the 20th century memory became material of new investigations, and regardless of its apparent function proper to the individual<sup>55</sup>, the concept of memory was extended and considered as a collective function. One of the most influent sociologists of that time, Maurice Halbwachs, was among the first ones to theorise the concept of *collective memory*. What could be more individual than *remembering*, which we seem to do in the solitary world of our own minds as much as we do in conversation with others?<sup>56</sup> What seems as a paradox finds its explanation in section one of Halbwachs’ book *On Collective Memory*<sup>57</sup>.

The writer argues that memory cannot be a process solely individual, as it is tied up to social, political and economic bounds and the framework in which it operates, and by which it is influenced, in the social environment: “groups provide us the stimulus on the opportunity to recall, they provide material and they shape the ways in which we

<sup>50</sup> Vargas, 2011, p. 110.

<sup>51</sup> Assmann, 2008, p. 104.

<sup>52</sup> Vargas, 2011, p. 110.

<sup>53</sup> Borges, 1995, pp. 97-106.

<sup>54</sup> Jelin, 2009, p. 122.

<sup>55</sup> The development of the “collective memory” concept and debate started at the University of Strasbourg in the 1920s and early 1930s. For more specific information about it see Olick, Vinitzky-Seroussi & Levy, 2011.

<sup>56</sup> Ibidem, p. 16.

<sup>57</sup> Halbwachs, 1992, pp. 37-192.

do so<sup>58</sup>.” Moreover, Halbwachs believed that there was a plurality of collective memory as a result of long-term traditional structures and social practices which are commemorated and “[...] [*remain*] stubbornly impervious to the efforts of individuals to escape them<sup>59</sup>.” Drawing on Halbwachs’ observation one can conclude that individual memory is enshrined in the collective – or social – memory dimension of a given group environment. The term “collective memory” refers to the representations of the past that are produced, kept and transmitted by the members of a social group, namely family, ethnic groups and parties, through their interaction resulting from socio-historical factors<sup>60</sup>. In other words, collective memory is the memory of the society and its ability to reproduce it over time<sup>61</sup>.

When we say that a society “recalls,” actually what we are saying is, first, that a past was actively transmitted to the current generations through “[...] the channels and repositories of memory [...]” and that this transmitted past was received with a definite meaning. Consequently, a society “forgets” when the generation possessing that past does not transmit it to the next, or when the latter rejects what it has received, or when it ceases to transmit it in turn, which is in fact the same thing... A society cannot “forget” what it has not previously received<sup>62</sup>.

Here lays the main distinction between collective and individual memory. Whereas individual memory is framed by a more psychological approach, collective memory “is a synonym for cultural storage of the past<sup>63</sup>”: it is the result of a common evolution over past events which require an historical-philological and socio-philosophical approach for its development<sup>64</sup>. In other words, as Nora suggests “collective memory is what remains from the past in groups’ life, or what groups do with the past<sup>65</sup>.”

Within the collective memory Halbwachs distinguished the *autobiographic* memory, which is the reminiscences of direct experience events, and the *historical* memory which refers to residues of events by virtue

<sup>58</sup> Olick, Vinitzky-Seroussi & Levy, 2011, p. 17.

<sup>59</sup> Ibidem, p. 20.

<sup>60</sup> Osiel, 1997, pp. 18-19.

<sup>61</sup> Berliner, 2005, p. 201.

<sup>62</sup> Yerushalmi, 1989, pp. 17-18.

<sup>63</sup> Berliner, 2005, p. 201.

<sup>64</sup> Nora, 2011, p. 438.

<sup>65</sup> Nora, 1989, p. 398.

of which groups claim a continuous identity through time<sup>66</sup>. These are memories of events enshrined in a collective narrative which have not been directly experienced. Josefina Cuesta provides a more specific definition of historical memory as “a subsequent product, resulting from arduous efforts to explain and understand<sup>67</sup>.” Across the century the debate over collective memories has evolved and expanded, acquiring a more global object of analysis, to which scholars refer to as “social memory” in order to avoid confusion. In fact, one of the critiques moved to Halbwachs concerned the object of reference of collective memory which appeared ambiguous: it was not clear enough who the sociologist addressed to with the term *collective*, whether it referred to a socially framed individual memory or to a common memory of a specific group (family, religious, quarter community)<sup>68</sup>.

Zalaquett states that “a nation’s unity depends on a shared identity which in turn depends largely on a shared memory<sup>69</sup>.” Therefore, the collective dimension of memory represents one important aspect of unity and coexistence of a social fabric that is fundamental to preserve for future generations to draw common lessons from it<sup>70</sup>. New generations will shape their identity through the process of memory negotiated over time, namely, through the collective memories of their environment<sup>71</sup>. Being such a powerful tool of cultural and social cohesiveness, memory can be used, or misused, for political interests<sup>72</sup>. The impact that collective memory has on the construction of the social identity depends to a great extent on the public administration<sup>73</sup>. Governments rely on policies of memory to strengthen national identity. They are also significantly responsible for negotiating which version of the past should be represented in the public sphere in the form of rituals, ceremonies, museums, monuments and other means which promote memory and dialogue<sup>74</sup>. Jelin defines the struggle for keeping memory as a political fight: “it is impossible to find a unique memory, interpretation and vision of the past shared by a whole society; what we have is an active

<sup>66</sup> Nora, 2011, p. 439.

<sup>67</sup> Cuesta, 2008, p.13 (author’s translation from Spanish).

<sup>68</sup> Olick, Vinitzky-Seroussi & Levy, 2011, p. 40.

<sup>69</sup> Zalaquett, 1992, pp. 1425-1433.

<sup>70</sup> Osiel, 1997, pp. 18-19.

<sup>71</sup> Halbwachs, 1992, p. 144.

<sup>72</sup> Marcos, 2008, pp. 93-94.

<sup>73</sup> Jelin, 2009, p. 121.

<sup>74</sup> Bonomo, 2013, p. 32.

political struggle about the sense of what has happened, but also about the sense of memory itself<sup>75</sup>.”

In past wrongs, memory constitutes the raw material to drawn on for the re-construction and the understanding of factual events together with a subsequent demand of truth and justice. How each of us remembers, or also forgets, is clearly unique and diverse in its own way and the creation of a common narration overshared past experiences, that would suit each of the community's component is not an easy task.

A society, whose identity has been deeply affected by politics of terror and violence on behalf of the state, must be restored for the sake and the future times of the nation. Joinet points out to the state's duty to remember after gross violations of human rights<sup>76</sup>. The state has to implement the right measures in order to avoid the threat of collective amnesia and it has to promote the creation of a shared common memory. In fact, there are no benefits in “simply forget[ting] such atrocities and swe[eping them] under the rug<sup>77</sup>.” The reconstruction of a collective past cannot be achieved from a mere juxtaposition of individual memories because the multiplicity of voices and different versions that are brought along can result conflicting at times. Reaching a consensus by merging the different versions requires time. Nevertheless, there is a moral duty, on behalf of the state, to promote a debate and a reflection over the creation of an official narrative that can include the polyphonic memories<sup>78</sup>. The social memory and its preservation will enable *healing* and the redefinition of a national identity<sup>79</sup>. However, Jelin argues that the thought of creating a narrative that would suit well each of the community's component would ultimately result utopist: “on the side of the actors in the different scenarios, there is the intention or will to present *one* narrative of the past, and the struggles ensue from trying to impose *their* vision of the past as hegemonic, legitimate, ‘official,’ normal, integrated into common sense<sup>80</sup>.”

In the re-construction of a social memory, there are minority groups that hold a collective memory which have not been, for political or legal

<sup>75</sup> Jelin, 2009, p. 119 (author's translation from Spanish).

<sup>76</sup> UN Security Council, UN Doc. E/CN.4/Sub.2/1997/20, 2 October 1997, para. 21.

<sup>77</sup> Goldstone, 1997, pp. 227-230; see also Schabas, 2006b, p. 658.

<sup>78</sup> González Bringas, 2006, p. 581.

<sup>79</sup> Amadiume, 2010, p. 8.

<sup>80</sup> Jelin, 2009, p. 123 (author's translation from Spanish).

reasons<sup>81</sup>, taken into consideration in the course of a country's historical memory<sup>82</sup>. This is the case of women's memory, in fact, the challenge of subverting the hegemony of one official version of the past, is also related to gender relations between men and women in society<sup>83</sup>. "In order to give women a stronger presence in cultures of memory, there is a need to analyze the national memory with regard to its gender-historical implications and to contextualize historical gender stereotypes which claim universal validity<sup>84</sup>."

Throughout history, the androcentric vision of the world generated the frequent exclusion and oppression of a woman's perspective in political contexts and public spaces. As a result, gender inequality defined the boundaries of inclusion and exclusion in the historical/social memory<sup>85</sup>. As the historian Cava Mesa refers to, the omission of women's memories can be considered as a *desmemoria* ("dismemory")<sup>86</sup>. Lourie argues that "memory must be inscribed in order to exist as history" but women have been systematically excluded and neglected for too long<sup>87</sup>. The construction of an individual memory narrative finds its consolidation when expressed through oral or written communications<sup>88</sup>. Nevertheless, women in their marginalising situation and by being prevented to expose their remembrances publicly, developed an inner communication which resulted in the construction of "counter-memories"<sup>89</sup>.

Women experience periods of conflict and dictatorship in different ways than men do and the counter-memories they hold should not be underestimated as they represent an invaluable heritage for the society. Furthermore, with regard to the construction of a cultural memory not only should the gender aspect be taken into account but also the social, cultural, ethnic differences<sup>90</sup>.

<sup>81</sup> Women have always been discriminated on the basis of their gender throughout history. The first official document at international level which referred to equal rights for women was the UN Charter of 1945 in its Preamble.

<sup>82</sup> Bottigliero, 2009, p. 4.

<sup>83</sup> Fentress & Wickham, 2003, p. 168.

<sup>84</sup> Ibidem.

<sup>85</sup> Scott, 2008, p. 14.

<sup>86</sup> Cava Mesa, 2006, p. 393.

<sup>87</sup> Lourie et al., 1987, p. 3.

<sup>88</sup> Ibidem.

<sup>89</sup> Paletschek & Schraut, 2008, p. 21

<sup>90</sup> Ibidem.

## 3.2. MEMORY BOOM

Over the past three decades there has been a world-wide increasing interest in the subject of memory and its relative fields<sup>91</sup>. Among historians and academics of cultural studies some refer to the phenomenon as *memory boom* labeling the contemporary society a *generation of memory*<sup>92</sup>. The explosion of interest in different societies and their relationship with the past is the result of profound historical and social changes. Nora attributes the change to two major historical phenomena which have characterised the uprising culture of memory, one temporal and one social<sup>93</sup>. The first temporal change is due to an increasing “acceleration of time” as a consequence of the digital revolution, the ever-increasing speed of technical, scientific and cultural innovation, the development of media like photography and film, which have transformed the human perception of time and space. As Huyssen notes “the faster we are pushed into a global future that does not inspire us confidence, the stronger we feel the desire to slow down, the more we turn to memory for comfort<sup>94</sup>,” memory becomes the expedient to contrast the anxiety about the speed of change. The second reason of the outbreak of memory is of a social nature and is a consequence of a “democratisation” of history<sup>95</sup>. Nora explores the political and historical changes that occurred in different countries around the world in the same framework of time which enabled the recuperation of memories once oppressed. In the specific terms, the historian refers to the rise and the reaffirmation of minority memories and their identity as the result of three types of *decolonisations*<sup>96</sup>. The *international* decolonisation enabled the retrieval of memories of previous oppressed colonies, the *domestic* decolonisation, in Western societies, allow the reaffirmation of memory of discriminated sexual, religious and provincial minorities, and finally the *ideological* decolonisation that consisted of the fall of the

<sup>91</sup> As referred to in *The Collective Memory Reader* by Olick, Vinitzky-Seroussi and Levy the memory boom includes a variety of diverse fields, from politics to biology to psychology. The issue of memory seems to have become a top item of scientific and public agendas, concerning the intensified research over an antidote for the Alzheimer or the engagement of the widespread politics of memory.

<sup>92</sup> Nora, 2011, p. 437.

<sup>93</sup> *Ibidem*, p. 438.

<sup>94</sup> Huyssen, 2011, p. 431.

<sup>95</sup> Nora, 2011, p. 439.

<sup>96</sup> *Ibidem*.

military dictatorships in Latin America, followed by the fall of the Berlin wall in Europe and the subsequent collapse of the Soviet Union, the end of the Apartheid in South Africa helped people to recuperate memories that had been long time oppressed and manipulated by the regimes<sup>97</sup>.

The recent blossom of the “memorialisation” phenomenon and the ever-expanding interest and active engagement of societies with the process, has resulted in growing concern among scholars on the risk of abuses of memory<sup>98</sup>. Particularly, Todorov warns us about the uses and abuses of memory: when a society becomes obsessed with the cult of memory it can prevent the recovery from wrongful past. Firstly, there is an inherent danger for the society of becoming *paralysed* by over-remembering and over-commemorating, which will prevent moving forward and thinking about the future, and secondly focusing excessively on memories of harm could enhance a reaction of vengeance<sup>99</sup>.

To sum up, social and historical memory are used to cement group cohesion within a country. Nevertheless the struggle of including different versions of the same experienced event represents a challenge derived from social and political hierarchy within the society. Memory is an instrument of power and consequently it can be subjected to manipulation and misuse for political intents. Therefore the challenge of the society is to fight for the safeguard of the democracy against politics of abuses to avoid the prevailing of forgetfulness.

### 3.3. MEMORY IN THE PROCESS OF TRANSITIONAL JUSTICE

As we have previously seen, social memory has a great influence in shaping the national identity and consequently promoting or dealing with a certain version of memory may result from tactical political interests. Following a period of a serious breach of human rights, in a conflict or during an oppressive regime, there can be a threat for the authenticity of the reconstruction of an historical memory. Nevertheless, the defense and the protection of memory must firstly be dealt with an accurate investigation and clarification of the past events<sup>100</sup>.

<sup>97</sup> Ibidem.

<sup>98</sup> For more insight on debates of abuses of memory see Ricoeur, 2003, and Todorov, 1996.

<sup>99</sup> Todorov, 1996, pp. 6-26.

<sup>100</sup> Zalaquett, 1992, pp. 1425-1433.

The tasks of promoting justice, compensation, and reconciliation after a post-conflict situation are challenging and can take many years to be achieved. But systematic abuses of human rights that are not adequately addressed are a source of social unrest and often contribute to renewed violence. Therefore, it is important to (re-)establish the rule of law after periods of conflict or authoritarianism to build sustainable peace and well functioning states. The process of acknowledging, prosecuting, compensating for and forgiving past crimes during a period of rebuilding after a conflict or a regime, is commonly referred to as “transitional justice.” There is no universally accepted definition of the concept of transitional justice due to the broad range of circumstances where it applies, as well as for its ever-evolving system<sup>101</sup>. Perhaps, the most inclusive definition can be found in the 2004 United Nations Report on Transitional Justice, in which the former Secretary-General Kofi Annan referred to the subject as:

The full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof<sup>102</sup>.

There is, however, a consensus on the core elements operating within the TJ. The appointed President of the International Center for Transitional Justice, David Tolbert, at the Woodrow Wilson International Center for Scholars<sup>103</sup>, identified four complementary main mechanisms of TJ, namely criminal justice, truth-telling, reparative justice (reparation) and institutional reform. Nevertheless, there is a wide latitude as to how the legal and moral obligations can be satisfied, and therefore there is no fixed structure suitable for all societies and contexts<sup>104</sup>. There is no closed list for the best outcome of TJ and different countries have added other measures such as memorialisation.

<sup>101</sup> Gahima, 2013, p. 1.

<sup>102</sup> UN Secretary General, Report on “The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies”, S/2004/616, 23 August 2004.

<sup>103</sup> The Center is a living national memorial to President Wilson located in Washington, D.C., and the Conference took place on 16 July 2010.

<sup>104</sup> The International Center for Transitional Justice, available at <http://ictj.org/about/transitional-justice> (consulted on 10 June 2014).

Within the TJ paradigm, the role of criminal justice is to provide the judicial means to hold the perpetrators of massive violation of human rights accountable: “It seeks to strengthen criminal justice initiatives worldwide by providing technical assistance to those engaged in complex investigations and prosecutions and by sharing lessons learned from our field programs and research<sup>105</sup>.”

Another major element of a TJ is represented by a Truth Commission. The function of the Commission, also known as TRC (Truth and Reconciliation Commission), is to shed light on the events which occurred in a post-conflict context seeking for truth and accountability. The aim of the Commission is to help provide an objective historical narrative of past wrongs and to clarify the collective memory<sup>106</sup>. The main task consists of carrying out an official, independent and impartial investigation of acknowledgment and to publish an historical record of human rights violations, with the most efficient means and tools at the disposal of the country, which can clearly vary depending on the situation<sup>107</sup>. Once the investigation of TRC ends and its consequential observations and recommendations are provided and established, the pursuing objective of the transitional justice is to seek efficient ways of redressing the harm suffered by the victims of violations. The conclusions of the Commission’s investigation can also help and be incorporated to the construction of an historical memory, contributing ultimately to the restoration of justice<sup>108</sup>. However, if on the one hand the TRC may serve as a vehicle for truth recovery and functions as a support to collective memory, on the other hand Hunt has raised awareness on the possible repercussions produced by the involvement of lawyers and judges<sup>109</sup> in national memory-makers. Regardless the good intentions, there might be a tendency of promoting misleading information derived from the need of forging completely new memory or creating official histories<sup>110</sup>.

The specific scope of inquiry of a TRC varies according to the circumstances of the country; in the case of Argentina the objective

<sup>105</sup> The International Center for Transitional Justice, available at <https://ictj.org/our-work/transitional-justice-issues/criminal-justice> (consulted on 10 June 2014).

<sup>106</sup> Schabas, 2003, pp. 1035-1066.

<sup>107</sup> Hayner, 2001, p. 23.

<sup>108</sup> Schlunk, 1998, pp. 415-422.

<sup>109</sup> It is important to specify that usually within the TRC operate not only lawyers, but also journalists, social psychologists, anthropologists and other experts in a way to understand the phenomena in a broader way.

<sup>110</sup> Schabas, 2003, pp. 1035-1066.

of the investigation was limited to fate and to the whereabouts of the disappeared people<sup>111</sup>. The data and the evidence collected were then immediately referred to the courts in order to advance and to address new appointed prosecutions.

The TRC gathers the information available by proceeding with a vast array of interviews to victims, witnesses, survivors as well as perpetrators, also drawing from other available material<sup>112</sup> in order to be as accurate and neutral as possible, firstly in its elucidation of events and secondly in its identification of perpetrators' responsibilities. It is important to note that the Commission has no authority over taking part in legal actions: the TRC put forth its denounces, but it does not issue official sanctions<sup>113</sup>.

By contrast to normal trials, whose main focus is bringing evidence on the perpetrator's responsibility and during which victims are usually called solely to testify in support of a specific claim, the TRC core interest is to maximise the healing process of those whose rights have been violated. In most cases the work of the TRC paves the way to proceed with the mechanisms of remedy and to promote redress for victims<sup>114</sup>. To begin with, the interviews conducted by the Commission offer a neutral space for women's and men's voices and stories of abuse to be released and to be heard, that can itself be beneficial and produce a therapeutic effect. However, if victims uniformly agree on the value of truth-telling, Mendeloff is skeptical on the efficiency of psychological effects that testifying at the TRC could have on the individual pointing out that truth-telling does not reduce the victim's desire for revenge and anger<sup>115</sup>.

Substantial contribution of the TRC is represented by the moral and political recognition of victim's dignity through public acknowledgment which is achieved through the development of reparation programmes specifically tailored to meet the needs of the survivors<sup>116</sup>. However, it is worth remembering that not every commission is given the responsibility

<sup>111</sup> Crenzel, 2011, p. 39.

<sup>112</sup> The material may vary from the official archives to medical notes, etc.

<sup>113</sup> Peruvian Truth and Reconciliation Commission, *Final Report*, vol. 8, part 2, available at <http://www.cverdad.org.pe/ifinal/index.php> (consulted on 1 July 2014).

<sup>114</sup> Schabas, 2006a, p. 106.

<sup>115</sup> Mendeloff, 2009, p. 602.

<sup>116</sup> Hayner, 2001, p. 96.

to design reparation programmes<sup>117</sup>. Reparations initiatives can be designed in many ways. They may include financial compensation (recognising that no material payment can fully compensate for an emotional loss)<sup>118</sup> to individuals or groups; they can establish restitution; they guarantee of non-repetition; social services such as healthcare or education; and symbolic measures such as formal apologies or public commemorations<sup>119</sup>. As Gahima points out “reparations act like bridges between past and future<sup>120</sup>” combining a possible compensation for the victim’s violation of the past with future political and security reforms aiming at the reconciliation within the society<sup>121</sup>. Furthermore, reparation is considered as an alternative to criminal prosecutions of perpetrators when the latter are dead or have managed to flee the country. In fact, although justice of the tribunals is necessary, it might be insufficient to fully address the needs and concerns of survivors and, in the long term, to promote the reconstruction of a fragmented community.

Over the years, the concept of reparation has changed and with it, also its means of application. If at an early stage the focus of reparation was the state and the perpetrator, the situation started to shift in 1985 when the UN adopted the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*<sup>122</sup> in which the victim was placed at the core of a reparation process<sup>123</sup>. The declaration puts an emphasis on the role of the victim and on the appropriate measures that must be implemented for a successful outcome in the reconstruction of the

<sup>117</sup> De Greiff, 2006, p. 636.

<sup>118</sup> The dilemma of whether massive violations of human rights can actually be compensated was raised by the Senegalese President Abdoulaye Wade during the set up of the World Conference Against Racism. The President rejected the demand for monetary compensation, because as he reported: “We still suffer the effects of slavery and colonization, and that cannot be evaluated in monetary terms. I find that not only absurd but insulting.” Quoted from Suhas Chakma, at the 57th Session of the UN Commission on Human Rights, *The Issue of Compensation for Colonialism and Slavery at the World Conference Against Racism: A Fine Balance Between Rhetoric and Legality*, as reported in Ulrich, 2001, p. 375. In Argentina the organisation of the *Madres de Plaza de Mayo* showed resistance to receiving a sum of money in exchange to the lives of their disappeared relatives, which also implied abandoning their demand for justice. However with the law 24.411 from the Argentinean Civil Code it was pointed out that the duty of repairing economically, measured in money, and not life, the consequences or the value of the harm suffered.

<sup>119</sup> The International Center for Transitional Justice, available at <http://www.ictj.org/ru/node/52> (consulted on 30 June 2014).

<sup>120</sup> Gahima, 2013, p. 9.

<sup>121</sup> Goldstein Bolocan, 2004, p. 364.

<sup>122</sup> General Assembly Resolution 40/34 of 29 November 1985.

<sup>123</sup> Gómez Isa, 2006, p. 24.

society as a whole in the long-term. The new victim-oriented perspective evolved progressively and reached another major achievement in 2005 with the adoption of the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*<sup>124</sup> which contributed to define criteria in order to guarantee the well-functioning of the right to reparation. The basic principles and directives not only guarantee the monetary indemnity as a form of reparation, but also include forms of restitution, satisfaction, psychological and medical rehabilitation, and the reassurance of non-repetition. The procedures are a step forward for the redress of past wrongs and help to comply with the victim's right to justice<sup>125</sup>.

One of the pre-condition to have the programme of reparations fulfilled is to think about ways of rendering reparation gender-sensitive. In fact, the "gender-blind" belief that men and women are exposed to harm in the same way or endure similar consequences during conflicts or an authoritative regime has led so far to adopt a neutral gender approach<sup>126</sup>. The focus on gender in reparations raises the issue of reconsidering from which main perspective and in which way the investigation on truth-finding is accomplished. Rubio-Marín draws the attention on the fact that a gender analysis not only would entail a revision of women's violations<sup>127</sup>, but would also imply a re-examination of the hierarchical relation within societies where women are affected by discrimination and inequalities in their everyday life<sup>128</sup>. According to Guillerot, examining the truth from a gender perspective, both in the judicial and the administrative system, would imply firstly the recognition of the discrimination towards women and their status as "invisible" victims; in second instance, the acknowledgement of occurring violations due to the inequalities; and finally it would be proved that the human rights violations affect men and women differently and the omission of that may produce struggle over identity<sup>129</sup>.

<sup>124</sup> The Economic and Social Council Resolution 2005/35 of 19 April 2005.

<sup>125</sup> The means of reparations had already been recognised under Article 75(1) of the Rome Statute of the International Criminal Court, nevertheless, they lack an interpretative framework which find better definitions in the *Basic Principles* (2005) under Principle IX.

<sup>126</sup> Puechguirbal, 2012, pp. 5-6; see also United Nations Development Programme, 2002.

<sup>127</sup> Rubio-Marín, 2009, p. 386.

<sup>128</sup> Oré Aguilar, 2006, p. 100.

<sup>129</sup> Guillerot, 2006, pp. 136-193.

The progressive institutionalisation of gender perspective in the public agendas influenced the international human rights law<sup>130</sup> and as Guillerot argues the mandate of TRC should also include expressively a gender perspective. The approach would not only aid making reparations more effectively but it would also help prevent violations from happening again. In fact, according to Sikoska and Solomon gender analysis would help to bring about changes and patterns of behaviour and suggest that “social norms about masculinity strongly influence the prevalence of the violent expression of conflict in many places; therefore conflict prevention should challenge these norms as a way of creating condition for peace<sup>131</sup>.” The “gender dimension” is often understood as “women’s dimension,” consequently adding women to the TRC is considered to be a gender measure, moreover often only women are appointed to deal with the task of addressing or incorporating women’s specific needs and problematic<sup>132</sup>.

One of the struggles in general is that the programmes lack a gender-perspective in their design and implementation. Gender equality must be a criterion of the composition of the TRC but gender parity does not always guarantee gender perspective.

### 3.4. SYMBOLIC REPARATION AND MEMORIALISATION

Where is social memory ubicated within the construction of democracy? How is memory preserved?

Jelin claims that a democracy cannot be built upon policies of forgetting, of amnesia or of amnesty over events which occurred in the past<sup>133</sup>. It is only through the recollection, the full elucidation and the acknowledgement of all the events, as well as through a reflection and a new consideration on past wrongs, that a society can draw the conclusion on the failures of a previous situation of injustice and learn to ensure a better future, that carries implicitly the commitment to avoid proposing the same mistake again. Thus, memory becomes the means through which it is possible to elaborate the past and working actively on the process

<sup>130</sup> Ibidem, p. 141.

<sup>131</sup> Sikoska & Solomon, 2002, p. 8.

<sup>132</sup> World Bank, 2006.

<sup>133</sup> Jelin, 2011, pp. 219-227.

of memory will contribute to change circumstances in the future<sup>134</sup>. It becomes a duty and a right for communities, which have been affected by gross violation of human rights, to recall past episodes in order to reflect on them and to give a new critical interpretation of the facts that leaves hope for more just and desirable circumstances in the future dismissing a possible repetition. The public space<sup>135</sup> is intrinsically linked to memory as it represents the place in which the society and citizens identify with<sup>136</sup>. Public spaces are the arena where memories are constructed and articulated, representing a democratic learning environment<sup>137</sup>.

Along with the legal remedies, symbolic reparations are considered an extremely efficient means to help the human being recover from the inflicted harm and alleviating human sufferance in order to deal with the legacy of political violence<sup>138</sup>. Furthermore, when operating in the public sphere, they become fundamental for the construction of social memory<sup>139</sup>. Amongst the declination of the different definitions of symbolic reparation, the one given by the Truth and Reconciliation Commission of Sierra Leone appears extremely explicative:

Symbolic reparations comprise non-material measures to show respect for the victims. They are a clear expression of recognition for the harm suffered. Symbolic reparations can preserve the memory of what happened during the conflict and most importantly, serve as a reminder that society must not allow this to happen again. [...] appropriate memorials may go a long to restoring the dignity of victims and facilitating healing and reconciliation<sup>140</sup>.

Symbolic reparations are polysemic in their nature and can vary their features and implementations according to the context. The term may address a single individual or a collectivity. Symbolic reparations may include presenting official apologies, erecting plaques, renaming public spaces and set days of commemorations<sup>141</sup>. Memorialisation<sup>142</sup> is a form

<sup>134</sup> Jelin, 2009, p. 120.

<sup>135</sup> It is meaningful to stress that public spaces are not a neutral place “and they are defined and affected by the strand of power that create them and interpret them” (author’s own translation). Pernas, 1998.

<sup>136</sup> Maceira Ochoa, 2011, p. 85.

<sup>137</sup> Mir, 2009, p. 523.

<sup>138</sup> Domingo, 2012, p. 5.

<sup>139</sup> Vargas, 2011, p. 115.

<sup>140</sup> Sierra Leone Truth and Reconciliation Commission, 2004, p. 237.

<sup>141</sup> Vinyes, 2011, pp. 65-88.

<sup>142</sup> The term *memorialisation* was adopted for the first time following a report by Brett et al., 2007.

of symbolic reparation raised from a moral necessity to acknowledge and to signal within the public space the presence of an event or fact that marked the national history. The memorialisation projects embody memories which the society should be acquainted with and should reflect on, as an essential requirement for understanding their past and avoid forgetting<sup>143</sup>. The state (not the only promoter in memorialisation policies), as Pastoriza notes, has a moral obligation, towards victims and society as a whole, to guarantee the access to memory and to build elements that can help understand the past<sup>144</sup>. Furthermore, public memorials can be considered as an accomplishment with the right to an effective remedy which is enshrined in many international treaties<sup>145</sup>.

Rubio-Marín highlights the potential transformative nature of symbolic reparations when defined with the right measures<sup>146</sup>. In fact, symbolic reparations can respond, in first instance, to a greater variety of victims and secondly, they can also have a greater impact on future generations. She stresses on the importance of recognising symbolic reparation not only as a mere “attempt of closure aimed at settling once and for all the debts of the past,” rather an achievement for “ever-more inclusive democratic orders.” In other words, symbolic reparation should promote and enable citizens to participate in democratic dialogues.

Jelin, however, warns us on the possibility of losing, over the years and across generations, the meaning of public memorials. As a consequence, the effectiveness of enhancing political and intellectual discussions on democratic values for a different future cannot be fulfilled.

The fight and the struggle to create a memorial is not enough to guarantee the preservation of its significance, as dates and monuments carry no meaning of their own<sup>147</sup>. The transmission of meaningful values derives from the constant work of the individual to question past events and from his or her re-elaboration of memory.

<sup>143</sup> Rubio-Marín, 2009, p. 418.

<sup>144</sup> Pastoriza, 2009, pp. 293-330.

<sup>145</sup> Article 8 of the Universal Declaration of Human Rights talks about “effective remedies.” Article 10 of the American Convention, about “adequate compensation,” Article 63 about “fair compensation,” and Article 68 talks about “compensatory damages.” Article 9 of the International Covenant on Civil and Political Rights includes vocabulary about “an enforceable right to compensation.” Article 14 of the Convention against Torture speaks about “fair and adequate compensation including the means for as full rehabilitation as possible.” And Article 50 of the European Convention about “just satisfaction to the victim.”

<sup>146</sup> Rubio-Marín, 2009, p. 3.

<sup>147</sup> Jelin, 2009, p. 142.

According to Brett et al., memorialisation can play a constructive role when done thoughtfully and when actors from different fields support the initiatives always taking into account cultural differences<sup>148</sup>. Increasing awareness about the engagement of victim's participation and civil society in creating projects, can lead to a more effective and satisfactory reparation<sup>149</sup>. Hamber draws attention to the psychological benefits of and the component of meaningful healing when making the memory of the victims a public matter: "[it] disburden families from their sense of obligation to keep memory alive and allow them to move on<sup>150</sup>."

After a serious breach of violations, memorialisations tend to target men over women as a result of men's violations being more visible. In conflicts men are usually killed whereas the complexity of women's involvement and victimisation is less evident. Again, the gender-blind approach to the context of memorialisation may promote a stereotyped version of women increasing discrimination rather than reparation<sup>151</sup>. Nonetheless, projects targeting women have risen over the years, but they remain significantly limited. Progress has been made in recognising the gendered nature of political violence in public and official reports yet in Rubio's opinion this hardly constitutes a significant means of reparation.

<sup>148</sup> Brett et al., 2007, p. 17.

<sup>149</sup> Rubio-Marín, 2009, p. 419.

<sup>150</sup> Hamber, 2006, pp. 560-588.

<sup>151</sup> Rubio-Marín, 2009, p. 423.

4.

A CASE STUDY: ARGENTINA

During the years of the dictatorship in Argentina the regime promoted a politic of oblivion through clandestine methods of kidnapping, torturing and disappearing. The intention of the Argentinean regime was to erase the identity of men and women and to promote policies of silencing and of forgetting over an uncomfortable past. Nonetheless, the memories of these human beings could not be suppressed from the minds of their relatives or from the survivors, whose yearn for justice and truth produced a stronger demand for redress and for the defense of memory. In this chapter, in section 4.1 I will draw on the political-historical background of Argentina's repressive regime and I will illustrate the role of women and human rights movements in the context of the transitional justice. Moving on, in section 4.2 I will highlight the main Argentinean public memorials promoted by the civil society and the state during the re-establishment of the democracy. Finally I will expand on the role of the New Argentine Cinema in promoting human rights values and in contributing to create spaces for public discussions. I will analyse two specific film cases, *Los rubios* and *La mujer sin cabeza*, and will reflect on the potentiality of human rights film as a "site of memory."

4.1. HISTORICAL CONTEXT AND TRANSITIONAL JUSTICE IN ARGENTINA

In the specific context of Argentina, the country undertook a process of TJ in 1983 after having being ruled for seven years by the fierce dictatorship of the military junta which seized control of the country in a *coup d'état*, that led to a massive violation of human rights. On 24 March 1976 the General Jorge Rafael Videla and members of the Argentine military, *Fuerzas Armadas*, overthrew the government of María

Estela Martínez de Perón and carried out a clandestine and systematic repression. The *Fuerzas Armadas* was secretly supported by the “Triple A”: *Alianza Anticomunista Argentina*, a paramilitary organisation of extreme right led by José Lopez Rega, the former Argentine Minister of Social Welfare under both Juan Perón and later Isabel Perón’s governments<sup>152</sup>. In a growing context of social tension between the right wing Peronistas and the leftist Montoneros the military junta, with their brutal prosecution actions, aimed at re-establishing a social order which is known as the *Proceso de Reorganización Nacional*<sup>153</sup>. The policy of terror was carried out with a kidnap-torture-disappearance formula, which paralysed the Argentinean society<sup>154</sup>. The victims of the enforced disappearances were revolutionary left-wing dissidents, namely, intellectuals, students, artists and militants of the guerrilla, who were considered a threat for the stability of the country.

The victims of the “Dirty War<sup>155</sup>” were illegally kept in detention centers, tortured and murdered and it is estimated that between 10,000 and 30,000 people “disappeared” during the dictatorship<sup>156</sup>. Among the 350 and more<sup>157</sup> clandestine detention centers, the ESMA, *Escuela Superior de Mecánica de la Armada* (the Navy School of Mechanic) remains one the most important physical presence of the horrors committed under the regime, in contrast with the physical absence (in most cases) of the *desaparecidos/as*. Sadly, it was also the largest detention center where at least 5,000 people were tortured and executed<sup>158</sup>: “the ESMA was not only a clandestine detention center where torture took place, but it functioned as the operational axis of a complex organization that even possibly attempted to hide its crimes by exterminating its victims<sup>159</sup>.” With the detention centers, the *vuelos*

<sup>152</sup> Millán, 2001, p. 107.

<sup>153</sup> Ibidem.

<sup>154</sup> Pastoriza, 2009, p. 292.

<sup>155</sup> The 1976-1983 dictatorship is referred to as “Dirty War” because of its “dirty” tactics, violating human rights by kidnapping, torturing and executing political enemies and intellectuals, see Lewis, 2002, pp. 2-5.

<sup>156</sup> Feld, 2010, p. 23.

<sup>157</sup> EAAF, 2007-2009, p. 16.

<sup>158</sup> CONADEP, *Lista Revisada de los Desaparecidos en Argentina*, available at <http://www.desaparecidos.org/arg/conadep/lista-revisada/main.html> (consulted on 11 July 2014). The CONADEP reports 5,000 tortured and executed people who entered the ESMA, of which only 201 survived.

<sup>159</sup> CONADEP, *Nunca Más*, Report of 1984 (author’s translation from Spanish), available at <http://www.memoriaabierta.org.ar/> (consulted on 12 July 2014).

*de la muerte* (death flights)<sup>160</sup> and other criminal acts the intention of the military junta was to mutilate the society of an entire generation, by annihilating its political opponents and by concealing and keeping silent the voices of those who fought for different ideals: “they tried to void society of all of that which worried them by destroying its vital capacity and banning everything, from police to the arts<sup>161</sup>.”

The victims were numerous, but the true objective were those alive; the whole of society who, before undertaking its deep transformation, had to be brought under control and dominated by terror and words. The State was split in two: one side, clandestine and terrorist, practiced repression without responsible parties, exempt from having to answer to any claim. The other, the public side, supported by the legal order it itself established, silenced any other voice. Not only the Republic’s institutions disappeared, but also the public confrontation and expression of opinions were shut down arbitrarily. Political parties and activity were banned, as well as unions and trade union activities; the printed media were subjected to explicit censorship which prevented any mention of the state terrorism and its victims, and artists and intellectuals were kept under surveillance. The only remaining voice was the state, speaking to a fragmented group of inhabitants<sup>162</sup>.

Paradoxically, however, as revealed by one the survivors of the ESMA, Lila Pastoriza, the intent of the regime strategy to wipe out any lingering memory by erasing identities and making their victims disappear, produced the opposite effect<sup>163</sup>. After seven year of repression, in 1983, the democracy was eventually restored and the new government established and implemented a period of the transitional justice which aimed at the redemption of the memory and the dignity of the victims. The transition began with a series of promising signals, including the cooperation among women’s organisations and human rights group<sup>164</sup>. On 10 December 1983 the President Raúl Alfonsín was democratically elected, the government focused promptly on shedding light upon the events occurred during the dictatorship substituting policies of

<sup>160</sup> *Vuelo de la muerte* is referred to as barbaric act of murder by which people were put to sleep through an injection and later placed on a track that would transport the victims on planes. From the planes women and men were thrown, still alive, in the sea or in the water of the Río de la Plata.

<sup>161</sup> Calveiro, 2001, p. 47 (author’s translation from Spanish).

<sup>162</sup> Romero, 1996, p. 288 (author’s translation from Spanish).

<sup>163</sup> Pastoriza, 2009, pp. 294-295.

<sup>164</sup> Jaquette, 1989, p. 83.

forgetting with a policy of memory<sup>165</sup>. During his first week in office, on 15 December the President created the National Commission on Disappeared Persons, CONADEP<sup>166</sup>, and charged it with investigating the fate of the *desaparecidos/as*. The set up of the Truth Commission represented one of the most influential initiatives aimed at bringing the democracy back, in particular, the official report published in 1984 *Nunca Más*<sup>167</sup>, led to a series of convictions of the main exponents of the dictatorship, including the General Videla. The report listed numbers of victims and detention centers of gross violation of human rights committed by the regime and helped to initiate a series of trials which seemed to consolidate the rule of law in Argentina. Together with the investigations of the Truth Commission, an active and growing human rights movement started to raise awareness on the victims of enforced disappearances within the Argentinean community as well as at international level<sup>168</sup>. One of the most powerful groups, *Las Madres de Plaza de Mayo* (Mothers of Plaza de Mayo), founded by the mothers of the *desaparecidos/as*, contributed significantly to the fight against impunity of the perpetrators by creating an image of “ideological neutrality<sup>169</sup>” carrying out a long-term symbolic protest. The women started a peaceful demonstration<sup>170</sup>, during the dictatorship and in the aftermath, and set up a space of resistance against the repression of the regime. The tenacity and the perseverance of these women successfully promoted the cause of truth and justice not only for their sons and daughters, but also for women themselves becoming a symbol of a new political engagement which subverted the historical tradition of women’s struggle for legal rights that can be traced back to the last decades of the

<sup>165</sup> “The aim of the enforced disappearances was to erase the memory of remembering. In this way, together with the physical disappearance of men and women, their aspirations, their yearnings, their projects and future prospects would disappear with them” (Oberti & Pittaluga. 2004-2005, p. 5); for a more in-depth see *ibidem*.

<sup>166</sup> Argentinean Decree No. 187/83, Comisión Nacional sobre la Desaparición de Personas, [Argentina], passed on 15 December 1983.

<sup>167</sup> For more in-depth see <http://www.desaparecidos.org/nuncamas.htm>.

<sup>168</sup> The *Madres* sought attention of the media and succeeded to make themselves heard internationally in 1978, during the World Cup that took place in Buenos Aires.

<sup>169</sup> Robben, 2005, p. 306.

<sup>170</sup> On 30 April 1977 fourteen *Madres* gathered together at Plaza de Mayo, Argentina’s central political space, with the purpose of demanding publicly information on the whereabouts of their missing relatives. The dictatorship prohibited people from gathering in public places, so they began walking around the pyramid in the center of the plaza. Ever since, the *Madres* have been marching every Thursday at 15:30.

nineteenth century<sup>171</sup>. Women’s mobilisation – especially of the *Madres* but also of other groups – against the violence experienced in Argentina led to a reshape of the representation and the role of women under the patriarchal architecture and transformed the traditional ideology of the Latin motherhood<sup>172</sup>. Among others<sup>173</sup>, Bejerano and Jelin drew attention to the gender shift and its rapid expansion which influenced many others women’s movements across Latin America<sup>174</sup>, who transformed private and personal grief into collective political action<sup>175</sup>. The role of women during the transition gained substantial meaning when motivated by their “private” emotional loss; the *Madres* stepped from the traditionally confined domain, the house, out into the public sphere operating as activists<sup>176</sup>. In a broader view, the women paved the way to a new representation of women in Argentina, as Aretxaga states: “[The *Madres*] produced social force through the embodiment of emotion through social action<sup>177</sup>,” the women were able to defy gender roles through collectivity and by using their identity strategically. The paradigm of the *Madres*’ politics was based on the transformation of the “mother” status in an empowering tool, they rely on a strong personal leadership and were held together by gender solidarity regardless the pursue of a particular political agenda. The women maintained their autonomous organisational identity, separated from political parties and followed a feminine logic based on the mother’s responsibility of defending and protecting their missing children<sup>178</sup>. The evidence is reinforced by the explanation given by one of the Plaza de Mayo’s Mothers, Haydée Gastelú de García Buela: “Everything came from motherhood. There was nothing else that could have made us do what we did. We were going on instinct, it was not rational, it came from our

<sup>171</sup> An historical long-term approach to women’s struggles in Argentina can be found, among others, in Feijoó, 1982.

<sup>172</sup> Aldama, 2003, p. 405.

<sup>173</sup> The debate over the social change from the traditional to the modern gender shift brought forth by women in Latin America has been widely discussed. For more insight on the discussion among others see Desposato & Norrander, 2009; Buvnic & Roza, 2004; Morgan & Buice, 2013.

<sup>174</sup> Bejerano, 2002, pp. 126-150. Also Jelin, 1990, pp. 184-207.

<sup>175</sup> Among other groups see the *CoMadres* in El Salvador and *Nuestras Hijas de Regreso a Casa* in Mexico.

<sup>176</sup> Marcos, 2008, p. 93.

<sup>177</sup> Aretxaga, 1997, p. 105.

<sup>178</sup> Feijoó, 1989, p. 77.

motherhood<sup>179</sup>.” Burchianti notes how the spark of activism, the demand for their rights to truth and justice, together with the search for the missing children was intrinsically connected to the maternal memories and the body experiences such as giving birth<sup>180</sup>. The involvement in the *Madres’* movement was the result of a transformative process of “rebirth” in which women gained political consciousness. In light of these important observations, one could argue that the fight for political change that had once started with the *desaparecidos/as* was “inherited” by their own mothers who took over the struggle for social justice with political engagement and continued to fight in memories of their sons and daughters who were no longer able to wage that struggle.

The pacific fight brought forth by women within the Argentinean society marked the defense of life an ethical principle and was then capable of destroying the traditional rules of political game<sup>181</sup>. In other words the *Madres* redefined social and political power through cultural process contributing substantially to the process of restoring democracy.

With the pressing social demands for truth and justice on behalf of the civil society including human rights organisation, and after the dissolution of the CONADEP, in 1984 there was an urgency to implement an executive body that would follow up from a legal perspective the Commission’s recommendations and properly implement them. Therefore, a new governmental body was created: the Undersecretary for Human and Social Rights (*Subsecretaría de Derechos Humanos y Social*) which eight years later was substituted by the Secretariat of Human and Social Rights (*Secretaría de Derechos Humanos y Social*)<sup>182</sup>. The Office had a specific jurisdiction in human rights and to it was assigned the duty of systemising the data gathered by the Commission and had the authority to apply most of the laws issued to redress the crimes endured by the victims of the dictatorship<sup>183</sup>.

The final report of the CONADEP included a clear statement on the reparation policy to apply to the survivors and to the relatives of the *desaparecidos/as*:

<sup>179</sup> Interview to Haydeé Gastelú de García Buena, Buenos Aires, 2011.

<sup>180</sup> Burchianti, 2004, pp. 133-150.

<sup>181</sup> Jaquette, 1989, p. 78.

<sup>182</sup> After several changes of names and responsibilities, due to the different governments in charge, in 2002 the Secretariat was incorporated as an office of the Ministry of Justice and Human Rights.

<sup>183</sup> Guembe, 2006, pp. 23-26.

That the necessary regulations are pronounced so that the children and/or family members of disappeared persons during the repression receive financial assistance: scholarships, social aid, jobs. Also, that the measures deemed necessary are sanctioned and come together to alleviate the different family and social problems that have emerged from the forced disappearance of people<sup>184</sup>.

The recommendation addressed in particular the crime committed against the disappeared people and the consequent reparation of economic nature. However, between 1984 and 1985 a series of laws were passed which included a wider spectrum of victims and reparations.

Nevertheless, the promising measures adopted towards the development of the democracy implemented by the government of Alfonsín during the transition, shifted abruptly in 1986 with the enactment of the Full Stop Law<sup>185</sup> and in 1987 with the Law of Due Obedience<sup>186</sup>. Both laws were perceived as “undercover” amnesties that facilitated the exemption to prosecute perpetrators of human rights crimes<sup>187</sup>. The trials for the crimes committed under the dictatorship definitely ceased with the new government of Menem in 1989 when the President granted presidential pardons<sup>188</sup> to the imprisoned members of the military between 1989 and 1990 under the alleged need of pacification<sup>189</sup>. The disillusion for achieving justice did not discourage the human rights movements<sup>190</sup> which persisted in their fight for accountability and led strong campaigns against impunity obtaining the condemnatory final report 28/92 from the Inter-American Commission on Human Rights (IACHR) which deemed the impunity laws and the presidential pardons violating the American Convention on Human Rights<sup>191</sup>.

Human rights activists and in particular human rights lawyers from the Centro de Estudios Legales y Sociales (CELS) managed to persuade

<sup>184</sup> CONADEP, *Nunca Más*, Report of 1984, available at <http://www.memoriaabierta.org.ar/> (consulted on 12 July 2014), p. 477 (author’s translation from Spanish).

<sup>185</sup> The *Ley de Punto Final* No. 23.492 set a 60-day deadline for the initiation of new prosecutions.

<sup>186</sup> The *Ley de Obediencia Debida* No. 23.521 granted immunity to all army personnel ranked colonel or below on the grounds that they were following orders.

<sup>187</sup> Urtubey, 2005, p. 110.

<sup>188</sup> Menem issued two pardons which led to the same outcome of punitive exemption. The first pardon concerned officers who were still facing trials and the second one for those who had already been convicted.

<sup>189</sup> Filippini, 2009.

<sup>190</sup> Jelin, 1994, p. 38.

<sup>191</sup> The IACHR denounced incompatibility of “the right to a fair trial” (Article 8) and of “the right to judicial protection” (Article 25), in relation to the obligation of the states to guarantee the full and free exercise of the rights recognised in the Convention’s Article 1.1.

Argentina's federal courts to conduct "truth trials" which helped to clarify facts and to proceed to certain extent with prosecutions of perpetrators. Moreover, the IACHR supported the trials as an effective mechanism when facing impunity.

Obstacles of impunity were removed in 2001, when the Federal Judge Gabriel Cavallo ruling at that time, sentenced that the Full Stop and Due Obedience Laws were not in accordance to the Argentinean constitution leading to the re-opening of many cases again. Finally, in 2003, with the Kirchner government and its promotion of human rights values and the supremacy of the democracy the laws were eventually declared invalid. In 2006 the Supreme Court annulled the former pardons granted to the junta members followed by the invalidation of the presidential pardon which was considered null in 2007<sup>192</sup>.

Notwithstanding the struggles to assure criminal justice, Argentina established a new model of transitional justice that looked to other mechanisms for confronting the past and helped make Truth Commissions an acceptable way to fill the gap left by compromised criminal justice<sup>193</sup>.

#### 4.2. MEMORIALISATION IN ARGENTINA

Until the late 1990s the memorial spaces recognised by the state were extremely limited. The 20th anniversary of the coup marked the beginning of a new era. The development of joint projects between the state and the NGOs created spaces where individuals could share stories, remember, and learn including the controversial opening of the ESMA which was delayed for years because of conflicting interests over converting the Argentinean' largest concentration camp in a memory museum.

The reconstruction and promotion of memory in Argentina was possible mainly for three reasons. Firstly, the denounce and the claim for justice on behalf of victims and human rights NGOs, which rejected the impunity laws by the government of Menem. Secondly, for the demand for justice which promoted a "wave" of memory around the 1990s.

<sup>192</sup> Filippini, 2009.

<sup>193</sup> Hayner, 2001, p. 237.

Finally the third step occurred in 2003 with the Kirchner administration (2003-2007) whose objectives were human rights and the supremacy of democracy. Néstor Kirchner fought for the preservation of the vivid memory against oblivion, and thus fulfilled the societal demands for public memorialisation. A major achievement was accomplished on 24 March 2004 when the former President Kirchner gave his consent to transform the ESMA<sup>194</sup> into a public patrimony. The building was converted into a museum of memory<sup>195</sup>. In 2008, the former ESMA in contraposition to its previous horrific use for torture and death, became also a “site of life” where the *Madres* promote life through art, poetry, music and among other practices<sup>196</sup>.

Another way that Argentina dealt with remembrance was achieved through the inauguration of the memorial space Parque de la Memoria within the 20th anniversary of the coup on 30 August 2001. The park gave the possibility to construct a monument to the victims by exhibiting a group of sculptures and containing the names of all recognised *desaparecidos/as*. The choice of the seventeen sculptures implemented in the park was based on two procedures: eleven were chosen in an international contest; the remaining six were created by an artist who held an important role in the human rights framework. The sculptures represent not so much a narrative, but rather leave space for one’s own interpretation and judgment.

As mentioned previously, memorialisation contributes to transform memory into a living process without which monuments or other symbols would be emptied of their meaning, as human beings repeatedly construct and deconstruct memory. Among other successful process of memorialisation, there is the case of the *Siluetazo*. The idea of the visual memorial refers to the *desaparecidos/as* whose enforced disappearance, in the majority of cases, left the relatives of the victims without a trace of the bodies.

On 21 September of 1983, on the day that commemorates students, and which obviously carries highly implicit political connotations,

<sup>194</sup> It is important to remember that under the government of Carlos Menem (1989-1999) it was issued a decree with the intention of abolishing the ESMA building and replacing it with a park, that would represent a “symbol of national union.” Human rights organisations appealed to the justice for the preservation of the site as a country’s cultural heritage.

<sup>195</sup> Memoria Abierta, available at <http://www.memoriaabierta.org.ar/> (consulted on 12 July 2014).

<sup>196</sup> Marcos, 2008, p. 97.

considering that a significant number of *desparecidos/as* were students at the time of their enforced disappearance, suddenly millions of outlined man-sized body-shaped forms appeared on paper representing the thousand men, women and children vanished during the Argentinean dictatorship. The silhouettes were later stuck on the walls of the major symbolic spaces of the repression where tortures used to occur. The myriad of paper covered the main strategic places of the city and produced a disturbing visual effect which brought the past back into the present. That past, beforehand, had never been acknowledged from that society who instead remained trapped in a unsettling feeling of guilt choosing to forget and look away. The silhouettes had a powerful visual impact on the collective cohesion, which was now struggling to rebuild an identity for all. The memorial shook consciences and conveyed an extremely emotional and strong message. The human body is a site of memory and these figures, on a symbolic level, reached out to represent what could ultimately not be represented, due to its absence. The relatives were calling for truth and justice against forgetting.

It is interesting to mention that if, in their first epiphany the silhouettes were completely white yet laying on a black background, essentially depicting “anonymity” for being simply figures, together with the elaboration of grief, the human-shaped paper forms started to acquire a specific identity through colours and names painted by the relatives. Eventually, they became present in the collective memory of the society. The material absence was redressed through the symbolic presence. As Marcos states: “against the culture of oblivion, of the *desmemoria*, the silence and the impunity, social justice can redeem the culture of memory<sup>197</sup>.”

#### 4.3. THE NEW ARGENTINE CINEMA: AN ANALYSIS OF TWO FILMS

In the 21st century the Argentinean production of films, historically accomplished by men, with some exceptions of women directors like Maria Luisa Bemberg, changed radically allowing women to enter the industry and to introduce a gender perspective previously missing or interpreted differently. The phenomenon was the result of a social

<sup>197</sup> Ibidem, p. 99 (author’s translation from Spanish).

and ideological breakdown of patriarchal institutions, as the family, which increased women's awareness on their subordinated condition to men's authority and followed a gradual liberation from the oppression. Moreover, according to García Canclini, the significant development of visual language in the last two decades and its impact on the field of arts, contributed to create a tool of empowerment for women<sup>198</sup>. Women directors in Argentina in the late 1990s<sup>199</sup> grew in the midst of a transition, from the dictatorship to the democracy; in this climate of change and uncertainty they brought on the screen their concerns, questioning traditional values and gender roles. The shift to the exposure of new controversial issues expanded exponentially generating a cultural phenomenon that was defined as the "New Argentine Cinema<sup>200</sup>." Gonzalo Aguilar was one of the first theorists who referred to the second wave of the post-dictatorship films which combined documentaries and fictions. The rise of new technologies and the flourishing evolution of fruition channels contributed to the spread of the phenomenon. The development offered other possibilities of distribution, projection and production, reducing costs and together with a receptive audience, women could finally express themselves, share their vision, their ideas and make themselves heard by the society. Within the context of human rights, women have subverted the canons of traditional engagement with the dictatorship discourse and the stereotyped representation of gender roles in films. New approaches to truth, memory and identity contributed to expand and give new perspectives to the debate of the "official" Argentinean history. The need of reshaping a national identity and the demand for clarification on political and historical events, which remained silenced and untreated by the government for too long, were few of the reasons why cinematic creativity spanned over facts related to the recent dictatorship. The regime and its social and political consequences are still the central focus of the young filmmakers of the new millennium, but the approach breaks with the former rigid, conservative and patriarchal perspectives of events of the late 1980s<sup>201</sup>. The shift is also

<sup>198</sup> García Canclini, 2010, p. 51.

<sup>199</sup> For more insight on the matter watch films directed by Maria Luisa Bemberg, Anahi Berneri, Lucia Puenzo.

<sup>200</sup> Aguilar, 2008, p. 18.

<sup>201</sup> Watch, e.g. *Pasajeros de una pesadilla* (1984), *Otra esperanza* (1984), *La república perdida II* (1985).

due to the emergence of feminist studies that have highly influenced the cinematographic field. Laura Mulvey's essay "Visual Pleasure and Narrative Cinema"<sup>202</sup>, among others<sup>203</sup>, had been considerably influential for its critical analysis on the dominant standardised female image proper of Hollywood cinema but which applied significantly also to Latin American cinema<sup>204</sup>. The theory enunciated by Mulvey followed two precise concepts. On the one hand she directs her attention on the way women are represented in general in films and on the other hand she considers how women viewers perceive the film. According to Mulvey, until the 1970s there was a tendency of using gender categories which promoted the rigid sexual hierarchy which underlined the subordinated relationship of women to men. This was particularly truthful in regard to the production of propagandistic films under the dictatorship in Argentina, where gender inequality and the patriarchal architecture was highly promoted, depicting values of the ideal social hierarchy, which the regime supported.

Before the 21st century, Argentina had very few women-directors, as women's role in the society was mainly confined to the domestic environment. However, with the increasing movement of human rights calling for truth and justice women as mentioned earlier progressively subverted the traditional relationship framework and engaged themselves in becoming more visible especially in the field of cinema. Women, in their subordinated position, became highly influential political agents for interiorising and developing ideas and thoughts which finally could be expressed<sup>205</sup>. Petö shows the importance that the family played as a place of counter-tradition especially with regards to women's rights<sup>206</sup>.

On the screen, the interpretation of the men-women unjust and subordinated relationship, mainly subconscious, is codified in the images and it controls the way the film is to be seen. Mulvey emphasises the fact that the view of the spectator, as well as the consequent pleasure, is purely adapted to the male gaze. "The beauty of a woman [is] an object on the screen. [...] The body, stylized and fragmented by close-ups, is the content of the film and the direct recipient of the spectator's

<sup>202</sup> For more insight see Mulvey, 1988, pp. 57-68.

<sup>203</sup> See also De Lauretis, 1992.

<sup>204</sup> Subero, 2014, p. 18.

<sup>205</sup> Paletschek & Schraut, 2008, p. 21.

<sup>206</sup> Petö, 2008, pp. 237-253.

look<sup>207</sup>.” Following the theory, many directors implemented shifts and adjustments to their productions for new conscience spectators. Mulvey’s theory was also taken into consideration by the two directors that I am now going to introduce.

In the following section I will proceed with the analysis of the films and drawing on the cinematographic language I will provide a reflection on the characteristics of the director and the main character, I will introduce key scenes which refer to the theme of memory.

#### 4.3.1. *Albertina Carri: Los rubios*

The film *Los rubios* (2003), within the New Argentine Cinema, represents one of the most significant attempts to the re-construction of past memories from a different perspective. The film bursts on the scene with its unconventional use of narrative structure and cinematic techniques, making a clear cut to the previously seen approach to the “official” truth and memory.

##### *Synopsis of the Film*

The theme draws on the traumatic personal experience of the film director Albertina Carri, who is looking for records of the disappearance of both her parents in Buenos Aires, gone missing in 1977. In this film the narrative is significantly fragmented just as memory is fragmented and blurred. The narrative characteristics of the film are peculiar, mostly due to the fact that the filmmaker, as strong as her intent is, can neither truly represent the real horror, nor the place of forgetfulness, nor can she provide a faithful view of what is usually expected from a documentary. This is a consequence of witnesses (always women) who are not willing to talk about what happened, betraying memory, and appealing to the conspiracy of silence for their own sake and in order not to be compromised politically: “No tengo nada que decir. Muy bien no me acuerdo. No tengo ni idea [de la gente aquí al lado]” (I have nothing to say. I do not remember very well. I have no idea about the neighbours)<sup>208</sup>. The narrative structure adopts all types of documents from the past, from fading picture, to objects and recorded interviews, transforming the film

<sup>207</sup> Schatz, 2004, p. 135.

<sup>208</sup> *Los rubios*, 2003 (00:04:30) (author’s translation).

in a proper discourse of remembrance. Another central theme of the film is the body and what it symbolises building a new subjectivity.

### *Analysis of the Film*

In order to overcome the dilemma of narrating and representing a missing past, made of absence, forgetfulness, trauma and silence, the director explores the reality and its implication in the present, through the depictions of her personal memory as a dream-like state between “fact” and “fiction”<sup>209</sup>. The film intertwines and blends together three different narrations with three different techniques. Carri combines documentary with animation and fiction opposing the black and white visual style to color footage. The result is a blurred and confusing narration which highlights the fallibility of memory<sup>210</sup>. The diverse strands also intensify the sense of inner fragmentation that Carri experienced growing up with no memories of her past and, to a broader extent, the different levels of the story may also embody the crumbled identity of her nation, which was mutilated of a part of its own memory and suffered its reconstruction.

Carri begins an investigation on the meanders of memory starting from her personal quest for her parents Roberto Carri and Anna Maria Caruso, political activists who were abducted, tortured, and who disappeared during the dictatorship in 1977<sup>211</sup>. The director gathers data from what is available, pieces of memories left from interviews, letters, pictures and other traces, ultimately confronting the impossibility of depicting the absence. The search is characterised by a subtle irony throughout the whole film, which the director strategically adopts for her critical denounce towards a part of the society which refused to see and lacked to acknowledge the reality at the time, remaining silent. The collective denial constituted a violation to the victims’ right to truth and the right to justice producing social unrest. The community was prevented from undertaking the natural elaboration process of trauma; missing information on what had happened led to the impossibility of holding memories which highly affected the nation’s identity, resulting fragmented and stagnant.

<sup>209</sup> Kohan, 2004, p. 24.

<sup>210</sup> Woodson, 2010, p. 1.

<sup>211</sup> CONADEP, *Lista Revisada de los Desaparecidos en Argentina*, available at <http://www.desaparecidos.org/arg/conadep/lista-revisada/main.html> (consulted on 11 July 2014).

The first narrative of the film consists of the physical search of Carri's missing parents. From the very first scene, the spectator is left in a state of confusion caused by an unexpected shift of identities. In fact, while we expect the director to play the role of Albertina herself, by hearing her voice echoing in the background, the main character is interpreted by the actress Analía Couceiro who introduces herself: "My name is Analía Couceiro, I'm an actress, and in this film I play the part of Albertina Carri." Nonetheless, the director occasionally appears as "herself" along the film raising ambiguity on the dichotomy of the director/protagonist. Carri leaves out most of the emotional aspect from her personal story converting the first person of the film onto a fictional character that has not been "directly affected" by the violence. Through this shifting expedient and by keeping emotional distance Carri allows herself to legitimately approach her past in the most objective and effective way<sup>212</sup>. Nouzeilles, in her analysis argues that Carri disestablishes the public *persona* of the "daughter of the disappeared" with the aim of creating a new point of view while recounting events<sup>213</sup>. This is a clear reference to the previous filmmaking trend that resulted too codified and tailored according to the institutions. Carri is underlying the need of including new perspectives. The filmmaker is considering the implication for the society to coexist with different memories which ultimately result to be conflictive. Merging in one stream are the different ways in which oblivion and memories are constructed or re-elaborated. Here the director also alludes to the facility of manipulating the testimonials as a result of adopting only the dominant memories tending to prevail in the discourse of an "official" voice. The denial of negotiating a consensus version lead to an inevitable risk of homogenising the different products<sup>214</sup>.

To delve into the past, means to look into every detail and approaching the "lost time" from all possible perspectives as many perspectives correspond to the depths of the past. The official post-dictatorship discourse proclaims its position through one of its most visible organisms. Drawing on different versions of history and swing them into one narrative is a way to sublimate tragedy and give victims the reward they deserve<sup>215</sup>.

<sup>212</sup> Garibotto & Gómez, 2006, p. 109.

<sup>213</sup> Nouzeilles, 2005, p. 266.

<sup>214</sup> Garibotto & Gómez, 2006, p. 110.

<sup>215</sup> Ibidem (author's translation from Spanish).

Furthermore, as suggested by Kohan, by using an actress who embodies Albertina's alter ego, the director aims at the annulment of the identification effect in the main character on behalf of the spectator, which would have a comforting effect, ultimately resulting into a cathartic discharge<sup>216</sup>.

The second strand consists of a documentary about the making of the first thread. These two threads also intertwine. The scenes in the last narrative strand are made of PlayMobil toys, filmed in stop motion animation, representing the generation of children of disappeared, depicting memories and themes of loss and trauma as experienced through the eyes of the child. Carri uses the PlayMobil dolls also in order to create a moment of memory and illustrates *her* emotions derived from the loss of her parents.

During this narrative strand Carri reflects on the other two narrative threads. The three main themes represent loss, identity and memory; memory and the right to remember is both a means of dealing with loss and of overcoming the identity struggle. The memory of Carri's parents is at the same time a way of mourning and dealing with her trauma and a tool for the construction of identity. The scenes of the PlayMobil dolls appear every now and again, and help to arouse feelings of sympathy in the spectator. The use of animation facilitates access to memory and its representation, but during the movie it becomes clear that the memory is and remains blurred.

In one PlayMobil scene Carri tries to reconstruct the disappearance of her parents. A UFO kidnaps the parents. After that three blond PlayMobil children arrive, representing Carri and her sisters. They were too young to remember and, in particular, to understand. This scene emphasises the difficulty of remembrance.

Memory, which lies at the core of the investigation, is approached in different ways throughout the film. The style of narrative constantly jumps from the present to the past, as well as from documentary to fiction. The director uses tools, such as voice-over, black-and-white filming or Carri's fictional character, in order to separate and to understand the different narrative strands of the film, but mainly to stress on the difficulty of representing identities (not only hers but also that of her parents) which have been stolen. How can the absence be

<sup>216</sup> Kohan, 2004, p. 26.

represented? How can memory be represented when it has been erased or traumatised? The purpose of human rights film is also to address these tormenting questions which are deeply entrenched in the souls of victims who are seeking a way of redress. In order to ease her torment Carri expresses herself in a magnificent and unconventional way by opening up a space for further discussion on the issue. It is also interesting to note that the characters Carri refers to or questions are mainly women, giving them a possibility of expressing themselves publically, bringing their personal testimony about the event. Telling the truth, as previously mentioned, can result in a catharsis and with her work, Carri contributes to soothe pain within the narrative of the film. Furthermore, in those circumstances which create a space for debate, viewers may feel encouraged to discuss their own memories and experiences of trauma.

Carri deals with her own trauma throughout the film. She finds a way to express her inner sufferance, retrieving her “missing” identity by putting together the difficult puzzle pieces of her past and her present. The search for acknowledging her “original” identity remains unsolved leaving the deep embodied wounds open. The more she investigates, the less clear are the traces. At the end of the film Carri (fictional character) puts a blond wig on her head, as a personal reference to her parents, *los rubios*. She then walks away, manifesting her decision to carry on in life with a renewed identity. While the camera initially zooms out from Albertina who is leaving the fictional space of the film by walking towards the horizon and following her own “isolated and mutilated” path, at a later stage, the spectator sees all the components of her family walking next to her. Here the film-maker blends together the two different narrative styles: the documentary and the fiction. Albertina (fictional character) has accomplished the investigation to find out more about the truth with little success, but at the same time Albertina (director) surrenders to the permanent sufferance and decides to go back to her “normal” life with a different perspective. To conclude, the film ends with Carri (fictional character) accompanied by her film team who also wear blond wigs, underlining the fact that the film does not only address the individual, but also the collective memory<sup>217</sup>. The film represents a picture of the contemporary national struggle for an

<sup>217</sup> *Los rubios*, 2003 (01:18:00).

identity of post-dictator Argentina with its need of a collective memory, moving away from the idea that there is only one universal truth about the past. The reflection that is raised by Carri about her own search of identity is not only personal, but is extended to the whole society acknowledging that the quest for truth may include different versions of the same shared reality.

#### 4.3.2. *Lucrecia Martel: La mujer sin cabeza*

Another highly influencing female director of the New Argentine Cinema is, without a doubt, Lucrecia Martel. Her success of the late 1990s and beginning of the 21st century is due to her breakthrough with her short film *Rey muerto* and her feature films *La ciénaga* and *La niña santa*. One of her most recent work is *La mujer sin cabeza* (The Headless Woman) which was premiered in several film festivals and represents one of the most political films the director has ever made<sup>218</sup>. At the same time it tries to go against the drain of the possibilities offered by documentation<sup>219</sup>. *La mujer sin cabeza* proposes a hallucinatory immersion within the effects of guilt, complicity and denial unleashed by the last dictatorship (1976-1983). Although the film does not reveal obvious evidence for its political reference, it can be interpreted as such, due to its metaphors, images and symbols. Moreover, Martel uses dresses and sounds (music) to refer to the times of the military regime.

#### *Synopsis of the Film*

While driving, a middle-class dentist, Veronica, hits something with her car due to a temporary distraction. From the rear-view mirror the protagonist cannot tell whether she ran over a boy or a dog. With the exception of a first dazed and confused moment, the woman has no intention of acknowledging what has really happened, neglecting the fact that someone could have been killed. Veronica goes back to her normal life, ignoring the event and pretending that nothing has happened in the environment around her. The film stresses on the role of women as potential political agents; the director is highly critical towards the protagonist, who seems to have lost her identity and becomes a mere

<sup>218</sup> Matheou, 2010, pp. 302-322.

<sup>219</sup> Ibidem.

puppet in the hands of men. Despite Veronica's negligence, the remorse and the sense of guilt rises and hunts her throughout the film, as an analogy for the Argentinean society equally hunted by the ghost of the pasts, as a result of its blinded attitude and its incapability to take responsibility towards the events of the dictatorship.

### *Analysis of the Film*

From the opening shot of *La mujer sin cabeza* the camera pans and zooms onto what will represent the object of the narrative: "the 'text' is the actual film, an object of the real world<sup>220</sup>." The camera follows three little boys and a dog running and crossing a desolated road. From the beginning the spectator is confronted with a metaphorical interpretation of the past represented by the desolated rural road: missing people. In the following scene, a bus passes by along the road and one of the little boys suddenly disappears from the shot leaving the audience with a feeling of uncertainty and doubt. Drawing on Metz's theory<sup>221</sup> in which he compares the narrative structure of language to the different segments composing a film, the author argues that the camera movement embodies the guiding thread of syntax in cinematographic language. Therefore, seemingly to the interpretation of metaphors within a literature text, the images of a film can be interpreted and should raise questions about the message they carry behind them. Following these premises and continuing with the analysis, with the camera focused on the action of crossing the road, the director signals the presence of a controversial theme as crossing a line between life and death, a theme to which we will be exposed to throughout the film. In addition, the scene could also stress on crossing the border of what is socially acceptable and what on the contrary should be hidden. For the first twenty minutes of the film the protagonist is never shot with a frontal view, suggesting a rather fragmented character. Through camera angles which never frame an object as a whole, the narrative seems difficult to decipher. The images are wrapped in obscure metaphors and symbols, and it's the spectator's duty to interpret them. By avoiding to shoot objects as a whole, and by giving us a cropped and fragmented vision of things, the development of the narrative appears blurred, not

<sup>220</sup> Lapsley & Westlake, 2006, p. 39.

<sup>221</sup> Christian Metz is the first theorist who introduces the study of semiotics in cinema in *Film Language: A Semiotics of the Cinema*; see Metz, 1974.

neatly delineated. The intention of the filmmaker is to provocatively interrogate the audience and to make the spectator reflect on the social subject of the *desaparecidos/as*. The enforced disappeared express a continued trauma, marking the social fabric. How to deal with the sense of guilt of not having seen or not having wanted to see the reality of things during the Argentinean dictatorship? How does society deal with a sense of loss that is unresolved? The director here, in a very subtle way is conveying an important message entrenched with memory. An uncomfortable reality must be acknowledged first by the society as a whole in order to be recalled, remembered and transmitted. Martel denounces, through her fictional character, the reality of policies that promoted oblivion and impunity.

Once again, as Metz suggests through cinematographic narrative, the spectator has the possibility of grasping the messages contained in a specific film. As the theorist quotes: “The shot is the equivalent of a single word, it possesses a meaning. Cinema transforms the word into discourse, and it is not therefore simple duplication [of reality]<sup>222</sup>.”

Moving on with the analysis, the spectator follows the action set around Veronica. Her progressive detachment from reality turns into a complete isolated dimension, overwhelmed by the sense of guilt and remorse. She embodies the disoriented elitist society with cultural concerns, that faces an uncanny present as a consequence of the society’s denial of the events. The repression of a truthful national memory troubles Argentina as a country, but also, to a certain extent, the anxiety perceived in the film raises questions on the responsibility of the entire world, which at that time did not take any action to prevent the atrocities and remained silent.

The film provides a deep rhetorical insight on the attitude of collective identities and politics by voluntarily forgetting and rejecting uncomfortable episodes from the past. Lucrecia Martel, in a rather subliminal way, intends to record what happens, without interfering with the narrative, abstaining herself from making explicit moral judgements almost as if she wanted to film through an unbreakable thick glass, impossible to peer through. In terms of cinematographic devices and the narrative structure a clear sign of this suggestion is the fact that throughout the whole film the sequences are shot through car windows,

<sup>222</sup> Lapsley & Westlake, 2006, p. 42.

glass cases, mirrors, hospital glasses with a particular attention on a scene when the camera, for more than two minutes, lingers on Veronica through the inside of a wide glass-door while she is walking away from the dentist's and covering her eyes with a pair of black sunglasses as an allusion for denial. Moreover, the camera focuses consistently on water; the existential element alludes to the fact that like raindrops slip away almost as if a part of Argentinean society let past responsibilities slide away.

The style of narration does not follow the rules of classic narrative cinema<sup>223</sup>. According to Martel the film distinguishes four different narrative phases: Veronica's altered perception, Veronica's confession to her husband about her feeling of guilt, the cover-up by the family, and the fall-back into normality<sup>224</sup>. Veronica detaches herself from her daily environment and reality through her comatose behaviour. However, her family does not take any account of the change, with the exception of her husband and of her mother. The other women do not notice any change in Veronica's way of acting, as they are themselves somewhat disconnected to reality. This sequence shows how a part of the society denied what was happening during the regime as a matter of survival. But then again, where could people turn to in order to complain about the abuses? For many, ignoring was a way of surviving, terror trapped the society and left people paralysed with fear<sup>225</sup>. Witnesses did not know how to behave, and so many kept silent. Trauma was the barrier that obstructed action.

The central narrative thread is conveyed through the female perspective raising moral questions on the individual and on the collective level<sup>226</sup>. Veronica is driving her car, distracted by a mobile phone, when she hits something which could have been either a dog or a little boy. However, she drives on and stops later. When she gets out of the car a storm begins and Martel cuts her protagonist across her body and shows her without her head, emphasising her state of confusion, facing a shock<sup>227</sup>. The spectator is left behind in the car, exposed to a blurry picture through the window of the car, observing Veronica. She refused

<sup>223</sup> Zalcock, 2014, p. 235.

<sup>224</sup> Matheou, 2010, p. 30; see also Zalcock, 2014, p. 236.

<sup>225</sup> Jelin, 1994, p. 44.

<sup>226</sup> Zalcock, 2014, p. 236.

<sup>227</sup> *Ibidem*.

to acknowledge what had happened. Did she run over a boy? A dog? Nothing? As she appears confused by the stage of the uncertainty the spectator's suspense is carried throughout the film with constant apprehension for what happened or might not have happened. The case stayed unresolved and the story opened.

After the accident, Veronica goes for a medical check up to a hospital. The scenes keep being dark and blurry. Later she stays in a hotel. Both scenes could be seen as a potential escape from the situation and facing consequences within her normal environment. When Veronica returns at a later stage to the hotel to pick up her X-ray results, the records have gone. This scene is, among others, an indicator of how neglect comes not only from a moral decision to forget but one is also highly influenced by how the society deals with the past. At this time there is no space for counter-memories yet. Moreover, the scene alludes to the imposition of silence on society derived from the politics of terror that left people in shock, not able to talk about the reality. The reality is manipulated by the systematic withholding of information from the regime<sup>228</sup>. Seemingly in the hotel scene, Veronica asks the receptionist for the records of her stay, but, surprisingly, they have disappeared.

When Veronica confesses to her husband what happened, the man rigidly reacts to the potential threat of denouncing the truth, by making a fool out of his wife. He firmly states that certainly nothing of what she has just reported actually occurred. The husband, well conscious about the consequences that telling the truth would imply, openly questions Veronica's story raising more confusion in the woman's conscience. Veronica, caught by her own fragilities and self doubts, let herself being manipulated and decides to submissively accept the version of the facts that the husband puts forth: in reality nothing has happened, nothing ever took place and for that reason Veronica should just remain silent and rest. Martel emphasises the patriarchal structure of the couple and the family where gender inequality is clearly visible. The complexity of the female inner world, the fear, the guilt, the remorse, the memory of the event is shown by Martel through different positions of the female gaze inside the screen. When Veronica talks to the Tía Lala, both women share their point of view on the "accident" yet whereas Veronica feels undecided whether to go back, at this point she begins to create

<sup>228</sup> Jelin, 1994, p. 44.

a counter-narrative with respect to what men wanted her to think or do, controlling her behaviours, the Tía Lala suggests she remains in her position of “headless woman.”

Martel is usually shooting her characters with a hand camera which creates a destabilisation in the frame of the image which provokes a fragmentation of the subject whose heads or body parts are cut or outside the focus. There are a couple of scenes in which Veronica appears without a head, referring to the image of her losing her mind, and consequently her memory. The movement of the camera creates a dense and saturated atmosphere (exfoliate). There is a sense of oppression in her film, resulting from the oppressive past. Characters are often positioned and framed in blurry scenes in which they are standing between doors, windows or alcoves, looking out of the scene, unclear at what they are looking at. The director emphasises feeling of fragmentations and uncertainty<sup>229</sup>.

In the film objects and means do not have a functional reality. The initial accident does neither develop in an action nor in a passion. The objects cover an autonomous reality upon which the main protagonist reflects on. She hears and sees undefined things which overwhelm her daily life and produce a deep cut in her consciousness and her life. She does not understand and has no real awareness on what she has done. The truth can be perceived, but it cannot be discussed in words. Veronica’s situation requires a judgment which does not happen in the story<sup>230</sup>. The film works from the beginning on its dialogues on misunderstanding, denial, silence, absurdity and the loss of memory. Veronica’s environment, referred to society, oppresses the truth and judgment.

To conclude, in *La mujer sin cabeza*, memory is at the center as knowledge of one’s own potential guilt plays a key role in the film. Veronica escapes her memory and reality which is blurred in the film. Since the past is not consciously remembered the present reveals the multiple consequences of the military systematic use of disappearance. A past that has not been settled, forces the Argentinean society to deal with the ghostly presence of the *desaparecidos/as*<sup>231</sup>. This can be seen in the beginning, after Veronica hit the “boy/dog,” a print of a hand appears

<sup>229</sup> Zalcock, 2014, p. 242.

<sup>230</sup> Ibidem, p. 239.

<sup>231</sup> Gordon, 2008, p. 98.

on her fogged car window; or in another scene when the Tía Lala, states at one point: “No los mires. Está llena la casa... son espantos. Ya se están yendo. No los mires y se van” (Don’t look at them, the house is full... they are ghosts. They are going away. If you avoid looking at them... they will go away)<sup>232</sup>. The scene suggests that Veronica and her family, as well as the social class they represent, do not intend to face the reality which concerns them all. They carry on with their lives following the advice of the aunt, deciding not to acknowledge the truth, living with the illusion that “*eso*” (this) does not represent a problem. It does not exist. Martel represents memory along the narration throughout different scenes and expedients as a symbolic pretext of picturing the loss of memory of the country. To a broader extent Veronica embodies the Argentinean society who seemingly remained blind in front of the horrific violations committed during the dictatorship. Here lies the moral denounce of the wealthy class, which blindly contributed to support the violations by not taking action. Martel addresses to a moral duty of reconstruction a collective memory based on truthful approaches<sup>233</sup>.

Memory can easily turn into amnesia damaging the victims. Forgetting is imposed by the authorities who submitted the population to a collective amnesia from which nobody can escape. We assume that Veronica’s amnesia occurs in the aftermaths of her accident, but in fact her environment imposes amnesia on her as well. Veronica in her blindness, is manipulated by men around her who try to create faults memory regarding what happened<sup>234</sup>. As, for example, in the scenes when the car gets repaired and her husband returns to the place of the accident, reassuring her that nothing had happened. Veronica’s amnesia is the result of the after-effects of shock and trauma; clearly the reference lies on the represented stage of the traumatised fear the population has been left with. Erasing one’s memory may be seen as erasing one’s identity<sup>235</sup>. Whereas in real life one would fight for his or her identity, in the film Veronica accepts blindly her change of identity which Martel marks eventually with the new hair colour at the end of the film. She has the opportunity of her own judgement and action, but she decides to let herself go with the erasure of her individual memory

<sup>232</sup> *La mujer sin cabeza*, 2008 (00:59:05) (author’s translation).

<sup>233</sup> Korcheck, 2010.

<sup>234</sup> *Ibidem*.

<sup>235</sup> *Ibidem*.

and previous life. Veronica is a superficial and careless woman from the middle-class; careless with the reality of her country.

The claustrophobic climate and reoccurring blurred images which we perceive throughout the film refer in an oppressive way to the days of the military dictatorship, reprocessing historical memory. The allegory in the Argentinean film insists on the oppression and the reminding with insistency that the wounds of the past are still open in the same way in which the society has learned to endure a moral discourse. The discourse of the film is built on oppressive and mysterious images<sup>236</sup>.

<sup>236</sup> Millán, 2001, p. 265.

## 5.

## CONCLUSION

To conclude, from what has been previously discussed it can be argued that the concepts of social and collective memory are framed by processes of continuous and mutual interaction of memories, counter-memories, forgets, amnesias, silences, remembrances which inevitably collide when addressing the past. Therefore referring to only one social memory will be erroneous as a multiplicity of perspectives and perceptions amongst the human beings exists. The challenge is to strike a balance for the healthy coexistence of all distinctive memories as, following Jelin's words, thinking of constructing only one and unique version of the past will ultimately result utopist. Nevertheless, the narrative strands of a particular group that holds a collective memory that has been repressed for ideological or political reasons, must be recuperated as invaluable heritage for the society as a whole. This has been the case of women, who have been invisible victims of an androcentric vision of the world which confined the opposite sex to the private sphere leading to a different development of memory. Communicating is at the heart of a human being and regardless of the conditions in which a person might find herself or himself, they will always find a way to keep trace of memory as a fundamental aspect of the identity and the dignity of a human being. Remembering is a way of restoring identity and also a way of preserving dignity. In fact, dignity is the supreme value of human rights which requires the respect, the protection and the fulfillment of it in order for men and women to exercise their civil and political rights together with the economic, social and cultural rights.

In a context of human rights abuses derived from a period of conflict or from a regime, the dignity of the human beings is deeply affected. In the aftermath of such a barbaric period during which core human rights

are assaulted and threatened, the establishment of a Truth Commission can initially and temporarily provide a beneficial presence taking on the role of mediator for the re-establishment of democracy. Truth and Reconciliation Commissions, depending on the context, can become efficient auxiliary agents in the reconstruction of memory as it was the case of Argentina. Through the publication of the report *Nunca Más* initial intentions from the government were made along the path of restoring justice and redress the abuses suffered by the victims of the dictatorship. Truth Commissions offer victims a space to recall and to denounce their stories. Nevertheless, nowadays a gender-based approach is regrettably lacking, leaving women as a vulnerable category for their reconstruction of events and women and men experience conflict, war and oppressive regime in completely different ways. In practical terms, with regards to women, one needs to take into consideration the problems and the consequences of different experiences starting from memories which are engraved in the body. The experience of giving birth during the dictatorship in one of the centers of torture or in any unthinkable situation of horror and inhuman violence, inscribes psychological and physical trauma that results inexpressible at times<sup>237</sup>.

In order to help the victims recover from harm and sufferance, and to alleviate to some extent the process of elaboration of the pain, the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, were adopted and proclaimed in 2005, which offered a valuable means to redress victims of violations. Traditionally, providing reparation to victims was not treated as a high priority in the prosecution of crimes. However, the evolution in national legal systems has been accompanied by a parallel evolution in international criminal law<sup>238</sup>.

Nevertheless, Jelin discusses the factual impossibility of bringing to trial “all the responsibilities and compensating all the victims<sup>239</sup>.” Where legal justice fails to hold accountable perpetrators leaving the victims unsettled and unsatisfied, memory, she argues, can partly take the place

<sup>237</sup> Calloni, 1995.

<sup>238</sup> The Federation for Human Rights, *The Evolution of Victims' Access to Justice*, available at [http://www.fidh.org/IMG/pdf/4-CH-I\\_Background.pdf](http://www.fidh.org/IMG/pdf/4-CH-I_Background.pdf) (consulted on 10 July 2014).

<sup>239</sup> Jelin, 2010, p. 21.

of justice and symbolic reparations represent a beneficial alternative<sup>240</sup>.

Vargas stresses on the value of symbolic reparations, not only for the redress of victims, but also for the society as a whole<sup>241</sup>. In particular, symbolic reparations are often considered the most efficient means when violent experiences are inexpressible. Having shown the deeply entrenched relationship between cinema and memory it can be argued that HR films provide both the means and the site of reflecting on the reconstruction of memory.

I strongly believe that human rights films offer an invaluable symbolic space for the reconstruction and the elaboration of memory traumas. Not only for its metaphorical means of representation of past wrongs, but also for generating public fora where people do not feel judged about their personal experiences. Tascon argues that: “any form of representation is a symbolic act of making something visible and other things invisible, or less obvious. The act of representation also involves the act of viewing<sup>242</sup>.” The discussion from the view of HR films will promote more reflections and raise more moral, political, ethical questions to take into account in order to prevent the neglect of problematic and hopefully call for action. Memory represents a strong element of cohesiveness and identity of a country, that must be discussed and constructed democratically through the interaction of social and political parties blending with the different narratives and when possible, reaching a consensus on the narrative to transmit to future generations. That is the only way to avoid dominant narratives to impose themselves. Jelin claims that memory has to stay active and alive to pursue the purpose of using acknowledged wrongdoings as a deterrent for repetition in the future. Only then the society can operate, from the memorialisation, a constant critical reflection in terms of the present historical circumstances. In fact, the unity of a nation depends on a common identity which very much depends on a shared memory. Above all memory represents the fight for justice and the respect of human rights. Human rights films not only act as a support for memory and as a defense of human rights, but they also contribute to generate memory through public discussions representing a powerful tool for democracy.

<sup>240</sup> Jelin, 1994, p. 52.

<sup>241</sup> Vargas, 2011, p. 122.

<sup>242</sup> Tascon, 2012, p. 882.

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