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REVEALING NEW TRUTHS ABOUT SPAIN'S VIOLENT PAST

Perpetrators' Confessions and Victim Exhumations

Paloma Aguilar and Leigh A. Payne

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Perpetrators' Confessions and Victim Exhumations

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For their constant support, friendship, and love, we dedicate this book to our husbands, Jesús Cuéllar and Stephen Meili. We also dedicate it to our parents, Susa Fernández, Ángel Aguilar, and Donald and Adrah Payne, for stimulating our intellectual curiosity and for their enduring warmth.

Select Publications by the Authors

Aguilar, P. (2008) *Políticas de la memoria y memorias de la política*. Madrid: Alianza Editorial.
Payne, L. A. (2008) *Unsettling accounts: neither truth nor reconciliation in confessions of state violence*. Durham, NC: Duke University Press.

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Contents

CHAPTER 1

Introduction

Abstract Spain's transition from authoritarian rule to democracy – built on the foundation of amnesty and oblivion – was once seen as a model. That model has been challenged around the world and replaced with the demand for justice for and truth about past atrocity. This chapter examines the Spanish transition. It reflects on some of the underlying misconceptions behind the transitional processes and the limitations they imposed in advancing the goals of truth, reparations, and justice adopted in other parts of the world.

It is often forgotten these days that Spain was once viewed as a model transition from authoritarian rule to democracy. Its most praised characteristics were the peaceful and successful transition resulting from moderation and compromise. Spain succeeded in stabilizing a democratic regime, something that many observers thought unlikely at that moment. Yet, in the current global context, with its emphasis on accountability for past human rights abuses, Spain has begun to be seen instead as a relic, a throwback to an era in which peace and democratic stability were thought to depend on amnesty, silence, and oblivion, rather than on justice and truth.

Few recent transitions have followed Spain's pathway of blanket amnesty for perpetrators without even the creation of a truth commission. In this book we examine the processes that led to that distinctive outcome.

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We consider the historical and political events that unfolded in Spain's Civil War, dictatorship, transition, and post-transition. An environment evolved in which silence and oblivion blocked challenges to a national reconciliation narrative. Thus, even when perpetrators came forward to confess to past violence, these confessions were rarely broadcast in the media. When they were, they lacked the audience to challenge interpretations of past violence. Even if the exhumations of executed Republicans and the homages in their honor began a few years after Franco's death (Aguilar 2016), it is only since 2000, 25 years after the end of the dictatorship that a new generation—the so-called grandchildren of the Civil War—had a profound impact with the exhumations of mass graves. Through these exhumations, and the homages that accompanied them at the local level, they have contested interpretations of past violence in Spain and given visibility to the claims of Francoist victims. They have also demanded the kinds of truth-telling and justice that other countries have adopted.

In our presentation of the processes that led to silence and oblivion, but also to the opening up of debate over the past, we consider the distortions and misunderstanding of the singular Spanish transition process. The mythology of the Spanish transition as a peaceful and exemplary change from dictatorship to democracy, for example, fails to account for the many political killings that took place during this period. Moreover, the emphasis on moderation and compromise since the beginning of the transition tends to ignore the power asymmetries in the negotiating process between the stronger Franco soft-liners and the weaker moderates of the democratic opposition. Thus, when those on the left blame the current ills in Spain's democracy on the transition's excessive moderation and overly compromised nature, they disregard two factors: the weak bargaining role of the democratic opposition in shaping the political agenda of the time, and the fact that many contemporary problems have little connection to the transition processes and decisions.

Negotiating the Transition

The success of the Spanish transition is often attributed to a "pact" between the soft-liners in the dictatorship and the moderates of the opposition. The soft-liners primarily comprised young political leaders in the Franco regime. Despite their active collaboration with the dictatorship, they recognized the need to liberalize the regime while also maintaining control over—and retaining a key role in—the new political system. The *Unión de Centro Democrático*, the political party that won the first democratic elections of

15 June 1977, and its first elected president, Adolfo Suárez, belongs to this group. The moderates of the opposition constituted those political forces that had questioned the legitimacy of the dictatorship—and fought nonviolently against it. The group included mainstream political parties at the time, such as the *Partido Socialista Obrero Español* (PSOE), the *Partido Comunista de España*, as well as several regional parties (mainly Basques and Catalans).[1]

The discussions among the soft-liners and moderate opponents were guided by what has been referred to interchangeably in the literature as the "pact of oblivion," the "pact of silence," or the "pact of silence and oblivion." We have opted for the first term, recognizing nonetheless that silence over the past—often resulting from fear and self-censorship—was one of the most important consequences of deliberate oblivion and the decision to close the books on past violence. The existence of this pact, and its aim to provide a foundation for a stable democracy, are accepted by the great majority of Spaniards. The full dimensions and implications of the pact, however, have often been exaggerated and misleading.

The pact, for example, did not enjoy the same level of commitment or respect in all sectors of society. At the local level, many families of Francoist victims, very early in the transition, seemed to defy the pact by exhuming the remains of their relatives, buried in mass graves. They carried out local public ceremonies and erected visible monuments at cemeteries in the process of reburying the remains of their family members. As discussed below, very early defiance and severe criticism of the pact also emerged among other political and social actors, particularly in cultural and academic spheres.

Paloma Aguilar (2006) describes the pact as an implicit agreement, fundamentally in the political sphere, to leave the past behind, a process that became an end in itself. The main political actors, even if they did not always respect the pact themselves, aimed to keep the past out of political debates and to avoid using it as a political weapon against adversaries.

Aguilar also explains the role that academics and artists played in confronting the pact, showing its uneven resonance and implications throughout Spanish society at the time. In the academic arena, historians debate the degree to which the pact constrained their work. On one hand, some provide evidence of the significant scholarly attention the Civil War received from the beginning of the transition (Juliá 2006). In contrast, others claim that only certain topics from that era were addressed while others were ignored. The latter group of academics stress the limited access to primary sources, the constraints on publishing certain types of books, and particular judicial decisions that had an impact on their work as a result of the pact of oblivion (Espinosa 2009, 2010). In the cultural

realm, evidence of projects that defied the pact of oblivion also emerged. Examples can be found in journals of that time, such as *Cuadernos para el Diálogo, Cuadernos de Ruedo Ibérico, Hermano Lobo, Por Favor, Interviú, El Papus,* and *El Viejo Topo*. A brave and fascinating documentary dealing in part with thorny issues of the past is *Después de*, by Cecilia Bartolomé and José Juan Bartolomé (1983). In addition, the fictional film *Siete días de enero* by Juan Antonio Bardém (1979) appeared in the transition depicting the violence of that era and the Franco legacy.

Early and direct criticism of the pact is also evident. In 1981 José Vidal-Beneyto stated: "We all know that our democracy has been founded on top of a crypt that buries our collective memory." He blamed the leftists in the moderate opposition for accepting the constraints imposed by the soft-liner Francoists and for trading oblivion for legal status and political inclusion (Vidal-Beneyto 1981: 33). Several leftist critics accused the Socialists and the Communists for betraying the goal of "rupture" with the Francoist regime in working toward its "reform." They highlighted in particular the legacy of Francoist institutions and personnel, and rejected the project of social demobilization to guarantee a smooth transition. Above all, they scorned the implications of the pact, the sanctioning of an outrageous equivalence between former Francoists and those who had for decades faced severe personal risks in their opposition to the illegitimate dictatorship.[2]

The assumption behind these criticisms is that the opposition had bargaining power and could have exerted greater control over the transition process. This perspective could find support in the very intense—and unexpected—social mobilization that emerged after Franco's death, which forced the soft-liners to modify some aspects of their preferred agenda; they had to capitulate on the legalization of the Communist Party, for example, which they had previously resisted.

An alternative view considers the much weaker negotiating power and leverage possessed by the democratic opposition over the soft-liners. Such a view contends that the soft-liners, particularly in the early phase of the transition before the first democratic elections of 1977, possessed sufficient power to design and impose the main guidelines of the transition and, as a result, to limit its scope. Ignacio Sánchez-Cuenca (2014) has demonstrated that in the first stage of the transition the democratic opposition failed to acquire the role of equal partner at the negotiation table. The asymmetry of power questions the notion of compromise; before the first elections, the democratic opposition accepted and tolerated, rather than negotiated, the pace and terms of the transition established by the soft-liners.

Up until the beginning of 1976, the democratic opposition had promoted the total replacement of the Francoist dictatorship with a new democratic regime, a radical demand at the time. Yet it did not occur to those actors to demand what has become the currency in today's transitions: an official commission of inquiry into the crimes of the Franco era or accountability for those crimes.[3] Forces within the democratic opposition and among soft-liners had already reached a broad consensus around a national reconciliation project years before Franco's death (Aguilar 2008a: 175–187; Juliá 2004: 409–462). This project consisted of building bridges over the great divide between the victors and vanquished in the Civil War. It considered leaving the past in the past to be the most effective way of overcoming the chasm of animosities reinforced throughout the four decades of the Francoist era. Both sides would agree to avoid using the past as a political weapon.

This agreement took on obsessive dimensions. The leaders of the moderate opposition in democratic Spain obsessively avoided any hint or possible accusation of revenge, resentment, or rancor over past violence. The conservative supporters of Franco then and even now had a different kind of obsession: a sacrosanct belief that any threat to the foundational pact of oblivion—including certain initiatives aimed at addressing the demands of the victims of Francoism—would destabilize democracy.

The near consensus behind national reconciliation, constructed on the pact of oblivion, contributes to the interpretation of Spain's transition as a moderate compromise among equals.

The Pact of Oblivion in the Democratic Era

Although the democratic opposition failed to win the first democratic elections of 1977, it nonetheless obtained considerably more negotiating power than it had previously possessed. It still had to contend with various political and social forces, however, such as the soft-liners of the dictatorship who, victorious in the elections, controlled the government; key actors, such as the armed forces, the police, and significant sectors within the judiciary and the Catholic Church, who formed a conservative block against social and political transformation; a Spanish civil society that was much more moderate than the opposition had predicted; and prevailing widespread fear of a new Civil War owing to very high levels of violence

during and immediately after this period, which further constrained the democratic opposition in its efforts to promote change. The opposition, recognizing its inability to win over these forces, modified some of its most daring demands. It had already conceded prior to the elections other important opposition demands, such as the restoration of a republic in Spain[4] and the establishment of an interim government to make a radical break with the dictatorship.

The process behind the Amnesty Law of 1977 illustrates both the opposition's power and the limitations on it. This was the first law passed by the first democratic Parliament in Spain. It can be seen as a clear victory for the opposition because it had persistently and actively demanded an amnesty for a long time. After Franco's death, massive social mobilizations erupted to defend amnesty for the political opposition. Those who mobilized did so at great personal risk, as shown by the number of deaths and injuries in amnesty demonstrations (Sánchez-Cuenca and Aguilar 2009). Against widespread opposition from the regime's supporters, and notwithstanding the army's accusations of deliberate provocation, the opposition nonetheless managed to include recent blood crimes in the Amnesty Law.[5]

The law, however, also exemplifies the weakness of the opposition. In its final version it included impunity for the repressive agents of the dictatorship. Although the democratic opposition's original projects did not promote justice for repression, neither did they close off that possibility. The democratic opposition never intended the law to benefit the dictatorship. The law, while providing amnesty for the dictatorship, excluded other groups that the opposition had intended it to cover. Two such groups were members of the former Republican Army and of the clandestine democratic opposition organization *Unión Militar Democrática* (UMD) organized within the army during the dictatorship. The members of these groups, as a result of exclusion from the Amnesty Law, and despite the Socialists' efforts on their behalf, were not permitted reintegration into the army until 1986. Particular groups of prisoners, such as homosexuals, abortionists, and adulterers, were also denied the benefits of amnesty in the new law because their "crimes" were not considered to be of a "political nature." The power imbalance between the democratic opposition and the conservative sectors of society explain how these limitations in the Amnesty Law emerged. In particular, the army posed insurmountable constraints on the readmission of members of the former Republican Army and the

UMD. From the very beginning of the transition, the army's loyalty to the dictatorship and its credible threats to overthrow the fragile democratic government if it tarnished Franco's legacy, constrained the opposition in its efforts at flexing its newly acquired post-election political muscle to bring about change.

The opposition had to accept those limits to the law and the impunity for Francoist agents as the price of winning amnesty for political prisoners. The final text of the law strayed far from the original intention of the democratic opposition by equating the legitimacy of the dictatorship's political prisoners with those in the dictatorship who unleashed violent repression. The democratic opposition could not prevent the government from extending the amnesty to regime repressors, creating moral and judicial equivalents between political prisoners and the political repressors, or enshrining impunity for the crimes of the dictatorship. According to Felipe González (former Socialist president between 1982 and 1996), "the 'correlation of forces' made a different result inconceivable." He insists that at that time the most important issue was not impunity for Francoists, but the freedom and re-integration into the workforce of the former and current political prisoners of the dictatorship (González and Cebrián 2002: 26).

The Amnesty Law is viewed by mainstream parties as one of the centerpieces of Spanish democracy. The pact of oblivion, however, went well beyond the Amnesty Law in cementing the democratic project. Self-censorship became the norm reinforced among political and social sectors, such as political parties, the media, and the judiciary. The pact was sustained through habituation and everyday practices. Discussion of past violence, not to mention accountability for it, eluded debate. Demands for truth, full reparations, and justice made in transitions elsewhere and decades later in Spain, were not made. On the very exceptional occasions in which crimes were denounced, these claims went unheard. The pact did not have to be imposed or overtly enforced; it was instead endemic in society, sustained by the traumatic memories of the Civil War and fear of the renewed and violent polarization that would result from digging into the past.

The pact of oblivion was not coined as such until the first legislature (1977–1979) and the establishment of the 1978 constitution. During those discussions, the main political parties of the opposition—the Socialists, the Communists, and most regional parties—made an informal agreement with the governing party for the national reconciliation project

mentioned above, founded on building a stable foundation for the new democratic regime without looking into the past. The "pact of oblivion" designation is not only a popular reference; it is found in the memoirs of, and interviews with members of Parliament of the time. These political leaders viewed the project of stabilizing democracy as incompatible with opening up a discussion about the violent past during the Civil War and subsequent dictatorship.[6]

High levels of violence at the time of the creation of the pact of oblivion was, as mentioned, undoubtedly an important backdrop to the willingness of the parties to set aside demands for truth and justice for past violence in the interest of facilitating a stable and peaceful democratic future. Ongoing violence and its role in promoting the pact of oblivion are often disregarded. The view of compromise and moderation in delivering the pact and democratic stability, for example, assumes a peaceful process that simply did not exist. Sánchez-Cuenca and Aguilar (2009) show that violence was intense and widespread in different parts of the country. Moreover, it involved a range of actors from the extreme left, the extreme right, separatist movements, and the state security apparatus. This backdrop of high levels of violence shaped the transition process as much as the political negotiations. Rather than a peaceful transition, Sánchez-Cuenca and Aguilar contend that Spain experienced the most violent democratization process, by far, of any other country at the time, for example compared to Portugal and Greece.

The misunderstanding of the dynamics behind the Spanish transition is perhaps not surprising given the absence of engagement with the political processes leading up to it. In the first two decades after Franco's death in 1975, public debate over Spain's thorny past—the 3 years of violent Civil War and, to an even greater extent, the almost 40 years of repressive dictatorship—has proved elusive. Silence and oblivion over the past was deeply ingrained in Spain, sustained by fear of the violent consequences of open debate. This began to change with the emergence of a new generation.

Questioning Silence and Oblivion

The notion of a widespread agreement on silencing and forgetting the violent past hides where debate and contestation had fact occurred. For instance, shortly after the transition historians engaged in a dynamic debate over a number of contentious issues about the past, such as the ultimate responsibility for the conflict, the number of violent deaths attrib-

uted to each side in the war, and the different logics of violence deployed by Republicans and Francoists. The Civil War received much attention in the cultural production of the transition as we show above. Although these academic and cultural endeavors addressed certain aspects of the Civil War, they were not matched by an equal interest in the dictatorship (Aguilar 2006).

In the last two decades public controversy over the past has begun to include a critical approach to the transition's limits and the capitulation of the democratic opposition. Sectors of civil society have begun to demand at least the truth, and even some level of justice, regarding past violence. A highly mobilized new generation—the so-called "grandchildren of the Civil War"—with no personal memory of Civil War and dictatorial violence, but with a strong commitment to the principles of universal justice and accountability, has brought traumatic memory of the past into the public sphere. The activities of the new generation has made the victims of Francoism visible, triggering heated open debate over the country's history (Aguilar and Ramírez-Barat 2014).

According to Juliá (2006: 73), the most significant response to the "new memory of the grandchildren" has been that the "research on [Francoist] repression has expanded." Juliá acknowledges that we now have much more detailed knowledge about "the overwhelming weight that this repression had on the construction [of the dictatorship]." We are also much more "conscious about the suffering of the defeated" (Juliá 2006: 74). But Juliá rejects the notion that a "pact of oblivion" blocks those accounts. He further argues against the grandchildren's bias and their one-sided historical memory process, which ignores the victims of Republican violence.

The efforts of this new generation in challenging the pact are not new; others had previously defied the pact. This generation's activities, however, are much more visible and much more widely debated. They have begun to shake the foundations of silence and oblivion. Those still solid foundations, however, have not yet crumbled. They remain firmly cemented in significant parts of civil society, political leadership, and the judiciary. The cracks that have appeared are unlikely to lead to the same level of opening experienced elsewhere around the world.

In contrast to many other transition cases, for example, the state is not involved in generating truth or justice about the past. No perpetrator of past human rights atrocities has ever faced trial since Franco's death in 1975 due to a very restrictive interpretation of the 1977 Amnesty

Law. Amnesty is considered incompatible with any judicial investigations at all, which blocks the right to truth. The text of the law covers crimes of a "political nature," but the few cases of violations that have been brought were dismissed without any presentation of proof of the political nature of the crime. Spanish courts, in sharp contrast to Chile, consider the perpetual crime of forced disappearance to be covered by the Amnesty Law. Finally, the abduction of children that took place in the post-war has never been considered as a possible exemption from the Amnesty Law, as was the case in Argentina and Uruguay. Judges are not present at the exhumations of mass graves from the Civil War and post-war period despite the fact that the forensic evidence demonstrates the existence of violent deaths. Indeed, the Spanish state has never taken the initiative in the exhumations but rather "privatized" this task to the memory associations.

The state has also failed to declassify thousands of crucial documents of the dictatorship and to reform the law that regulates access to certain files. A recent book claims that there is still no public access to the full death sentences of the last five executions of the dictatorship, which took place on 27 September 1975, less than two months before Franco's death (Fonseca 2015). No truth commission has been created or is likely to be created in the near future to provide reliable and official figures about the crimes committed by the dictatorship and the level of complicity of different social and institutional actors.[7] No public efforts have been made—beyond the late and failed attempt to create a complete and updated "map of graves"—to bring about a nationwide policy to find mass graves, identify the remains, and provide systematic reparations.

No monument has been built in Spain devoted to the victims of Francoism and no official apologies have been offered to them. There is no museum dealing with the Civil War or the Francoist dictatorship. Where the past is marked in Spain says much about how it is remembered, or how it is meant to be remembered. The *Valle de los Caídos* (Valley of the Fallen) is a monument supposedly devoted to the victims of the Civil War, but it was originally designed as, and still could be considered for various different reasons, a monument to the war's victors. Franco promoted this astonishing fascist monument that continues to be one of the most visited monuments in Spain.[8]

In this monument, Franco literally remains. He is the only person buried in this unique mausoleum who did not die as a result of the conflict.

The structure contains the remains of 33,847 victims of the Civil War. The location of Franco's tomb would thus seem out of place, and yet it is situated in the most central part of the structure—in the altar of the basilica. It is adorned with fresh flowers even 40 years after his death. Franco's presence in the monument astounds many visitors, especially non-Spaniards and new generations of Spaniards, who wonder why the country appears to hold their past dictator in such high regard.

The confounding nature of the monument is further magnified by the lack of information at the site about its dramatic history. The guides available in the tourist gift shop omit any discussion of the existing debate and controversies surrounding the monument. In addition to lacking basic and relevant facts about the history of the Civil War and the dictatorship, the monument excludes information on the construction of the monument, particularly the fact that many political prisoners were forced to take part in its building under terrible working conditions.[9]

The presence of Franco in the Valley of the Fallen is an anomaly in today's Spain. His image is increasingly scarce, found primarily in the remaining Francoist symbols and street names in some cities and villages. The existence of the *Fundación Nacional Francisco Franco* (National Francisco Franco Foundation), created in 1976,[10] represents another legacy of his past. That foundation has benefited, astonishingly, from the Spanish state's financial support through the public subsidies that it received for several years. That a state would provide public funding for an organization that openly and publicly supports and praises a past dictator and aims to preserve his legacy, is unthinkable in other European contexts such as a Hitler or Mussolini Foundation. Foundations like the *Fundación Presidente Pinochet* (President Pinochet Foundation) in Chile do not receive public funding and face public scrutiny, as well as significant public controversy.[11] These conditions are not present in the *Fundación Nacional Francisco Franco*.[12]

The transitional justice mechanisms that have been adopted by the state are various economic reparation measures from the beginning of the transition until 2007, and some recent symbolic statements and economic measures, as will be discussed later in the book. The very limited Spanish transitional justice process explains the widespread ignorance—not to mention the occasional open denial—of past crimes. Memory associations have openly denounced the absence of Francoist repression in school textbooks.

The transition pathway in Spain has so far also resisted international pressure to change. Renowned international experts have recently

attempted to raise awareness to the violations and the rights of victims. Three bodies of the United Nations Office of the High Commissioner of Human Rights—the Working Group on Enforced and Involuntary Disappearances, the Committee on Enforced Disappearances, and the Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence (Pablo de Greiff)—have issued reports that harshly criticize the lack of commitment of the Spanish government to universal human rights principles and its lack of responsiveness to Francoist victims' demands for justice, truth, and reparations.

This criticism has also been made within Spain. Over a decade ago, former Socialist Prime Minister Felipe González expressed regret at failing to encourage a debate on Francoism and the Civil War, and not having properly honored the victims. As he stated: "Today I feel responsible for the loss of part of our historical memory, which allows the right to deny the horror of the dictatorship without any electoral or social consequence, and without provoking the outrage of the youth because they do not even know what happened" (González and Cebrián 2002: 38).

This statement shows that today, when the truth of past atrocities all over the world have been revealed, most Spaniards continue unaware of, and some even reject, the fact that approximately 40,000 executions took place in the aftermath of the Civil War. Conservative forces have succeeded in instilling, among significant sectors of the population, the idea of a benevolent dictatorship or "dictablanda" that provided significant levels of wealth to the Spanish population. In addition, among conservative political ranks, clear manifestations of the lack of respect to the victims of Francoism have been recently observed.[13] This contrasts sharply with the very high consideration the same forces have for the victims of ETA (*Euskadi Ta Askatasuna* [Basque Homeland and Liberty separatist movement]) terrorism. The demands of the left in favor of the victims of Francoism, despite having the support of prestigious international actors, have often been discredited as old fashioned, tiresome, and unnecessary.

Spain's Resistance to Confronting the Past

What accounts for the stubborn resistance in Spain to confront its violent past in a straightforward fashion as other countries have done? Why has Spain fallen so short compared to other countries in its efforts to respond to the demands of victims of that violence?

Many analysts find the answer to those questions in the endurance of the unwritten and unofficial, yet socially and politically powerful, pact of oblivion. The pact benefited one side—the victors—more than the other—the vanquished. Silence protected against the inquiry into the questionable acts carried out by those considered by the victors to be national heroes or by those in charge of "keeping order" during the dictatorship. The crucial asymmetry of the Amnesty Law is that it benefited, on one hand, prisoners that had already been prosecuted and condemned (or had already served a sentence) and, on the other hand, agents of the dictatorship who had never been judicially prosecuted and whose crimes had never faced public exposure. The Francoists, in sum, benefited more from the national narrative that "we are all guilty."

Once the democratic regime was stable, the pact of oblivion remained unchanged. There were few challenges to it. The reasons behind its endurance when the threat of democratic collapse was no longer credible were never publicly debated. Over time it has thus become increasingly clear that the pact was based as much on its role in establishing democratic stability as in removing conflictual debate in Spanish society.

When Parliament eventually denounced Francoist repression in 2002 on the twenty-fifth anniversary of the first democratic elections, it seemed to reinforce not only the historic role, but also the continued value, of leaving the past in the past. The statement acknowledged violations on both sides with its reference to the importance of recognizing "all men and women who were victims of the Spanish Civil War, as well as those who later faced repression during the Franco dictatorship." It called on Spanish society to "avoid in all cases the opening up of old wounds or fanning the flames of civil strife." It went on to attribute political peace and stability to the pact, "nothing remains in Spanish society of the civil conflict because, consciously and deliberately, it decided to turn the page and to not relive the old rancor, resuscitate hate, or encourage desire for revenge." It added that "our democratic coexistence rests on maintaining a harmonious and reconciliatory spirit, the foundation of the 1978 Constitution that allowed for the peaceful transition from dictatorship to democracy."[14]

Two aspects of the endurance of the pact of oblivion become clear in the parliamentary statement. First, victim-centered notions of transitional justice in the form of truth and accountability for the victims of Francoism tend to be seen as a threat to the goal of national reconciliation. Although vague and unspecified, the national reconciliation con-

cept hinges on recognition of victimhood on all sides, without moral judgment, without blame or responsibility, and without a corresponding set of duties for the state. National reconciliation demands that the past remain uncontroversial, which in turn dissuades—at the political level—reflection into the nature and responsibility for the violence. Second, this very general parliamentary statement ignores the thousands of executions that took place once the war was over. Also, even while it recognizes the "persecution" and "repression" of the victims, it fails to mention the four decades of dictatorship in which Civil War victors were able to dignify their victims and compensate families with particular privileges, subsidies, and praise. Francoist victims, on the other hand, were denied the pensions and social and labor benefits owed to them with the death of their victim family member. They further lacked the emotional and psychological support for their trauma. That those four decades also brought repression, humiliation, and discrimination against the victims of the vanquished and their families is further hidden behind the banner of national reconciliation. Another relevant aspect of this parliamentary statement is that it insists on the validity of the Amnesty Law[15] and even quotes some of the statements that were pronounced when this law was debated by Parliament in 1977. Finally, even if this statement is popularly known as the first official condemnation of Francoism, what it actually contains is a general declaration against "totalitarian regimes."[16]

The most explicit legislative initiative that intends to correct these historic wrongs and honor and repair the victims of Francoism is the so-called "Law of Historical Memory."[17] Even this law falls short in many aspects. For instance, it continues to avoid state responsibility in revealing the truth about the past. It delegates the search for the remains to local victim and memory associations without sufficient resources. Dependent on government subsidies, these organizations have faced severe limitations on their work with the 2011 freezing of public financing under the last conservative government.[18] While the law declares illegitimate and unfair the political trials of the dictatorship, these sentences have not yet been annulled. The first line of the parliamentary statement confirms the commitment to reconciliation over justice: "The spirit of reconciliation and harmony, and the respect for pluralism and the peaceful expression of ideas that guided the Transition, permitted the adoption of the 1978 Constitution that translated judicially this willingness on the part of Spaniards to coexistence." After praising, once again, the "spirit of the

Transition" and the "foundational spirit of harmony," this law recognizes that there are still pending issues in the compensation of the victims.

This law is much more explicit in its criticisms of the dictatorship and in the recognition of the suffering of the victims and of those who fought in favor of democracy. It has not, however, engaged in settling accounts with its past. The families of the victims of Francoism, who were deeply traumatized after four decades of humiliation, have not received the dignity that comes from official recognition of wrongdoing by a brutal and illegitimate regime, acknowledgment that they did not deserve the ill-treatment they suffered under the dictatorship. At a minimum, the settling of accounts would involve a public process of publicly honoring victims and their families. Part of that process should include a proper burial for the remains of family members. The continued insensitivity on the part of Spanish public authorities toward even these minimal needs of the victims is remarkable.

In other parts of the world, state-sanctioned truth commissions have made this commitment to victims. They are usually entrusted with the task of documenting and denouncing the repressive mechanisms of the former regime. They tend to include in their recommendations symbolic (e.g., memorials, monuments, museums, days of commemoration), financial, and therapeutic reparations for victims of past atrocities. At the very least, commissions' official reports create a historical truth with pedagogical value to overcome denial and misinformation in societies. This kind of settling of accounts has been off the table in Spain.

Spain resists any official, systematic, or publicly visible efforts to provide the kind of restorative justice embodied in truth commissions' mandates elsewhere. While many of the victims of Francoist violence have received financial compensation, it has proven partial, piecemeal, and delayed. Retributive justice was never considered by the transitional leadership. The process in Spain has seemed less engaged in settling accounts with the past than hiding those accounts behind a national reconciliation narrative.

The Settled Account

This national narrative has taken several forms over time but eventually constituted a "settled account" that has endured to the present. The first narrative emerged during the Civil War. It justified violence by Francoist forces as the only way to save the country from the particularly cruel and brutal Republican violence. With the transition, this narrative evolved into the settled account that persists in Spain today. This settled account recog-

nizes the perpetration of violence and suffering on both sides of the war. Because both sides used an equal measure of cruelty, they possess the same degree of guilt and responsibility. The narrative creates moral and violent parity—a balancing of accounts—on both sides of the war. In that settled account, much remains unspoken, silenced, and suppressed.

The settled account is founded on the notion that Spaniards had already reconciled among themselves during the four decades of dictatorship following the Civil War. That reconciliation involved an agreement to leave the past behind. The balancing of accounts avoided efforts to dig up that past, to recognize, for example, the particular responsibility of the Francoist forces in carrying out the coup d'état that unleashed the Civil War or the much higher level of violent crimes committed by the Francoist forces during and after the Civil War. No attention was given to the open legitimation of illegal violence by the main leaders of the Francoist side, narrative accounts analyzed in this book. In the balancing of accounts, there was no official effort to correct the wildly exaggerated version of Republicans' excessive and illegal violence in the Civil War propagated during the four decades of dictatorship. This failure to reconsider earlier versions of the past also meant that the vanquished in the Civil War and their descendants did not receive the recognition or dignity that the Civil War victors had acquired during the dictatorship.

The language of "we are all guilty" emerged as an undeniable fact that both sides committed hideous atrocities. It focuses on the Civil War, however, and hides the almost 40 years of dictatorial repression. It assumes a false moral equivalence between both sides in the war based on the atrocities committed, overlooking the responsibility of one side in overthrowing a democratically elected regime and the efforts on the other side (with some exceptions) to defend it. Certainly, the Republican government prior to the Civil War had its flaws, weaknesses, and failures. So, too, do many fragile democracies, particularly in that era. In the balancing and settling of accounts, there is no room to discuss the legitimacy or legality of the overthrow of that government. There is no room for exposing the fictional moral equivalence between the two sides during the war. The balancing of accounts hides the unspeakable repression and injustices suffered by the defeated in that war and their relatives during four decades of dictatorship.

This version disguised as consensus is a controversial interpretation of the past. The widespread view that silence and forgetting provided the

only pathway to move forward into democracy without violence blocked open and public contestation of the account. Without that demand, and with no political will, Spain failed to produce a categorical public condemnation of the dictatorship, officially sanctioned exposure of its merciless repressive apparatus, or recognition of wrongdoing to Francoist victims and their families in the war and in the dictatorship. During the transition such a discussion was considered too soon and premature; now it is considered, particularly by conservative forces, to be too late, irrelevant to current concerns given the focus on victims of terrorism,[19] or still too risky to undertake.

A recent account of the Spanish transition maintains that it was precisely the decision to leave the past behind that explains the successful consolidation of democracy in Spain, a counterexample to transitional justice claims (Encarnación 2014). This view is consistent with the early "transitologists'" warnings regarding the possible negative consequences of adopting accountability mechanisms for past human rights abuses. Scholars conducting large-*N* comparative analysis have discredited these claims by demonstrating positive outcomes of accountability measures for democracy and human rights (Kim and Sikkink 2010; Olsen et al. 2010; Dancy et al. 2016). At the time of the Spanish transition, impunity was the rule and accountability for past abuses was the exception, such as in Greece and Portugal (Sikkink 2011). Only counterfactual analysis could estimate the consequences to Spanish democracy if some form of accountability had been adopted. A more constructive, and less controversial, exercise would explore why now—after the consolidation of democracy and after six legislatures with the Socialist Party in power—restorative and retributive justice is still not possible in Spain. The Spanish government continues to resist efforts to deliver certain reparations to the victims, open up classified files for public access, provide official figures about dictatorial repression, and reform institutions and monuments where authoritarian legacies remain.

Chapter Outline

Despite all of the constraints on dialogue about the past discussed in this chapter, perpetrators in Spain have nonetheless spoken out. This book looks at those revelations. We contend that their confessions, testimonies, and declarations, emerging as they have in a context that constrains truth,

justice, and democracy, have not had the same impact as in other transitional contexts.

Chapter 2 explores that impact by examining the dramatic elements of perpetrators' confessions elsewhere. We show that when perpetrators have spoken out in other contexts they break the silence over the past. They also have the capacity to unsettle accounts by bringing out new truths. This process is not always provided by the script, but in the engagement by audiences of that script, of perpetrators' acting, of the timing and staging of these performances. This engagement can lead to "contentious coexistence," or deep democratic debate over the past that has implications for the democratic process. Chapter 3 provides an analysis of early heroic historical confessions to consider what types of confessions did emerge and how even those were silenced through the settled account that recognized violence on both sides. Even later confessions, the few, fugitive, and fleeting ones covered in Chapter 4, faced a disinterested media and civil society, thus proving unable to catalyze contentious debate. This process continues in Chapter 5 with confessions that attempt to unsettle the efforts at balancing accounts on both sides. Those efforts confront preposterous denials examined in Chapter 6. It is only in the current context, with a highly mobilized group of grandchildren of the Civil War, that challenges to the presumed consensus has gained media and civil society presence. The exhumations of mass graves, and related testimonial processes, have begun to unsettle the bones and unsettle accounts leading to an incipient and wary form of contentious coexistence examined in Chapter 7. Chapter 8 summarizes the arguments and evidence we have presented in the book that explain the unlikely and delayed emergence of contentious coexistence. It recognizes, however, that political processes are not always linear and inexorable. Thus, it remains to be seen how far contentious coexistence will go in Spain.

Notes

1. The Communist Party had supported the guerrillas against the Francoist regime since the end of the conflict. Twenty years after the beginning of the war, in 1956, the party made a significant public declaration in favor of national reconciliation, rejecting the use of violence in the fight against the dictatorship. For more information about the democratizing process in Spain, see Aguilar (2008a).
2. See the journal *Cuadernos de Ruedo Ibérico* for an example of early and abundant criticisms of the transition.

3. Only very radical and minority political groups supported purges and even trials (Aguilar 2008a).
4. The Second Republic (1931–1936) was the first democratic experience in Spain. The Francoists organized a coup d'état against it. The coup failed to hold in approximately half of the Spanish territory, thereby unleashing the Civil War (1936–1939) between the rebels (Francoists) and the defenders of the legal government (Republicans). The Republicans lost the war and the Francoist dictatorship was imposed and lasted until Franco's death in 1975.
5. The law included in Articles 1.1.a. and 1.1.b. all political acts that had aimed at re-establishing public liberties, or at pursuing the self-government of the Spanish regions, "irrespectively of its consequences." Without explicitly naming blood crimes in these articles, it included them in the amnesty provisions if they occurred before the first democratic elections. The law excluded these same acts, explicitly naming them, if they had been committed after the elections (Article 1.1.c.).
6. One of the most prominent examples can be found in the interview of former Socialist Prime Minister Felipe González by Juan Luis Cebrián, the director of *El País* newspaper between 1976 and 1988. Both actors recognize the existence of silence from the beginning of the transition and even many years afterward. González sustains that the consensus of the transition was the consequence of the Civil War. He also says that the compromise between the inheritors of the dictatorship and the opposition excluded the explanation—not to mention the accountability—of what happened during the dictatorship by means of truth commissions, as has happened in other countries. There was not sufficient political power to ask for explanations, not to mention justice, for past violence. Cebrián acknowledges that the process of reconciliation was possible thanks to the surrender of the opposition (González and Cebrián 2002: 31, 45–46).
7. The *Plataforma por la Comisión de la Verdad* was founded in October 2014. It integrates various existing memory associations. Although it has undertaken some notable and visible initiatives, so far it has failed to convince the two main political parties—the PSOE Socialists and the *Partido Popular* Conservatives—to support its demand.
8. See http://www.abc.es/cultura/arte/20140114/abci-palacio-real-visitas-201401141821.html (Accessed: 18 October 2015).
9. There are many studies on the participation of political prisoners in the construction of the Valley of the Fallen. See, for example, the study of slave labor under Francoism by Mendiola (2013).
10. See the foundation's website: http://www.fnff.es/ (Accessed: 24 October 2015).
11. The official Investigative Police of Chile (PDI) carried out an investigation into the funding of the *Fundación Presidente Pinochet*. It found that 113 members of the business community and the Vitacura municipality donated

funds to the foundation between 1996 and 2004. See http://www.poderopedia.org/cl/organizaciones/Fundacion_Presidente_Pinochet (Accessed: 7 October 2015).

12. For a recent homage to Franco organized by this foundation, and the public controversy it aroused, see http://www.europapress.es/madrid/noticia-fundacion-francisco-franco-celebrara-finalmente-homenaje-dictador-pardo-no-husa-princesa-20121202062823.html. More information about the public subsidies received by the foundation in http://www.infolibre.es/noticias/politica/2015/09/02/fundacion_franco_admite_exaltar_dictador_aunque_ley_obliga_efender_fines_interes_general_37048_1012.html (Both accessed: 18 October 2015).
13. As an example, a senator of the *Partido Popular* (Popular Party) recently claimed that "there is no demand to undertake exhumations and there are no more Civil War mass graves to discover." He has also asked the Socialist Party to stop with these "pestering questions," adding that "it is exhausting." See "Un senador del PP dice que 'no hay demanda para exhumaciones ni más fosas de la Guerra Civil que descubrir,'" http://cadenaser.com/ser/2015/10/08/politica/1444313258_197377.html (Accessed on 25 October 2015).
14. Non-law proposition. Boletín Oficial de las Cortes Generales, 29 November 2002. *VII Legislatura. Serie D. Núm.* 448, pp. 12–14.
15. This statement views the Amnesty Law as "a historic event because it ended the confrontation between the 'two Spains,' that were then buried forever." Non-law proposition. Boletín Oficial de las Cortes Generales, 29 November 2002. *VII Legislatura. Serie D. Núm.* 448, p. 13.
16. The statement reads: "El Congreso de los Diputados, en este vigésimo quinto aniversario de las primeras elecciones libres de nuestra actual democracia, reitera que nadie puede sentirse legitimado, como ocurrió en el pasado, para utilizar la violencia con la finalidad de imponer sus convicciones políticas y establecer regímenes totalitarios contrarios a la libertad y a la dignidad de todos los ciudadanos, lo que merece la condena y repulsa de nuestra sociedad democrática." Non-law proposition. Boletín Oficial de las Cortes Generales, November 29th, 2002. *VII Legislatura. Serie D. Núm.* 448, p. 14.
17. Law 52/2007, 26 December 2007, "Por la que se reconocen y amplían derechos y se establecen medidas en favor de quienes padecieron persecución o violencia durante la guerra civil y la dictadura."
18. It is worth mentioning that this paralysis at the national level has been somewhat compensated with very active memory policies in some autonomous communities and city councils governed by the left and/or regionalist parties.
19. For a discussion of the politics of victimhood in Spain, see Vincent Druliolle (2015).

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CHAPTER 2

Unsettling Accounts

Abstract Although not frequently, perpetrators occasionally confess to past acts of violence in dictatorships and civil conflicts. These take the form of dramatic performances with a script, actors and acting, a stage, timing, and an audience. These confessional performances despite the expectations raised by the South African Truth and Reconciliation Commission have not tended to lead to settling accounts with the past, but rather to unsettling them. This chapter argues, however, that confessional performances, and particularly the role that audiences play within them, have the potential to deepen democratic practices of participation, contestation, and expression. That process of "contentious coexistence," however, has not until recently emerged in Spain. The chapter considers why.

The historical widespread consensus behind silence to deal with past violence in Spain suggests that few perpetrators have had the motivation, incentive, or desire to speak out. While this is partially true, some Spanish perpetrators have confessed to past violence. Spain, moreover, is not that uncommon in having few confessions; most perpetrators will avoid speaking about their past if they can.[1] What is more unusual in the Spanish case is the lack of attention these perpetrators' confessions have tended to draw in society.

Leigh A. Payne's analysis of perpetrators' confessions in her book *Unsettling Accounts* (2008) cannot entirely account for the disinterest in Spanish perpetrators' confessions. Precisely because perpetrators' con-

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fessions are rare, disturbing, and disruptive, they tend to spark attention (Payne 2008: 15–19). In this chapter we consider the dynamics of the confessional performance as well as why they have not stimulated debate in Spain as they have elsewhere. The chapter examines the historic absence of what Payne refers to as "contentious coexistence," which deepens democratic practice in other transitional contexts. We also deal with the beginning of democratic debate on the past in Spain in recent years.

Confessional Performances

By confession, we do not mean perpetrators' private acknowledgment of guilt or wrongdoing, remorse, contrition, or even necessarily truth (Payne 2008: 19–22). We instead consider perpetrators' presentations in public acts to be their versions of past violence. Because they are public, these confessions may deliberately or instrumentally obfuscate perpetrators' roles in that violence. They may be fiction. They may be "vital lies" or stories that perpetrators tell themselves to live with their past (Goleman 1985; Payne 2008: 19–20, 21). They may be contrivances "that add details, sometimes out of sequence, or borrowed from other moments or others' memories, or even imagined, but believed to be true" (Payne 2008: 18). While some involve atonement, others might justify acts as heroic or express sadistic pleasure in violent acts. They may deny or minimize their own personal involvement in violence while admitting to witnessing or knowing about violence and blaming others for it. Perpetrators' confessions, in other words, take a variety of forms and rarely involve remorse (Payne 2008:2).

Confessions, moreover, do not only involve texts. They constitute a performance with five dramatic elements: script, actor and acting, stage, timing, and audience (Payne 2008: 14–34). The confessional script is what perpetrators confess to. The confessional actor and acting involves how the perpetrator presents him or herself through non-verbal cues such as physical size, body language and movement, costume, and props (Goffman 1959). Perpetrators perform their confessions on a stage, a public place, such as a courtroom or truth commission, or in the media. When the confession takes place and how it corresponds to other events or catalyzes a set of events establishes the timing of the confessional performance. An audience, which might include victims, other perpetrators, the media, and the general public, interprets the meaning behind the confession.

The social or political impact of confessional performances is contingent on a set of factors that perpetrators rarely or fully control. Perpetrators might carefully prepare a confessional script to express a particular meaning or

they might attempt to make their confession more persuasive by considering how, where, and when to make it. Despite these careful considerations, the ways in which the performance is presented to the public may produce unintended—and even contrary—interpretations of the confession. Editing provides one example. In reproducing a perpetrator's confession for the public, certain aspects of the performance are often deleted by the media. The redacted version may leave out crucial aspects of the performance, changing perpetrators' intended meaning. In addition, the use of cameras or media descriptions may exaggerate or minimize certain features of the confessional performance, such as the perpetrator's physical size and facial expressions, that might influence interpretations of its meaning. Perpetrators may hope to set the stage to cast themselves in a favorable light, but they cannot always anticipate or control reactions from others on the stage or how the stage and interactions on it are presented in the media. Timing is also a feature of the confessional performance that perpetrators may believe they can control but fail to do so because of abrupt or unanticipated events that shift public reactions to the confession. As a result, perpetrators may be asked to produce, or may offer, subsequent confessions shaped by an earlier one. Perpetrators may thus attempt to seize control over how their confession is interpreted, but may fail in this effort. Confessional performances prepared with one audience in mind, moreover, may be reinterpreted by another audience, removing perpetrators' control over its meaning.

Audiences thus play a critical role in interpreting or reinterpreting confessional performances (Payne 2008: 26–34). Through their observation and interaction with confessional performances, audiences ascribe their own meaning to them. They do not tend to passively accept as truth the performance intended and delivered by perpetrators or the mediatized version of these performances. Instead, audiences critically, even if not always consciously, engage various elements of the confessional drama—what is said, who says it and how, why at that time and on that stage—to challenge the version presented by the perpetrator or in the media. When the audience publicly responds to the confessional performance, a debate over the past ensues. Rather than settling accounts with the past, therefore, perpetrators' confessions tend to unsettle them by inciting public contention over how that past is presented.

The contested outcome of perpetrators' confessions belies the notion of reconciliation through confession embodied in the South African Truth and Reconciliation Commission (TRC) process. The TRC viewed perpetrators' confessions as key to building a historical record about past violations, restoring the dignity of victims by acknowledging the wrongdoing they faced, and

allowing a new post-apartheid South Africa to be built on the foundation of truth, acknowledgment, and condemnation of past violence and reconciliation. To create incentives for perpetrators to make confessions, the TRC offered amnesty in exchange for full disclosure of past political violence during the apartheid era. Thousands of perpetrators applied for amnesty, and there is little doubt that the confessions they made contributed to the rejection of apartheid as a legitimate form of government. But little evidence exists to support the idea that the confessional performances led to forgiveness and reconciliation. While individual victims in South Africa sought out perpetrators to forgive and to advance the process of reconciliation, as a social process, the model confronted various challenges.

The TRC's Amnesty Committee, many of them victims of human rights abuses, and the general public questioned whether they should forgive and reconcile apartheid state violence. Some of those doubts emerged from the confessional performances themselves. Perpetrators' confessions were often seen as instrumental; the timing of the confessions and the TRC confessional stage suggested that perpetrators participated only to receive amnesty and not to atone, reconcile, or contribute to a new post-apartheid democratic South Africa. The script, actor, and acting often appeared to audiences to be cynical, insincere, and deliberately misleading, rather than presenting heartfelt remorse and offers of remedy that might have allowed for forgiveness and reconciliation. In other words, the confessional scripts and acting, the timing, and the staging did not deliver the outcomes expected from the TRC model (Payne 2008: 3–4).

Perpetrators' confessions in South Africa and elsewhere, Payne contends, have not settled accounts with the past, but unsettled them. These unsettling accounts are not necessarily harmful to democracy, and may even deepen it. Even when perpetrators fail to deliver remorseful confessions, they reveal disturbing (unsettling) details about the past. In so doing, they break (unsettle) the silence about the past, a violent experience that was sometimes hidden from public view and about which debate and discussion were directly or indirectly censored. The public performance allows audiences—for example, victims, human rights defenders, and lawyers—to challenge perpetrators' versions of the past and produce more accurate ones that expose the truth about systematic and brutal violence. The confessional performance, in other words, catalyzes public debate over the past (Payne 2008: 34–40). The very act of disagreement or contention over the past puts the fundamental values of democracy in practice through political participation, expression, and contestation (Dahl 1971).

The assumption behind contentious coexistence is that reconciliation is unlikely where societies have been torn apart by violence. Contentious coexistence offers an alternative and more viable pathway to strengthening democratic practice in post-authoritarian and post-conflict contexts. It recognizes profound disagreements over interpretations of past violence that block reconciliation. It allows for debate over foundational matters. It acknowledges the equal participation of victims and their families in generating understanding of the nation's history. That debate may not deliver a shared understanding about the past, but it can lead to agreement over fundamental principles, such as the importance of ending violence, supporting democracy, and promoting human rights protections (Payne 2008: 279–292).

Violence always has its justifications. Reconciliation is rarely possible without refuting those justifications. Refuting those justifications involves debate. Debate is an essential component of democracy, as democratic theorists have argued (Mansbridge 1996; Young 1996).[2] Chantal Mouffe (2013), for example, criticizes the attempts to eliminate conflict from democratic politics and the liberal obsession to reach consensus. Antagonism, according to Mouffe, is an essential characteristic of social life. The danger to democracy is not debate, but is the inadequate channels and mechanisms to express potential conflict and to turn enemies into adversaries. Public debate develops political skills necessary to a vibrant democracy.

This dialogic notion of democracy plays out in terms of perpetrators' confessions. Perpetrators often justify past violence using the language of shared values of freedom, democracy, and human security. Victims and the general public often perceive this defense as the perpetration of human rights violations and repression in the name of human rights and democracy. When they challenge it, they engage in a different explanation and argument about the past. They refine notions of what democracy looks like, what freedom looks like, what human rights look like. These debates reinforce certain shared values. They put into public discussion how to best protect and promote those values and avoid past distortions of them.

Regardless of the type of script, therefore, engagement of perpetrators' confessions has the potential for reinforcing democratic values. Audiences can challenge the justifications behind heroic and sadistic confessions. They can use truth to confront denial, lies, and amnesia. By presenting the other side of atrocity—its impact on victims and society—audiences assert their role in public and democratic debate. They can turn confessional performances into a contested discussion about when, if ever, violence is justified, heroic, and democratic.

Unsettling Accounts in Spain

Payne's focus on contemporary transitions during the age of human rights accountability (Lessa and Payne 2012) may overlook the degree to which pre-transition processes allow for, or thwart, contentious coexistence. Consistent with our analysis of Spain, Payne states: "Rather than promoting deliberation or reconciliation, dialogue over the authoritarian past appears to threaten democracy (…). Governments attempt, often without success, to suppress debate in the interest of peace and democracy." Inconsistent with the Spanish context, however, is Payne's expectation of the response to efforts at silencing debate: "ideological polarization, antidemocratic attitudes and policies, and dialogic warfare emerge and unsettle democracies … [yet] … Even within this unpropitious political climate, democratic debate over past state violence is possible" (Payne 2008: 2–3). It is only very recently, and very tentatively, that such democratic debate over the past has begun to emerge in Spain. Thus, Spain poses a challenge for Payne's argument: What prevented contentious coexistence from occurring earlier or more fully there?

Small numbers of perpetrators' confessions in Spain does not explain the absence of contentious coexistence. Spain is like most other countries that have experienced contentious coexistence in having few confessions and little incentive for perpetrators to come forward to talk about past violence. The blanket Amnesty Law of 1977 protected Spanish perpetrators from justice for past violence; similar laws existed in nearly all post-transition Latin American countries. Other than South Africa, transitional democracies around the world, like Spain, tended not to create institutional incentives for confession. In most post-transition contexts, widespread agreement in society over silence and forgetting also prevailed. Perpetrators thus sensed no value in potentially sullying their reputations when no threat of exposure for their past deeds or social demand for the truth existed. And yet despite this context, even in Spain a few perpetrators have confessed to violence, albeit not always to wrongdoing. Because contentious coexistence emerged in other similar contexts, it is improbable that the small number of confessions, or the lack of institutional incentives to make them, blocked democratic debate.

The type of confessional script in Spain should not pose an obstacle to contentious coexistence. Payne's argument holds that any type of confession possesses the potential to be used by audiences to advance democratic engagement. The remorseful, heroic, denial, and sadistic confessions analyzed in this book are not unique to Spain. They have

been shown elsewhere to provoke audiences to challenge perpetrators' versions with alternative and more accurate truths, to question their justifications, and to condemn as illegitimate and criminal those past acts of violence. We contend therefore that the impediments to contentious coexistence in Spain have less to do with the script and actor, and more to do with the other three elements of the confessional performance: timing, staging, and audience.

With regard to timing, the public justifications of the violence and confessions to it began to occur at the beginning of the Civil War. These were heroic confessions—or declarations of intent—that did not either deny or hide the violence. This form of justification, as we show, was rather common among the main military commanders of the Francoist side.[3] The war did not provide the kind of stage that audiences could access to challenge the confessions in public debate, but neither did these confessions constitute a settled account of the past.

The national narrative about the violence that eventually emerged during the war and lasted during most of the dictatorship was a form of denial. Blame for the atrocities during the war was exclusively attributed to Republican forces, whereas Francoist forces were viewed as heroic in their defense of the country. As a result, the Francoist victors who allegedly sacrificed their lives at the hands of Republican perpetrators of atrocity became both the war victors and victims. This did not reflect a true accounting of the violence,[4] but on the dictatorship's stage, audiences could not challenge the claim. They could not, for example, resurrect the earlier heroic confessions to violence that demonstrated—in Francoists' own words—their culpability in unleashing massive violence against Republicans. On the post-war dictatorship stage, these earlier Francoist confessions were inconvenient, and thus ignored.

Timing, staging, and audience obstacles to contentious coexistence further evolved during the "few, fugitive, and fleeting" confessions that occurred before the democratic transition. The stage barely existed because these confessions were rarely picked up by a complicit and cowed media. Some of them occurred outside the country, thereby avoiding state or self-censorship by the media, but they hardly received attention within the country. They could not thus play a role in unsettling those accounts about the past. Audiences could not easily engage confessions that were not broadcast on public stages in the country. Those audiences, moreover, would have had to overcome fear and intimidation to be able to challenge or use the few confessions that emerged.[5] These confessions, therefore, did

not succeed in breaking the silence or correcting the accounting of past violence. The narrative of the necessary, defensive, and heroic Francoist violence to protect the country from Republican atrocities persisted.

In the second half of the dictatorship, a different settled account began to emerge and to endure with the passage of time, accepted or at least tolerated by both sides of the war. Rather than claiming heroism or victimhood on either side, the new narrative balanced the accounts of past violence. The balanced account attributed violence to both sides of the war. Both sides could claim to be victims and neither could blame the perpetration of violence on the other side. The violence unleashed during the long-lasting dictatorship was left out of this narrative. It was a narrative motivated by widespread agreement in Spain to never again experience civil war (Aguilar 2008a).

In the context of the transition—on this stage and at this time—contentious coexistence was very unlikely to occur. The pact of oblivion—and not truth or justice—became the foundation of a national reconciliation project. This project was seen by political leaders at the time—a view shared also by most of Spanish society—as the only secure pathway to an enduring peace and democracy. The few confessions that emerged thus faced efforts to stifle, rather than promote, contentious coexistence. This did not involve direct forms of censorship since self-censorship prevailed in the media and in society based on the assumption of its importance in preventing renewed conflict and instability.

It is only long after the transition from authoritarian rule that an incipient form of contentious coexistence has begun to emerge. Rather than emerging in response to perpetrators' confessions, however, it has resulted primarily from another source of unsettling accounts: the troubling truths exhumed from mass graves. Aguilar and Francisco Ferrándiz's (2016) work shows how the responses to the exhumations depended on timing, staging, and audience. The authors identify in their article an exception to the general rule that most of the exhumations that took place in the years following Franco's death failed to generate national media exposure or public attention. The timing involved the delayed emergence of an audience—a new generation of grandchildren—who were willing to actively seize a public stage to contest silence and oblivion. The timing of the next cycle of exhumations (from 2000 onward), with a generation capable of challenging the settled account, provoked much media attention and provided a stage critical to Spain's early engagement in contentious coexistence.

The audience is mainly comprised of a new generation, many, but not all, of whom are grandchildren descendants of Francoist victims. They do not accept the settled account of national reconciliation based on oblivion. They do not fear that challenging the settled account will destabilize democracy. These grandchildren were born in the late dictatorship but grew up in the post-dictatorship; they nonetheless possess family memories that are intricately entwined with Civil War and dictatorship violence. They reject the guilt imposed on the Republicans for instigating the war. They confront the defeatist narrative about the Republican government. They refuse to adopt the widespread claims of an unavoidable war. They combat public ignorance and silence regarding victims and the lack of public recognition of their suffering. By challenging the settled national reconciliation narrative they have catalyzed a debate (Silva and Macías 2003). Against many institutional and social odds, they have pushed this debate creating contentious coexistence in Spain today.

In sum, the degree to which Spanish audiences failed historically to engage the confessional performances has little to do with the confessional scripts and how they were performed. Instead, debate has been blocked by the notion widely shared on both sides of the political divide that national reconciliation depends on putting aside differences; political debate over the past would cause greater harm than good. Debate would jeopardize the agreement behind silence and forgetting upon which the stability of Spanish democracy and the non-repetition of civil conflict relies.

Such a pact seems unthinkable in today's era of transitional justice and human rights accountability. During the Spanish transition, however, it was unthinkable that enduring peace and democratic stability could emerge from investigating the truth and opening up debate. Contentious coexistence was considered to be too risky for any fledgling democracy with deep political tensions. Thus, it is not until after the human rights accountability era (timing) that a mobilized group of the grandchildren of Spain's violent past (audience) broke with the pact of oblivion and the national reconciliation project.[6] Through their exhumations (staging) they demonstrated their views that the country's democracy was strong enough to endure deep debate and that victims-as-citizens have the right to truth and justice. Their daring acts of defiance gained them national and international media attention. In what follows we will trace the process of perpetrators' upsetting confessions and the unburying of truths over time that eventually led to the beginning of democratic contention.

Notes

1. For a suggestive general reflection on the reasons for the resistance of perpetrators to apology, see White (2009). See also Payne (2008).
2. In D. A. Rustow's (1970) classic article, he sees democracy as a process of accommodation that includes as much division and conflict as consensus and cohesion. In fact, democracy only needs consensus over the rules of the game. The expression of public disagreement, peaceful conflicts, and public discussions are the essence of democracy.
3. We have not found equivalent calls for violence by either the main Republican military commanders or by the main Republican civil authorities. In fact, some of the most prominent Republican leaders, such as Manuel Azaña, president of the Second Republic during the Civil War, discussed later in the book, and other relevant authorities of the Republican side, publicly condemned the atrocities committed by those in their own ranks and did their best to limit violence much earlier than the Francoists (Payne 2012: 107). See a recent study of the differences between Republican and Francoist violence by Espinosa (2010).
4. According to the latest estimates, Republican violence caused around 50,000 casualties compared to 100,000 casualties by Francoist violence during the war and approximately 40,000 in the post-war period (Espinosa 2010).
5. In exile, many Republicans held the contending view that Francoists had committed most crimes and Republicans had restricted their violence to only that necessary to defend the legal government. This account also suffers from oversimplification and distortion, but further discussion of it falls outside the focus of this book.
6. This agreement relates to the social realm. In politics, the agreement not to use the past as a political weapon began to crumble in 1993, and even more so in 1996, when candidates engaged it for electoral purposes (Aguilar 2004).

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CHAPTER 3

Heroic Historic Confessions

Abstract During the early stages of the Civil War, some of the main military authorities on the Francoist side confessed to a plan to use brutal and widespread violence to eliminate the Republican enemy. These heroic confessions failed to provoke outrage due to their timing, staging, and audience. Occurring in the midst of the war, they lacked either a public stage or an audience capable of provoking contestation over them. But this type of heroic narrative, glorifying violence, was conveniently forgotten. A settled account emerged instead that emphasized a self-sacrificing heroic struggle by Francoists against Republican atrocities.

Well before the transition, indeed before and during the Civil War itself, a few perpetrators spoke out. Some instigators of the coup d'état that unleashed the Civil War explicitly referred to their aim to eliminate any sign of opposition to their rebellion. Three months before the coup d'état, for example, General Emilio Mola declared that "the action [would] be extremely violent in order to subdue the enemy as soon as possible (…). All the leaders of the political parties, societies and unions not sympathetic to the Movement [the Francoists] will be incarcerated, and those individuals will receive exemplary punishments" (quoted in Preston 2011: 209). Some of the most shocking declarations of intent came from Franco himself and his military high command, as in the Mola quotation above. They revealed a willingness and commitment to do whatever necessary to smash both the Republican social bases

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of support and its main leadership. Rather than expressing guilt for wrongdoing, these heroic confessions justified violence. Doing so dehumanized the Republicans, thereby legitimizing the war against them.

Although there is no doubt that Republicans committed atrocities, particularly in the areas of Spain in which they dominated between July and September 1936 (Ledesma 2010), they often held a different logic of repression from the Franco side. Rather than glorify violence, notable examples illustrate the Republican leadership's efforts to contain it. They made appeals for moderation in contrast to the Francoist justifications of violence and contrary to Francoists' portrayal of bloodthirsty Republicans. Famously, Manuel Azaña, president of the Second Republic during the Civil War, gave a speech in the midst of the conflict calling for "peace, mercy, and forgiveness." This is a prominent but not a unique example. In sum, Republican leadership attitudes behind Civil War violence contrast sharply with the testimonies of the Franco military leadership presented in this chapter.

Even after Franco's death in 1975 the Republican government's efforts to contain its forces' violence lacked official recognition. The Franco leadership's glorification of violence also failed to face any official challenge or condemnation. The victims of the post–Civil War dictatorship received no official acknowledgment. These absences contributed to the creation of a fictitious moral equivalence in which warring sides committed atrocities and both were victimized. This chapter explores the beginning of those developments by focusing on the openly expressed Franco-side narratives that eventually succeeded in suppressing alternative views.

In July 1936, at the beginning of the war, journalist Jay Allen (1936a) recorded General Francisco Franco's commitment to "pacify" the country, recognizing the Civil War violence as "a nightmare from which one has awakened." Allen, horrified by the killing spree he had witnessed, pressed Franco further and received the now-infamous quotation:

> Allen: Then no truce, no compromise is possible?
>
> Franco: No. No, decidedly, no. We are fighting for Spain. They are fighting against Spain. We will go on at whatever cost.
>
> Allen: You will have to shoot half of Spain.
>
> Franco (smiling and looking steadily): I said whatever the cost.

Rather than an apology for the violence, Franco justified it. He claimed that he would "save Spain from the communists … We will win or Spain goes under. There will be anarchy and barbarism" (Allen 1936b).

Franco was not alone in his justification of violence; his main military commanders—General Emilio Mola, Colonel Juan Yagüe, and General Gonzalo Queipo de Llano—made similar historic statements that lauded Civil War violence. Paul Preston quotes the unequivocal words of General Mola in 1936: "The reestablishment of systems of authority demands—without fail—an exemplary form of punishment, one that shows the seriousness by which it is imposed and the speed at which it is carried out, without hesitation or vacillation." Mola further affirmed, "It is necessary to sow terror … It is necessary to give the sense of domination by eliminating without scruples or vacillation anyone who does not think like we do. No to cowardice (…) Anyone who shelters or hides a communist or someone belonging to the Popular Front will be shot" (Preston 2011: 209).

Preston also quotes some of General Queipo de Llano's infamous stirring speeches: "Get the tombs ready! I authorize you to kill like a dog anyone who dares to carry out pressure against you: if you do this, you will be exempt of all responsibility" (Preston 2011: 213). John T. Whitaker (1942–1943) similarly quotes Colonel Yagüe, popularly known as the "Butcher of Badajoz," openly admitting to violence: "Of course we shot them … What would you expect? Was I supposed to take 4000 Reds with me as my column advanced, racing against time? Was I expected to turn them loose in my rear and let them make Badajoz Red again?" Pelai Pagés (2011: 228) refers to a conversation between Whitaker and Captain Gonzalo Aguilera, press officer of the Francoist Army, declaring that "we have to kill, kill, and kill. You know?" and later remarking, "They are animals, you know. … Our program consists … of exterminating a third of the male population in Spain. In this way we clean up the country and smash the proletariat."

Despite these early and bold declarations confessing to and justifying violence, they did not become the settled account of the war. Instead, these narratives were left behind in order to build a different account during the remaining years of the war and the long dictatorship. A variation on the heroic confession emerged that replaced the glorified version of violence. It denied that Franco's followers committed crimes during the war. It attributed, instead, all crimes to Republicans' thirst for violence. In contrast to Republican atrocities, the narrative depicted Francoists as heroes generously sacrificing their lives to the patriotic and heroic cause of saving Spain. This account justified why only the victims that fell at the hands of Republicans would be recognized and receive reparations during the dictatorship.

In the midst of the conflict some confessions questioned the one-sided view of violence, but they were unable to undermine it. From Francoists,

these "betrayal confessions" admitted to witnessing wrongdoing by their own forces. Some Republicans also denounced violence by their troops. Those who made the confessions either exculpated themselves by claiming that they did not participate, and/or abandoned their previous ideological commitments, loyalties, and colleagues because of the violence. While these confessions sometimes attracted attention outside the country, censorship prevented them from receiving much attention or provoking a reaction within Spain at the time. Among the most well-known of these types of confessions from the Francoist side include those by Antonio Bahamonde (1938), Antonio Ruiz Vilaplana (1938), Georges Bernanos (1938/2009), Francisco Gonzálbez Ruiz (1938), Jean Alloucherie (1937), and Edmundo Barbero (1937).[1] Among the most recognized denunciations from within the Republican side or between factions of Republicans, are those of John Dos Passos (1939), Manuel Chaves Nogales (1937), George Orwell (1938), and Joan Peiró (1936). Some of these testimonies have been denigrated as pure propaganda carried out internationally during the conflict. Others provide reliable firsthand evidence of the atrocities committed by both forces.[2]

The efforts on the part of the Francoist forces at the end of the war to conceal their own violent acts and overstate Republican-related atrocities played a crucial role in legitimizing the dictatorship. In the last fifteen years scholars have carefully documented Republican-side violence (Ledesma 2003). We also know that some of the supposed evidence of Republican crimes was deliberately exaggerated to legitimize the dictatorship. Some, such as the confessions made in the *Causa General*, are of questionable authenticity, owing to the highly probable use of torture or other forms of extreme pressure to extract them.[3] A case in point is the confession by anarchist Felipe Sandoval. Detained by Franco's forces at the end of the war, according to his colleagues Sandoval committed suicide after being forced to confess in writing to his crimes.[4] Even if these confessions were authentic, they would have failed to generate debate, emerging as they did at the beginning of an extremely repressive dictatorship.

A small number of confessions emerged spontaneously after the Civil War. Preston reflects on the general lack of remorse among those who participated in repression and confessed to it. In the epilogue to his book *The Spanish Holocaust* (2012), Preston attributes this lack of remorse partially to the "covenant of blood among the perpetrators" (519–520) and the "murderous repression which encompassed virtually everyone"

(521).[5] He suggests, however, that those on the Franco side have revealed more about "what had happened and … seem to have suffered qualms of conscience" (521), even if they do not often express this sense of guilt or remorse.[6] He reflects on the "psychosomatic illness or other distress as a result of repressed guilt" (523).[7]

Preston further suggests that guilt is sometimes masked as excessive conceit. One of Federico García Lorca's presumed killers, analyzed by Preston and presented in a 2006 documentary *Lorca, el mar deja de moverse*, provides an example. The film's novelty is "the image that allows the viewer to see the face of the supposed perpetrator of Lorca's murderer" (Valverde 2006). Gibson had previously (1971) recorded the attitude of the man who claimed to have killed Lorca because "We were sick and tired of queers in Granada" (Gibson 1971/1987: 179). In a similar fashion, a physician from the village where Lorca was killed recorded to a journalist that his father had been shown a pistol by someone claiming to have used it to kill Lorca for "being a faggot" (Sorel 1977: 33). Publicly boasting about such crimes has been documented in other cases as well (Morales 1977: 27). In one example, a killer visited the mother of his victim just after the execution. Laying his hand on her shoulder, he claimed "with this hand I killed your daughter" (Junquera 2013: 75).[8]

The historic heroic confessions failed to provoke contentious coexistence because of their timing, staging, and audience. Occurring when perpetrators of violence and their allies possessed political control, they lacked either a public stage or an audience capable of provoking contestation over them. Because of heavy censorship of the media and the threat of violent repression against challengers to the regime, it was too risky to publicly contest the official account, one of the basic pillars of Franco's legitimacy. While some confessions that occurred outside the country had the chance of challenging views of the war or the dictatorship, they had limited reach within Spain until after Franco's death.

Historic confessions, in other words, occurred in a kind of vacuum. Their emergence abroad, or in a domestic political context that prevented civil society audiences from reacting, prevented contestation. Those that glorified violence were conveniently forgotten. Those that challenged the narrative of a self-sacrificing heroic struggle against Republican atrocities were deemed to be propaganda. In many instances, however, they had no public stage, and therefore no audience or contestation at all in Spain.

Notes

1. In a similar vein, there is the confession by the monk Gumersindo de Estella, who wrote his memoirs in 1945, but these were only published in 2003. We return to these memoirs in Chapter 7.
2. For the international propaganda efforts on both sides, see García (2008).
3. The *Causa General* was an extensive and intensive judicial process ordered by a 1940 decree and conducted by the Spanish Attorney General's Office. It collected all possible information related to alleged offenses committed by Republicans or their sympathizers during the Civil War and led to the opening of tens of thousands of judicial proceedings. It is undeniable that in the Republican rearguard dreadful crimes were committed, but the context of the *Causa General* nonetheless raises doubts regarding the authenticity of the confessions to it.
4. His story has been retold by Carlos García-Álix in both a book and a documentary film called *El honor de las injurias* (2007). See also García (2007).
5. Preston notes that it is difficult to know how Republican perpetrators felt about their violent acts. As he says, far fewer narratives on the Republican side exist upon which to judge the "mental state of those who committed atrocities" (Preston 2012: 521).
6. For further discussion, see Cabañas (2010: 230). This author also deals with repentant executioners and their suffering (237–240).
7. A recent study about the psychological impact of having committed violent acts in the past finds that, where individuals voluntarily did so, they were much less likely to suffer from post-traumatic stress disorder (PTSD) symptoms than when they were forced to commit those acts (Hecker et al. 2013).
8. For more perpetrator testimonies regarding Lorca's death, see Sorel (1977: 33).

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CHAPTER 4

Few, Fleeting, and Fugitive Confessions

Abstract The expectation that perpetrators' confessions would set off a public debate did not occur in Spain. When confessions took place, they proved few, fleeting, or fugitive. Perpetrators vanished before a dialogue could begin. Many years had passed since the worst atrocities. Society, still haunted by the memory of these events, wanted to move on. The heroic confessions, which blamed Republicans for the violence that Francoist patriotic forces had to crush, overwhelmed and silenced any alternative version of the past. Spanish society was determined to avoid catalyzing contentious political and social debate over them. This chapter tracks these processes through the confessional acts of José Luis de Vilallonga.

In recent times democratic transitions arrive with the expectation of an end to silence, the possibility of truth about past violence, and heated debate over efforts against remembering and acknowledging victims of past violence. In this context, once produced, perpetrators' confessions should have an impact: they should resonate within society, they should be presented in independent investigative media outlets, they should provoke a reaction from audiences of victims and survivors, and they should prompt a vigorous debate over how to remember the past. This is what Payne finds in her study of other transitions (Payne 2008). But little of this occurred in Spain.

Only a small number of confessions emerged in the early transition. No incentives to confess existed. A shared and settled account about the role

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both sides played in past violence attempted to avoid stirring up past conflict. Thus, few individuals came forward after Franco's death to recount their acts during the Civil War or dictatorship.

Some of the most important experts in Civil War repression have shown the reluctance by perpetrators to confess to past violence. According to José Luis Ledesma, "In my 100 oral interviews only one person acknowledged—and even in this case not explicitly—having participated in executions. This was, not incidentally, an exile in France. Another told me that he had belonged to a 'clean-up' group in Aragon's Republican rearguard but he insisted that he had not participated in any killing. That he didn't want to. And then there is [Santiago] Carrillo, who finally spoke with me after a year of trying. He denied once again the Paracuellos issue,[1] but he acknowledged that he not only permitted but encouraged the 'purging of enemies' from the prisons managed by the political parties and unions in Madrid. That's it … Whenever I asked my interviewees about their participation in violence, they looked at me … with suspicion and even aggressively" (personal communication from José Luis Ledesma). Julián Casanova has informed us that he has located "executioners," but these individuals insist on maintaining their anonymity.

Francisco Espinosa recounts one interesting testimony in one of his books. At first the individual denied that he had carried out any executions when he was in military service in Badajoz (between 1937 and 1945). He explained that those who did not want to be on firing squads would trade something with those who were more willing. Eventually, and after several interviews, he admitted to Espinosa that he had, in fact, participated in a firing squad: "He said that the worst part of it was when someone from his village appeared" (Espinosa 2011: 47). The same historian relates the story of a confession from a man who was completing his military service in Seville and who became involved in the 1936 coup d'état. He recalls "the impact of the first firing squad at the cemetery. On the return trip in the truck he began to shake and cry. The second time was different and after a week it became a routine."[2] Antonio D. López Rodríguez says that he has collected more than 100 testimonies, and he has not found one direct admission of participating in executions. Similarly, Aitor Fernández has found, in over 100 interviews, only two who confess to these acts, which we refer to in Chapter 5.

Exceptionally, perpetrators showed remorse after Franco's death, and asked for pardon in a very discrete and inconsequential way. In 1979, the historian Carlos Fernández, expert in the history of the Civil War in Galicia, received an anonymous letter from a perpetrator that he included in his 2000 book. In this letter, the Falangist confessed—with great despair and remorse—some of the crimes he voluntarily committed. He recounted

how he and most of his partners in crime had never recovered from their feelings of shame and guilt for what they had done. He mentioned, as an example, one of his fellow perpetrators who had ended up in a mental hospital. In the letter, he asks God to forgive him and expresses his hope that these atrocities would "never again" occur in Spain (Fernández 2000).

The expectation that confessions would set off a public debate did not occur in Spain. When confessions took place, they proved few, fleeting, or fugitive. Perpetrators vanished before a dialogue could begin. Many years had passed since the worst atrocities, but society, still haunted by the memory of these events, wanted to move on. The heroic confessions blaming Republicans for the violence that Francoist patriotic forces were required to crush, overwhelmed and silenced alternative versions of the past. Spanish society was determined to avoid catalyzing contentious political and social debate over them.

José Luis de Vilallonga is one of the few Spanish perpetrators who confessed spontaneously and publicly and without any institutional or social obligation to do so. The aristocrat, known as an eccentric, egomaniac, gossip, and womanizer, did not limit his confession to a single event, but recounted his past on various occasions and in several different outlets. The basic story is this: At age sixteen, his father sent him from France where he was studying to fight "voluntarily" for the Franco forces in the Basque front of the Spanish Civil War. Before entering combat, he spent some time as part of a firing squad, allegedly aimed at toughening him up and getting him used to the sound of gunfire.

The first time Vilallonga tells this story is in a novel called *Fiesta*, published in France in 1971.[3] This book was not published in Spanish until 1983, eight years after Franco's death. In this first confession about his involvement in a firing squad, Vilallonga chose to write a fictional novel and not an autobiography. The novel became a film in 1995, shown in Spain in 1998. The film faithfully matches the text of the novel until it reaches a radically different ending. In the film the protagonist (the author's alter ego) avoids fulfilling his commanders' orders—killing a girl by firing squad—by allowing her to run away. In the novel, the protagonist visits the girl in her cell on the eve of her firing squad death and shoots her.

Vilallonga claims that his novel *Fiesta* is an accurate account of his experiences in the war.[4] But there is no evidence from his many confessions after the publication of the novel that he actually shot the girl. This seems to be a case of literary license rather than recounting true facts. But what explains the author's decision to adopt such a different ending for the autobiographical film? The differences between the Spain of the mid-1990s and

the Spain of 1971, when he first wrote the novel, may provide an explanation. In the later context, his "mercy killing" seemed more outrageous. By this time, victims of the Franco-era violence had become visible when they were not in 1971. Another interpretation is that Vilallonga's memories of this tragic phase of his past had begun to change and to become increasingly painful for him. In this context, he may have wanted to portray himself as letting her go rather than killing her, particularly knowing that the audience was going to interpret the fictional film as biography. Both of these explanations—his emotional transformation and his reaction to changes in Spain—are evident during Vilallonga's long confessional process.

Vilallonga's first confessional writing published in Spain was not his novel but an autobiographical essay titled *La nostalgia es un error* (1980).[5] In it he recounts the story of his being sent by his father to Colonel Joaquín Gual de Torella's command. An old friend of the family, the colonel had received a letter from Vilallonga's father that he described as "stupendous." The letter explained that "this boy has just left high school and he can't be sent to the front without any previous experience in war. Why don't you put him on a firing squad so that he can get used to the sound of gunfire?" Vilallonga confirmed: "They put me on a firing squad where I was killing people for eight or nine days."[6] In a surprising twist, however, Vilallonga excuses his father and the colonel's decision. Far from "brutal," he contends that they acted "in good faith" to "get him used to" blood and killing so that he wouldn't be afraid when he got to the front.[7] Vilallonga recognizes that not all young men would have the same response to their experiences. He relates the story of a friend his age on the firing squad who "was overcome by hysterical laughter … he is still laughing in an insane asylum close to Bilbao" (Vilallonga 1980: 24).

Despite his apparent ease in retelling his past, Vilallonga admits to challenges to doing so: "It is difficult to explain because you have to put yourself in the context of the time." He recalls that he was "in an advanced state of inebriation" before his first experience on the firing squad, owing to the cognac he had been given to drink for several hours before the shooting. He claims to still hear the sound of gunfire from that first experience but remembers very little else about that day. Memory and lapses of memory meant that while he wanted to tell his story, he could not do so for 35 years. According to Vilallonga, "I needed perspective. That is why I only wrote the book [*Fiesta*] eight years ago. It is important to remember that we killed anyone who went by the office. People say to me today 'I would have refused to kill.' You can say that now. But at the time a sixteen-year-old boy could not have said to a colonel that he refused to shoot anyone … in that era we had

enormous respect for what a father told us to do, and the fact that mine had recommended me for a firing squad was simply something one could not debate." And he added: "I understood much later about the Germans. They did those terrible things (*burradas*) due to a lack of responsibility. If you take away a sense of responsibility you turn people into beasts. You do what you are told and that is it. And you get used to doing what they tell you to do … What is terrible is not killing but becoming a killer. Once it becomes routine, killing a Jew or a million Jews is the same thing" (Vilallonga 1980: 24–25).

Such a dramatic confession might have created a stir elsewhere. In Spain it did not. It only resonated in a few places. One of the key Spanish dailies briefly interviewed the author with regard to the publication of his book and made only passing reference to his firing-squad experience. The journalist remarked that Vilallonga dealt with his violent past both "at a distance" and with a "lack of inhibition." But Vilallonga's words dispute that description. He stated, for example, that "it is very difficult to explain" the past because the events occurred "in a world in which no one acted in a normal way."[8] He further added that his criticisms of the Francoist side in *Fiesta* had led to efforts to convict him. Protected in his exile in France, he returned to Spain only after the 1977 Amnesty Law provided him with legal guarantees against prosecution. The media covered the confession, the emotional complexity in it and the repercussions for Vilallonga, but it muted rather than stressed the effect of Civil War violence on Spanish society.

Perhaps journalists saw little new for Spanish society in Vilallonga's confession. In reality, neither his novel, the film based on the novel, nor his autobiographical essay was his first Spanish confession. He had told his story already in Jaime Camino's documentary film *La vieja memoria* (1978). In the documentary, based primarily on interviews with Civil War survivors, Vilallonga recounts that he was "delighted" to receive the orders from his father to go to war because he considered this "an extraordinary adventure." Later on in the film he confirms that "in that era many people were killed, many Basque nationalists and Basque priests for example." He further remarked that those who participated in the firing squads were "all volunteers," but "when you say that a man volunteered to shoot people it might be assumed that the man is an animal, a sadist. In reality, the volunteers appeared for the firing squad each morning after receiving an enormous goblet of cognac. Guys even volunteered for the cognac. Because the first day is terrible. The second day also. The third is a little less bad. And on the eighth day you can do it just like you can kill rabbits or hens." He also mentioned the morbid curiosity that the firing squads provoked in the

local communities (and thus the *Fiesta*—Party—title for his novel). Some of Franco's men, as well as women, of good social standing would attend the shootings, as if it were a theater show, and then they would later return home to eat with their families or with the military command in charge of the executions. "At that time it seemed like a normal thing."[9]

The transcription of Vilallonga's narrative in the documentary film *La vieja memoria* reappears in a book about Civil War films published in 2000. The author recounts that Vilallonga's words "were not viewed positively by the Franco forces because they acknowledged the brutalities committed."[10] The author further states that "we should be grateful to the writer [Vilallonga] for what he said, although it was atrocious, because he reflected on the cruelty of Civil War" (Crusells 2000: 172–175).

Despite the admission to cruelty, this very first Spanish confession by Vilallonga also failed—like his subsequent ones—to unsettle accounts or scandalize audiences. There was hardly a response or echo in the media. Indeed, when the Spanish press covered the documentary film for the first time, when it was presented in the San Sebastián Film Festival, it did not even mention Vilallonga's confession.[11] A month later, coverage of the documentary referred generally to the "horrible things" Vilallonga recounted without any specific references to the firing squad; it instead commented on the small audiences attending the film despite its positive reviews.[12] Even after Camino's film was shown in Spanish commercial cinemas, barely a mention of Vilallonga's testimony appeared in its media coverage.[13]

The documentary was subsequently played on the Spanish public television's program *La Clave*. Its appearance on the least-popular channel and late at night guaranteed a small audience. The description of the documentary in the newspaper, without mention of Vilallonga's confession, would further fail to draw in viewers.[14] After the showing, the film's commentators made no reference to Vilallonga's testimony, despite its unique and astonishing exposé of the savagery of war.

The Vilallonga case shows that confessions—even if very scarce—existed in Spain. The timing of their emergence with the construction and stabilization of democracy meant that they were actively ignored as inappropriate and inopportune. To avoid plunging the country back into violent conflict, all potentially conflictual issues regarding the past were kept out of debate. The desire to look away notwithstanding, no one was unaware of the barbarities of the Civil War.

As Aguilar (2008b) has explained, a tipping point in the public discourse about the memory of the Civil War and Francoism began to take place in the mid-1990s. Vilallonga's persistent testimony sheds light on

this change, however slow and slight, over time in Spain. In 1997, 14 years after the first public television showing of *La vieja memoria*, the film was shown again, on the same television channel.[15] This time, however, Professor Santos Juliá, one of Spain's most respected historians, reviewed the film for *El País*. The coverage in the Spanish press allowed the public to read about the powerful contribution Vilallonga's confession made to understanding the past: "The most significant testimony in the film is from the boy who, under his father's guidance, forms part of a firing squad. The calm demeanor of his presentation is no less shocking than the routine by which he carried out his tasks. José Luis de Vilallonga killed men as others have killed rabbits."[16] Thus it took nearly 20 years from the debut of *La vieja memoria* for Spanish society to finally acknowledge, through Juliá's review, the profound impact of the testimony. That Juliá wrote and published such an article also reflects a shifting interest in and receptivity to exploring Spain's violent past.

The Spanish showing of Vilallonga's autobiographical fiction film *Fiesta* in 1998 reflects another indication of this shift. Journalists referred to Vilallonga's testimony as "macabre" and "sinister." By this time, Vilallonga had more than two decades of experience in recounting his story and a large number of venues to do so. He nonetheless responded to the film in his discussion with journalists in this way: "When I saw the film for the first time, I was ready to walk out of the room. These are the kind of moments I have tried to forget throughout my life. It is very painful to have to remember them."[17] This time, and for the first time, Vilallonga openly and publicly admitted to his deep pain and trauma over his past acts; he no longer appeared cold or dispassionate.

Vilallonga subsequently retold his story in the first volume of his memoirs (2000) with a critical view about his role in the violence: "I do not feel in any way proud of having participated in a war … during which savageries were committed, … Neither do I believe that having served, without rebelling, and following the orders of despicable individuals whose only aim was to kill, is worthy of pride. I still feel shame for having taken part. … I still feel outrage for having cooperated in my own capacity in the promotion of someone so worthless and cruel to the very top of the pyramid of power. … It still makes my blood boil to think of everything I was made to do" (Vilallonga 2000: 232). Vilallonga goes on to say how he responds to those who ask him about his participation on a firing squad: "Yes, that's right. I was killing people for more than fifteen days due to the munificence of a family friend. … With my father's approval, Gual de Torella felt that it would make me stronger, make me more used to the sight of blood and the sound of gunfire, if I were put

to the task of killing a massive number of Basques against the interior wall of an old convent." In this retelling of the story of his father's letter to Gual de Torella, Vilallonga claims that his father asked only for the colonel to do whatever necessary "to turn him as soon as possible into a real man." He further describes his difficulty in writing about his past: "It took me a long time to create the necessary distance to be able to deal with that moment in my life" (Vilallonga 2000: 233). His devastating self-criticism, shame, and remorse over his past added a completely new dimension to Vilallonga's confession.

In his memoirs Vilallonga also regrets the lack of attention the film *Fiesta* received in Spain. Vilallonga finds it "incomprehensible that the film [that had received an international prize and praise in the French press] took two years to be shown in Spain and then to a mute press." He complains that it was not even shown in the San Sebastián Film Festival (Vilallonga 2000: 234). Vilallonga's public denunciation of the silence, however, may itself be an indication of the beginning of a shift in attitudes in Spain.

That shift is further evident in Vilallonga's testimony in the 2003 Catalan television documentary *Las fosas del silencio,* produced by Montserrat Armengou and Ricard Bellis.[18] The documentary covers the exhumations of the mass graves from the Civil War and Franco dictatorship under way at the time. It depicts the difficulty families' faced in locating their relatives' remains and giving them a proper burial.[19] It shows the prevailing fear of stirring up the past, even 70 years after the end of the war and the persistent belief in silence as protection against renewed conflict. In small communities, where everyone knows who was responsible for the past violence and who their living relatives are, these fears and beliefs are particularly evident (Aguilar et al. 2011). In the documentary, Vilallonga reflects again about his past in the Civil War, illustrating not only his personal evolution and realization of wrongdoing but also Spain's social transformation since the mid-1990s.[20] When speaking about his participation in the firing squad, Vilallonga remarks, "There are still nights when I wake up perplexed, like those people who have recurring nightmares. I have spoken to a few psychiatrist friends … they tell me, 'friend, these are things that mark you for the rest of your life. Get used to it because no one can say to you that one day they'll go away. No, no, they will never go away.'" He adds, "one finds refuge in the notion that for every twelve guns there is one that is not loaded, and you always think, I wonder if it is mine. It is very hard for me to talk about this."

Vilallonga confirms in the documentary the routine of daily mass executions that began at six each morning and ended only in the late after-

noon.[21] According to Vilallonga, these killings took place without any prior trial. Asked how he could possibly participate in such acts, Vilallonga responds, "Well, if I had refused they would have executed me." Perhaps as further justification of his acts, he added that the Republican side had also carried out executions during the war, including the killing of some of his mother's close relatives.

Even Vilallonga's late and remorseful accounts rely on justifications and excuses, a trait Payne notes as nearly universal in perpetrators' confessions, including remorseful ones (2008: 41–74). Vilallonga excuses his father and the family friend as victims of the time: "an enchanting man [the colonel] … everything depends on the context and the moment. I've seen him since … and he is the kind of man who would do anything to avoid even accidentally hitting a dog in the highway."

Vilallonga's various confessional texts therefore oscillate among a range of emotions: coldness, dark humor, provocation, shame, and justification. In *Las fosas del silencio*, for example, he states, between laughter, that he thinks "an Asturian worker decapitating a priest" is more tolerable than Franco's violence, which he considers to be cold and calculating. Vilallonga never completely abandoned his provocative attitude either, as demonstrated in his letter published in the newspaper *La Vanguardia* on 10 June 2002.[22] In it he attests that during the war the soldiers received "orders to never take a Basque priest alive if caught carrying weapons" and that "some of us … let some priests escape even knowing that we risked our own lives in doing so. I remember … the frightened faces and the quivering lips of the three priests I let escape." But he continues, "I was for a long time proud of having saved those three lives. I am not today … I don't know if those priests that I saved have become bishops, but if they did I would not pardon me in what remains of my life."[23] In all of these statements, Vilallonga has not asked for forgiveness for what he has done, even if he does at times express feelings of guilt, trauma, and remorse.

The full range of Vilallonga's confessional performances eventually end in an unsettling account: breaking the silence about the past, recognizing massive illegal executions in the Francoist side, acknowledging the atrocities he committed, taking responsibility for that wrongdoing, and exposing his past to a broad public. He testifies to the importance of unsettling accounts when he ruminates near the end of his 2003 documentary interview that "a country that loses its historical memory is a sick country." He recounts that he has been "very afraid for a long time thinking that in Spain everything has been done to forget the past." He

concludes with this statement: "I believe that we have to know, we have to know that in that village there is a mass grave with fifty dead bodies, why they died, and how they were killed. All of this should be known as soon as possible … It is important that we talk about this, that it sees the light of day."

Eventually Vilallonga's confession reached an audience that began to engage it. He spoke out while thousands of military and civilian perpetrators of Francoist extrajudicial killing and repression enjoyed and continue to enjoy impunity. The wall of silence blocked recognition that the dictatorship had meted out its own form of justice against those it considered to be enemy perpetrators on the Republican side. It thus hid many of the horrors of war. Some sectors of society continued to uphold their belief in the legitimacy of repression following the war and throughout the dictatorship and the legal protection provided by the 1977 Amnesty Law.

The engagement with Vilallonga's confession had less to do with what he said than its political timing, long after the consolidation of democracy in Spain. After all, Vilallonga had made several confessions over time before anyone took notice. The response occurred only when the second wave of exhumations (from 2000-onward) had already begun to unsettle the bones, "resurrecting" the Civil War dead, and provoking some debate in a less fragile democratic climate.[24] Indeed, Vilallonga's own call for breaking the silence connected to the exhumations, that is, the bodies might be found if perpetrators provided oral testimonies that revealed the location of the mass graves and explained the events leading up to the killing and disappearances.

Notes

1. During the winter of 1936, when Madrid was under siege by the Francoists, and the Republican government had run away to Valencia, approximately 2000 inmates from the jails of Madrid who were supposed to be transferred to other jails, were instead summarily executed by Republican forces in the surroundings of Paracuellos (20 km northeast of Madrid). Among them were leading right-wing intellectual figures and cadres. Francoist propaganda referred to them as the "martyrs of Paracuellos." The event became one of the most important symbols of the repression carried out by their Republican enemies. The young Santiago Carrillo (who later became the head of the Spanish Communist Party from 1960 to 1982) was at that time

in charge of prisons. His role in this murky and scandalous event, which occurred over several weeks—whether he carried it out or at the very least failed to stop it—has remained under suspicion.

2. As it will be seen, the similarity with Vilallonga's testimony is striking regarding the transformation from atrocity to routine. This testimony is part of Espinosa's ongoing project; we are grateful for his allowing us to include it.
3. The author stayed in France after the publication of his first novel, *Las ramblas terminan en el mar* (the first French edition was in 1953; the first Spanish edition in 1984), due to the criticisms the novel made of Francoism. According to a brief biography produced when he died, Vilallonga referred to his life as "scarred by the horrors experienced in the Civil War," turning those experiences into an obsession. See "Un Grande de España 'políticamente incorrecto,'" *El Mundo*, 30 August 2007 (Accessed: 21 October 2015). He subsequently wrote, "I have dealt with the Civil War in all of the books I have written, except two" (Vilallonga 1980: 220).
4. At the film's premier, Vilallonga remarked, "It is completely autobiographical. I have been asked three times to adapt the novel to film and I only accepted [the offer] this time on condition that they make a faithful representation of the book". See "Un fotograma de la producción que dirige Pierre Boutron," *El Periódico*, 26 June 1998 (Accessed: 21 October 2015).
5. Vilallonga, incidentally, does not begin to write non-fictional accounts of his past until after the death of his father in 1974.
6. In his subsequent confessions, he would report that he spent more than 15 days on the firing squad.
7. In his 1980 book, Vilallonga expresses warmth for his father, justifying in an uncritical voice the rough experience he had. He even put these words in his father's mouth: "For me, war is savage, but I do not think the same about Civil War. This seems right to me because you have in front of you a bastard who you know, even a relative of yours who screwed you somehow. You kill some guy who has been messing with you for twenty years. But killing a German, who you don't know at all, who never did anything to you, that seems to me to be true savagery" (Vilallonga 1980: 223). In another anecdote, Vilallonga recounted how his father did not personally shoot, but "ordered to shoot" during the war as revenge for the many pairs of fine shoes that they had stolen from him while he was captured and held by the POUM during the Civil War (Vilallonga 1980: 230).
8. José Luis de Vilallonga: "La nostalgia es un error," *El País*, 22 April 1980.
9. A Civil War expert corroborated these claims in his references to the Francoist executions: "During the first weeks, executions even became public spectacles in some provinces, and on 25 September 1936, the Valladolid newspaper, *El Norte de Castilla*, protested because of the massive influx of boys and girls to the executions" (Payne 1987: 226).

10. As previously stated, the dictatorship's legitimacy hinged on a narrative in which Republicans committed all the dreadful crimes and Franco's forces put an end to the chaos and violence, thereby establishing peace and prosperity in Spain.
11. "El filme 'La vieja memoria' de Jaime Camino, al Festival de Cine de San Sebastián," *La Vanguardia*, 7 September 1978, Available at http://hemeroteca.lavanguardia.com/edition.html?bd=07&bm=09&by=1978&x=22&y=4&page=5 (Accessed: 24 March 2013). See also "Revolución y guerra fría," *El País*, 20 September 1978.
12. "El filme 'La vieja memoria' de Jaime Camino, al Festival de Cine de San Sebastián," *La Vanguardia*, 7 September 1978. Available at http://hemeroteca.lavanguardia.com/edition.html?bd=07&bm=09&by=1978&x=22&y=4&page=5 (Accessed: 24 March 2013). Three days later, *El País* published the same article: "La vieja memoria," *El País*, 18 October 1978.
13. "'La vieja memoria' pretende levantar acta testimonial de la Guerra Civil," *El País*, 13 March 1979. Available at http://elpais.com/diario/1979/03/13/cultura/290127606_850215.html (Accessed: 24 March 2013).
14. "Jaime Camino ha abreviado 'La vieja memoria' para su emisión hoy en 'La Clave,'" *El País*, 15 July 1983. Available at http://elpais.com/diario/1983/07/15/radiotv/427068001_850215.html (Accessed: 21 October 2015).
15. In 2006, Camino converted the documentary *La vieja memoria* into a book, which demonstrates growing interest in the subject.
16. "Las trampas de la memoria," *El País*, 20 July 1997, available at http://elpais.com/diario/1997/07/20/radiotv/869349605_850215.html (Accessed: 21 October 2015).
17. "Un fotograma de la producción que dirige Pierre Boutron," *El Periódico*, 26 June 1998, available at http://archivo.elperiodico.com/ed/19980626/pag_054.html (Accessed: 21 October 2015).
18. Armengou and Bellis (2004) published a book with the same title that provides details of testimonies they collected at the exhumation sites and the societal responses to them.
19. The *Asociación para la Recuperación de la Memoria Histórica* (Association of Historical Memory—ARMH) emerged in 2000 with the mission to promote the memory, honor, and visibility of Republicans assassinated during the war and post-war era, mainly through exhumations consistent with survivors' demands (Aguilar 2008a; Silva 2006). ARMH's work had significant social, media, and political impact throughout Spain (Ferrándiz 2010, 2012).
20. We thank Montserrat Armengou for providing us with the full transcript of her Vilallonga interview, including revelations left out of the documentary.

21. Vilallonga also acknowledges in the documentary the systematic rape of women.
22. "El silencio de los corderos," *La Vanguardia* 10 June 2002, available at http://www.alay.com/hist1009.html (Accessed: 23 October 2015).
23. There were some limited responses to Vilallonga's declarations on newspaper websites. See, for instance, "Hay que buscar formas de convivencia más responsables, respetuosas y plurales," *El Periódico*, 16 June 2002, http://archivo.elperiodico.com/ed/20020616/pag_012.html (Accessed: 23 October 2015).
24. In January 2004, Spanish public television showed another documentary on this theme called *Las fosas del olvido*. Indeed, since about the middle of the 1990s, but certainly from 2000 onward, the interest in the past has taken off due in large part to the creation that year of the ARMH.

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CHAPTER 5

Unsettling the Balance

Abstract A new, settled account emerged during the transition to democracy. The narrative of "we are all guilty" attempted to equalize responsibility for past atrocities. Disturbing confessions on both sides of the Spanish Civil War emerged, however, and they unsettled the accounts of the past. This chapter examines the confessions of perpetrators who live with the trauma of witnessing and committing violent acts under orders or for a cause. It explores the complex layers of complicity in the violence and avoids simplistic notions of good and evil.

Spain is no different from other transitional countries in generating multiple and competing memories about the violent past. Where it is different is in the failure to agree to disagree over the past. The fear in Spain over contested memory is a fear of renewed civil conflict, an assumption that debating the past will drag the country back to the same polarized struggle that ended previous democratic experiments. Spain's difference in this regard may also be somewhat overstated. In other countries the fear of political repercussions resulting from memory contests has made gag orders appealing at different political moments or to particular political actors. Stephen Holmes (1997) refers to "gag rules" or the "politics of omission" as the way we often "suppress controversial themes" in order "to avoid destructive conflicts" (19). In transitions to democracy, the decisions "to offer impunity from criminal prosecution to military leaders," that is, an amnesty law, are considered "classic examples

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of democracy-stabilizing gag rules" (27). Holmes recognizes, however, the "temporary and selective nature of gag rules" (43) and admits that omitting the debate over certain issues tends to favor one party over the other because gag rules "are seldom neutral" (56) and "potentially dangerous" (58).

In Spain, those political actors who support gag rules question the value of (literally and figuratively) digging up the past and resurrecting the old animosities that led to the violence of brother-against-brother. They tend to be, but are not uniquely, conservative forces. They are, or pretend to be, concerned that such acts threaten national reconciliation by reigniting ideological violence and political instability.

The attitude of the Catholic Church, with its active collaboration with Franco, during both the Civil War and the dictatorship, illustrates support for gag rules among particular sectors of Spanish society. The Church hierarchy has managed to obtain recognition for its victims; many priests killed during the Civil War by combatants fighting on the Republican side have been beatified, owing to resolute and persistent efforts in the Vatican. That hierarchy, however, has repeatedly refused to support and sometimes opposed efforts made by Republican victims to obtain public recognition, truth, justice, or even the exhumation of the remains of their families.[1] In contrast to the Argentine Catholic Church, which in 2000 asked for forgiveness for its complicity with the civil-military dictatorship,[2] the Spanish Church has never officially apologized for its fervent collaboration with Franco during the war and the dictatorship.[3]

Other actors view the demand for the recovery of historical memory to be completely one-sided. They consider these efforts to be focused solely on the Franco side of the Civil War and its aftermath. They at least claim to support historical memory, but only if it involves a balanced process that examines both sides' role in the violence: the Republican state and its allies and the Franco regime and its allies. This group's view is that the victims of Republican violence should still be included in the current democratic historical memory project, even if they were recognized as victims and received generous reparations as such during the dictatorship.

From the perspective of the associations of historical memory, these criticisms of their project are insincere. First, their critics normally exclude from their own version a full and accurate account of past violence. Their version tends to equate the violence on the Franco side with the Republican side of the violence. While this might appear as a balanced account, it does not consider the different logics, types, and levels of violence on the different sides of the Civil War discussed above. It further leaves out the near singular responsibility of the Francoist forces for violence during the dicta-

torship.[4] This existing settled account of the past, in other words, is itself one-sided. It is that version of the past that the associations of historical memory are trying to correct. Second, the associations assume that leaving Francoist victimization out of their version of the past is more than compensated by the 40 years in which this was the only version of the past. The only recognized victims of violence were those on the Francoist side who allegedly risked their lives to protect Spain from Republicans war atrocities. Finally, Republicans were already held accountable for that violence, not to mention their non-violent adherence to the legitimate Republican state, through imprisonment and labor camps, show trials, disappearances, and summary executions during and after the Civil War.

It is in this context of gag orders and tensions around it that perpetrators' confessions emerge from Franco forces and Republicans. When perpetrators of Republican side violence testify to past violence, what does this mean for unsettling accounts and contentious coexistence? Does it reinforce the view that living together in peace must be built on silence and forgetting and not on establishing responsibility for past violence? Does it suggest that more, and not less, truth will enhance Spanish democracy?

On both sides of the ideological spectrum, although more so on the right, profound fear exists that digging up the past will resurrect old animosities and desire for revenge. But not all forces within Spain, as the Vilallonga confession and responses to it reveal, endorse gag orders over historical memory. With the push for the recovery of historical memory, associations emerged urging an end to silence over the past. Their efforts questioned the argument that silence is the only, or the best way, to address past violence and stabilize democracy. That silence has perpetuated fabrications about past violence, such as both sides being equally responsible for the violence during the Civil War and its aftermath. The silence also fails to recognize the state's responsibility to address the demands for truth and dignity of victims on both sides. In their efforts to correct the biased, one-sided version of events behind the "settled account," the associations have unsettled those accounts and initiated the early stages of contentious coexistence.

The *Diario de un pistolero anarquista*—a kind of confession to Republican-side violence—was published during the heightened debate over the past in Spain. The book reproduces the handwritten notes taken by "José S.,"[5] a member of the *Federación Anarquista Ibérica* (FAI—Iberian Anarchist Federation). Not published until after his death, the notes describe his participation in various clandestine killings in Barcelona during the first few months of the Civil War. The writer had lived in exile in the United Kingdom until his death. His godson, who had accompanied the

author on some of the executions, found among his godfather's personal effects a notebook written by him with references to his experiences during the Civil War. The godson gave the notebook to historian Miguel Mir (2009), who took charge of publishing it, introducing it with a prologue.

This is not a standard confessional text, because the author probably never intended it for publication. Because the godson decided to make it public after the author's death and without his permission to do so, the author could neither prevent its publication, edit, filter, or excise sections not ready for a public audience. Nonetheless, there is no doubt about the authenticity of the text and the desire by the writer to confess (albeit privately) to his acts. It is a sparse account of extraordinary testimonial value. The author depicts a set of FAI activities in Barcelona: extrajudicial executions, stealing goods, and detaining clerics or other people assumed to be supporters of the Franco regime. Under orders, they executed people identified on a list produced every day by their commanders. The author admitted, "In the months of August to November 1936, our troop violently detained and killed people solely if they failed to sympathize with the revolution. … We had orders to kill during those first months" (Mir 2009: 180). These actions "were always carried out at night, in clandestine form … when we were camped out in the Barcelona periphery. We shot them and we left them in the sidewalks or pathways. Dead but not buried" (Mir 2009: 183). Because the press reported these assassinations, the tactics changed: "After September our leaders ordered us to carry out the executions in the cemeteries … that were outside Barcelona, so that the bodies of the dead would not cause us any problems … we had to make the bodies disappear and the way we did that was to kill them in the cemeteries, then put them back on the truck and take them to the cement ovens [to be incinerated] at the Montcada factory. This way their relatives could not find the bodies of the detained and did not know if they had escaped death or not" (Mir 2009: 184).

There are some eerie similarities with Vilallonga's (and others') confessions. The author of the notebook admits that "these actions would not have happened without the warm blood that ran through our veins" from the prior consumption of "a few glasses of wine."[6] He also used the same rabbit metaphor as Vilallonga: "the commanders of the troop … greeted us and congratulated us on the successful hunt for the priests and they said to us that now it was time to have a little fun hunting bunnies to refine our shooting skills" (Mir 2009: 188).

This confession unsettled accounts. It became public, provoked a reaction, and even elicited a limited debate in journalistic and academic communities.

No one could challenge the authenticity of the document. Instead, the text revived the discussion over responsibility for, and degrees and types of, Civil War violence: which side committed more spontaneous or premeditated assassinations.[7] For some, the book provided proof that Republicans were no different from the Franco forces, and might even be worse, in carrying out illegitimate and illegal political violence. For others, the book showed the importance of not digging into the past. One news report ironically asked: "Do we really want historical memory?"[8] This report implied that the vindication of historical memory had been implicitly biased under democracy in favor of the Republicans. "True" and balanced historical memory—where the Republican forces' violence is revealed—was thus a double-edged sword.

A few days later, this same author wrote an article about Francisco Peruchena, a cleric saved from death at the hands of an anarchist troop through the intervention of Lluís Companys, president of the *Generalitat* (the Catalan Government) and executed by the dictatorship in 1940. The author comments that at the time of publishing this story and while "the government … and the rest of the political parties were deciding which part of the Civil War merited remembrance and which should be buried, Francisco was revising his own history." Peruchena turned against the Spanish "Ley de Memoria Histórica," asking, "Why? To stir up silliness? To once again face each other down? It is better to leave things as they are."[9]

Rogelio López Blanco, director of the e-zine *Ojos de Papel*, concluded his review of the *Diario de un pistolero anarquista* with similar views: "What we have here is an overdose of historical memory" (López-Blanco 2007). He suggests that when the two sides are exposed through memory narratives, too much may be revealed. After the recent years in which Republican victims of Franco era violence had begun to enjoy moral superiority, the disturbing testimony of José S., a perpetrator of violence against Nationalists, was received with ill-concealed rejoicing by conservative forces.

The complexities over revealing both sides of the story is further illustrated by Román Mourín's account in Aitor Fernández's documentary film *Vencidxs* and the book of the same title, both in circulation in 2013. A Galician man of very humble origins born in 1917, Mourín was forced to fight on the Franco side of the war, a category that Cabañas (2010: 243) calls "forced executioners." Mourín confesses to this fairly common role during and after the Spanish Civil War. Specifically, he participated in firing squads and was forced to bury two people alive (Fernández 2013: 90–91). Mourín states, "During the war, I tried not to kill anyone, but many times I had to do it, particularly in the firing squad executions in

which I was forced to participate. Either you killed, or you were killed." He then explains the typical execution process (Fernández 2014: 90–91). As a witness to Franco's concentration camps and prisons, he recounts what the detainees faced: brutal torture, particularly sexual and reproductive violence against women. On four occasions he was obliged to participate in the firing squad execution of more than 30 prisoners. According to Mourín, these orders came from the clergy and the town council. The prisoners never faced trial before receiving their death penalty.[10]

Despite describing the atrocities he witnessed and was forced to commit, Mourín does not express remorse. What is more, his narrative seems devoid of pain and emotion. He explains his acts as necessary for saving his life; commanders did not tolerate disobedience. Mourín is therefore not motivated to speak out by pangs of conscience or guilt. According to the documentary's director, in a personal communication to the authors of this book, Mourín seems instead bothered by silence and indifference in Spain toward the past. While he probably sees Franco's victims and their families as having been heard and understood in Spain, those who live with the trauma of witnessing and committing violent acts under orders remain invisible, misunderstood, forgotten, and excluded. Silence, in other words, seems to perpetuate the harm to victimizers as well as victims. Understanding complex layers of complicity in the violence—and avoiding simple notions of good and evil—is what Mourín could be calling for in his own confession.

In another testimony in the same book, José Ramón Álvarez Díaz describes how he was forced to participate in two executions. In the first, he asked not to be involved in the shooting given his lack of training. His request was granted and he became the person in charge of the burial. In the second execution, he was required to drive the truck and illuminate with its headlights the execution scene. He also claimed, "In the barracks, all soldiers were obliged to beat and torture prisoners and I was reluctant to do it" (Fernández 2014: 133). The similarities between the Mourín and Álvarez Díaz testimonies may reveal the factors behind their willingness to confess. They were both forced to join the Francoist Army, reluctant to participate in executions, have positive memories of the Republican side, and are very critical of the Francoist side.

These views of Mourín and Álvarez Díaz express an imbalance in historical memory that somewhat coincides with the confessions of three official executioners of the Franco era presented in Basilio Martín-Patino's documentary *Queridísimos verdugos*.[11] Based on clandestine interviews

with the executioners, the documentary reveals their task of carrying out capital punishment by *garrote vil* to those condemned by the Franco dictatorship. In exchange for payment by the filmmaker, the executioners retell their personal and professional experiences in front of the camera. For at least two of the three, escaping poverty was the main motivation behind becoming executioners (and possibly explains why they later agreed to be filmed).[12] They all reject personal responsibility for their acts because the decision to execute was made by others; they merely followed orders. The absence of remorse is further illustrated by their enactment on camera of the garrote while simultaneously defending the allegedly rapid and painless death it produced. They eat, drink to excess, and converse naturally in front of the camera while they provide lurid details about how those facing death by garrote faced their destiny. They embody Arendt's (1963) notion of the "banality of evil."

This film hardly made an impact in Spain despite receiving awards, accolades, and attention outside the country.[13] Its unsettling nature was reflected in one of the few reviews the film received in Spain, calling it "anxiety-producing and unbearable … unbelievable … odd and uncomfortable." Regarding the executioners, the review stated: "These human beings forced to carry out a horrific mission that does not seem to bother them too much represent a distorted view of all of us." The reviewer suggests that the portrayal of "a wretched Spain that has not yet disappeared despite all of the efforts to pretend that it has," shows "our collective responsibility" for the violent past.[14] The reviewer contends that silencing and censoring stories of past violence allows Spanish society to ignore or hide its own responsibility for creating the killers and the killing.

While applied to the suppression of scandalous stories behind committing atrocity, the same could be said about silencing testimonies that express great pain, regret, and remorse. An interview with a *Guardia Civil* (Civil Guard) member that took place in 1977 was very tellingly silenced until its publication 20 years later in 1997, and after the protagonist had died. Spanish psychiatrist Carlos Castilla del Pino (1997) had known the person he interviewed for a very long time. The Civil Guard member confessed to Castilla del Pino of having been part of several firing squads but only after a direct question. He responded that he had "shot into the air … I swear this on the life of my children. I shot into the air. My conscience would not allow me to shoot [to kill], no, no, I shot into the air." [15]

The years since the transition to democracy in Spain have revealed a range of narratives about the past. Unanticipated, but still very scarce,

testimonies from the victimizers on both sides have emerged. Rather than a balance of accounts, an unsettling has begun to occur with the confessions to violence from Francoist perpetrators joined by those from their Republican counterparts. Those who hoped to counter the Franco narrative of the past with victims' stories confront victimizers on both sides who want to be heard and understood as well.

Notes

1. For the resistance of the Spanish Catholic Church to the 2007 law known as the "Historical Memory Law," see Catela (2008) and Phillips (2014).
2. Lourdes Heredia, "Church sorry for role in 'dirty war,'" *BBC News*, 9 September 2000, available at http://news.bbc.co.uk/1/hi/world/americas/917266.stm (Accessed: 22 October 2015).
3. Beginning in the 1960s, however, some sectors within the Spanish Catholic Church, mainly at the grassroots level, began to register some criticism of the Franco dictatorship. In 1971 the only attempt by the Church to apologize for their mistakes in the war occurred but failed due to insufficient support (Aguilar 2008a).
4. There is some controversy over the responsibility of the violence during this period. The violent activities of the maquis, particularly in the 1940s, and terrorist activities from the late 1960s of separatists and/or radical left groups, particularly ETA, has been presented by the conservative forces as a challenge to the notion that the Francoist side was exclusively responsible for violence.
5. Although the protagonist's name was not revealed in the book, it is assumed to be Josep Serra.
6. We have already noted the reference to alcohol as a motive (or excuse) for carrying out atrocities. It is often implied that perpetrators need the indispensable help of alcohol to carry out their actions. This is something that also appears in the unsettling film on the Auschwitz crematorium, *The Grey Zone* (2001).
7. For a good example, see the article by historian and journalist Jorge M. Reverte (2010).
8. "El anarquista que fusiló a 45 beatos," *El Mundo*, 14 October 2007. Available at: http://www.elmundo.es/suplementos/cronica/2007/625/1192312801.html (Accessed: 24 March 2013).
9. "Así me salvé del pistolero," *El Mundo*, 21 October. Available at: http://www.elmundo.es/suplementos/cronica/2007/626/1192917605.html (Accessed: 24 March 2013).
10. It seems evident that perpetrators' confessions can be crucial to counteract official versions of the past. The importance of oral testimonies to document

the repressive apparatus under dictatorships proves to be, once more, of fundamental importance.

11. This documentary, filmed between 1971 and 1973, was not shown until 1977. The brutality of the testimonies, Franco's death in 1975, and thus the prevailing fear over reliving the past, likely explain the delay in presenting an otherwise unique film. See "Nosferatu abre con 'Queridísimos verdugos:' un ciclo sobre cine y derecho." [Online] 18 January 2000. Available at http://elpais.com/diario/2000/01/18/paisvasco/948228015_850215.html (Accessed: 24 March 2013). The film was inspired by Daniel Sueiro's work (1971). Capital punishment under the dictatorship is a theme dealt with in the magisterial dark comedy *El verdugo* (1963) by filmmaker Luis García Berlanga.
12. As a later report revealed, based in part on the testimony of children of the executioners, "More than one attempted to get the monthly salary, in an era in which there was much poverty, with the hope that the moment to carry out the execution would never arrive." The son of one of the executioners, who knew that his father imbibed alcohol when he had to carry out an execution, says that "I don't remember any emotion of guilt or shame in him." But he remembers that after returning from the execution of a young woman he said to his son: "This is the worst thing I've done in my screwed up life; worse than killing 100 men." "Mi padre era verdugo," *El País*, 27 November 2011, available at http://elpais.com/diario/2011/11/27/domingo/1322369561_850215.html (Accessed: 21 October 2015).
13. For example, it received the Cariddi d'Oro in the third International Festival of Taormina. "Éxito en Italia de 'Queridísimos verdugos,'" *El País*, 31 July 1977, available at http://elpais.com/diario/1977/07/31/cultura/239148008_850215.html (Accessed: 24 March 2013); "Queridísimos verdugos' Premiada en Taormina," 2 August 1977, available at http://elpais.com/diario/1977/08/02/cultura/239320804_850215.html (Accessed: 24 March 2013).
14. "El terror cotidiano," *El País*, 22 April 1977, available at http://elpais.com/diario/1977/04/22/cultura/230508008_850215.html (Accessed: 21 October 2015).
15. Quoted in Castilla del Pino (1997: 530).

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CHAPTER 6

Preposterous Denial

Abstract Because few perpetrators would want to be associated with past violence, denial is one of the most commonly practiced forms of testimony. Denial takes a particularly preposterous form when perpetrators are confronted with unequivocal evidence. Even when perpetrators are protected legally from prosecution, they tend to deny and cover up their violent past. This chapter follows some outlandish denials made by perpetrators when they encounter family members' evidence of their involvement in violence.

Confessions emerging from either side of past violence are still surprising, because few perpetrators want to be associated with it, even if it draws attention to their suffering. Leigh A. Payne (2008: 158) finds denial to be one of the most commonly practiced forms of perpetrator testimony. Denial takes a variety of forms in her study. There is a particularly preposterous form that occurs in Spain. Perpetrators deny and cover up even when they are confronted with evidence, even when they enjoy immunity from prosecution, and even when the families of victims want only the information necessary to provide a proper burial for their loved ones. The desire not to want to know, however, can also exist among family members of those victims.

Denial is evident in the testimonies of victims and perpetrators from the Castuera (Badajoz) concentration camp, gathered by historian Antonio D. López. After the war, when the military and the Falange (pseudo-fascist) party took over the camp, guards engaged in the practice of allowing family

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members to visit and provide food and clothing to the detained, but often at the cost of sexual favors. López recounts an interview with one of the former guards, a young Falange party member at the time. He "began to cry upon remembering the treatment of women who visited the prison." He did not acknowledge his own personal participation in the abuses, but given the widespread and habitual practices López documented, it seems unlikely that this young party member could have or would have avoided such behavior (López 2006: 266). It might be considered preposterous—but not necessarily uncommon—that a perpetrator would deny well-known acts of violence.[1]

Denial of torture seems equally preposterous, yet commonplace, in the well-known Ruano case. The police who in 1969 detained Enrique Ruano, an anti-Franco militant and student, claimed that he had thrown himself to his death from the seventh floor of a police building. Ruano's family contends, in contrast, that the police fatally shot him and subsequently covered up the murder by throwing his body from the seventh floor window and sawing off a piece of his collarbone to hide where the bullet would have been lodged (Domínguez 2011). Other testimonies seemed to confirm the family's suspicion of the cover-up. For example, in 2009, José Luis Úriz, a Socialist who fought against the dictatorship, explained that he was tortured by the notorious Francoist policeman known as "Billy the Kid" (Juan Antonio González Pacheco), referred to later in the book. When Billy was torturing him, another police warned him: "Be careful, don't push it too far again, or you will kill him." Billy is reported to have answered back: "It doesn't matter; we can do as we did with Ruano. We threw him out of the window and then claimed he had tried to run away."[2] There was little reason for the police perpetrators' cover-up, given their protection from prosecution under the 1977 Amnesty Law. Legal impunity proved insufficient to convince perpetrators to give up their preposterous denial and reveal the truth about Ruano's fate to his family (Gil 2009).

The entrenched practice of silence and denial is manifest among the security forces considered most responsible for the violence. We have not found even one confession from the *Guardia Civil* (Civil Guard) despite its well-documented role in violence during the Civil War and the dictatorship. Only one perpetrator from the *Policía Armada* (popularly known as "*los grises*") has recounted his past. In this case, Julián Delgado Aguado (1996) acknowledged his role in pursuing protesters on horseback through the streets of Barcelona, a common practice carried out by *los grises*, but denied beating any of the protesters, another very common police practice.

Perhaps the most intriguing preposterous denial emerges in the follow-up book to the documentary film *Las fosas del silencio* by Armengou and

Bellis (2004: 225–230). It recounts the story of Arturón de Sésamo, a former Falange party member, who confessed to participating in the detention and subsequent execution of a particular individual. Unsurprisingly, however, he denied that he pulled the trigger. The denial turns preposterous when Arturón received a visit from a member of the Civil Guard to discuss his confession. Mistaking the officer for pro-Franco, he asked with interest if the Falange was being reorganized in the region. When the Civil Guard officer revealed his identity as the grandnephew of the executed victim (named Periquete) and reproached him for his murderous past, Arturón "turned white. Three days later he died from a heart attack" (Armengou and Bellis 2004: 226).[3] The confession thus starts with an admission of wrongdoing by the Falange, but denial of personal responsibility, then becomes an effort to resurrect the victimizer group, and ends up with the confessor's natural death, which prevents victims from engaging and challenging his testimony.

More than a year later, the grandnephew of the victim interviewed another presumed killer of his great uncle: Nicandro Álvarez, a former Falange member.[4] Álvarez acknowledges in this interview that many Republicans were killed in the war even after their defeat and mainly by the Civil Guard, but he denies his participation in the killing of Periquete. When the victim's grandnephew presses him with evidence from those who saw him wearing Periquete's watch for many years, and that his former comrade in arms, Arturón, identified him as the killer in his accounts of the facts, he continues to deny responsibility. Despite his denial, he does reveal that "those who carried out executions could explain their participation in an untroubled way, and even with some gratification" since they had received recognition (*proporcionaban méritos*) for what they had done (Armengou and Bellis 2004: 228).

An equally intriguing preposterous denial unfolds in C. M. Hardt's documentary film *Death in El Valle* (2005), in which the filmmaker seeks to find her grandfather's killer. Not surprisingly, when the filmmaker presents the Civil Guard officer with evidence of his responsibility for the crime, he simply denies it. The confessional performance takes an unusual twist, however, when Hardt exposes the killer to her relatives. One remarks, "None of your grandfather's children … is interested in knowing who [the killer] is." Hardt is shocked at her relatives' reaction and their investment in the silence surrounding the violent past.

In the infamous case of the *Brigada de Investigación Social*, better known as the *Brigada Político-Social*, denial occurs around the widespread and well-known use of torture. Antoni Batista analyzes how the *Brigada* functioned, focusing on the notorious perpetrator Juan Creix, who wrote to authorities at the end of the dictatorship to ask for support to help

him in his impoverished state. In this request, he provided details of his "service" to the Franco regime, without acknowledging at any moment the use of torture, well documented by victims' testimonies (Batista 1995, 2010).[5] Creix seems somewhat cagey in his inquiry: Is he threatening to confess if he does not get financial support or is he offering to present a denial to make the torture allegations disappear in exchange for that support?

Another denial from the *Brigada* is provided in Fabián Mauri's (1998) authorized biography of *Comisario General* José Ramón Piñeiro. Among his many professional duties, Piñeiro played a key role in the fight against the maquis.[6] He never confesses to torturing anyone, even though the harsh treatment of guerrilleros—torture and execution—is well documented. Piñeiro admits to long interrogations of political prisoners and comes very close to verifying his use of torture: "During one of our interrogations we encountered a man who was perfectly trained for these situations … there was no way to get any results from him" (Mauri 1998: 64). Piñeiro goes even further, seeming to explain how he has avoided accountability for his acts. He recounts the story of a student who accused him of abuse, but explains that he never faced investigation because the judge assumed that the student had made up the accusation (Mauri 1998: 111–112). Piñeiro thus shows that denial not only depends on perpetrators, but rather a system is in place to make preposterous denials of crimes possible, even in the face of strong evidence and by authorities expected to analyze that evidence.

An admission to violence, while personally distancing oneself from those acts, takes a peculiar turn with Armed Forces General José Antonio Sáenz de Santamaría's confession. In a biography written by Diego Carcedo (2004), Sáenz de Santamaría acknowledges with distaste having to oversee "the execution by *garrote vil* of an assassin condemned to death by a military tribunal" (Carcedo 2004: 43). He further criticizes the Civil Guard and the police for allowing their troops to shoot "their suspects without the need to issue any warning" (Carcedo 2004: 53). The biographer records the general's search for tactical changes: "We have to look for a way to capture them without becoming butchers … and shoot to kill only when it is absolutely certain that they are armed" (Carcedo 2004: 54).

Sáenz de Santamaría recounts a chance occurrence with a military doctor that changed practices. The doctor had complained to him that "your people [Civil Guard and police] messed up those they ambushed so much

that it doesn't look like they were caught by surprise." He continued "We've taken one to the hospital who looked like Christ just after he came down from the cross." Sáenz de Santamaría responded, "It's hard to get them [the ambushed] to sing … I've told them [the interrogators] that if they are patient they'll get more. But they lose it. I bet it's hard to be in the prison for hours and when you eventually leave, you have nothing to hand over to the boss." The doctor spoke of "more effective methods" to obtain information that are "less painful," such as sodium pentothal. After putting it to the test, the general confirmed, "This is awesome. Nothing would make me happier than ending torture" (Carcedo 2004: 60–62). His confession to using truth serum as an alternative method to weaken the guerrilla, acknowledges the previously denied use of torture that sometimes led to death.

This kind of denial appears again in the biography when Sáenz de Santamaría is asked to take charge of the last Francoist executions against three members of the *Frente Revolucionario Antifascista y Patriota* (Revolutionary Anti-Fascist Patriotic Front—FRAP) and two members of ETA, less than two months before Franco's death. Due to a lack of volunteers for the firing squad, he ordered eight guards and one lieutenant to carry out the executions: "There was no extra pay or other reward for such a delicate operation." Two of those executed did not die immediately and so, the general laments, "the lieutenant had to shoot them, suffering himself in the following weeks from a nervous breakdown that required him to take a lot of time off" (Carcedo 2004: 133). As in the earlier part of his testimony, Sáenz de Santamaría admits to the atrocities committed but denies his own inhumanity. In this instance he does so by showing compassion for soldiers who suffered from committing atrocities, the ones he ordered them to carry out.

Denial in Spain has also taken institutional form. An example is the recent (2011) entry under "Franco" in the *Diccionario Biográfico Español* published by the *Real Academia de la Historia* (Royal Historical Academy—RAH) and thus financed with public funds. Criticized for its "suffocatingly apologetic tone" and its denial of the regime's "brutal character" and "the bloody origins," the biography appallingly avoids standard terms used to describe Franco and his regime, such as "dictatorship," "dictator," and "repression" (Ledesma 2012: 255). Thus, an institution as established as the RAH still, 35 years after Franco's death and after professional historians refer to the regime using such terms, has produced an official biography that denies the dictatorship and repression that fol-

lowed the Civil War until 1975. The heated debate following the publication, covered extensively in the Spanish media, suggests the beginning of contentious coexistence.

A recent case of denial involves Emilio Hellín, one of the extreme right assassins of the student Yolanda González that occurred during the democratic transition. Hellín had served only 14 of his 43-year sentence for the murder. After he left prison he worked for many years for the state public security force (*Cuerpos y Fuerzas Generales de la Seguridad y del Estado*) in covert investigation operations and providing training courses for the police and Civil Guard. A journalist discovered these facts in February 2013. He confronted Hellín in the street, but Hellín responded that he was not Emilio, but rather his brother Luis Enrique Hellín. In fact, Emilio had changed his name to Luis Enrique in 1996. Confronted with the journalist's evidence, the Interior Ministry had to confirm that Emilio Hellín had been contracted as a police training instructor on various occasions between 2006 and 2011. This perpetrator not only never expressed remorse or asked for forgiveness from the family, he denied his own identity.[7] Incidentally, it is very telling that his murderous past was not considered an obstacle for employment in a public security force.

Without public engagement, denial of past violence remains uncontested. Even preposterous denial is ignored. Those who committed atrocities can continue to live their lives seemingly unperturbed, at least socially, for their acts of violence. History can be written without challenging perpetrators' denial. When social actors begin to engage the past, however, denial becomes much less possible. Perpetrators find it more difficult to hide from social stigma and condemnation.

Notes

1. Similar evidence is found in a report in which three presumed perpetrators, according to various personal testimonies, deny remembering or participating in the killings. One accepts partial responsibility, but only for having transported the prisoners in his truck and using its front lights to illuminate the execution scene (Montoto 1979: 47).
2. In this same Internet article, Úriz identifies two additional notorious torturers. Available at http://joseluisuriz.blogspot.com.es/2009/01/enrique-ruano.html (Accessed: 23 September 2015).
3. This story is also told by P. Preston (2012) in the epilogue of his book.

4. The interview is available at https://www.youtube.com/watch?v=nn_MZWDYkYA (Accessed: 18 October 2015). In this documentary written evidence is presented to demonstrate that many of the executioners received some money (35 pesetas) for each execution, and the authors maintain that some of the names in these documents coincide with those provided by the testimonies in the region.
5. The book cover suggests that the Franco political police only operated before the death of the dictator. The author concurs that "the moderate sectors of the regime needed to position themselves for the inevitable transition pact." Commissioner Creix thus posed a serious impediment, because he had been the "architect of the repression against those democrats with whom he would need to negotiate in the future."
6. The "maquis" or "guerrilleros" were those Republican-side forces who remained armed and active after the war, particularly in the mountainous parts of Spain where they engaged in clashes with the Civil Guard. Many members were executed or killed before the groups disbanded in the early 1950s.
7. See José M. Irujo, "Interior admite que contrató al ultra que mató a la estudiante Yolanda en 1980," *El País*, 25 February 2013, available at http://politica.elpais.com/politica/2013/02/25/actualidad/1361798552_385147.html (Accessed: 21 October 2015). See also Enrique del Olmo, Beatriz Gimeno y Asier González, "Yolanda González; su asesino anda suelto, para vergüenza de la democracia," *Dossier en Sin Permiso*, 3 March 2013, available at http://www.sinpermiso.info/textos/index.php?id=5730 (Accessed: 18 October 2015).

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CHAPTER 7

Unsettling Bones as Unsettling Accounts

Abstract The grandchildren of the Civil War have profoundly affected Spain's efforts to sustain the pact of oblivion by unburying new evidence through the exhumation of mass graves, accompanied by ceremonial acts and testimonies about past violence. The act of unsettling the bones has also unsettled accounts. The grandchildren benefited from timing. This younger generation lived through the period of silence and oblivion, and only acted and challenged it at a safer moment long after the transition. They themselves did not fear negative repercussions for disturbing Spain's settled past but instead acted as citizens in a democracy, challenging views, posing alternatives, and making demands for dialogue. They seized a very persuasive stage, moreover, a site in which the violence of the past could not be denied. Due to this timing and staging, these political actors also received an audience. The media covered the exhumations, the events that transpired at them, the revelations and denials. In so doing, a debate ensued, the very early beginnings of contentious coexistence.

Uncommon confessions are likely to provoke an audience to challenge them, Leigh A. Payne (2008) argues, but this has not happened in Spain. Perpetrators' confessions have not catalyzed a general debate about the past that has led to contentious coexistence. Spain's democracy built on the pact of oblivion appears politically stable. Payne and others assume, however,

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that open contestation over some of these deeply controversial issues of past violence—contentious coexistence—will deepen democratic practice.

What has blocked contentious coexistence in Spain until now? A common explanation posits that fear and trauma left over from the Civil War and the dictatorship constrained social demand to settle accounts with the past. Perhaps for the same reason, no institutional or social incentives encouraged perpetrators to speak out and catalyze debate. The pact also led to self-censorship in media outlets resulting in little coverage of the few perpetrators' confessions that did emerge. In this environment, those confessions failed to break the silence and catalyze debate.

Spaniards could be said to have become habituated to silence and neither active repression nor fear mongering were necessary to perpetuate it. That habituation settled in over a long period of time. The height of repressive and violent practices occurred during the war and its immediate aftermath, half a century before the beginnings of contentious debate in the 2000s. Extralegal violence continued after the war, with its most lethal manifestations in the fight against the maquis. Once the maquis abandoned their activities after the middle of the 1950s, extrajudicial killings rarely occurred. Respect for due process in politically related cases, nonetheless, was very scarce. Torture continued regularly in Spain throughout the dictatorship, though it was a much more common practice and was exercised with more brutality in the first decades. By the second half of the authoritarian regime, though ill-treatment still prevailed, it did not reach the level, severity, or lethal consequences of some of the Latin American cases. Most of the forced disappearances in Spain occurred during the Civil War and early 1940s. Moreover, the fate of the majority of the disappeared is known, albeit in very vague terms and without any accompanying process to locate the bodies or investigate the details of the crimes. The memory of the intense violence in the war, followed by constant—but decreasing after the mid 1940s—levels of violence in the dictatorship, contribute to the habituation and difficulty in mobilizing a response to perpetrators' confessions.

The Civil War's victor-vanquished dynamic may also explain the perpetuation of silence. On one hand, the vanquished lacked sufficient political legitimacy and voice to engage the past. On the other hand, the victors had an interest in suppressing dialogue over the past. Influential studies of Spain's repressive era stress the existence of a "blood pact" among victors, and even among their heirs, built on widespread complicity, legitimacy, and conceit (Espinosa 2009). To our knowledge, Stanley Payne was the first author to point out the bond created through atrocities committed by the Francoist side. According to him, during the war, "Franco apparently found it expe-

dient not to thwart the blood lust of his followers, but to acknowledge it as one of the main unifying forces behind the rebel movement. It served to eliminate the enemies of the new regime, and it made large numbers of Nationalists participants in a common orgy so gruesome as to irrevocably bind them together." Payne refers to this bond as "a partnership of slaughter" (Payne 1967: 413, 420). This "partnership," "blood pact," or "covenant of blood," as other authors have referred to it, remains in evidence decades later. Too many perpetrators have too much to lose if the conspiratorial silence is broken. The peak of violence in the Civil War, followed by the long decades of repressive dictatorship, generated a massive number of perpetrators who have a stake in the silence. This group includes those in the rearguard who committed the tens of thousands of crimes denounced by ordinary village people. It would encompass those involved in the hundreds of thousands of courts-martial that took place during the war and the postwar periods involving ordinary judges and military courts. The firing squads that followed orders to kill, whether "legal" or without any trial at all, would also have an interest in maintaining the silence. Countless others who, as police, Civil Guard, and party militia men, committed violent crimes also comprise this blood pact dedicated to silence and forgetting.[1] The judicial system maintained, in the best of cases, a complicit silence toward the violation of human rights. Due process in political trials was often disregarded. And finally, several actors actively supported the dictatorship and obtained, in exchange, its protection and a different sort of benefits: e.g., the army, the Catholic Church, important sectors of the judiciary, and many entrepreneurs.

The more or less active involvement of so many sectors in Franco's repressive apparatus created a network of complicity that promoted a "forward-looking democratic transition" (Aguilar 2013) and eschewed one oriented toward settling accounts with the past. To confess to complicity in dictatorial repression would have risked tarnishing the public image of certain existing institutions. Although the majority of the institutions inherited from the dictatorship have gone through a transformation under democratic rule, they have not yet acknowledged their complicity in the repression. The Civil Guard and the police do not include the study of the role of those groups or the gross violation of human rights that occurred in the Civil War and the Francoist dictatorship in their educational programs. The judiciary—that still has not undergone a significant institutional reform—has not included in its education training programs the topics of human rights violation or its collaboration in the Francoist repression.[2] This could explain why even today the Supreme Court's website recounts its long history but leaves out any reference to its role during

the Civil War and the almost 40 years of dictatorship.[3] In sum, none of these institutions or actors, despite their behavior under the dictatorship, has engaged in self-criticism. This is something that has occurred in other countries through recommendations and incentives provided by truth commissions. A clear break with the past seems to be a good starting point in order to unequivocally demonstrate a compromise with the new regime.

Community-level explanations suggest that silence persists also due to fear of social breakdown, rather than fear of repression. In these cases, silence is explained by the generation victimized by the war and the dictatorship. For some groups, silence is a therapeutic response to pain and trauma. It may also be a practical response or an understanding of the limits of truth-telling. Peace—particularly in small communities where victims and victimizers and their descendants live side by side—is built on the foundation of suppressing rancor over the past. When the calm surface of peaceful coexistence is scratched even just a little, the violence of the past Civil War dramatically resurfaces. In exceptional circumstances this opening is accompanied by a visible and palpable desire for revenge that has been repressed for a long time but has not disappeared.

By the post-transition, the appearance of historical, forensic, and narrative evidence made it more difficult to sustain the pact of oblivion upon which democracy had been built. The unsettling of the silence disturbed those who had accepted the settled account of the Franco era. It also began to rattle those who had previously appeared in Spanish society to be habituated to silence. Within this group were those who had privately and discreetly opposed the pact of oblivion, its cover-up of the violence, and its consequences for dignity, truth, and justice.

The documentary film *Death in El Valle,* discussed earlier, presents the simmering and violent tension of the post-transition and the desire to keep it from erupting into open violence.[4] The filmmaker's relatives are angry with Hardt for revealing the truth they did not want to know. The widow of the victim—Hardt's grandmother—reflects this view when she states, "This is a memory that I do not want to have; I now have to remember it because you have brought it back." The desire not to know protects against the danger of renewed violence. Hardt learns that the older generation of descendants never tried to find out the identity of the killer because, as one of the relative explains, that would mean "that we might have to kill him and this is something you cannot understand." As Aguilar states, "in situations of fear the act of knowing and stirring up the past is associated by some with having to suppress the uncontrollable urge

to seek revenge. This idea is crucial for understanding the general desire to avoid the past" (Aguilar 2006: 314–315).

These enduring patterns of behavior persist in Spain but some shifts have begun to occur. In what we call the "post-transitional justice" era (Aguilar 2008b),[5] a few confessional texts have emerged from a range of sources, as we have shown in this book. Historical memory associations and victims' groups have begun to make social and even judicial demands and have captured media attention, allowing for greater visibility and broader public debate over the past (Ferrándiz 2010, 2012). The social and media arena have become sites of contention. The unexpected *guerra de esquelas* would be unthinkable without the unsettling effects brought about by the exhumations. The *guerra de esquelas* involved placing death notices for Civil War victims in newspapers by their relatives 70 years after their death in the conflict. More than 400 notices were published between 2006 and 2009 (Fernández de Mata 2009).

Cultural production representing perpetrators of state violence and their acts of repression also experienced a boom. These fictional representations may resonate more deeply than the actual ones, but few involve perpetrators making confessions to their violent past. Jo Labanyi (2007: 104) states, "There has to date been no attempt to gather the testimonies of perpetrators—whether Nationalist or Republican. To my knowledge, the issue of perpetrators has been tackled by only two novels. One is Rivas's *The Carpenter's Pencil* (…) which has a Nationalist perpetrator narrate the story of its Republican hero." The other one she refers to is Javier Cercas's *Soldiers of Salamis* (2001).[6] Since then, controversy has surrounded a novel by Andrés Trapiello, *Ayer no más* (2012), which presents perpetrators' motives with some empathy and understanding. Contentious coexistence has begun to occur.

Exhuming the bones of the Franco era has definitely stimulated this process. According to one of the main experts in the field: "These bodies had remained largely abandoned in mass graves throughout the country for decades, subject to successive regimes of silence, indifference, and oblivion" (Ferrándiz 2012: 38).[7] We claim that the bones, much more than the few existing confessions, have become the unsettling accounts that have initiated contentious coexistence. The ground in which they have been hidden has been unsettled. The bones tell a story—an account and evidence—of the violent past that is often contested (Silva and Macías 2003; *Las fosas del silencio* 2003, Ferrándiz 2010, 2012). Because of the bones, organizations of victims and survivors have come together to make demands: the location of the bodies; the responsibility to exhume; and the right of survivors and society to know the truth about the past. These exhumations have given vis-

ibility to hundreds of silenced histories of Francoist victims and generated debate not only between those on either side of the war and their heirs, but also within victim and survivor groups on the same side. Ferrándiz refers to "tensions," "frictions," "differences," and "disagreements" within the families and associations over the politics and rituals of the exhumations; he considers the "crucial, unresolved, and highly contentious national debate on how to handle the Civil War mass graves" (2012: 50).

It is also at the site of the exhumations that testimonies are often made.[8] At times witnesses come forward who remember the executions even if they claim to have not participated in them. But these often reveal perpetrators' identities and pressure them to provide information to families. In 1977, for example, the daughter of a victim was told the name of her father's killer and she went that very night to meet him: "I am Juanón's daughter and I know that you shot my father. You need to come tomorrow at 9 a.m. to the land you own in Villamuriel so that you can tell me exactly where he was buried." According to her, "His face turned pale. The next day he was there with the Civil Guard. I had to provide the agents with lots of documents, but, finally, the killer pointed out the burial place" (Junquera 2013: 36).

Perpetrators, on rare occasions, speak out at these sites. In one case, an individual admitted to being forced to participate in a firing squad. Just a few years ago he sent an anonymous letter, in confessional form, with details to help a victim's family locate the mass grave they had sought, in vain, to uncover.[9] Another rare case of semi-anonymous collaboration by perpetrators of past atrocity in the search for bodies occurred in 1971. A priest involved in the exhumations was taken secretly by someone who claimed "I was there" to the site of a missing body, allowing the priest to provide information to the family.[10] It is striking that so few perpetrators, or even witnesses, have used this anonymous form of relieving their guilt without social stigma and aiding families' efforts at closure and dignified burial.

Francisco Etxeberría, a forensic anthropologist involved in Franco-era exhumations, recognizes the role exhumations have played in revealing aspects of the past. Although fear may still persist and constrain revelations regarding the past, he hints at hopeful signs of change when he states, "At the exhumations, I wonder why the ones who knew about it did not come forward before. Maybe it is because they are old people who are only recently overcoming fear" (quoted in Fernández 2014: 31).

The constraints on contentious coexistence in Spain, thus, are not a result of fear alone. Judicial processes also play a role. Espinosa's 2009 book *Callar al mensajero* explores their chilling effect on historians, journalists, and filmmakers delving into the past.[11] Some judicial decisions

have suppressed certain cultural works in whole or in part, and accused the authors of slander and calumny, resulting in fines and prison sentences. These gag orders may explain the reluctance of victims, survivors, and their advocates to name names or otherwise "out" perpetrators.

Without gag orders, widespread self-censorship among victims' families constrains the disclosure of the names of perpetrators even when they are known. While self-censorship might be seen as the result of fear, silence may be part of the deep internalization of the national reconciliation discourse. That internalization comes from the awareness of the social stigma attached to attitudes that might be perceived as vengeful or just resentful. The declaration of a victim's relative that "I was told who had killed my father, but I cannot reveal the name" (Junquera 2013: 46) illustrates that self-censorship. Most of the victims avoid demands for retributive justice and emphasize their desire to recover their relatives' remains and to give them a proper burial. They call for truth and reparation.

The testimonies gathered by Junquera (2013) reveal this pattern. She presents a testimony in which a victim's relative claims, "I don't want to be informed about the identity of the perpetrators, because I already know [everything about them] even their license plate. Many of them are still living in this area. Descendants of the people who killed my mother are my friends (…). I do not want revenge. I only want what belongs to me: the remains of my mother and I also want information about how she died" (Junquera 2013: 143). The documentary *Mari Carmen España: The End of Silence* (2008) further reveals the tendency among victims' families to avoid revealing the identity of perpetrators.

A very telling example of censorship can be found in Gumersindo de Estella's 2003 book. The book, published after a complex process, reproduces the notes taken by a priest who, between 1937 and 1941, provided spiritual assistance to the prisoners just before their execution. The priest died in 1974. Rather than including the full names of those who denounced the individuals who then became prisoners, the text only includes their initials, to hide their identities, "assuming that those denunciations were the cause of their [the prisoners'] death." The text defends that censorship by first stating that it "would surely have been the wishes of Father Gumersindo" to use only the initials. Secondly, it states that it aims to "promote the reconciliation for all and not to stir up or open old wounds" (de Estella 2003: 10).

The active silencing of information about responsibility for violence perpetuates the process of repressing contentious debate. Some authors maintain that in negotiated transitions, such as the Spanish one, "silence or selective memories become ingrained in political discourse (…), the

elite framing discourse becomes institutionalized and hegemonic," and "[o]nce a framework becomes hegemonic, inconvenient questions that contravene or challenge it are excluded from public debate" (Kovras 2013: 737, 739).

Investigating and exposing past violence thus sometimes comes with a high personal and professional cost for survivors, researchers, and members of the legal community in Spain today.[12] This is particularly true if the investigation reveals names of past perpetrators, whether dead or alive (Espinosa 2009), or if it identifies particular crimes that could be investigated by creatively circumventing the 1977 Amnesty Law (Lessa and Payne 2012; Aguilar 2013; Payne et al. 2015). This further reveals the necessity of a state-sanctioned truth-gathering process that would digitize, declassify, and make publicly accessible official and well-documented archives and evidence of repression (González Quintana 2011). The lack of such an effort has created a particular barrier to perpetrators' confessions and, thereby, survivors' access to information about the destiny of their family members. While perpetrators may never serve even a day in jail for past atrocities in Spain, the state could fulfill its obligations and address survivors' right to know the whereabouts of their family members by responding to their demand for official exhumations and identification of the remains.

Without an official response to the demand for information, and blocked by Spanish judicial processes, certain groups of victims have sought recourse outside the state. Tortured ex-prisoners, and other victims of Francoism from the war and post-war periods, have sought justice in Argentine courts known for their judicial innovation on past human rights violations. This process is endorsed by approximately 200 associations representing victims of the Civil War and dictatorship (1936–1975). The visibility of the investigation begun by Argentine prosecutor María Servini further cracked the façade of silence over the past. Her investigation revealed the less known stories of atrocity, stories of living victims tortured in Franco-era prisons of the late 1960s and 1970s. Unlike the judicial cases initiated by Judge Baltasar Garzón, in which all the accused were already dead, Servini requested the extradition of living torturers (e.g., former Civil Guard captain Jesús Muñecas Aguilar and former *Brigada de Investigación Social* official Juan Antonio González Pacheco, alias Billy the Kid) to stand trial for crimes against humanity. She adopted universal jurisdiction claims, the same ones that Garzón used in the extradition

request to the United Kingdom for Chilean General Augusto Pinochet to stand trial in Spain.

In the Argentine cases, the Spanish courts ruled against extradition. The ruling on both of these cases in April 2014 involved a decision by the National High Court that their crimes of torture were isolated cases, neither constituting genocide nor crimes against humanity. Torture, unless in these types of cases, has a statute of limitations of ten years, which had lapsed. The judicial decision nonetheless left open the option, previously suggested by the prosecutor, that the Argentine state could initiate a judicial case in Spain to "provide the victims with the possibility of having access to justice and, in that way, satisfy their claim for justice."[13] The courts reached this decision only after journalists reported on victims' torture and exposed, albeit only partially, the accused perpetrators of that torture. Photos of González Pacheco, for example, appeared in the press, although usually with his face covered, and he issued something of a confession. Responding to the National High Court's questions regarding crimes he committed while serving on the police force, he stated, "I do not remember clearly; maybe something came up about mistreatment many many years ago, but I don't think we were ever found guilty."[14] This statement could be seen as a perpetrator's boastful (and unsettling) confession to getting away with the crimes he committed or it could be interpreted as deliberate obfuscation to restore the pact of oblivion.

The upsetting confessions following Spain's transition did not provoke the kind of contentious coexistence that Payne has analyzed elsewhere. This primarily occurred with the unburying of new truths through the exhumations carried out by the grandchildren of the violence. The exhumations began earlier, but the grandchildren's efforts benefited from timing (Aguilar 2016). This younger generation of audiences lived through the period of silence and oblivion, and only acted and challenged it at a safer moment long after the transition. They themselves did not fear the negative repercussions for disturbing Spain's settled past but instead acted as citizens in a democracy, challenging views, posing alternatives, making demands for dialogue. They seized a very persuasive stage, moreover, a site in which the violence of the past could not be denied. Due to this timing and staging, these political actors also received an audience. The media covered the exhumations, the surrounding events, the revelations and denials. In so doing, a debate ensued, the very early beginnings of contentious coexistence.

Notes

1. For more discussion on the covenant of blood see, among other works, Richards (1998: 9), Casanova (2002: 14, 38), Espinosa (2002: 90, 119; 2011: 47), and Preston (2012: 519–520).
2. For more details see the Report on Spain by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence. United Nations. A/HRC/27/56/Add.1 22 July 2014. See also Aguilar (2013).
3. See http://www.poderjudicial.es/cgpj/es/Poder-Judicial/Tribunal-Supremo/Informacion-institucional/Historia-del-TS (Accessed: 23 October 2015).
4. In a different, case, one of the relatives of several victims maintains that all he wants is to find their remains and bury them with dignity. As he states, "I am not interested in anything else. I was told the name of the person who killed my uncle and I didn't even want to write it down" (Junquera 2013: 83).
5. Early transitional justice literature tended to assume that institutional arrangements made during transition periods endured over time. This literature generally disregarded the possibility of post-transition advances, that is, those that take place once democracy has been consolidated. Cath Collins (2010) has defined post-transitional justice as a new dynamic that began in some countries after the first transitional stages and that emphasizes the integral work of civil society and sectors of the judiciary in promoting transitional justice.
6. For more reflections on these issues, see Labanyi (2010) and Stafford (2014).
7. However, this was certainly not the case in several Spanish regions that began to exhume the bodies of executed republicans after Franco's death (a monographic study of these early exhumations in Aguilar 2016).
8. The psychologist Anna Miñarro and her research team have designed a model of psychosocial assistance for the families of the victims during the exhumations. They also conduct interviews before, during, and after the exhumations, to the first, second, third, and even fourth generations of surviving family members.
9. For further discussion of this interesting and exceptional case, see López and Ferrándiz (2010).
10. Natalia Junquera, "'Yo, sacerdote, pecador, os pido perdón,'" *El País*, 24 March 2012, available at http://politica.elpais.com/politica/2012/03/23/actualidad/1332526424_970023.html (Accessed: 21 October 2015). Even in these cases of revealing information, Spanish perpetrators rarely express remorse. We found one exception that did not even involve the perpetrator himself. Instead, his mother asked the victim's widow for forgiveness. See the film *Tierra madre* (2011).

11. A recent English language edition has been published under the title *Shoot the messenger* with an additional chapter on the Garzón case.
12. For discussion of the well-known and controversial case involving Judge Baltasar Garzón, see Chinchón (2012).
13. María Fabra, "La Audiencia Nacional rechaza extraditar a Argentina al capitán Muñecas," *El País*, 25 April 2014, available at http://politica.elpais.com/politica/2014/04/25/actualidad/1398427582_441140.html. For the decision on González Pacheco, see "La Audiencia rechaza la extradición de Billy el Niño al estar prescritos los delitos," *El País*, 30 April 2014, available at http://politica.elpais.com/politica/2014/04/30/actualidad/1398857175_118986.html (Both accessed: 18 October 2015).
14. "El fiscal abre la puerta a que se investiguen en España las torturas cometidas por Billy el Niño en el franquismo," *Diario.es*, 10 April 2014. Available at http://www.eldiario.es/politica/Billy-Nino-extraditado-Argentina-franquismo_0_248125358.html (Accessed: 18 October 2015).

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CHAPTER 8

Conclusion

Abstract The foundation of stable democracy in Spain was built on a settled account: the agreement that both sides were equally guilty of violence, a consensus created to avoid contention, a pact of oblivion as the pathway to peace and democracy. Cracks have begun to appear in this foundation. It became possible, even if not completely socially acceptable, to speak openly about the past, to disclose the testimonies of the victims, and to ask for truth and justice. Contentious coexistence that put political participation, contestation, and expression in practice began to emerge. This chapter summarizes the arguments and evidence in the book about how this recent transformation has occurred. It recognizes that political processes are not always linear and inexorable. Thus, it remains to be seen how far contentious coexistence will go in Spain.

The silence that was imposed on the victims of Francoism began with the end of the Civil War and persisted until Franco's death. It was sustained during the almost four decades of dictatorship through repression, fear, and survival strategies. Some challenges to the distorted official narrative began to emerge within the country (Juliá 2004), but they failed to have enough visibility and, certainly, were not widespread throughout society. After Franco's death and to some extent until today, a more consensual, less imposed, type of silence settled in. The majority of both sides, albeit for different reasons, agreed to leave the past in the past. Behind the pact of oblivion was

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a widespread desire to consolidate democracy, to avoid ideological polarization, to shun revenge for the past, and to protect the fragile transition from renewed violence. This agreement should not be mistaken as acceptance of the Francoist narrative of past violence—the settled account of the past—underlying the pact. With the passage of time, a new generation, made up in large part—but not exclusively—of descendants of Francoist victims, have found a way to contest this account. They have voiced the silenced view of that narrative as biased and instrumental to protect the Franco regime and its supporters from accountability. They have exposed the unfair treatment of Francoist victims as a result of the pact's foundational narrative.

The cracks that now appear in the cemented foundational pact were always there. In the past they could be ignored as less important than building the strong edifice of democracy. Perpetrators' confessions to violence that challenged the reconciliation and oblivion projects were scarce and fairly easily disregarded. The local exhumations of Francoist victims in the early years of the transition, even when accompanied by ceremonies and the construction of memorials, occurred largely without media coverage and without notice in society.[1] Cultural and academic challenges to the pact of oblivion and its distorted notion of the past occurred unheeded. Ironically, even as the democratic system grew more stable (with the first legislatures governed by the Socialist Party) and less vulnerable to polarization and potential conflict, the foundational pact of oblivion seemed to solidify rather than crumble. It remained firmly cemented until the mid-1990s (Aguilar 2008a).

Despite the efforts to suppress unsettling accounts as unnecessary, vulgar, inopportune, and masochistic, a few perpetrators on both sides have spoken out. Journalists have increasingly covered these confessions without jeopardizing peace and stability. Exhumations, viewed by "the political right and its associated media" as "abnormal, misguided, malicious, and lacking in any rationale" (Ferrándiz 2010: 173), have opened up to victims and their families the opportunity to tell their stories in private and in public, very often for the first time. Exposing these family truths about the past has occurred without violent repercussions or threats to the democratic system.

The supporters of the pact of oblivion have not been able to fully maintain it. Unsettling accounts have emerged in the few confessions by perpetrators. Disturbing the bones of the Civil War era, particularly after 2000, has played a much more critical role in challenging the settled accounts about the past. They testify to tawdry, cruel, cowardly, and illegitimate violence. They provide previously nonexistent opportunities and incentives for Francoist victims to expose the injustices of the Franco era. Moreover, they have connected past injustices to the present by revealing the unwillingness

of the state to seriously support the search for the remains of their relatives. The exhumations, in other words, have begun to generate debate over the past—contentious coexistence—that puts democracy in practice.

Spanish society—through the families of Francoist victims and their supporters—contest the false "blame sharing" of the transition's settled account. The testimonies of Francoist brutality not only reveal the lack of heroism in those acts of violence, they also show that the effects have endured in the long-lasting suffering of its victims into the democratic period. The refusal of the state to attend to the demands of these Francoist victims reveals the injustice that has persisted even after the threat to democracy from digging into the past has disappeared.

Pressure is mounting. The supporters of the pact have proven unable to limit the media or control the proliferation of social initiatives to reveal injustices in the past that persist today. This contrasts sharply with the era before and after the transition in which the media generally ignored confessions and exhumations or provided only sparse and muted coverage to a largely indifferent audience. The recent exhumations largely carried out in small communities by an increasing number of memory associations, and in exceptional cases catalyzing perpetrators' confessions, have attracted media coverage and the beginning of contentious debate.

Undeniably this attention and debate rests on the evidence of violence revealed by the unsettled earth from the exhumations. Literally digging into the past has revealed the hidden truths and exposed the skeletal framework of brutal, extralegal, and illegitimate violence. The existence of thousands of people buried in unidentified mass graves has also highlighted the incomprehensible lack of attention received by the relatives of these victims during the democratic period. Owing to the abundant recent research at the local level on Francoist repression, knowledge of its repressive machinery is much more precise now than a few years ago. It has become much more difficult to deny it. There is increasing pressure on the state to balance the accounts and end the injustices perpetrated in the past and that persist—through oblivion—to this day. The settled account—the agreement that both sides were guilty of violence; the consensus to avoid contention; the pact of oblivion as the pathway to peace and democracy—has lost some of its former validity. It has become more feasible, even if not completely socially acceptable, to challenge the pact openly, to disclose the testimonies of the victims, and to ask for truth and even retributive justice. Contentious coexistence that put political participation, contestation, and expression in practice has begun to emerge.

Political processes are not always linear and inexorable, however. Once the media and sectors of civil society began to test the resilience of the pact, part

of the judicial apparatus, and a significant set of political elites belonging to the largest political parties, responded with renewed effort to reinforce the pact. While a significant part of Spanish society showed—in surveys (Aguilar et al. 2011), in public acts of recognition, and even in some demonstrations—its willingness to reconsider the past, to apply international principles against impunity, and to promote the right to truth and memory, the institutional response has been less receptive than expected in a consolidated democracy. As Aguilar (2013) has explained, judicial institutions have shown a systematic reluctance to consider the Civil War and dictatorial past in courts, even when plaintiffs requested a review or annulment of unfair military trials that did not follow even minimum guarantees of due process.

Spain's new democratic generation, those who did not grow up with the direct memory of Civil War and repressive violence, free of their grandparents' sense of guilt and their parents' fear, have shown that they are less easily intimidated and more willing to challenge the transitional arrangements accepted or tolerated by their parents and grandparents. This renewed interest—particularly among the descendants of the victims[2]—coexists with indifference, intransigence, and still some remnants of fear (particularly in older generations)—within sectors of Spanish society regarding its past.

Efforts to re-impose the settled narrative that balances accounts behind the narrative of "we are all guilty" for the Civil War violence are evident. Similarly, the notion that digging into the past will destabilize Spanish democracy has renewed currency particularly among conservative forces and, certainly, the Church. It is likely to take more than an initial set of unsettling accounts and unsettling bones to undermine the pact's solid foundation.

Contentious coexistence has begun nonetheless. International actors have started to pressure the Spanish government, for the first time in history, to comply with international obligations and respond to victims' demands. The convergence of these activities seems to be having some effect. Sectors of the Socialist Party, historically reluctant to dig very far into the past, have recently shown some openness to certain memory initiatives.[3] Memory associations, deeply divided in the past, have recently organized common initiatives. For the 40th anniversary of Franco's death in November 2015, for example, they have organized a national demonstration against impunity for the crimes of the dictatorship and in favor of the annulment of the Amnesty Law.[4] These positive signs show the power of unsettling accounts and unsettling bones to catalyze contentious coexistence. What remains to be seen is how far it will go.

Notes

1. The only exception was the sensationalist journal *Interviú*. Aguilar and Ferrándiz (2016) have analyzed the reasons for this coverage and for its lack of resonance in other national media outlets.
2. The transmission of identities of victimization in Spain is explored in Aguilar et al. (2011).
3. The case of the Socialist Party is very ambiguous. Despite the uncontestable advances of the so-called Law of Historical Memory of 2007, whenever the Socialist Party has been in charge of the government it has tended to be extremely cautious with respect to memory issues. However, when it is in the opposition, it normally proposes much more daring initiatives, in part because stigmatizing the *Partido Popular* for its Francoist roots still seems to provide electoral benefits, and in part because the generational replacement that has taken place in the party has helped it to overcome its former reluctance to take on these previously highly controversial issues.
4. The influence of international actors should not be underestimated. The Report on Spain by the Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence has had an enormous impact on the capacity of the associations to organize collective action. In fact, the above mentioned demonstration explicitly referenced the recommendations contained in the report. (Report on Spain by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence. United Nations. A/HRC/27/56/Add.1 22 July 2014).

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