

Breaking the Silence:
The contentious politics of memory in post-transition Spain

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  Viva Izquierda!

Table of Contents

Table of Contents	2
1 Introduction	3
1.1 <i>The Politics of Memory in the Spanish Transition and the National Policy of Reconciliation</i>	4
1.1.1 <i>Breaking the Silence: the Emergence of the social Movement for the Recovery of Memory</i>	8
1.1.1.1 <i>A Case for Post-Transitional Justice</i>	10
2 Purpose and Hypothesis	13
2.1 <i>Statement of Purpose</i>	13
2.1.1 <i>Why historical memory?</i>	15
2.1.1.1 <i>Hypothesis</i>	16
3 Methodology.....	18
3.1 <i>Theoretical Framework</i>	18
3.1.1 <i>Methodological Approach</i>	22
3.1.1.1 <i>Results of the Content Analysis</i>	28
4 Breaking the Silence: Demands for Truth and Justice in the Recovery of Historical Memory.....	30
4.1 <i>Renegotiating the past: Recognition of Rights, Responsibilities, and Retroactive justice</i>	31
4.1.1 <i>Barriers to Truth and Justice: Politics and Democracy in Spain</i>	48
4.1.1.1 <i>Meeting Demands for Truth and Justice: Renegotiation and Barriers in Perspective</i> ..	56
5 Conclusion.....	58
6 Bibliography	60

1 Introduction

Spain's transition from an authoritarian, semi-fascist dictatorship to a liberal democracy has been declared the paradigmatic model for peaceful democratic transitions. In many instances, the Spanish model became the point of reference for transitions in both South America and post-communist Europe. From the institutionalist school of political science, scholars such as José Maravall, Juan Linz and Alfred Stephan have affirmed the success and exemplary “negotiated break” model of the transition in Spain in their work on democratization and democratic consolidation.¹ Despite their best efforts to critically examine the Spanish transition, these scholars pay little attention to the equally important process of transitional justice. Today, few would disagree that transitional justice plays a pivotal role in the democratization and consolidation of states transitioning from both violent conflicts and dictatorial regimes. In this view, the path toward lasting peace in a transitional state becomes just as important as the path toward democracy. In contrast with the institutional perspective however, other scholars focus on the insufficiencies of the Spanish transition and pay particular attention to the manner by which transitional elites chose to deal with the highly politicized memory of the Spanish Civil War and Francoist dictatorship.²

¹ See José Maravall, *The Transition to Democracy in Spain* (London: St. Martin's Press, Inc, 1982). Juan Linz and Alfred Stephan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe* (Baltimore: Johns Hopkins University Press, 1996).

² Sections of this Introduction were adapted from a Literature Review that I submitted for the Department of Nationalism Studies at Central European University, Budapest in the spring of 2010.

1.1 The Politics of Memory in the Spanish Transition and the National Policy of Reconciliation

The politics of memory in Spain is arguably the most salient feature of the study of the Spanish transition in that it deals with precisely how and why a democratizing society chooses to remember an authoritarian past and human rights abuses in particular. Alexandra Barahona de Brito, Carmen Gonzalez-Enriquez, and Paloma Aguilar state that because there is no definitive closure when it comes to dealing with traumatic violent pasts, there will always be a continued need to produce accounts of the past.³ According to Barahona, Gonzalez, and Aguilar, “The politics of memory engenders the politics of commemoration and monument building. Symbolic dates and commemorations become established foci of resistance to the logic of amnesty and forgetting. Struggles are waged over the meaning and ‘ownership’ of symbols, commemorations, and monuments.”⁴ However this struggle is more than just a battle over the symbolic; it is also a battle for control of historical narrative and how that narrative influences social perceptions of the past, present, and future.

Yet, the battle over ownership of memory has been largely fought in the political sphere and almost exclusively by the political elites in command of the government. In sociologist Laura Desfor Edles’ culturalist interpretation of the Spanish transition, political elites dominated the politics of memory through the symbolization of the transitional process as sacred social values.⁵ Thus, the memory of the Civil War and the repressive nature of the dictatorship were obscured and excluded from the official memory created by the transitional regime. Paloma Aguilar goes into further detail describing why this occurred by explaining

³ Alexandra Barahona de Brito et al., *The Politics of Memory: Transitional Justice in Democratizing Societies* (Oxford: Oxford University Press, 2001), 11.

⁴ Ibidem, 12.

⁵ Laura Desfor Edles, *Symbol and Ritual in the new Spain: The Transition to democracy after Franco* (Cambridge: Cambridge University Press, 1998), 150.

that collective memories of the Civil War and the equally traumatic dictatorship produced a genuine fear within Spanish society that manifested in an aversion to risk during the transition.⁶ Following a game theory line of argumentation, Aguilar asserts that fear of conflict amongst political elites led to a strong risk aversion in the transitional decision-making process. Due to the fact that the transition was orchestrated by moderate regime reformists and moderate sectors of the opposition afraid of being left out of the negotiations completely, both sides were willing to forgo a calling to account of wrongdoings as to ensure a conflict-free transition.⁷ Therefore, the politics surrounding the collective memories of the Civil War and Francoist dictatorship were manipulated by regime elites in order to control the outcome of the Spanish transition to democracy.

Clearly, memory plays an important role in the process of transition but less obvious is the role memory plays in choosing a method of transitional justice. The case of Spain shows that the traumatic memory of the Civil War and ensuing quasi-fascist regime became an effective bargaining tool for the Francoist protagonists of the transition. Though, the politics of memory that manifested in this case represent only one half of the scope of memory in Spain. Barahona, Gonzalez, and Aguilar describe memory as “[...] a struggle over power and who gets to decide the future. What and how societies choose to remember and forget largely determines their future options.”⁸ To this they add two important caveats in the politics of memory. First, the politics of memory can have a narrow conception that entails policies of truth and justice in transition. Second, the politics of memory can also have a much wider conception that involves a social interpretation and appropriation of the

⁶ Paloma Aguilar, “Justice, Politics, and Memory in the Spanish Transition.” In *The Politics of Memory: Transitional Justice in Democratizing Societies*, eds. Alexandra Barahona de Brito et al. (Oxford: Oxford University Press, 2001), 92.

⁷ Paloma Aguilar, “Justice, Politics, and Memory in the Spanish Transition.” In *The Politics of Memory: Transitional Justice in Democratizing Societies*, eds. Alexandra Barahona de Brito et al. (Oxford: Oxford University Press, 2001), 94-95.

⁸ Ibidem, 12-13.

past in a continued process of shaping the future. This second conception is termed ‘social memory.’⁹ From this perspective the struggle over the symbolic thus pales in comparison to the struggle over remembering the past, understanding the present, and imagining the future. The transitional justice practice of reconciliation is meant to merge policies of truth and justice with social memory. Reconciliation in this sense however, did not occur in Spain.

The Spanish model of transitional justice can best be characterized as a “closing the books” approach to past wrongs and violations of human rights. Laura Delsfor Edles terms this approach as the “national policy of reconciliation” in the Spanish case where the focus on consensus politics and new beginnings dominated the social understanding of the democratic transition.¹⁰ The national policy of reconciliation in Spain is now synonymous with an official policy of blanket amnesty and a more tacit social policy of amnesia where no truth commissions were established to investigate past crimes; no lustration took place to remove former regime administrators from public life, and where no victims of the regime were formerly acknowledged by the transitional state. Instead, the national policy of reconciliation implemented at the time of the transition was meant to forgive and forget any living memory of the past and move forward with the construction of a “new” Spain.¹¹ Although, reconciliation is often understood as a process of forgiving undertaken by two or more sides of a shared experience of conflict, this understanding of reconciliation also presupposes forgetting as part of the forward-looking process of forgiveness. Reconciliation in this regard may be best suited for instances of minor conflict between individuals, but a policy of forgiving and forgetting at the state level between two sides of a violent and protracted social conflict could not be more pitifully deficient.

⁹ Alexandra Barahona de Brito et al., *The Politics of Memory: Transitional Justice in Democratizing Societies* (Oxford: Oxford University Press, 2001), 12.

¹⁰ Laura Desfor Edles, *Symbol and Ritual in the new Spain: The Transition to democracy after Franco* (Cambridge: Cambridge University Press, 1998), 105.

¹¹ Ibidem, 105.

Peace Studies expert Andrew Rigby's tries to explore the range of alternative approaches to coping with the legacy of human rights abuses available to societies emerging out of protracted conflict and collective trauma. Rigby warns that a shared future cannot involve forgetting the past, but it does require that the past be forgiven, or allowed to pass. Though if the past remains shrouded in secrecy, then it can never be forgiven.¹² When analyzing different cases of transitional justice, Rigby puts forth an ideal for all case studies to be measured against with regard to the tensions between truth, justice, and peace. This ideal is reflected in a passage by John Paul Lederach who Rigby cites in the introduction to his book:

“Truth is the longing for acknowledgement of wrong and the validation of painful loss and experience, but it is coupled with Mercy, which articulates the need for acceptance, letting go, and a new beginning. Justice represents the search for individual and group rights, for social restructuring, and for restitution, but is limited with Peace, which underscores the need for interdependence, well-being and security.”¹³

Lederach's passage calls for truth, mercy, justice, and peace to be woven into the process of transitional justice.

Needless to say, the Spanish case fails to meet this ideal as do most cases of transitional justice. Truth and justice, among other things, have been consistently absent from the process of national reconciliation in Spain. Without truth and justice, a society cannot be expected to have mercy and accept the past in favor of peace forever. Eventually, the need for truth and quest for justice become so overwhelmingly great that it becomes almost palpable in the day to day lives of the people who have been constantly denied acknowledgement and restitution. It is in this state of denial that memory emerges as an

¹² Andrew Rigby, *Justice and Reconciliation: after the violence* (Boulder: Lynne Rienner Publishers, Inc, 2001), 12.

¹³ Andrew Rigby, *Justice and Reconciliation: after the violence* (Boulder: Lynne Rienner Publishers, Inc, 2001), 13.

essential key to remembering the past in a way that grants personal vindication when it is “shrouded in secrecy” in the public sphere.

Taking all these factors into account, it can be concluded that the positive symbolization of the policy of national reconciliation made an insufficient form of transitional justice acceptable to Spanish society during the transition period and in its immediate aftermath. For many reasons it is obvious that this version of reconciliation is unsatisfactory in the long-run and especially once a democratic order has been established. In the years that follow the Spanish transition, the short-comings of national reconciliation will become more and more apparent in frustrated sectors of civil society. After almost three decades, the pact of silence would finally be broken.

1.1.1 Breaking the Silence: the Emergence of the social Movement for the Recovery of Memory

Since the year 2000, the “new” Spain has been forced to face the past with the emergence of the social Movement for the Recovery of Memory (MRM) that has worked towards “re-opening the books” on the Francoist past and memory of the Spanish Civil War. According to historian Arturo Peinado Cano, the MRM is a new social movement with a justice-seeking pretense comprised of individuals, organizations and ideas with the ultimate goal of achieving a three part reconstruction of collective memory, of the dominant values in Spanish society, and of the lost traces of national identity. The MRM pursues this goal primarily by concentrating its efforts on the recovery of historical memory. Peinado explains that the MRM originates from sectors of civil society with increased access to new

technology that promotes and maintains an active dialogue about these issues.¹⁴ Given the fact that the Spanish transition began in 1976 after the death of General Francisco Franco, it is unclear as to why the MRM has emerged after such a long period of time and especially in light of the fact that Spain is considered a relatively successful consolidated democracy.

Both Arturo Peinado Cano and Paloma Aguilar give reasons as to why the MRM has surfaced at this particular point by highlighting generational change from children to the grandchildren of victims and survivors of the Civil War and dictatorship along with new possibilities within the context of international justice and the advancement in the recognition of human rights as the key factors that have opened the door to a new set of justice-seeking opportunities formerly unavailable at the time of the transition. Although Aguilar and Peinado make valid arguments for why the MRM has emerged so long after the transition, both overlook the simplest explanation for the rise of the MRM: time.

The passage of time is the single most important factor that explains why the MRM has surfaced in Spain after the consolidation of democracy and the institutionalization of the “closing the books” approach to history Spain adopted during the transition. Time has to pass in order for a society to benefit from a policy of reconciliation in a way that is more meaningful and justice oriented than merely politically convenient during the transitional process. Andrew Rigby explains that reconciliation is neither about forgiveness nor the past, but rather concerns the future and the preparedness of people to anticipate a shared future. For Rigby, reconciliation concerns an ongoing tension between truth, justice, peace and more importantly, time. Time, according to Rigby, is necessary in that a society must be able to realize social distance from the experience of conflict, like the Spanish Civil War, or the event of trauma, such as the Francoist regime, in order to forgive the past and move

¹⁴ Arturo Peinado Cano, “El Movimiento social por la recuperacion de la memoria: entre el pasado y el futuro.” in *Revista de Historia Contemporanea* 6 (2006): 3.

forward.¹⁵ In the case of Spain, the passage of time has resulted in sufficient social distance from the Francoist past and Civil War that sectors of civil society can challenge the national policy of reconciliation and renegotiate a different social pact that does not threaten democratic stability. The passage of time in Spain has allowed for the consolidation of democracy in the country as well as for a generational change in perspective toward the past that is influenced in part by the nuances in the international context of justice and human rights that have developed since the time of the transition. Finally, the shortcomings of the national policy of reconciliation become clearer with the passage of time and changing social realities that the can no longer be accommodated by a policy of social amnesia. Here appears the space for the rise of the MRM and for a re-evaluation of how Spain manages the memory of Francoist violence and repression. The past, it seems, is negotiable.

1.1.1.1 A Case for Post-Transitional Justice

The passage of time in Spain has allowed for the emergence of a new social movement that challenges the previous order in a way that is both peaceful and justice-seeking. Yet, the MRM does so in a way that does not threaten but rather strengthens the stability and legitimacy of the state precisely because of its status as a consolidated democracy. While different reasons may exist as to why the MRM has emerged at a particular point in time, it is clear that the rise of the MRM points to greater implications for justice seeking initiatives within states with especially violent and controversial pasts steeped in human rights abuses. The passage of time has allowed for social distance to take place as

¹⁵ Andrew Rigby, *Justice and Reconciliation: after the violence* (Boulder: Lynne Rienner Publishers, Inc, 2001), 12.

well as the rise of a new social movement dedicated to recovering the past, but it has also allowed for the possibility of post-transitional justice after the consolidation of democracy.

The MRM's particular emphasis on the recovery of historical memory has become the primary method of achieving post-transitional justice in the Spanish case. Political Scientist Georgina Blakely asserts that the recovery of historical memory functions as an attempt on the part of civil society to renegotiate the pact of silence agreed upon at the time of the transition and to reconstitute the understanding of reconciliation as a broader form of social reconciliation rather than a policy of forgiving and forgetting the past.¹⁶ The social Movement for the Recovery of Memory in Spain and abroad has placed great emphasis on the recovery of historical memory in particular and has resulted in compelling endeavors to uncover and preserve the memory and history of the Spanish Civil War and Francoist dictatorship. Unlike collective memory, historical memory is a specialized kind of recollection.¹⁷ While collective memory rests heavily on sensory experiences and on a society's ability to reproduce itself based on these experiences, historical memory ventures into the realm of publicly recognized facts about the historical past. As the MRM renegotiates the national policy of reconciliation vis-à-vis the recovery of historical memory, the implication is that the process of reconciliation in Spain is ongoing and still contentious. Though the MRM challenges the previous order in a way that is both peaceful and justice-seeking, it does not threaten the stability or legitimacy of the state but rather reinforces its democratic principles. According to Blakely,

“In a consolidated democracy, however, an overwhelming stress on consensus is both impossible and undesirable because democracy is characterized by political conflict, albeit conflict contained within legitimate political

¹⁶ Georgina Blakely, “Digging Up Spain’s Past: Consequences of truth and reconciliation.” In *Democratization* (2005): 44-59.

¹⁷ Joan Roman Resina, “Short of Memory: The Reclamation of the Past Since the Spanish Transition to Democracy.” in *Disremembering the Dictatorship: The Politics of Memory in the Spanish Transition to Democracy*, ed. Joan Ramon Resina (Amsterdam: Editions Rodopi B.V., 2000), 84.

institutions. Groups within civil society have demonstrated a political maturity in their willingness to bring the contentious issue of the Civil War vanquished out of the private sphere, where it has remained hidden for so long, and into the public domain.”¹⁸

The efforts of the MRM represent the kind of political conflict desirable in challenging the political order by bringing the controversy of the Civil War and Francoist dictatorship into the public sphere at the level of civil society where demands for truth and justice are finally being answered.

Other paths toward post-transitional justice are being pursued within Spain.¹⁹

¹⁸ Georgina Blakely, “Digging Up Spain’s Past: Consequences of truth and reconciliation.” In *Democratization* (2005): 44-59.

¹⁹ The recovery of historical memory represents one of several routes to post-transitional justice. Some exist outside of civil society and are strictly sought out within fixed arenas. The 2007 Law of Historical Memory and the attempted prosecution of ex-Chilean dictator Augusto Pinochet are two such examples.

2 Purpose and Hypothesis

2.1 *Statement of Purpose*

Interest in this study initially began with the intent to explore alternative spheres of reconciliation in post-transition Spain. Scholars of transitional justice have given varying descriptions of reconciliation, what it entails, and what it aims to achieve. The Spanish model of national reconciliation does not meet with any of these descriptions and has been criticized as a highly insufficient form of transitional justice. With the emergence of the Movement for the Recovery of Memory, various organizations and actors within civil society are addressing the insufficiencies present in the national policy of reconciliation and are offering alternative means of acknowledging the past. How members of civil society renegotiate the previous policy of reconciliation and break the pact of silence is of crucial importance in achieving social justice after democratic consolidation has taken place. Thus the purpose of this study is not only to expand the academic discussion on the process and politics of reconciliation, but also to illustrate first that reconciliation is an ongoing process, and secondly that civil society can provide different paths to achieve social reconciliation where truth and justice need not be compromised for fear of political instability. Still, it must be made clear that the struggle for social reconciliation is not unique to Spain and merits further consideration in other post-transitional societies.

The social Movement for the Recovery of Memory is of particular interest in that it is a recent development within the larger scope of history pertaining to both democratic transition and transitional justice. While periods of democratization and transitional justice have traditionally coincided, the existence of the MRM demonstrates that social justice may

be pursued independently of the political climate. Further, the MRM is comprised of a domestic and international dimension that reveals the extent of civic engagement dedicated to renegotiating the pact of silence in Spain. Though the international context of the MRM will not be examined in this study, it is still imperative to express that civil society in this case is not only multifaceted, but also multinational. As a citizen of the United States, I too count as one of the members of civil society committed to the recovery of historical memory in Spain. In excluding the international dimension of the MRM from this analysis, I am distancing myself from the subject of intended study and substantiating my work with the objectivism needed to conduct a critical analysis.

Finally, my focus on memory politics and the recovery of historical memory in particular, underscores the greater question of national identity. Though not explicit throughout the course of this analysis, both memory and historical narratives play a defining role in how societies perceive their identity with regard to the imagined community they call “nation”. The battle for control over historical memory in Spain is very much a battle between competing perceptions of Spanish national identity. At the time of the democratic transition, this battle was fought between political elites that resulted in the creation of a national identity short of historical memory, and full of contradictions. Today, members of civil society have mobilized to re-open the debate about the past and have thus brought the power struggle over national identity between sectors of civil society wanting to remember and political institutions wanting desperately to move on and forget. Whether or not to include the memory of the Spanish Civil War and Francoist dictatorship as an integral part of Spanish national identity is what ultimately remains to be reconciled.

It was George Orwell who said, “He who controls the present, controls the past. He who controls the past, controls the future.” Orwell may not have anticipated the outcome of the end of Francoism, but his words suggest that a confrontation over memory is almost

inevitable. Spain has not avoided this confrontation, and in fact is maintains a state of prolonged confrontation. What sets the case of Spain apart is that ordinary members of civil society, rather than political elites or institutions, are fighting for control over their past, their present, and most importantly their future.

2.1.1 Why historical memory?

In the introduction to this work, particular emphasis was given to the concept of historical memory and to the role of historical memory within the MRM. Georgina Blakely argues that the recovery of historical memory functions as an attempt on the part of civil society to renegotiate the pact of silence agreed upon at the time of the transition and to reconstitute the understanding of reconciliation as a broader form of social reconciliation rather than a policy of amnesty and amnesia.²⁰ Within the MRM itself, a majority of the civic organizations committed to the recovery of memory specifically concentrate their efforts on historical memory and pursue the recovery of historical memory in different ways. Yet, it remains unclear as to why the recovery of historical memory has become so essential in civil society's attempts to break the silence about the past. More specifically, to what extent is the recovery of historical memory pivotal to the ongoing process of reconciliation in Spain? This question, among several others, addresses the academic discussion on reconciliation politics and processes and expands the debate concerning reconciliation in Spain to civil society.

Historical memory, as an instrument of civil society to renegotiate the official memory of the Civil War and Francoist past, merits further analytical attention and investigation. Why the MRM has chosen to emphasize historical memory over other types of

²⁰ Georgina Blakely, "Digging Up Spain's Past: Consequences of truth and reconciliation." In *Democratization* (2005): 44-59.

memory and how historical memory explicitly contributes to renegotiating the national policy of reconciliation are derivative questions that require further examination as well. Lastly, some consideration must be given to the possible implications of the MRM's efforts to renegotiate the national policy of reconciliation. The political right, (and at times the left), often argues that the recovery of historical memory makes fresh old wounds, and that attempts to recover the past violate the amnesty law of 1977 and the political consensus established by the transition. The claims of the political opposition to the recovery of historical memory must also be taken into account in formulating any objective study of the MRM. This research intends to address the aforementioned questions and ultimately seeks to answer why historical memory is pivotal to the ongoing process of reconciliation in Spain.

2.1.1.1 Hypothesis

The introduction to this thesis argues a case for the possibility of post-transitional justice where democratic consolidation has already been established and where there exists a strong social demand for some form of justice to be served. In Spain, the transition to democracy after the death of General Franco did not produce a form of transitional justice that was sufficient over the course of time. In the years that followed the transition and later the period of democratic consolidation, the inadequacies of the policy of national reconciliation became more and more apparent and finally culminated with the emergence of the social Movement for the Recovery of Memory. The various civic components of the MRM have primarily sought *ex post facto* transitional justice for past human rights abuses through the recovery of historical memory of the Franco regime and the crimes committed by Francoist led forces during the Spanish Civil War. Historical memory has thus become

fundamental in the struggle to recognize previous abuses of human rights that have long been ignored by political institutions.

While traditional avenues of transitional justice often focus on legal justice, lustration, and truth commissions, it is my contention that historical memory offers concrete and factual representations of the past that both challenges the politics of memory surrounding the legacy of the Civil War and Francoist dictatorship, and allows for the public acknowledgment of human rights violations previously denied by the Franco regime and ignored during the transition to democracy. The recovery of historical memory in Spain is unique in that it meets civil society's demands for truth about the Spanish Civil War and Franco era crimes as well as civil society's demands for justice that enables the national policy of reconciliation to be renegotiated peacefully and in accordance with the democratic order established after the transition.

Although the MRM is comprised of numerous organizations, associations, and individual actors, the Association for the Recovery of Historical Memory (ARMH) represents the goals of the MRM in general, while its efforts to locate and exhume mass graves and investigate previous human rights violations make the ARMH a cornerstone organization of the greater movement. Using the ARMH as a prime example of civic attempts to renegotiate the national policy of reconciliation, the focus of my argument will center on the ARMH's efforts to recover the historical memory of Francoist crimes through mass grave exhumations and investigations into disappearances and child theft. In pursuing the recovery of historical memory, the ARMH meets civil society's demands for both truth and justice and does so without disrupting democratic processes.

3 Methodology

3.1 Theoretical Framework

The theoretical structure of this study is heavily based on the concept of historical memory that has arisen in Spain and in the Southern Cone of Latin America as a primary instrument in exploring the relationships between past human rights abuses and democratization processes.²¹ Though historical memory has become almost commonplace in academic discussions about civic attempts to reveal the nature of crimes committed under authoritarian rule, a great deal of debate persists surrounding the viability of historical memory as an effective mechanism of retroactive justice. This debate is largely founded on conceptual frameworks of history and memory that suggest that the two are inherently incompatible. Paradoxically, Pierre Nora's groundbreaking work on memory and history in France serves as the theoretical basis for the arguments both for and against the use of historical memory.

According to Nora,

“Memory and history, far from being synonymous, appear now to be in fundamental opposition. Memory is life borne by living societies founded in its name. It remains in permanent evolution, open to the dialectic of remembering and forgetting, unconscious of its successive deformations, vulnerable to manipulation and appropriation, susceptible to being long dormant and periodically revised. History, on the other hand, is the reconstruction always problematic and incomplete, of what is no longer.”²²

Nora's assertion that memory and history are in fundamental opposition can be interpreted in two important ways. One interpretation yields that memory is fundamentally unreliable as a legitimate source of information about the distant and even recent past in that it depends

²¹ Louis Bickford, “Human Rights Archives and Research on Historical Memory: Argentina, Chile, and Uruguay,” *Latin American Research Review* 35.2 (2000): 160-182.

²² Pierre Nora, “Between Memory and History: Les Lieux de Memoire,” *Representations* 26 Special Issue: Memory and Counter Memory (1989): 7-24.

entirely on the biased perceptions of the living. History, on the other hand, depends on scientific methodologies to reconstruct the past that sometimes come into conflict with what members of society believe to have been, and what was actually so. The second interpretation of the tensions between memory and history understands that memory requires history to preserve and protect those aspects of memory that are most important, while history requires memory in order to make it relevant for those who live both in the present and future. The notion expressed here is that memory cannot survive without history just as much as history cannot survive the next generation without memory. The tension between the two emerges in determining which will have more dominance.

Nora's work raises yet another point of contention in the debate over the practicality of historical memory in stating that,

“Memory is blind to all but the group it binds – which is to say, as Maurice Halbwachs has said, that there are as many memories as there are groups, that memory is by nature multiple and yet specific; collective, plural, and yet individual. History, on the other hand, belongs to everyone and no one, whence its claims to universal authority.”²³

This implies that memory cannot claim the universalism that history assumes by default.

Because memory is so variable, it is difficult to create accurate representations of the past based on the sensitivities of the few, the many, or the one. Expert in Hispanic Studies

Sebastiaan Faber points out that collective memory is exceptionally problematic. Citing the ideas of Avishai Margalit, Faber explains that while collective memory is important to the fabric of any human community, collective memory can also enter into conflict with a more critical sense of history, since intra-group memory is likely to fuel nostalgia, sentimentality, and idealized distortions of the past. Elaborating on this point, Faber references Francie

Cate-Arries in asserting that, “[...] communities of memory are formed even, or especially, in

²³ Pierre Nora, “Between Memory and History: Les Lieux de Memoire,” *Representations* 26 Special Issue: Memory and Counter Memory (1989): 7-24.

situations of extreme hardship and how their formation is fed by, and in turn encourages, processes of mythification.”²⁴ On this issue Faber rightly calls into question the extent to which memory, and especially collective memory, can provide sufficient accounts of the past without falling into the trappings of perception bias by failing to give impartial and fact-based representations. This, however, represents only one view of the interplay between memory and history.

While emphasizing the problems of collective, shared, and common memory and how these frameworks of memory come into conflict with critical history, little attention is paid to the concept of historical memory. As stated in the introduction to this study, historical memory constitutes a specialized kind of recollection. Historical memory, in contrast to collective or shared memory, ventures into the realm of publicly recognized facts about the historical past.²⁵ Historical memory is unique in that it seeks to overcome the problematic features of memory that impede its incorporation into legitimate historiography. In this view, historical memory can be viewed as a means of reconciling history with memory so that the memories of the one, the few, and the many, and the one may be compatible with the history of everyone.

In his defense of historical memory in Spain, Faber argues that a topic’s interest among professional historians is not the same as social acceptance. By social acceptance he means “[...] the entry of a particular vision of history into the public sphere, popular consciousness, and public school textbooks.” Citing the writing of South African Justice Abie Sachs, Faber asserts that there is a difference between knowledge – “having information at your disposal”- and acknowledgment, “understanding that information, locating it in a

²⁴ Sebastiaan Faber, “Review: The Price of Peace: Historical Memory in Post-Franco Spain, a Review Article,” *Revista Hispánica Moderna* No. 1/2 (2005): 205-219.

²⁵ Joan Roman Resina, “Short of Memory: The Reclamation of the Past Since the Spanish Transition to Democracy,” in *Disremembering the Dictatorship: The Politics of Memory in the Spanish Transition to Democracy*, ed. Joan Ramon Resina (Amsterdam: Editions Rodopi B.V., 2000), 84.

moral and emotional universe, giving it meaning, absorbing it into your social psyche.”

Finally, Faber claims that, “[...] the fact that historians study and indentify or quantify certain acts of violence and repression does not give a voice to those who suffered it.”²⁶ This last statement lies at the heart of why historical memory is essential to the process of ongoing reconciliation in Spain and in the process of transitional justice in the Southern Cone as well. Historical memory has become the site of validation for the members of civil society who are the victims and survivors of the Civil War and Francoist repression. Through the implementation of the scientific techniques and methodologies of historical research and investigation, historical memory substantiates the living memory of trauma and oppression with factual representations of the past that confirm (or reject) the validity of certain lived experiences that are contested in public life. Arturo Peinado Cano presses a slightly different viewpoint in asserting that history, as an academic discipline, is not without its own set of vulnerabilities. Like memory, history is also subject to revisionism and bias. He suggests that in Spain historical revisionism is not a response to advances in historiography, but rather a reaction to the recovery of memory.²⁷ For Peinado Cano, the transverse of the above holds true: history requires memory to verify its descriptions about the past. From either perspective it remains clear that history and memory need not be situated in fundamental opposition. If anything, historical memory bridges the gap between the two concepts, allowing one to strengthen the other.

This study seeks to apply the concept of historical memory to the assumption that the recovery of historical memory meets civil society’s demands for truth and justice with respect

²⁶ Sebastiaan Faber, “Review: The Price of Peace: Historical Memory in Post-Franco Spain, a Review Article,” *Revista Hispánica Moderna* No. 1/2 (2005): 205-219.

²⁷ Arturo Peinado Cano, “El Movimiento social por la recuperacion de la memoria: entre el pasado y el futuro.” in *Revista de Historia Contemporanea* 6 (2006): 5.

to past crimes. If, as Nora says, “The quest for memory is the search for one’s history,”²⁸ then the recovery of historical memory in Spain is a quest for a national history. Though no history will ever be universal, society can at least work towards the creation of a historical narrative that incorporates the memory of those who lived it.

3.1.1 Methodological Approach

The methodological approach used in this study was a content analysis of news articles from the online versions of two leading Spanish newspapers and one news source available exclusively online: El País, ABC, and Rebelión.org.²⁹ As previously stated, my hypothesis is that the recovery of historical memory in Spain meets civil society’s demands for truth about the Spanish Civil War and Franco era crimes as well as civil society’s demands for justice that allows for the peaceful and democratic renegotiation of the national policy of reconciliation. Therefore this content analysis was formatted to correspond with the implications of that assumption. The study is thus divided into the following sets of issues:

- 1) What issues do the articles raise about the ARMH’s efforts to recover historical memory through mass grave exhumations and investigations into the fate of the disappeared and stolen children? What impact do these issues have on the previous policy of official amnesty and social amnesia?
- 2) What kinds of people speak about the ARMH and the ARMH’s efforts to recover historical memory about these specific types of crimes? What do these people say?

²⁸ Pierre Nora, “Between Memory and History: Les Lieux de Memoire,” *Representations* 26 Special Issue: Memory and Counter Memory (1989): 7-24.

²⁹ In English, “The Country”, “ABC”, and “Rebellion.org” respectively.

While impact is assessed by broader categories of issues that either renegotiate or uphold the national policy of reconciliation, the range of issues covered by the articles is too vast and varied for the purposes of this study. Therefore, only issues that appear in all three news sources with the greatest frequency will be considered. Journalists, government representatives, representatives of the ARMH, members of the ARMH, political opponents, victims, relatives of victims, and historians are all expected to be the kinds of people who typically speak about the ARMH and its efforts. The time frame of news articles selected covers the period between January 1, 2002 and December 31, 2009. The starting date was chosen based on the fact that 2002 was the first year in which all three news sources published articles regarding the Association for the Recovery of Historical Memory. The 2009 concluding date was chosen in order to view the progression of the ARMH's efforts and to survey changes and/or consistencies in media portrayals of the ARMH's undertakings.

The ARMH constitutes but one organization of the 161 that claim to be a part of the MRM. The ARMH has been written on extensively in the news media and primarily focuses on the recovery of historical memory via the unearthing of mass graves. Over the last 10 years since its establishment in 2000, the ARMH has branched out into the investigation of other human rights violations committed under the Franco era such as child theft through illegal adoption. I have chosen to concentrate my analysis on the ARMH as opposed to other MRM organizations for two reasons: first, its efforts have been more widely publicized and second, the ARMH often partners with other domestic and international organizations dedicated to the recovery of historical memory in Spain. Based on this information, I feel that the ARMH is an organization that is representative of the MRM as a whole.

The newspapers selected for the purpose of this study represent conservative (center-right) views as well as center-left and far left views. El País is a center-left wing daily newspaper that has its historical foundations in the Spanish transition to democracy. El País

is the most popular and widely read newspaper in Spain today and is considered to be the newspaper that most supports the center-left Socialist Workers' Party of Spain (PSOE). ABC is a newspaper that was founded at the turn of the 20th century and continues to be widely circulated today. This newspaper is traditionally pro-monarchist, conservative and was largely supportive of the Franco regime during its time. Rebelión.org by contrast is an online news site that was established in 1986. The year 1986 is politically symbolic in the Spanish context in that it marks the year of Spain accession to the European Union, its entrance into the North Atlantic Treaty Organization, and is widely considered by most institutionalists the year that Spain completed its democratic consolidation. Rebelión.org is a news source that represents far left views and is a key supporter and advocate of the MRM. In examining newspapers with alternative points of view and varying political partisanship, this study aims to make a comprehensive analysis of all sides of the discussion and debate on historical memory in Spanish society.

The articles used in this research were accessed through the online archives of El País, ABC, and Rebelión.org. In addition to meeting the criteria of discussing or referencing the three aforementioned human rights violations, the final set of articles analyzed were selected using the search term: "ARMH". ARMH, an acronym for *la Asociación para la Recuperación de Memoria Histórica*,³⁰ was used as the primary search term versus the unabbreviated version of the organization's name in order to filter through the large breadth of articles available via the online archives. Also, those articles found using the abbreviated search term tended to concentrate more on the nature of the crimes, the victims involved, and the results produced by the efforts of the ARMH. Table 1.1 demonstrates the difference in number of articles yielded by both search terms.

³⁰ The Association for the Recovery of Historical Memory. Unless otherwise stated, I provide all Spanish to English language translations.

Table 1.1

Articles (1 Jan 2002-31 Dec 2009)	ABC (Center-Right)	El Pais (Center-Left)	Rebellion.org (Far Left)
Total # of articles under “ARMH”	29	121	29
Total # of articles under “Asoc. Para la Recup. De Mem. Hist.”	50	583	148

The final set of articles analyzed were selected based on the criteria that they either discussed or gave reference to three types of human rights violations committed under Francoist rule or by Francoist forces during the Civil War. These three kinds of human rights violations are: the disappeared (*los desaparecidos*), mass graves and subsequent attempts to exhume these graves (*fosas communes y exhumaciones*), and finally the children born to non-Francoist parents known as the “lost children of Francoism” (*niños perdidos del franquismo*) who were wrongfully taken from their families. These three types of crimes were selected over others due to the fact that the ARMH specifically concentrates on the recovery of historical memory via the exhumation of mass graves. In addition, the issue of the disappeared is linked to the existence of mass graves in that many of the disappeared were murdered and buried in those graves. Lastly, the ARMH has more recently ventured into other realms of human rights abuses and begun to investigate the issue of children, especially new born infants, stolen from non-Francoist parents during the Civil War and even in the latter stages of the dictatorship.

Table 1.2 demonstrates the total number of relevant articles in each news source that referenced either mass graves and/or exhumations, the disappeared or stolen children. Table

1.2 reveals that some news articles sometimes mentioned two or more of the three crime types in the same article. Relevancy was determined by whether or not the articles yielded under the “ARMH” search term dealt with any of the three types of human rights abuses in question.

Table 1.2

Articles (1 Jan 2002-31 Dec 2009)	ABC (Center-Right)	El País (Center-Left)	Rebellion.org (Far Left)
Total # of articles under “ARMH”	29	121	29
Total # of relevant articles	17	85	22
Total # of relevant articles mentioning Mass graves and exhumations	14	80	18
Total # of relevant articles mentioning the disappeared	6	25	5
Total # of relevant articles mentioning kidnapped/stolen children	0	5	3

In narrowing my focus to the three aforementioned human rights violations, I anticipate that the news articles published about the ARMH’s efforts will reveal that the public acknowledgement of these violations meets demands for truth about crimes committed by Francoist forces during the Spanish Civil War and Francoist dictatorship. Further, I

anticipate that the public acknowledgment of these human rights violations is what Georgina Blakely refers to as “a form of justice in itself”.³¹

³¹ Georgina Blakely, “Digging Up Spain’s Past: Consequences of truth and reconciliation.” In *Democratization* (2005): 44-59.

3.1.1.1 Results of the Content Analysis

As expected, the content analysis of the selected articles revealed a complexity of issues with respect to the ARMH's efforts to recover historical memory through mass grave exhumations and investigations into the matter of the disappeared and of children illegally taken from their parents under Francoist rule. The "lost children of Francoism" however, was regularly linked to the case of the disappeared and as a consequence made it difficult to establish concrete differentiations between the two given the small number of articles available that discussed the subject.³² The matter of the disappeared may be well suited to encompass the question of lost children, though it must be made clear that victims disappeared into common graves are separate from victims disappeared into other families. As a result, the "lost children of Francoism" will not constitute an integral part of the final analysis, but it still remains an unresolved case of a human rights violation that merits further investigation and academic attention in the future.

The issues raised with the greatest frequency and in all three news sources were: the rights of victims and their families, responsibilities and obligations of the state, the perception of democracy in Spain, breaking the pact of silence, the politics of memory, and legal action against Franco era crimes. Each of these issues has its own set of implications and sub-issues which will be elaborated in the following chapter. All of these issues were found to have an impact on the policy of national reconciliation and the majority was found to renegotiate, rather than uphold that policy. Among those issues that renegotiated the national policy of reconciliation were: the rights of victims and their families, the responsibilities and obligations of the state, breaking the pact of silence, and legal action against Franco era

³² See Table 1.2.

crimes. The perception of democracy in Spain and the politics of memory however, were issues that proved consistent with the policy of national reconciliation and upheld ideas of amnesty and amnesia. How these issues challenge or uphold the national policy of reconciliation will also be examined in depth in the subsequent chapter. Finally, the kinds of people found to speak about the ARMH and its efforts included: journalists, historians, government representatives, ARMH members and representatives, victims, relatives of victims, writers, and political opponents. This finding holds consistent with my expectations that such people would generally speak about the organization and its attempts to recover historical memory. What these people say in the articles is important because their thoughts and opinions shape how particular issues are perceived and interpreted by the reader. Examples of what was said will be given in the next chapter and analyzed accordingly. For now it is apparent, at least preliminarily, that my hypothesis is correct in assuming that the recovery of historical memory in Spain meets civil society's demands for truth and justice which thus allows for the peaceful and democratic renegotiation of the national policy of reconciliation. The only question that remains to be answered by this study is, how?

4 Breaking the Silence:

Demands for Truth and Justice in the Recovery of Historical Memory

The principle aim of this study has been to demonstrate that the recovery of historical memory in Spain allows for the peaceful and democratic renegotiation of the national policy of reconciliation by meeting civil society's demands for truth and justice with regard to Civil War and Franco era crimes. In using the efforts of the ARMH as a prime example of civic attempts to renegotiate the national policy of reconciliation, the content analysis of newspaper articles I conducted reveal that the ARMH's pursuit of the recovery of historical memory raises several issues surrounding the policy of reconciliation in Spain. Yet, it remains unclear as to what impact these issues have over the understanding of national reconciliation in Spain. Broadly speaking, how does the recovery of historical memory in Spain meet demands for truth and justice while also renegotiating the policy of "amnesty and amnesia" institutionalized by the Spanish transition? More specifically, how does the ARMH's attempts to recover historical memory via mass grave exhumations and investigations into the disappeared and child theft renegotiate this policy? After careful consideration of the results yielded by the content analysis, it is clear that the ARMH's attempts to recover historical memory raise key issues that both challenge and peacefully renegotiate the policy of national reconciliation by democratic means. In raising issues that not only contest, but also seek to alter the terms of that transition era agreement, the ARMH, a cornerstone organization of the Movement for the Recovery of Memory, meets civil society's demands for truth and justice without disrupting democratic processes. The rights of victims and their families, the responsibilities and obligations of the state, breaking the

pact of silence, and legal action against Franco era crimes are all issues that shed light on the past and provide a sense of justice for those who demand it.

4.1 Renegotiating the past: Recognition of Rights, Responsibilities, and Retroactive justice

The content analysis of articles in ABC, El País, and Rebelión.org determines that the recognition of the rights of victims and their families is pivotal to the success of civic based efforts to recover historical memory. All three news sources discussed various aspects of this issue, mainly focusing on what such rights entail. Of these rights, several were identified in all three sources as the central collection of rights to which victims and their families are entitled. Among this set of rights, the right to a dignified burial was discussed at length and with the greatest frequency. A dignified burial for those victims of Francoist repression buried in mass graves was the most commonly voiced right among all sources. Throughout the course of the analysis, the right to a dignified burial also implicated an accompanying set of rights such as the right to be identified. The ARMH claims that 30,000 people were disappeared in common graves all over Spain and as victims, reserve the right to be identified once they are located and exhumed.³³ As soon as they are exhumed and identified, victims are also entitled to justice just as any other human being whether dead or alive. The rights outlined for victims are reiterated by the rights of their families who ultimately stand to gain the most from the recognition of these rights.

³³ J.Y. "La Asociación para la Recuperación de la Memoria denuncia 30.000 desapariciones," *El País*, December 15, 2006, Friday; Edición Impresa, Spain, http://www.elpais.com/articulo/espana/Asociacion/Recuperacion/Memoria/denuncia/30000/desapariciones/elpepiesp/20061215elpepinac_6/Tes (accessed April 30, 2010).

While victims have the right to a dignified burial, their families also have the right to bury their dead in the manner of their choosing. In recognizing the right of families to bury their dead, additional rights must also be recognized to assure the dignity of the burial. The families, like the victims, have the right to know the identity of their loved ones through the completion of a proper DNA and forensic identification process. This process, along with the exhumations, is very costly and many families are without the economic means to facilitate the exhumation and identification of their relatives. Families that do have the resources to recuperate the remains of their relatives are then entitled to one final right: the right to truth. The right to know the nature of the crime committed, and to know how and why their relative became a victim is fundamental to the process of mourning and pivotal to the basic notions of reconciliation. Lastly, the ARMH along with other victims associations asserts that the families of victims are entitled to these rights based on the fact that they are internationally recognized human rights. In claiming these rights as human rights, the state government is pressured to acknowledge the rights of both victims and their families and to act according to international guidelines. The victims' rights to a dignified burial along with the families' right to bury their own dead constitute the central set of rights held by victims and their families in the cases of those disappeared into mass graves. Though the ideas behind these rights were present in the thematic overtones of the news articles, the claims to the existence of these rights were articulated mainly by the people that spoke about this issue. The disappeared may no longer have the ability to fight for their rights as victims, but their families and members of the ARMH make claims on their behalf.

The results of the content analysis reveal that victims' relatives, members and representatives of the ARMH are amongst the kinds of people who speak about the ARMH and its efforts to recover historical memory. With respect to the issue of the rights of victims and their families, the thoughts, opinions, and demands of these individuals express that a set

of rights exists for those who not only fell victim to the Francoist repression during the Civil War and dictatorship, but also for those who survived it. Santiago Macías, co-founder of the ARMH, expresses his view of rights for victims and their loved ones in response to critics of mass grave exhumations:

“The dead do not rest, nor cease to rest, but they have some rights; and one of those fundamental ones has to do with the right to self-identity and to a dignified burial. But those who must rest in peace are the living; the sons and daughters of the thousands of disappeared republicans that continue to live the consequences of the Civil War [...] the Francoist regime only considered the rights of the disappeared who with the dictator, had participated in the “national fight against Marxism,” as can be seen in the Decree of October 2, 1939. A piece of legislation that allowed the families of the dead francoists to recover their remains, while expressly not allowing the families of the republicans to do the same.”³⁴

Here Macías articulates victims’ rights to a dignified burial as well as their right to “self-identity” or the right to be identified. Macías recognizes not only that the dead also have rights, but that their surviving relatives are the ones most in need of rights in order to see that they are guaranteed the same treatment under the law as the families of the fallen francoists. Macías specifies three important aspects in pointing out that the families of disappeared francoists were allowed to recuperate their remains. First, Macías reveals part of the history of unequal treatment toward republican victims that the ARMH and other associations strive to reverse. Secondly, he indicates that republican families were unjustly treated by the regime, and lastly, he implies that even under a quasi-fascist government, the right to a dignified burial was recognized under Francoist law. Macías makes the assertion that victims

³⁴ “Los muertos ni descansan, ni dejan de descansar, pero tienen unos derechos; y alguno de los fundamentales tiene que ver con el derecho a la propia identidad y a la sepultura digna. Pero los que tienen que descansar en paz son los vivos; los hijos y las hijas de los miles de desaparecidos republicanos que siguen viviendo las consecuencias de la Guerra Civil. Debería saber el señor Goytisolo que al terminar la Guerra Civil, el régimen franquista sólo consideraba desaparecidos con derechos a aquellos que habían participado junto al dictador en la “lucha nacional contra el marxismo”, como se puede ver en el Decreto del 2 de octubre de 1939. Una legislación que permitía que las familias de los muertos franquistas pudieran recuperar sus restos, mientras expresamente no podían hacerlo las de los republicanos.” Santiago Macías, “Memoria sin derechos,” *El País*, February 17, 2006, Friday; Edición Impresa, Spain, http://www.elpais.com/articulo/opinion/Memoria/derechos/elpepiopi/20060217elpepiopi_7/Tes (accessed April 29, 2010).

still in mass graves and especially their families have the right to see justice served by honoring the dead with a dignified burial.

These rights, though self-evident in many instances, are still being fought for in Spain today. Esther Domingo, the daughter of one of the disappeared, explains the effects that the absence of these rights can have both on individuals and an entire society:

“I want the struggle of all those people that has been carried out in silence to be recognized. If he had been a *national hero* and had not been thrown over there like a dog, I would have had the possibility to study for a job and many other things. For us this means a lot, after 60 years, and we are excited by the idea that we can recover his body one day, as I imagine it is for many people, but for sure there is someone that will try to make sure that this does not come to light.”³⁵

The ability to recuperate the remains of a disappeared relative is clearly a motivating factor for many families to continue with a fight that has lasted for decades. Yet, Ms. Domingo still expresses some trepidation when acknowledging the existence of opposition to the exhumation of these graves. Her fears however, underline exactly why the guarantee of the rights of victims and their families is so crucial to the recovery of historical memory. With the formal recognition of these rights, surviving relatives like Ms. Domingo no longer have to live with the fact that an injustice has occurred. Instead, surviving family members can lay claim to these rights and see that the injustice does not continue. Lastly, these rights offer surviving relatives a mode of protection against those who do not want this particular part of the past to be brought under the scrutiny of the light.

³⁵ "Quiero que se reconozca la lucha que ha llevado toda esa gente en silencio. Si él hubiese sido un *héroe nacional* y no estuviera como un perro tirado por ahí, yo hubiera tenido la posibilidad de estudiar una carrera y muchas cosas más. Para nosotros esto supone mucho, después de 60 años, y nos ilusiona la idea de poder recuperar su cuerpo algún día, como creo que a tanta gente, pero seguro que hay alguien que intentará que esto no llegue a salir a la luz". Carlos E. Cué, "La última cuenta pendiente de la democracia," *El País*, September 20 2004, Monday; Edición Impresa, Spain, http://www.elpais.com/articulo/espana/ultima/cuenta/pendiente/democracia/elpepiesp/20040920elpepinac_22/Tes (accessed April 29, 2010).

In addition to addressing injustices that have endured since the time of the Civil War, the issue of victims' rights and the rights of their families also presents a formidable challenge to the national policy of reconciliation. The recognition of these rights in the public domain forces society and in many ways the state as well, to look back at the historical past and the consequences that social amnesia has produced. In essence, the recognition of victims' rights and the rights of their families is the recognition of victims who have been left out of the socio-historical narrative, and along with their relatives, deserve to be remembered. By remembering the forgotten victims of Civil War and Francoism, the social memory loss introduced by the policy of reconciliation is being eroded one dignified burial at a time.

While the recognition of the rights of victims and their families is central to the renegotiation of the national policy of reconciliation, this issue can only challenge that policy to a point. The mere recognition of these rights does not guarantee that claims to a dignified burial or to proper identification will be met with adequate support. The content analysis of articles shows that whether or not claims to these rights are successful largely depends on the legal and financial support of the state. The Spanish state's responsibilities and obligations appear as another issue that the efforts of the ARMH raise in their pursuit of the recovery of historical memory. Within the series of articles examined that referred to the responsibilities of the state with respect to the exhumation of mass graves, nearly all the responsibilities discussed dealt with responding to claims made by victims' families and their supporters. Among the kinds of responsibilities presented in the articles were: taking charge of the location and exhumation of mass graves in Spain, investigating the disappearances, and paying for the cost of the exhumations as well as for the proper DNA identification of the bodies recovered from the graves. The duty to respond to the claims and demands of the victims' families was also considered among the set of responsibilities the state was expected to fulfill. Furthermore, many articles emphasized the Spanish state's obligation as a

cooperating member of the international community to comply with international law on forced disappearances, mass graves, and widespread human rights violations. As a United Nations member that signed the 1992 UN Declaration on the Protection of all Persons from Enforced Disappearance, the Spanish state has the obligation to comply with international law with regard to the situation of the disappeared in Spain. The event most commonly referenced by the articles was the ARMH's 2002 presentation to the UN Working Group on Forced Disappearances. Georgina Blakely states that the resolution presented by the ARMH to the UN demands that,

“[...] the Spanish State has a duty to meet the following obligations. First, the Spanish state has a duty to exhume those bodies that remain in common graves, to identify the bodies by appropriate means (including DNA testing) and to return the remains to the victims' families wherever possible. Second the Spanish state has a duty to give a decent burial to the remains of those who cannot be identified indicating clearly, on public monuments and plaques, the manner of and the reasons for, their deaths. Finally, the Spanish state has a duty to set up, and to adequately fund a judicial investigation to establish the facts surrounding the disappeared regardless of the side to which the victims belonged.”³⁶

As demonstrated by Blakely's summary of the ARMH's presentation, the responsibilities enumerated by the resolution correspond with the most commonly discussed state duties outlined over the large breadth of articles pertaining to the role of the state with respect to the rights of victims and their families. The right to a decent burial cannot be guaranteed without state cooperation to exhume, identify, and return the bodies of the disappeared to their families. What's more, a victim's right to justice compounded with their family's right to know the truth about the circumstances of the disappearance, can only be fulfilled by a state sponsored investigation of the crime(s) committed. Not surprisingly, the ARMH's appeal to the UN puts substantial pressure on the Spanish state to assume the duties delineated in the presentation.

³⁶ Georgina Blakely, “Digging Up Spain's Past: Consequences of truth and reconciliation.” In *Democratization* (2005): 44-59.

The ARMH's presentation to the UN may have marked a pivotal moment for the future of MRM, but the very fact that this issue became open to debate within Spanish society indicates a much greater milestone. Separate from the resolution, the news articles observed in this study suggest that a public conversation about the state's responsibilities and obligations to victims and their families takes place outside of the international sphere and at the domestic level. Representatives from the ARMH, journalists, and even the Ombudsman of Spain openly discuss this matter and support demands for state accountability. Emilio Silva, co-founder of the ARMH, stresses the importance of the intervention of the international community in stating that, "We expect that the case of the disappeared during the Civil War be treated as it was in Chile, that it be investigated and the UN pressures Spain so that they take charge of the matter."³⁷ Silva compares the case of the disappeared in Spain to what occurred in Chile under the Pinochet regime in order to illustrate the point that the international community assisted in the establishment of a truth commission that investigated human rights abuses committed during the Pinochet dictatorship. This comparison aims to underscore two facts: first, that Spain received no such international assistance during its transition to democracy, and second that no formal method of transitional justice was carried out by the state. In appealing to the UN on this matter, Silva seeks to trigger international interest in the case while also suggesting that what happened in Spain as a result of Francoist repression is not a unique experience. This implication points to the idea that if other post-transitional states, like Chile, have taken measures to properly deal with past human rights violations under dictatorial rule, then Spain should follow suit.

Although Silva's assertions remain less obvious, others tend to be more forthright in making their claims. Carlos E. Cué, a journalist for El País whose work often concentrates

³⁷ EFE, "Recuperan los restos de un alcalde pedáneo asesinado en la Guerra Civil," *ABC*, July 29, 2002, Sunday; Castilla and León section, http://www.abc.es/hemeroteca/historico-29-07-2002/abc/CastillaLeon/recuperan-los-restos-de-un-alcalde-pedaneo-asesinado-en-la-guerra-civil_117709.html (accessed April 2, 2010).

on the recovery of historical memory, conveys more frank observations on the issues of the state's obligations and assumption of responsibilities. In one article he writes that,

“The state should focus on reopening graves. Until now, with only the support of the families and some volunteer city councils – always governed by the left – the ARMH and the Forum for the Recovery of Memory, connected to the PCE, have opened graves throughout all of Spain. This is why they demand that the Executive ‘elaborates a law of exhumations and determine the according procedures with international law on human rights.’ Also, it is insisted that the government ‘put genetics laboratories at the disposal of the families of the disappeared where DNA identification tests can be carried out.’”³⁸

In a very no-nonsense fashion, Cué puts forward both his opinion and an accurate portrayal of the state's position toward the exhumation of graves. In stating that the efforts to exhume graves have been primarily a labor of civic organizations like the ARMH, Cué suggests that the state is rescinding on its responsibilities to victims and their families as well as failing to comply with international law pertaining to instances of forced disappearance and mass graves. As a journalist whose work is published in the most popular and widely circulated newspaper in Spain, his statements maintain a significant amount of influence over the readership of the paper and in particular to those who commonly read articles about the ARMH and attempts to recover historical memory. Through journalism, people like Cué are helping to bring the discussion and debate about the Civil War and Francoist past to broader audiences within Spanish society. Yet journalists and proponents of historical memory alone cannot create the kind of pressure in the public domain to force the state into assuming

³⁸ “El Estado debe ocuparse de reabrir las fosas. Hasta ahora, con el único apoyo de las familias y algunos ayuntamientos voluntariosos -siempre gobernados por la izquierda- la ARMH y el Foro por la Memoria, vinculado al PCE, han reabierto fosas por toda España. Algunas víctimas las han identificado con el método del ADN. Se han sacado más de 300 cuerpos. Pero sólo la ARMH tiene más de 2.000 peticiones sin atender, y se estima que hay 30.000 personas sepultadas en cunetas de media España. Es un asunto que supera por completo las posibilidades de las asociaciones. Por eso exigen al Ejecutivo que “elabore una ley de exhumaciones y fije los procedimientos acordes con el derecho internacional de derechos humanos”. Además se insta al Gobierno a “poner a disposición de las familias de desaparecidos laboratorios genéticos en los que se puedan practicar las pruebas de identificación por ADN.” Carlos E. Cué, “La última cuenta pendiente de la democracia,” *El País*, September 20 2004, Monday; Edición Impresa, Spain, http://www.elpais.com/articulo/espana/ultima/cuenta/pendiente/democracia/elpepiesp/20040920elpepinac_22/Tes (accessed April 29, 2010).

certain responsibilities. Institutional pressure, or pressure from within, must also exist in order to see that these demands are taken seriously.

A wide range of articles were found to express the views of journalists and people associated with the ARMH or similar organizations with regards to the duties of the state in matters of the disappeared and common graves, although few were found to express the views of people that represent the government or state institutions. One article however, stands out in that it voices the official judgment of the Ombudsman of Spain. In expressing his attitude toward the state of historical memory and the Amnesty Law of 1977, writer Benjamín Prado cites from the annual report of the Spanish Ombudsman in this passage:

“This law of period and done was perhaps necessary, but it was also, evidently, a certification of impunity. Or a passport for oblivion. Against that oblivion the Ombudsman, Enrique Múgica, has just spoken against in his annual report that has qualified as ‘disheartening’ the institutional response to the ‘indispensable’ help needed and has asked that these institutions make available the necessary measures to, ‘exhume, identify, perform the necessary forensic tests and to deliver the remains of the victims to their families so that they may receive a dignified burial.’”³⁹

Given that the Ombudsman is meant to act as an intermediary between state institutions and the Spanish population who protects the fundamental rights of citizens before the law,⁴⁰ an official report from the Ombudsman citing the obligations of the state is not to be taken in stride. Although in many ways separate from the state apparatus, the Ombudsman is still an institutional power that maintains a significant degree of authority within the state. If the mission of the Ombudsman is to oversee whether or not the rights of citizens are fully

³⁹ “Esta ley de punto y final fue quizá necesaria, pero también fue, resulta evidente, un certificado de impunidad. O un pasaporte para el olvido. Contra ese olvido acaba de pronunciarse en su informe anual el Defensor del Pueblo, Enrique Múgica, que ha calificado de “desalentadora” la respuesta de la Administración a las peticiones de los familiares de los represaliados; ha reclamado la ayuda “imprescindible” de las instituciones y ha pedido que éstas pongan los medios necesarios para “exhumar, identificar, practicar las pruebas forenses necesarias y entregar a las familias los restos de las víctimas para que puedan recibir digna sepultura.” Benjamín Prado, “Desentierren a Lorca, por favor,” *El País*, June 25, 2004, Friday; Edición Impresa, Spain, http://www.elpais.com/articulo/opinion/Desentierren/Lorca/favor/elpepiopi/20040625elpepiopi_9/Tes (accessed April 28, 2010).

⁴⁰ El Defensor del Pueblo, “Todo Sobre el Defensor Del Pueblo,” <http://www.defensordelpueblo.es>.

recognized by the state, then in this case the Ombudsman has ruled that the state and state institutions fall short of meeting that requirement. The recognition of institutional responsibility from within a state institution strengthens claims for state accountability.

The assertion that the Spanish state has certain responsibilities and obligations in the matter of the disappeared and common graves constitutes a considerable challenge to the national policy of reconciliation. The blanket amnesty that resulted from this policy comes into direct conflict with social demands for state accountability. Moreover, the manner by which the ARMH, families, and their supporters make these claims demonstrates how heavily the recovery of historical memory relies on democratically structured institutions such as the UN, the Ombudsman and the Spanish state itself. In raising issues like state accountability in matters of human rights violations, the ARMH's efforts to recovery historical memory renegotiate the policy of reconciliation by drawing attention to the inadequacies of amnesty and do so by democratic means in appealing to institutions like the UN and even the Spanish state. Nevertheless, confronting the insufficiencies of amnesty only represents one half of the impact that these issues have on the national policy of reconciliation. The reconciliation policy crafted during the transition also produced a tacit consensus of social amnesia that has endured in the years since the transition period. With the ARMH's efforts to recover historical memory by exhuming mass graves and investigating past crimes, that pact of silence is finally being broken.

“Oblivion is not the opposite of resentment; it is only the opposite of memory.”⁴¹ In this brief statement, Benjamín Prado summarizes everything that is problematic about a

⁴¹“El olvido no es lo contrario del rencor, sólo es lo contrario de la memoria.” Benjamín Prado, “Desentierren a Lorca, por favor,” *El País*, June 25, 2004, Friday; Edición Impresa, Spain, http://www.elpais.com/articulo/opinion/Desentierren/Lorca/favor/elpepiopi/20040625elpepiopi_9/Tes (accessed April 28, 2010).

policy of reconciliation based on forgiving and forgetting the past. During the transition, the process of reconciliation in Spain was largely based on a tacit social consensus of social amnesia that forced the memory of the Civil War and Francoist regime out of collective memory and public life. Along with issuing an extensive amnesty, the transitional regime (and a majority of Spanish society) opted to lustrate the memory of the past and human rights abuses from political and social life. The repercussions of that decision have fallen mainly on the victims and surviving relatives of victims, many of whom have died without proper reparations or the acknowledgement that they were unjustly treated. This is exactly why the MRM and the efforts of organizations like the ARMH have come at such a crucial moment in time. For victims and their relatives who still remember, time is literally running out.

While a sense of urgency provides the impetus for many of the ARMH's undertakings, the set of articles examined in this study also clearly show that in the pursuit of historical memory, the ARMH has broken the pact of silence by shedding light on a particular period of Spanish history that had been largely forgotten. From exhumations to presentations to the UN, the efforts of the ARMH have been widely publicized and discussed in public and online forums as well as deliberated in state institutions like parliament. At one time shrouded in secrecy, the past has now resurfaced and become open to discussion and debate like never before. Breaking the pact of silence is a result of more than just engaging in a previously forbidden dialogue, it is also a result of action. The activities of the ARMH and similar organizations speak louder than words, giving new meaning to the term civic action. Moreover, the people involved in activities to recover historical memory recognize the importance of their work and are able to express the meaning of their efforts unquestionably.

“No society can survive without knowing its own history, however horrible it may be.”⁴² This statement given by the Nizkor team in an article dealing with a range of issues surrounding the exhumation of graves, articulates the interplay between memory and history. Although this interplay can be interpreted as tension between the two concepts, tension only surfaces when forgetting replaces memory. Memory requires history just as history requires the memory of those who lived it to make it meaningful. In the case of Spain to which this statement is directed, Spanish society needs to know its own history in order to reproduce itself in the future. Nizkor’s statement implies that the tragedies of the Civil War and Francoist repression constitute an integral part of modern Spanish history, whether or not they are convenient truths.⁴³ The recovery of historical memory provides a means by which Spanish society can recuperate the remains of its past so that they may become part of the historical knowledge available to society today and in the future. By merely recognizing the importance of historical memory, the decades old pact of silence shows signs of weakness and begins to crack under the pressure of a society wanting to remember. As silence is chipped away by the desire to remember, civic action threatens to shatter it beyond repair.

The ARMH and partner associations have engaged in similar activities in their campaign to recover historical memory, though it is the salience of mass graves and the ARMH’s efforts to exhume those graves that pose the greatest threat to the pact of silence. Co-founder of the ARMH Emilio Silva describes the exhumation of graves as an issue that goes beyond shedding light on the past, causing a serious impact on the way a society relates to its history. In a 2006 article that discusses attitudes toward the Law of Historical

⁴²“Ninguna sociedad puede sobrevivir al desconocimiento de su propia historia, por horrible que esta sea.” Carlos E. Cué, “La última cuenta pendiente de la democracia,” *El País*, September 20 2004, Monday; Edición Impresa, Spain, http://www.elpais.com/articulo/espana/ultima/cuenta/pendiente/democracia/elpepiesp/20040920elpepinac_22/Tes (accessed April 29, 2010).

⁴³ Nizkor is a non-profit organization dedicated to preserving the memory of the Holocaust.

Memory,⁴⁴ Silva explains that, “Exhumation is a private matter that all of a sudden appears in public life and is talked about in the bar; in the square...It is a catharsis.”⁴⁵ Silva’s use of the word catharsis has several implications for the recovery of historical memory via exhumations. The overt implication of ‘catharsis’ in this case is that an emotional release has occurred within society. Fear and anxiety no longer consume a people who have been obligated to forget the past over so many years. Secondly, a catharsis driven by the antithesis to those fears and anxiety produces a more powerful impact that reaches a much wider segment of society. Finally, the notion that a catharsis occurs out of an exhumation implies that the graves of Francoism contain more than just the remains of victims. The mass graves scattered throughout Spain represent a sort of historical archive left over from Civil War and dictatorship that have been kept buried in secrecy and in fear until this point. By unearthing the remains of the disappeared, the historical past also emerges from these tombs of oblivion and breaks the pact of silence by drawing attention to not only its existence, but also to its absence from social memory. As for the remains themselves, they too shed light on the past and break the silence in their own way.

The old saying that “dead men tell no tales” has been repeatedly disproven by improvements in investigative technology and forensic science. Still, even without these improvements or exact science, the remains of the disappeared in common graves all over Spain manage to tell a tale of their own. Journalist Silvia R. Pontevedra writes on this subject and explains that,

⁴⁴The Law of Historical Memory went into effect in 2007. Among other provision, this law recognizes all victims of the Civil War, grants the right of return to exiles, children and grandchildren of exiles as well as Spanish citizenship to surviving members of international brigades. It does not however provide for state assistance in exhumations or for the establishment of truth commissions, or investigations.

⁴⁵ “La exhumación es un tema muy privado, que de repente aparece en la vida pública y se habla de ello en el bar, en la plaza... Es una catarsis.” N.T. “El Gobierno nos ha usurpado el Año de la Memoria Histórica,” *El País*, December 9, 2006, Saturday; Edición Impresa, Spain, http://www.elpais.com/articulo/espana/Gobierno/nos/ha/usurpado/Ano/Memoria/Historica/elpepiesp/20061209elpepinac_3/Tes (accessed April 30, 2010).

“The skeletons, with shoes and a gold tooth, come out of the damp earth little by little, entangled in eucalyptus roots, and as soon as they rise, they begin to speak. They express themselves, by the lesions on their bones and the bullet holes in their skulls, and they also tell truths of the living that still remember.”⁴⁶

Though haunting in many ways, Pontevedra’s description of the state in which the remains of the victims are found illuminate the nature of the crime committed and the circumstances surrounding each death. Lesions found on bones implicate beating, or cutting, while the mark of a bullet hole in a skull can only mean the final “mercy shot.”⁴⁷ Moreover, the remains of the victims validate the memories of the living. They are the physical proof that a crime has been committed and that the relatives of the living do not mourn in vain. Each body recovered tells its own story, breaking the silence about their disappearance and revealing the truth about what became of them. Once unearthed, the past can no longer be ignored.

Breaking the pact of silence is perhaps the ultimate way that the recovery of historical memory renegotiates the national policy of reconciliation. By challenging the future oriented consensus enshrined by the transition, the exhumation of graves puts an end to the fairy-tale success story of the Spanish transition and clearly points out the insufficiencies and long-standing injustices of amnesty and amnesia type policies. In rupturing the fundamental component of the national policy of reconciliation, the recovery of historical memory, and the exhumation of graves in particular, lay the groundwork for the creation of a new kind of social reconciliation. In this sense, silence is no longer an option, nor an obstacle for the formation of a new reconciliation policy. Nonetheless, institutional obstructions still persist

⁴⁶ “Los esqueletos, con zapatos y algún diente de oro, van saliendo poco a poco de la tierra húmeda, enmarañada de raíces de eucalipto. Y en cuanto se levantan, empiezan a hablar. Se expresan por sí mismos, por las lesiones de sus huesos y los agujeros de bala de sus calaveras, y también cuentan verdades como puños por boca de los vivos que aún recuerdan.” Silvia R. Pontevedra, “Los muertos toman la palabra,” *El País*, September 2, 2007, Sunday; Edición Impresa, Spain, (accessed April 30, 2011 http://www.elpais.com/articulo/Galicia/muertos/toman/palabra/elpepiatgal/20070902elpgal_6/Tes0).

⁴⁷ In Spanish “mercy shot” or “el tiro de gracia” is often used to describe a direct gunshot to the head.

which have prompted the ARMH to expand its efforts beyond exhumations. Within the group of articles surveyed, it is apparent that a strategic turn in the methods of the ARMH has occurred in response to persisting institutional barriers.

Of all the issues raised by the ARMH's efforts to recover historical memory, the content analysis found only one issue involving the pursuit of legal justice. In all other instances, the ARMH was found to pursue a moral justice based on the recognition of rights of victims and their families along with the acknowledgement of the historical past. The articles examined from the 2006-2009 time period signal an apparent shift in strategy where legal action against Franco era crimes has recently become the issue that stands at the forefront of the ARMH's attempts to recover historical memory. The event that triggered this change in direction came in 2006 with the ARMH's formal denunciation of 30,000 disappearances which it presented to Baltasar Garzón, a justice of the National Court of Spain. The denunciation does not implicate any specific offenses or perpetrators; it simply calls for a formal investigation of disappearances that occurred during the Civil War and the dictatorship.⁴⁸ Aside from marking a critical moment for the ARMH and the MRM as a whole, the reasons why legal justice is being sought out after so many years further demonstrates the difficulties that the ARMH, victims, and their families encounter in trying to claim their rights and acknowledgment from the state.

The range of articles focusing on this issue cited individual supporters of the ARMH's turn to the judicial route who typically regarded the formal investigation of the disappearances as a state and/or institutional obligation. In a 2006 article that first reported the ARMH's appeal to the National Court, Fernando Magán, a lawyer for the ARMH,

⁴⁸J.Y. "La Asociación para la Recuperación de la Memoria denuncia 30.000 desapariciones," *El País*, December 15, 2006, Friday; Edición Impresa, Spain, http://www.elpais.com/articulo/espana/Asociacion/Recuperacion/Memoria/denuncia/30000/desapariciones/elpepiesp/20061215elpepinac_6/Tes (accessed April 30, 2010).

explains why the association had decided to take legal action stating that, “[...] this issue, that has remained latent for five years, is not receiving the reception that it deserves from public institutions [...]”⁴⁹ Magán affirms that since the formation of the ARMH and mobilization of the MRM in 2000, the issue of the disappeared has been ignored and in many instances rejected by public institutions and the larger bodies of the state that oversee these institutions. The ARMH’s presentation to the National Court is thus a demand for acknowledgement guaranteed by the judicial institutions of the state. This idea is reflected by calls for state responsibility with respect to human rights abuses like forced disappearances. Judges for Democracy (JpD), an association of justices and magistrates in Spain, voice the urgency and necessity of state responsibility, especially before international law. A 2009 article published nearly three years after the ARMH’s formal denunciation cites a declaration from JpD that emphasizes this point. The declaration reads as follows:

“The obligation of States to begin by the initiative of their own authorities and not of families or private associations an effective and independent official investigation in all cases of forced disappearance of which there is notice must be underlined. This obligation is inferred by articles 2 and 13 of the European Convention for the protection of Human Rights and has been reaffirmed by constant jurisprudence from the European Court of Human Rights.”⁵⁰

This declaration confirms the prevalence of internationally recognized human rights in addition to human rights law that is binding upon member states such as Spain. While the statement from JpD reasserts the responsibilities and duties of the Spanish state to the victims and relatives of Civil War and Francoist repression, it also outlines the necessity for the

⁴⁹ “este asunto, que lleva latente cinco años, no está teniendo la acogida que merecería de las instituciones públicas[...]” Ibidem.

⁵⁰ “Hay que subrayar la obligación de los Estados de emprender por propia iniciativa de sus autoridades y no de los familiares o asociaciones privadas una investigación oficial efectiva e independiente en todos los casos de desaparición forzada de los que se tenga noticia. Esta obligación se desprende de los artículos 2 y 13 del Convenio Europeo para la protección de Derechos Humanos y ha sido reafirmada por jurisprudencia constante del Tribunal Europeo de Derechos Humanos”. Natalia Junquera, “El tiempo se acaba para las víctimas de Franco,” *El País*, June 8, 2009, Monday; Edición Impresa, Spain, http://www.elpais.com/articulo/sociedad/tiempo/acaba/victimas/Franco/elpepisoc/20090608elpepisoc_1/Tes (accessed May 1, 2010).

establishment of an official and independent investigation of all known cases of forced disappearances. For states undergoing democratization, such an investigation normally falls under the competences of truth commissions. Yet in the absence of such a commission in Spain, the only viable course of action that can impel the state to launch an investigation into past human rights violations is a judicial command that rules in favor of the ARMH's petition for a formal investigation. From this perspective, legal action against Franco era crimes appears to be the logical next step within the efforts to recover historical memory. Subsequently, legal action signals the ultimate attempt at securing justice for those victims and families who have a right to see justice served.

In pursuing legal action against Franco era crimes by appealing to the national court system, the ARMH manages to renegotiate the terms of the national policy of reconciliation through democratic mechanisms. The form of legal action taken by the ARMH challenges the political amnesty established by the policy of reconciliation and forces the reconstitution of what amnesty can and cannot absolve. In spite of the fact that a blanket amnesty defeated the possibility of legal justice, the ARMH has found a way, by using the judicial institutions of the state, to renegotiate the terms of that amnesty and lawfully make demands for an official investigation of past abuses. Although no perpetrators will be implicated or brought to justice before the law, this legal action will work towards revealing the nature of the crimes committed and recuperating the historical context in which the crimes took place. While this form of legal justice may seem hallow, it remains the only form of justice that can be achieved both peacefully and democratically. Ultimately, this process accomplishes a moral justice based on the recognition of rights and the acknowledgement that injustice has occurred without the taint of revenge.⁵¹

⁵¹"Es necesario que se entienda que la justicia es lo contrario de la venganza." Carlos E. Cué, "La última cuenta pendiente de la democracia," *El País*, September 20 2004, Monday; Edición Impresa, Spain,

The collection of articles examined in this study demonstrate that the ARMH's attempts to recover historical memory raise key issues that both challenge the national policy of reconciliation and renegotiate that policy peacefully and by democratic means. In raising issues that alter the terms of that transition era agreement, the ARMH meets demands for truth and justice by peacefully seeking the recognition of the rights of victims and their families through state cooperation, legal action, and breaking the pact of silence. Still, efforts to achieve truth and justice arise alongside opposition.

4.1.1 Barriers to Truth and Justice: Politics and Democracy in Spain

In spite of the issues found to renegotiate the national policy of reconciliation, the content analysis of articles also proves to have found issues that uphold that policy and in fact create barriers to the recovery of historical memory. The two key issues most frequently raised in conflict with the renegotiation of the national policy of reconciliation were the politics of memory and the perception of democracy in Spain. Each issue presents an obstacle to the ARMH's endeavors as well as to the principle goals of the MRM. Additionally, both issues introduce the idea of an irreconcilable power struggle within society over control of social memory which runs counter to the premise of historical memory.

The politics of memory, for instance, is an issue that has persistently hindered the official acknowledgement of the human rights abuses that occurred in the past as well as and the recognition of victims and families who continue to feel the consequences of those abuses. In this case the content analysis shows the politics of memory to include problems of political partisanship, political gridlock over policies and laws regarding the recovery of

historical memory, and the politicization of the ARMH's efforts to recover historical memory. Representatives from the political left and right continually engage in counterproductive arguments over whether or not historical memory merits recovery and if so, then the protocol for doing so also becomes embroiled in political debate. The political right, represented by the Popular Party (PP) maintains that the political left, the Socialist Worker's Party of Spain (PSOE) and the United Left party (IU), favors the efforts and appeals of the ARMH and similar organizations for the sole purposes of using the legacy of the Civil War and dictatorship as a political weapon. J. Albid, a journalist for the conservative newspaper ABC, conveys these political feelings in writing that,

“Under the pretext of ‘historical memory,’ which the left had ignored in its fourteen years of governance, the PSOE and the IU have provided themselves with a powerful instrument that uses the Civil War as a weapon to launch in opposition to the PP, breaking with one of the basic agreements of the Transition.”⁵²

Clearly, the memory of the Civil War and dictatorship remains a sensitive political subject that continues to be wrought with suspicion and viewed as a political threat whenever evoked. Albid's opinion also shows that the politics of consensus brought into being by the transition continues to symbolize the foundation of political order in Spain. Similarly, the political left often accuses the right of protecting the interests of former francoists within their ranks. Albid provides one such account of these accusations pointing out that,

“Parliamentary sources remember, including that in the proceedings over the Law of Historical Memory, the PSOE and its affiliates denied an increase in the indemnities for those who had incurred jail time under Francoism for

⁵² “Bajo el pretexto de la «memoria histórica», que la izquierda había desatendido en sus catorce años de gobierno, el PSOE e IU se dotaron de un poderoso instrumento para utilizar la Guerra Civil como arma arrojadiza en su oposición contra el PP, rompiendo uno de los consensos básicos de la Transición.” J. Albid, “El Gobierno sólo costearía a asociaciones de izquierda la exhumación de la fosa de Alcalá,” *ABC*, March 14, 2008, Friday; Nacional, http://www.abc.es/hemeroteca/historico-14-03-2008/abc/Nacional/el-gobierno-solo-costearia-a-asociaciones-de-izquierda-la-exhumacion-de-la-fosa-de-alcala_1641721229374.html (accessed April 28, 2010).

political reasons. The reason for this negation was very simple: the increase was proposed by the PP, to which [the PSOE] attributed as Francoist.”⁵³

What results from these indictments is political gridlock over policies and laws that have the potential to overturn years of injustice. The controversial 2007 Law of Historical Memory is a prime example of what political non-participation leads to in such cases. The Law of Historical Memory was primarily crafted by the parliamentary members of the PSOE who held the majority in the legislature at the time of the laws deliberation. The PP refused to lend its support to such a law that marginalized its input and in the end no member of the PP voted in favor of the law despite the fact that the PSOE had purposefully created a piece of legislation that was limited in its scope in order to avoid antagonizing the political right. The parties of the far left like IU greatly criticized the final version of the law, complaining that it did not do enough to compensate victims and recover historical memory.⁵⁴ Even though the Law of Historical Memory eventually won a majority of votes to pass, the law retains a quality of inadequacy representing a move that is too far reaching for the political right and a step backwards for the political left. Regardless of how the opposing parties perceive the law, the political battle for control over historical memory supplants the recovery of historical memory and effectually handicaps legitimate efforts by civil organizations to recover the past.

While policies and laws created by the dominant party are expected to draw political non-cooperation and sometimes ire, it would seem that most civic attempts at correcting injustice remain separate from such political tensions. Unfortunately the attempts of the

⁵³ “Fuentes parlamentarias recuerdan incluso que en la tramitación de la Ley de Memoria Histórica, el PSOE y sus socios se negaron a incrementar las indemnizaciones para los que habían sufrido cárcel bajo el franquismo por motivos políticos. La razón de esta negativa era muy simple: tal incremento lo solicitaba el PP, a quien ellos tachaban de franquista.” Ibidem.

⁵⁴ Gara, “La Ley de Memoria Histórica echa a andar tras ser rechazadas todas las enmiendas,” *Rebelión.org*, December 15, 2006, Friday; Spain, <http://www.rebelion.org/noticia.php?id=43175&titular=la-ley-de-memoria-hist%F3rica-echa-a-andar-tras-ser-rechazadas-todas-las-enmiendas-> (accessed April 27, 2010).

ARMH to recover historical memory through mass grave exhumations and investigations into disappearances and illegally adopted children do not reside on such an island of separateness. Many of the articles examined expose that the efforts of the ARMH to recover historical memory are very much politicized by both ends of the political spectrum. The ARMH's attempt to unearth the grave of Spanish poet Federico García Lorca, for example, developed into a political event rather than the fulfillment of families' wishes to retrieve the remains of their relatives.

In the beginning stages of the Civil War, García Lorca was captured by Francoist forces, killed, and buried along with five other republicans in a common grave. After a failed attempt in 2003 to recover the remains of the victims buried with Lorca,⁵⁵ a petition from the surviving relatives of the victims resumed the ARMH's efforts to locate and exhume the grave. This new attempt, however, was met with opposition from the Lorca family who did not want the remains of the poet exhumed nor identified, thus starting a political debate in the media on whether or not the ARMH should proceed with the exhumation raising issues of families' rights. When it was finally established that the exhumation would take place with the cooperation of the Lorca family, the manner by which the exhumation was carried out became involved in yet another political debate. In this instance, the municipal government, city council, and local university became involved in the exhumation thereby complicating the situation. With the participation of three public institutions, the exhumation of Lorca's grave drew a great deal of attention along with a great deal of criticism. Among the most cited criticisms of the exhumation were: lack of transparency, unnecessary secrecy, lack of media access, the public's and the families' inability to be present during the exhumation, and scrutiny over the amount of media coverage and public funds invested into one exhumation

⁵⁵ "La Asociación para la Recuperación de la Memoria Histórica intenta identificar los restos de García Lorca," *Rebelión.org*, September 7, 2003, Sunday; <http://www.rebelion.org/hemeroteca/spain/030907lorca.htm> (accessed April 27, 2010).

while hundreds of other exhumation projects were presumably left ignored.⁵⁶ In the end, no grave was found or victims uncovered, ending a year's worth of work. Although the families of the victims maintained hope and readiness to continue the search, the politics surrounding the exhumation had left a cloud of doubt and skepticism over the recovery of historical memory.⁵⁷

According to writer Benjamín Prado, "Memory and justice are words that should be written on any flag and to forget them is like losing the keys to the door of democracy."⁵⁸ In the political tensions over the Law of Historical Memory and the politicized exhumation of Lorca's grave, memory and justice became secondary matters of importance and were often overlooked. The political friction between the left, the right, the far left, over the recovery of historical memory results in a continuation of the same politics of memory that surfaced during the transition. By diverting attention away from historical memory, the memory politics in Spain today uphold the national policy of reconciliation in impeding the route to justice and historical representations of the truth, and as a result, leaves memory and history trapped within an ongoing power struggle.

The politics of memory alone however, is but one issue that works in favor of the national policy of reconciliation. The content analysis confirms that the perception of democracy in Spain perpetuates the notion that the democratic project remains too fragile to withstand a fundamental change in the future oriented values established by the transition.

⁵⁶ Jesús García Calero, "Los 25 errores de la fosa de García Lorca," *ABC*, October 25, 2009, Sunday; Culture section, http://www.abc.es/hemeroteca/historico-25-10-2009/abc/Cultura/los-25-errores-de-la-fosa-de-garcia-lorca_113924043332.html (accessed April 28, 2010).

⁵⁷ Javier Martín-Arroyo and Valme Cortés, "La posibilidad de que ahí hubeira algo era ninguna," *El País*, December 18, 2009, Saturday; Culture section, Spain, http://www.elpais.com/articulo/cultura/posibilidad/ahi/hubiera/algo/era/elpepucul/20091218elpepucul_6/Tes (accessed May , 2010).

⁵⁸ "Memoria y Justicia son palabras que deberían de ir escritas en cualquier bandera, y olvidarse de ellas es como perder las llaves de la puerta de la democracia." Benjamín Prado, "Ladrones de muertos," *El País*, April 9, 2009, Thursday; Edición Impresa, Spain, http://www.elpais.com/articulo/madrid/Ladrones/muertos/elpepiespmad/20090409elpmad_8/Tes (accessed May 1, 2010).

This negative perception is exacerbated by the idea that democracy in Spain is somehow incomplete or inadequate, giving the impression that an unfinished democratic project is to blame for the constant obstruction to the recovery of historical memory and the paths to truth and justice that it can provide. Representatives of the ARMH and their supporters often resort to these ideas in order to explain why their efforts to recover historical memory are sometimes unsuccessful or faced with institutional barriers. Gregorio Dionis, the director of a human rights organization, attributes the state's minimal role in the recovery of historical memory to the perception of an incomplete democratic project in Spain. Dionis states that, "Spain is the only country in Europe that has not annulled the laws of a fascist regime from the 1940s."⁵⁹ This assertion shows that Spain maintains some of the institutional structure created by Francoism while also implying that Spain has yet to rise to the level of democracy practiced by other European countries. By focusing on the legacies of the dictatorship, this assertion undermines the status of democracy in Spain giving reason to why the state is largely unsupportive of the MRM.

The legacies of Francoism are often cited by members of the MRM as the primary explanations for the lack of state involvement within the recovery of historical memory its repudiation of responsibilities. Co-founder of the ARMH Santiago Macías accentuates the connections between Francoism and the present state of democracy in saying that,

"Our society's relation with the political culture generated by Francoism has many pending duties and one of which is to generalize the culture of human rights and to consider them unquestionable elements of our society. Another is to acquire a deep understanding of our own history and to know who are in

⁵⁹"España es el único país de Europa que no ha anulado las leyes de un régimen del Eje fascista de los años 40." Carlos E. Cué, "La última cuenta pendiente de la democracia," *El País*, September 20 2004, Monday; Edición Impresa, Spain, http://www.elpais.com/articulo/espana/ultima/cuenta/pendiente/democracia/elpepiesp/20040920elpepinac_22/Tes (accessed April 29, 2010).

those graves and why Republican families go to such great lengths doing that work without the help of the State.”⁶⁰

Here, Macías suggests that Francoism created a political culture in Spain that has little regard for human rights and that this shortcoming is reflected in Spanish society where a “culture of human rights” is missing. Additionally, Macías also implies that Spanish society does not have an adequate understanding of its own history and furthermore should make understanding that history a priority. Moreover, Macías stresses the fact that the physical and financial task of recovering historical memory has largely been a civic undertaking that enjoys little if any assistance from state institutions. From this view, all three issues are connected to legacies of Francoism that are pervasive throughout Spanish society and the state. In constantly referring to the Francoist past as an obstruction to recovering historical memory in the present, these speakers create the perception that Spanish democracy is plagued by the influence of the former regime thereby calling into question the status or completeness of the democratic project in Spain and its ability to meet demands for truth and justice from civil society. This subject is further exemplified in a statement released by the ARMH in response to Baltasar Garzón’s decision to turn the denunciation of the 30,000 disappeared over to lower regional courts. The article presented the statement as follows:

“From the Association for the Recovery of Historical Memory (ARMH), the justice’s decision is considered ‘disappointing’, and represents the inability of Spanish democracy to do justice. Their president, Emilio Silva, has affirmed that ‘the ball is now in the government’s court, which cannot allow there to be families walking through gutters and mountains looking for their loved ones without help from the state.’”⁶¹

⁶⁰ “La relación de nuestra sociedad con la cultura política generada por el franquismo tiene pendientes bastantes tareas y una de ellas es generalizar la cultura de los derechos humanos y considerarlos elementos incuestionables de nuestra sociedad. Otra es conocer a fondo nuestra propia historia y saber quiénes están en esas fosas y por qué a estas alturas las familias republicanas hacen ese trabajo sin ayuda del Estado.” Santiago Macías, “Memoria sin derechos,” *El País*, February 17, 2006, Friday; Edición Impresa, Spain, http://www.elpais.com/articulo/opinion/Memoria/derechos/elpepiopi/20060217elpepiopi_7/Tes (accessed April 29, 2010).

⁶¹ “Desde la Asociación para la Recuperación de la Memoria Histórica (ARMH), se ha considerado “decepcionante” la decisión del juez, que representa la incapacidad de la democracia española para hacer justicia. Su presidente, Emilio Silva, ha afirmado que “la pelota ahora está en el tejado del Gobierno, que no

In this statement Spanish democracy is again represented as insufficient and incapable of safeguarding families' rights to justice. The image of families tirelessly searching for the remains of their relatives is juxtaposed with the image of a government too inept and 'disappointingly' undemocratic enough to prevent this kind of situation. Through this type of imagery, a negative perception of Spanish democracy is constructed that conflicts with the goals attached to the recovery of historical memory. If democracy in Spain is inadequate or incomplete, then how do the ARMH and other organizations within the MRM account for their ability to not only speak out against the state in this regard, but also to make formal demands through the court system? Here in lies a significant contradiction between what the ARMH seeks and with what they say about the means they employ to accomplish their goals. If truth and justice for the families and victims of Francoism and Civil War are the primary objectives of the ARMH, then some consideration must be given to the political context in which these objectives are pursued. Under Francoism neither the ARMH nor the MRM could legally exist, whereas in a democratic society the ARMH and the MRM are able to exist, grow and thrive.

In many ways the perception of democracy in Spain as construed by the members and supporters of the ARMH upholds the national policy of reconciliation. By allowing a certain vision of democracy to guide the manner in which they view the Spanish state, they are overlooking the better qualities of Spanish democracy that allow them to associate, mobilize, and make claims on the state in the first place. The very fact that the members of the ARMH and the MRM as a whole are engaging in contentious politics demonstrates without a doubt

puede consentir que haya familias caminando por las cunetas y los montes buscando a sus seres queridos sin ayuda del Estado". EFE, "Los partidos muestran sus discrepancias sobre la decision del juez Baltasar Garzón," *ABC*, November 18, 2008, Tuesday; National section, http://www.abc.es/hemeroteca/historico-18-11-2008/abc/Nacional/los-partidos-muestran-sus-discrepancias-sobre-la-decision-del-juez-baltasar-garzon_911337395687.html (accessed April 28, 2010).

that the politics of consensus established by the transition has lost its strength within the political order of Spanish society. In failing to recognize the stability and maturity of Spanish democracy to meet the demands of civil society, they are perpetuating the transition era belief that the past can bring down the democratic project. This in turn reinforces the policy of amnesty and amnesia that the individuals involved in the MRM are trying to renegotiate through the recovery of historical memory. This contradiction may not be detrimental to the cause of historical memory, but it is certainly not within the best interests of the movement, and especially the ARMH, to overlook the better aspects of the democratic state and society in Spain.

4.1.1.1 Meeting Demands for Truth and Justice: Renegotiation and Barriers in Perspective

Despite the issues that run counter to the aims of the ARMH's attempt to recover historical memory, efforts to exhume mass graves and investigate disappearances raise issues that primarily point to the renegotiation of the national policy of reconciliation. Aside from the larger number of issues that renegotiate rather than uphold the national policy of reconciliation, two issues stand out when considering the opposing arguments. First, legal action taken against human rights violations committed during the Civil War and dictatorship represents the largest step forward in the movement to recover historical memory. In spite of frustrations with the state over the perceived level of democracy that should be in place, this formal action brings the recovery of historical memory from civil society to the judicial institutions of the state thus demonstrating confidence in the rule of law and the public institutions of the democratic state to see that justice is done. Second, breaking the pact of silence cannot be understood as separate from the politics of memory. The politics of memory represents a power struggle over history and memory that can shift between opposing forces. While amnesty and amnesia dominated that power struggle during the

transition and for many years later, the balance of power has shown signs of shifting in recent years with the recovery of historical memory. Breaking the silence about the Civil War and Francoist repression has brought the balance of power away from the national policy of reconciliation and towards a reconfigured version of that policy which emphasizes social justice and remembering. Although the politics of memory may indicate a continuation of transition era consensus, the recovery of historical memory in Spain has marked a fundamental change in the way that civil society relates to the past and how it articulates demands for truth and justice in the present. In the near future, the balance of power may shift entirely, but for now, the contentious politics of memory remain just that.

5 Conclusion

*Specters can radicalize the present, whose roots they are.*⁶²

-Joan Ramon Resina

In breaking with traditional avenues of transitional justice, the social Movement for the Recovery of Memory has forged an alternative path to post-transitional justice in Spain. The recovery of historical memory has emerged with full force to challenge the political consensus instituted by the transition and to offer concrete and factual representations of the past that shed light on the buried legacies of Civil War and Francoist dictatorship. As a founding organization of the MRM, the Association for the Recovery of Historical Memory has taken the recovery of historical memory above and beyond the standard practices of civic engagement. Through its efforts to locate and exhume mass graves and to investigate Civil War and Franco era disappearances, the ARMH has greatly contributed to the public acknowledgment of human rights violations previously denied by the Franco regime and ignored during the transition to democracy. These efforts have repeatedly proven to raise key issues that not only contest the national policy of reconciliation but also facilitate the renegotiation of that policy. In demanding that the Spanish state take responsibility for the victims of dictatorship, the ARMH tirelessly fights for the rights of victims and their families both in courts of justice and in the public sphere by bringing legal action against past crimes and in breaking the silence one exhumation at a time. The efforts of the ARMH have proven that the recovery of historical memory in Spain is unique in that it meets civil society's demands for truth about the Spanish Civil War and Franco era crimes while also meeting

⁶² Joan Roman Resina, "Introduction." in *Disremembering the Dictatorship: The Politics of Memory in the Spanish Transition to Democracy*, ed. Joan Ramon Resina (Amsterdam: Editions Rodopi B.V., 2000), V.

similar demands for justice. Taking into account the example set for the by the ARMH, it can be concluded that the national policy of reconciliation can be renegotiated peacefully and democratically through civic engagement in the contentious politics of memory. The Legacies of Francoism may continue to pervade the institutional structures of the state, yet it is clear that sectors of civil society have already begun to uproot those legacies from Spanish society, deepening democracy in post-transition Spain.

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