Exhuming a Traumatic Past in a Post-Transitional Setting:
The Social Movement for the Recovery of Historical Memory in Spain

By

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Abstract

For the past decade, Spain has gone through an incredible resurgence of public interest in less publicized aspects of the Civil War and the Franco Regime. This effort can be traced back to the creation of the Association for the Recovery of Historical Memory (ARMH) in 2000, mostly constituted by 'grandchildren of the victims'. It is my contention that the actions of the ARMH sparked a broader social movement – the Movement for the Recovery of Memory – as (i) hundreds of smaller associations dealing with 'memory'-related issues were created afterwards; and (ii) thousands of other people have engaged with the activities of these associations. My main goal is to provide an account of the factors that led to the emergence of this movement at this particular moment in time. For that, I go beyond the simplistic explanations based on 'generational gaps'. With the guidance of the theoretical and analytical tools provided by the social movements' literature, I apply two of its main theories – the 'political process' theory and the 'cultural approach' – in order to account for the possible factors that explain both the emergence of the MRM and the fact that it occurred at this particular moment in time. Particularly relevant in my analysis is the transnational diffusion of the 'transitional justice' language and how it impacted, on the one hand, on the procedures and discourses of the MRM and, on the other, on the way the past was revisited, to a point that what used to be considered a successful example of a 'transition to democracy' is now being questioned in light of these new norms.

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CHAPTER 1. Introduction

Faulkner's quote is a wise observation on the power of the past to affect and shape the present. The continuity and persistence of the past in the present and the processes by which remembering and forgetting takes place, are aspects that have been widely and fiercely discussed by several disciplines, ranging from the bourgeoning field of memory studies to the ones of sociology, psychology, anthropology and philosophy of history. In regards to the last one, Jacques Derrida's work on 'hauntology' seems to have become especially trendy – the past, neither present nor absent, neither being nor non-being, occupies a 'virtual space of spectrality', haunting and disrupting the historical present in a ghostly manner.[1]

The Spanish case is a good example of a past that has not passed; a past that continues to 'haunt' because no 'hospitable memory'[2] was ever given to it. As many other European countries, Spain opted to 'leave the past behind' once transition to democracy was achieved and Franco's brutal dictatorship was over. The political agreement not to deal with the past (both with the Civil War and the subsequent repressive dictatorial period) – commonly named 'pact of silence' – meant that neither accountability and investigatory bodies nor public channels for public remembering were created. In this regard, Spain is far from being an isolated case. A similar official 'policy of

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[1] Jacques Derrida *quoted in* Jo Labanyi, "History and Hauntology; or What Does One Do with the Ghosts of the Past? Reflections on Spanish Film and Fiction of the Post-Franco Period," in *Disremembering the Dictatorship – The Politics of Memory in the Spanish Transition to Democracy,* ed. Joan Ramona Resina (Amsterdam and Atlanta: Rodopi, 2000), 66.
[2] Ibid.

forgetting' was in fact more or less consciously adopted by most postwar West European democracies such as Italy, Austria or France.[3] However, the fact that, contrary to these three countries, Spain went through the bloodiest civil war of the interwar period, followed by a repressive thirty-six years long dictatorship, turns the Spanish case into an especially successful example of a 'policy of silence'.[4] The more so if one compares it to other cases of repressive dictatorial rule where the past was publicly acknowledge very earlier in the transitional process, as it happened in several Latin American countries throughout the 80s, where the social and human rights groups' demands for accountability resulted in the emergence of the 'transitional justice' discipline.

What also makes the Spanish case particularly puzzling is the fact that, more than sixty years past the Civil War and thirty after the transition to democracy, Spain has gone through an incredible boost in public remembrance, proving the common assertion that 'the past, unaccounted for, does not lie quiet'.[5] As with other cases where new generations have opened new spaces for challenging the official politics of memory, Spain has, over the past decade, witnessed the emergence and proliferation of grassroots initiatives demanding for 'historical justice'. Borrowing both in language and procedures from Latin American counterparts, these grassroots initiatives have initially engaged in the exhumation of mass graves and quickly moved on to the political stage where their demands ended up resulting in several political and legislative initiatives that culminated in the 2007 'Law on Historical Memory'. This phenomenon was accompanied by a truly 'memory boom', including an outburst in the number of testimonials, documentaries, films and books about the Civil War and Francoism.

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[3] Timothy Garton Ash "The Truth About Dictatorship," *The New York Review of Books*, February 9.
[4] Although this term should be understood as applying exclusively to the public sphere, as we will see later on.
[5] Naomi Roth-Arriaza, "The New Landspaces of Transitional Justice," in *Transitional Justice in the Twenty-First Century: Beyond Truth versus Justice,* ed. N. Roht-Arriaza and J. Mariezcurrena (Cambridge: Cambridge University Press, 2006), 1.

Even though the literature on the Spanish 'memory boom' widely acknowledges the role of the grassroots in bringing the memory debates into the public sphere, most accounts focus exclusively on the importance of the Association for the Recovery of Historical Memory (ARMH) in starting the process of exhumations and triggering public and political debate. What remains understudied is the fact that, since the ARMH was founded, thousands of other smaller associations linked to the idea of 'recovering historical memory' were created.[6] As a consequence, most scholars on this issue have failed to look at the actions of the grassroots as part of a broader social movement – what I will call, following Peinado Cano's term, the Movement for the Recovery of Memory (MRM)[7] – and therefore have not yet provided a comprehensive account of the possible factors that led to the emergence of the MRM at this particular moment in time. My main objective in this monograph is precisely to fill in this gap.

Moreover, although a few authors have identified the MRM as a social movement[8], they have not yet used the rich theoretical and conceptual tools provided by the literature on social movements in order to, on the one hand, bring systematization and methodological guidance to the literature and, on the other hand, to account for the reasons that led to the emergence and development of the MRM. This is particularly surprising if one takes into consideration that this literature provides a set of analytical tools and theoretical insights that can be extremely useful in explaining why social movements emerge at a particular time, take a certain form and develop in a determinate way.

To be fair, scholars have pointed out possible factors that explain the 'break of the pact of silence' – mostly focused on [1] the impact of the Pinochet case and [2] the fact that the consolidation of democracy/passage of time made the new generations less fearful of confronting

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[6] To the best of my knowledge, only two authors have published on this: Artur Peinado Cano, "El movimiento Social por la Recuperación de la Memoria: Entre el Passado y el Futuro," *Hispania Nova – Revista electrónica de Historia Contemporánea* 6, 2006; Sergio Gálvez Biesca. "El proceso de la recuperación de la 'memoria histórica' en España: Una aproximación a los movimientos sociales por la memoria." *International Journal of Iberian Studies* 19:1, 2006.

[7] Peinado Cano, "El movimiento Social por la Recuperación de la Memoria".

[8] Authors that do: Peinado Cano (Ibid.); Gálvez Biesca ("El proceso de la recuperación de la 'memoria histórica'…".); and Iosif Kovras ("Unearthing the Truth: The Politics of Exhumations in Cyprus and Spain," *History and Anthropology* 19:4, 2008.)

the past. Because grassroots initiatives were the ones immediately responsible for the 'break of silence', these factors are important in explaining the emergence of the MRM as well. However, by focusing on the MRM, I will introduce more *agency* to the debate in the sense that, instead of simply looking at structural conditions or generational factors that provided the background for the emergence of the movement, I will add another dimension by asking the following questions: *why people mobilized at this particular moment in time? In particular, why did the activities of the ARMH ignite a broader social movement?* In this regard, the literature on social movements will be extremely helpful for it has the advantage of focusing not only on the structural and environmental conditions that provided opportunities for movements to emerge but also on the role of agents in appropriating opportunities through framings, meanings, ideas and emotions.

With the assistance of the theoretical, analytical and conceptual insights provided by this scholarly field, I will expand the range of potential explanations for the emergence of the MRM by directing attention, on the one hand, to (1) internal political opportunities structure – structural and contingent factors in the political environment that might motivate collective action – and therefore add this dimension to the international political opportunity structure that resulted from the Pinochet case, and, on the other hand, (2) to the role of emotions, values, meanings and framing strategies that the instigators of the MRM employed in order to increase the appeal of their ideas and therefore trigger and foster the MRM. In this, I will especially highlight the role of the so called 'transitional justice culture' in providing the linguistic tools that are today broadly accepted as legitimate.

Therefore, my main aim is to bring more *agency* and *structure* to the growing literature on the 'memory boom'. *Agency* because I will focus not only on the role of the ARMH in igniting the 'memory boom', but mostly on the broader societal movement – the MRM – that followed the creation of the ARMH and which was responsible for furthering the 'memory boom', while being a consequence of it at the same time. S*tructure* because I will use the literature on social movements

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to account for the emergence and early development of the MRM and therefore bring theoretical and methodological guidance to a literature that has none so far.

However, I should make it explicit at this point that I do not have the ambition of providing a definitive and overarching account of the factors which led to the emergence of the MRM. More data on the associations and individuals that constitute this movement (which unfortunately is scarce), together with extensive field research, would be needed for this. Instead, my main contributions will lie on the fact that (1) I will draw attention to the existence and importance of a broader social movement (that goes beyond the ARMH) which has not been an object of a comprehensive study yet; (2) I will put the literature on the 'memory boom' in contact with the one on social movements and demonstrate how useful the latter can be in providing clues to explain the emergence and early development of the MRM and, finally, (3) I will use its theoretical and analytical tools in order to advance preliminary explanations that will shed light on aspects that are understudied, in particular (3.1) how the internal political environment was also conducive to the emergence of this movement (and not just the international one – the Pinochet case) and (3.2) how 'discursive opportunities' and 'framing processes' were essential in making the discourse of the initiators of the MRM appealing and emotionally and morally charged, therefore playing an important role in triggering and fostering the MRM. In this sense, my ultimate hope is to open new windows of research for scholars dealing with politics of memory in Spain.

That being said, this monograph is structured as follows: In chapter 2 I will make an historical overview of the politics of memory in Spain in order to understand what this movement is fighting about (why do they want to 'recover historical memory?). I will mostly focus on the so-called 'pact of silence' – which the MRM tried (successfully) to reverse – and argue that, instead of silent or amnesic, the Spanish society simply did not have a necessary public space for recognition and

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discussion about the past, contrary to what happens today. In chapter 3, I will focus on the recent 'memory boom' by underlying the pioneer role of the ARMH in 'breaking the silence' and fostering a wider associative movement for the 'recovery of memory' that led to what I call the MRM. I will close this chapter with a small section on the impact their activities had in fostering 'post-transitional justice' measures. Finally, in chapter 4, I will demonstrate, in a first part, why the MRM should be approached as a social movement and, in a second moment, I will apply the literature on social movements to provide possible explanations for the emergence and early development of the MRM.[9] This will be preceded by a literature review of the factors that are already sketched in the literature.

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[9] The reason why I insist not only on the 'emergence' but also on the 'early development' is that it is analytical difficult to distinguish one stage from the other.

CHAPTER 2. Politics of Memory in Contemporary Spain

2.1. 1939-1975: Nationalists' glorification vs. Republicans stigmatization

The July 1936 military uprising against the Spanish Second Republic provoked the most violent and bloody conflict of interwar Europe – the Spanish Civil War (July 1936 - April 1939). The intensity of the political divisions caused the death of an estimated number of more than 300,000 people during the war (a significant part of it being non-combatants) and sent into exile more than 400,000 people, of whom around 10,000 died in Nazi concentration camps.[10] However, the end of the war was far from signaling the end of political violence. In the first years of the post-war period, tens of thousands of political prisoners died of disease, hunger or execution in prisons, concentration camps and forced labor battalions established by the Franco regime between 1939 and 1943.[11] Violence and horror were therefore the initial arms used by Franco to consolidate his power and eliminate his enemies, to a point that one of the debates that still animate the historiography of the Civil War today is whether Franco carried out a deliberate policy of extermination or not.[12]

Even though the first decade of Franco's rule was by far the most violent one, illegal detentions, summary indictments, torture, censorship and surveillance were all regular features of the almost forty-year dictatorship. In addition, Republican sympathizers suffered from

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[10] Paul Preston, *The Politics of Revenge: Fascism and the Military in the Twehntieth-Century Spain* (London and NY: Routledge, 1995), 41-42.

[11] Gabriel Jackson, *The Spanish Republic and the Civil War* (Princeton, NJ: Princeton University Press, 1965), 526-540.

[12] Paul Preston's most recent book – The 'Spanish Holocaust' – suggests so. Preston provides a monumental and detailed account of the murders, massacres and instances of terror, torture and abuse that occurred during and after the Civil War as well as the names of many of those who committed them. Although his descriptions involve both sides, he accuses Franco of having carried out a deliberate policy of terror. – Paul Preston, *The Spanish Holocaust: Inquisition and Extermination in Twentieth-Century Spain.* NY: W. W. Norton & Company, 2012.

institutionalized discrimination and stigmatization – a huge labor purge resulted from the fact that, on the one hand, Franco refused to restore the jobs of those of had been removed from them as a consequence of the war and, on the other, access to employment and benefits was controlled by certifications of 'political and religious reliability'.[13] Besides, the property of those who had defended the Republic was confiscated. Needless to say that pensions or compensations of any kind to the mutilated, widows or orphans of Republicans were not granted. Meanwhile, those who had fought/sympathized with the Nationalists were provided with jobs, pensions, compensations, health care and highly visible gestures of symbolic and moral acknowledgment.[14] This resulted in deep social inequalities as well as in the creation of a class of a privileged people who would not give up easily their privileges later on.

Like any other totalizing regime eager to legitimize its power and ensure control over society, Francoist memory policy strictly controlled the representations of Spanish history, especially the one of the Civil War, which provided the founding myth of the regime. This included a total prohibition on the mourning, commemoration or remembering of the Republican dead.[15] References to the Second Republic in history textbooks were usually associated with convent burnings, social disorder, anarchism, separatism and communism. Criminalized and humiliated, those who had fought for the Republic were depicted as 'traitors' while Francoist forces, thanks to their 'crusade' or 'glorious uprising'[16] against anarchists and hostile foreigners, were portrayed as having saved Spain from chaos and destruction.[17] However, with the progressive liberalization of the regime, which can be characterized as having gone from totalitarian to authoritarian, this aggressive rhetoric was gradually modified. As Paloma Aguilar describes it, the discourse shifted

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[13] Madeleine Davis, "Is Spain Recovering its Memory? Breaking the Pacto del Olvido," *Human Rights Quarterly* 27:3 (2005): 861.

[14] Paloma Aguilar, "Transitional Justice in the Spanish, Argentinean and Chilean Case," (paper presented at the conference "Building a Future on Peace and Justice", "Workshop 10 – Alternative Approaches to Dealing with the Past", Nuremberg, June 25-27, 2007): 3.

[15] Layla Renshaw, "The scientific and affective identification of Republican civilian victims from the Spanish Civil War," *Journal of Material Culture* 15:4 (2010): 450.

[16] The Civil War was normally not referred as such but in those terms.

[17] Omar Encarnación, "Reconciliation after Democratization: Coping with the Past in Spain," *Political Science Quarterly* 123:3 (2008): 445.

from 'the justification of war to the exaltation of peace', that is, the emphasis on martial values was progressively replaced by the ideas of peace, order, stability and tolerance. Indeed, the regime was praised for having brought stability to a country that had known too much violence over its past, to a point that peace emerged as its principal basis of legitimacy.[18] Nonetheless, and despite the official pardon of 1966, discrimination against the defeated Republicans continued and 'the memory of the civil war never ceased to be manipulated to glorify the victorious and shame the defeated'.[19]

2.2. 1975-2000: A period of 'silence'

Franco's death on the 20th of November 1975 and the coronation of King Juan Carlos I two days later marked the end of an era and the beginning of a new one in Spanish history. The ensuing process of transition from authoritarianism to democracy is generally considered to be extremely successful, to a point that Spain is normally appointed as a role model in the literature on democratic transitions. Part of the reason for this was the peaceful posture of both the political elites and the Spanish people, who privileged conciliation over confrontation. Indeed, the Spanish transition was largely characterized by a climate of compromise between Francoist reformists and the main political forces of the opposition when it came to setting the rules of the new democratic game: while the left agreed to the establishment of a parliamentary democracy (which entailed giving up the dream of restoring Spain's republican tradition), the regime reformists accepted the legalization of the communist party, free elections in June 1977 and, what is even more symbolic, the right of 'nationalities and regions' to self-government.[20] This conciliatory stance is explained by the negotiated nature of the transition – Franco's regime did not fall; instead, it was reformed from

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[18] Paloma Aguilar, *Memory and Amnesia: The Role of the Spanish Civil War in the Transition to Democracy* (New York: Berghahn Books, 2002), 29-148.
[19] Davis, "Is Spain Recovering its Memory?," 862.
[20] Encarnación, "Reconciliation after Democratization", 439.

the inside out through negotiations between Francoist officials and the democratic opposition, for whom the desire to ensure a stable and peaceful transition to democracy was a top priority. This is explained, according to Encarnación, by the 'powerful role played by the political lessons from the past (…). The opposition to the Franco regime, both inside and outside of Spain, was keenly aware that the political misfortunes of the past, especially the democratic breakdown of the interwar years, were rooted in too much political polarization and too little willingness to compromise. Accordingly, pragmatism would trump ideology in the restoration of Spanish democracy.'[21]

This meant that, contrary to what happens in a violent transition where newcomers have to legitimize themselves by indicting the old regime, the democratic opposition did not seek to revisit the dictatorial/repressive past or to pursue any type of retroactive justice, even because that would endanger the process of transition. This is the opposite of what happened, for instance, in neighboring Portugal, where the transition to democracy (1974-1976), instead of 'pacted', was put in motion through a revolution organized by the military with the support of the civilian population. The political interest of the new ruling elites to distance themselves from the old political order and to cleanse the state of the old regime led to a sweeping policy of 'saneamento' (cleansing or purging), which sought to remove from power the most visible members of the authoritarian elite as well as some others in the lower ranks of the military, civil service, media and church.[22]

2.2.1. Non-transitional justice measures in a transitional setting

Emerging as a separate field of study in the late 80s/early 90s during the 'third wave' of democratization in Latin America and Eastern Europe – where human rights activists started demanding accountability for past abuses in situations of transition to democratic regimes – 'transitional justice' (henceforth TJ) has been broadly defined as the set of practices and

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[21] Omar Encarnación, "Justice in Times of Transition: Lessons from the Iberian Experience," *Center for European Studies* Working Paper Series #173 (2009): 16.

[22] Ibid. 7.

mechanisms, both judicial and non-judicial that, following a period of conflict or repression, are aimed at confronting and dealing with past violations of human rights by holding perpetrators accountable and granting 'truth' and public acknowledgment to the victims.[23] The most common tools associated with it are: trials, truth commissions and reparations, although some authors consider that it involves anything that a society devises to deal with a legacy of conflict and/or widespread human rights violations, from changes in criminal codes to those in high school textbooks, from creation of memorials to police and court reforms.[24] Regardless of these disagreements, the field rests on the normative assumption that societies have the moral obligation of confronting past human rights abuses through the exercise of justice and by providing some form of repair to the victims, so as to confirm and recognize their worth and dignity.[25] As a part of the so-called 'universal language of human rights' and what Kymlicka calls 'the rise of contemporary norms of liberal-democratic constitutionalism'[26], it is not surprising then that its discourse has recently become 'hegemonic within a co-existing, globalized rights-based liberal community of state and non-state actors, centred on spreading and enforcing the set of norms, beliefs and practices' that Stephanie Golob has called 'transitional justice culture'.[27]

Therefore, contrary to what is largely advocated by the TJ field today, Spain did not adopt any policy aimed at pursuing retroactive accountability during its transitional period. On the contrary, an Amnesty Law was approved in 1977, pardoning all the political crimes and preventing persecutions. Plus, there were neither a fact-finding or truth-telling commission, as in the cases of Latin America or South-Africa, nor bureaucratic purges (so-called lustrations), as observed in Portugal and Greece or later on in Eastern Europe. Moreover, there were no official efforts at

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[23] Roth-Arriaza, "The New Landspaces of Transitional Justice," 2.

[24] Ibid.

[25] Kora Andrieu, "Transitional Justice: A New Discipline in Human Rights," *Online Encyclopedia of Mass Violence* – Sciences Po (2010): 2.

[26] Will Kymlicka and Bashir Bashir, "Introduction: Struggles for Inclusion and Reconciliation in Modern Democracies," in *The Politics of Reconciliation in Multicultural Societies* (Oxford: Oxford University Press, 2008): 1.

[27] Stephanie Golob, "Volver: The Return of/to Transitional Justice Politics in Spain," *Journal of Spanish Cultural Studies* 9:2 (2008): 130.

formally acknowledging or publically remembering the victims of both the Civil War and the predecessor regime, meaning that moral recognition was also not granted. Instead, Spain opted for a selective mode of compensatory schemes, such as pensions to republican civil war veterans (and to the widows and relatives of those who had died) and the reinstatement of civil servants dismissed from their jobs.

One aspect commonly emphasized by TJ scholars is that the pursuit of justice for past crimes is intimately related to the type of transition (pacted *vs* ruptured). As Barahona de Brito points out, 'the more a transition entails the defeat of the old authoritarian elite, the wider the scope for truth and justice policies'. The same logic applies in reverse: in a negotiated transition, the scope for action is limited.[28] Therefore, in the case of Spain, the absence of TJ measures is justified by the fact that, in such a 'pacted' transition', acts of institutional violence committed under the previous regime tend to go unpunished because the opposition has no room to make TJ claims. What the transitional justice literature tends to ignore though is that, in such settings, it is not ethnics or morality that govern the decision to pursue retroactive justice but mostly politics. As the case of Portugal clearly illustrates, the goal of the newcomers was to legitimize the new radical economic and political changes they intended to introduce and that is why bureaucratic purges and trials turned into a veritable with-hunt that ended up putting in danger the process of democratization. Moreover, what they overlook in cases like the Spanish one is that, in a negotiated transition, new elites do not have the need to radically challenge the old order and to distance the new regime from the past one. This is even more so in cases where there are no public demands for retroactive justice, which was clearly the case of transitional Spain.

Furthermore, the Spanish case is a good example of how the rhetoric linking transitional justice measures to democratization is unsubstantiated. Indeed, the absence of criminal accountability or public acknowledgment did not stop Spain from achieving a successful transition

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[28] Barahona de Brito et al., "Introduction" in *The Politics of Memory: Transitional Justice in Democratizing Societies* (Oxford: Oxford University Press, 2001), 5-6.

to democracy, on the contrary. What is also interesting in this respect is how the idea of a 'successful transition' is being revisited today by the MRM and those who adopt the transitional justice language, as we will see later on.

2.2.2. Civil society's complicity

It is possible to infer from the attitude of the elites, the King and even the populace that the desire for stability and prosperity entailed a forward-looking attitude of 'leaving the past behind' and focusing on Spain's democratic future.[29] To use the language of the transitional justice discipline, peace and reconciliation were privileged over accountability and justice. As the leader of the Basque Nationalist Party put it, the transitional period was characterized by an 'amnesty from everybody to everybody and forgetting from everybody to everybody.'[30] The Amnesty Law of October 1977 was the most symbolic element in this regard. Because it entailed the release of political prisoners and the restoration of their rights[31], it became the most preeminent symbol of what later became known as 'the national reconciliation policy'.[32] In fact, during the parliamentary debate on this law (the first one to be approved by the new democratic parliament), the appeals to 'overcome the past' and leave behind former divisions came from all the sides of the political spectrum. With the exception of the Alianza Popular, this law was widely praised by both the parliament and the Spanish people. What is also interesting in this regard is that while this aspect of the Law was widely discussed and acclaimed in political and public circles, the two paragraphs that granted amnesty to the 'authorities, officials and guardians of public order' of the Francoist regime

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[29] The exceptions among the political forces were the Basque separatist and extreme left parties, who demanded some form of sanctions against the Franco regime. However, their positions were extremely marginal.

[30] Paloma Aguilar, "Justice, Politics and Memory in the Spanish Transition," in *The Politics of Memory; Transitional Justice in Democratizing Societies,* ed. Barahona de Brito et al. (Oxford: Oxford University Press, 2001), 103.

[31] In fact, half of the political prisoners had already been liberated thanks to the pardon granted by the King on the day of its coronation. Appealing to the spirit of 'Concordia', this was the first of a series of steps that showed the determination of Juan Carlos I to 'reconcile' the Spanish people.

[32] Aguilar, "Transitional Justice in the Spanish…," 4.

passed practically unnoticed, which is in contrast with the situation today, where this aspect of the Law has become widely publicized, for it constitutes the main obstacle in legal attempts to revise the Francoist past. [33]

The decision to 'let bygones be bygones' cannot be solely explained by the choice of the political elites to leave the past undug. On the contrary, such transitional arrangements must be looked at as an interactive process between the elites and the masses. Therefore, the fact that there was no collective desire of the Spanish society to pursue retroactive justice is an aspect that deserves equal consideration. As Sidney Tarrow demonstrates when referring to processes of collective action, political choices are 'the result of the interplay between elite strategies and mass mobilization and opinion.'[34] In this sense, the total absence of social mobilizations demanding for retroactive justice or public acknowledgment seems to suggest that ordinary Spaniards were willing collaborators of the political class in leaving the past out of the public sphere.

Several arguments have been advanced to justify this, some more convincing than others. Paloma Aguilar, the scholar who has probably dealt more extensively with these aspects of the transition, refers to a climate of fear of conflict and risk-aversion to explain why there were neither political nor societal demands to revise the past. Using a game theory/rational choice type of argumentation, Aguilar contends that most Spaniards feared that opening old wounds could abort the process of democratization and ultimately lead to the repetition of violent confrontations between ideologically opposing camps. This fear was motivated both by the uncertainty of the political situation and by the traumatic memories of the Second Republic (the only previous democratic period) and its tragic culmination in the Civil War.[35] Other authors point instead that people feared what the full exposure of the past could reveal. According to Helen Graham, silence was a necessary measure 'not only because of the Francoist elites, but also because of the wide

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[33] Ibid. 5.
[34] Sidney Tarrow, "Mass Mobilization and Regime Change: Pacts, Reforms and Popular Power in Italy (1918-1922) and Spain (1875-1978)" in *The Politics of Democratic Consolidation: Southern Europe in Comparative Perspective,* ed. Richard Gunther et al. (Baltimore: John Hopkins University Press, 1995)*,* 216.
[35] Ibid.

complicity of ordinary Spanish in the repression – not only the civilian militia, or local priests across Spain, but hundreds of thousands of people who had responded to the regime's encouragement to denounce their acquaintances.'[36] Rigby, on the other hand, refers to an 'impoverished civil society' and to the 'apathy of the Spanish people during the transition process.'[37] This argument is quite unconvincing if one takes into consideration the various forms of collective action that took place at the time, namely the ones calling for amnesty for political prisoners or the demonstrations supporting democracy on the aftermath of the attempted military coup of February 1981. He further adds that the silence of the victims and their families can be explained by the 'the survival habits developed during the Franco years, when most people focused on survival and could only vent their grief and anger within the private sphere of the family.'[38] What is also important, according to Preston, Aguilar and Humlebaek, is that, on the one hand, the perceptions of many were influenced by Francoist propaganda and censorship, which had contributed to a high level of ignorance about the war and its aftermath[39] and, on the other hand, the last decades of the dictatorship were associated with unprecedented order and economic prosperity, which meant that, by the time of the transition, a significant part of the population had a low negative evaluation of the Francoist period.[40]

While all these factors might have indeed played a role, the fact that these authors are looking for justifications for a non-event makes it particularly difficult to assess the validity of their arguments. Besides, since they are writing today – at a time where the transitional justice culture made it 'normal' to confront the past –, there is an additional risk of imputing today's mind-sets to a situation that occurred in 1975, where the language of transitional justice and human rights was still far from developed. In other words, they might be looking for extra-justifications for a situation that

[36] Helen Graham, "The Spanish Civil War: 1936-2003: The Return of Republic Memory," *Science and Society* 68 (2004): 324.

[37] Andrew Rigby, "Spain: Amnesty and Amnesia," in *Justice and Reconciliation: After the Violence*, (Boulder: Lynne Rienner, 2001), 58-59.

[38] Ibid.

[39] Preston, "The Politics of Revenge," 41.

[40] Paloma Aguilar and Carsten Humlebaek, "Collective Memory and National Identity in the Spanish Democracy: The Legacies of Francoism and the Civil War," *History & Memory* 14:1-2 (2002): 131-132.

might simply be explained by the fact that the general context (both domestic and international) was entirely different. Indeed, the phenomenon of social movements demanding for retroactive accountability or public acknowledgment of past crimes is something that would arise only later on in Latin America. In the Spain of the 70s, instead of retroactive accountability, what people expected from a successful transition was that it would be conducted peacefully and that democratization would be achieved. The same way that today's movement for the 'recovery of historical memory' reflects the dominant liberal values of the 'transitional justice culture', the Spanish transition followed the overriding values of stability and peace at a time when the international environment was characterized by a quite hot Cold War.

Furthermore, what these analyses also miss is that the agreement between the political elites not to interfere with the past meant that there was no public space available for debate or recognition and that this simple factor might have conditioned people that had stories to tell to keep them in private / less public. As Kirmayer has put it, when referring to 'landscapes of memory', 'registration, rehearsal and recall are governed by social contexts and cultural models for memories, narratives and life stories [which] influence (…) what is socially possible to speak and what must remain hidden and unacknowledged.'[41] In this sense, the absence of a 'landscape of memory' in Spanish public scene was certainly the most immediate motive why people kept their stories in private and/or opted for other types of remembrance. The argument of 'fear' or 'survival habits' looses explanatory power in face of this simple fact.

2.2.3. The not so silent 'pact of silence'

The tacit agreement to leave the past untouched has become widely known in the literature as 'pact of silence' or 'pact of oblivion/forgetting'. Although commonly adopted today,

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[41] Laurence Kirmayer, "Landscapes of Memory: Trauma, Narrative and Dissociation" in *Tense Past: Cultural Essays in Trauma and Memory,* ed. Paul Antze and Michael Lambek (NY: Routledge, 1996), 191.

these terms might be criticized on the basis that they are reductive metaphors of more complex and multilayered historical processes and that 'forgetfulness is a psychological category that pertains to memory but cannot be attributed to history other than metaphorically.'[42]

Two prominent authors are very critical in this respect – while the historian Santos Juliá argues that 'amnesty' should not be confused with 'amnesia' and that active forgetting is not the same thing as failing to remember[43], Ángel Loureiro criticizes these terms based on the fact that, on the one hand, they 'call to mind a conspiratorial vision of a cabal of politicians hatching agreements that subsequently have to be made to pervade the populace' and, on the other, the issue is not about silence or memory 'but about political choices and attitudes.'[44] Both authors imply that these terms are misleading for the reason that there was a *conscious* decision, of both the political elites and the Spanish people, to leave the past behind. However, independently of the fairness of these critiques, the fact is that none of them is in fundamental contradiction with the usage of the terms 'pact of silence' or 'pact of forgetting'. On the contrary, both were employed to designate the deliberate policy of, on the one hand, avoid confrontation with those responsible for the repression of the dictatorial period and, on the other, deny public recognition to the victims and reject official investigations into the events they went through, resulting therefore in an 'official silence'.

A more fair critique is put forward by Fiona Schouten, who states that the terms 'contribute to the idea that the past was simply and squarely forgotten' and therefore do not 'do justice to memory discourses that were always going on, even in the most silent and forgetful times.' For this reason, she suggests that 'it might be preferable to replace the image of a personified Spain suffering from memory loss with that of a nation where the past was remembered reluctantly and where memory discourses which threatened to destabilize society were neutralized

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[42] Ángel G. Loureiro, "Pathetic Arguments," *Journal of Spanish Cultural Studies* 9:2 (2008): 227.
[43] Carolyn P. Boyd, "The Politics of History and Memory in Democratic Spain," *The Annals of the American Academy* 617 (2008):135
[44] Loureiro, "Pathetic Arguments," 225-226.

as much as possible.'[45] To this, Santos Juliá adds that knowledge was always available, judging by the large number of publications about the Civil War and the dictatorship that came out during and after the transition. Indeed, what the literature that today refers to a 'pact of silence'/'pact of forgetting' tends to overlook is that other forms of remembrance – more private or discreetly public – were always going on as well as other forms of obtaining knowledge.

In response to these critiques, those defending the existence of a 'pact of silence' argue that, as it was constantly emphasized during the transitional process in South Africa, there is a difference between *knowledge* and *acknowledgment*. While knowledge about the past was indeed partially available[46], there were no official efforts to grant public acknowledgment to the victims and therefore transform their private stories into some form of official collective memory. On the contrary, the 'legacy of Francoism remained as uncontested in the nation's institutions and public life as in its street names and monuments.'[47]

It is interesting to note, in this regard, how the term 'pact of silence', being the opposite of 'acknowledgment', has not been employed to refer to a silent or amnesic Spain (although it induces one to think so), but to the absence of public spaces for debate and recognition. In this sense, it has a clear normative connotation and moral weight. It is not surprising therefore that it

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[45] Fiona Schouten, *A Diffuse Murmur of History: Literary Memory Narratives of Civil War and Dictatorship in Spanish Novels after 1990* (Brussels: Peter Lang, 2010), 3.

[46] "Partially" because, on the one hand, certain military and police records were deliberately destroyed and, on the other, despite the opening of some archives, bureaucratic obstructionism was not overcame until the 90s, when new research started to modify the previous reading of the Civil War. In accordance with the official consensus not to open old wounds, the dominant historical representations of the Civil War in the 70s and 80s were based on a thesis of 'equally shared responsibility', where the war was seen as an almost inevitable result of a prolonged political and structural crisis that dated back to the failure of the bourgeois revolution of the XIX century and where the combatants, lacking tolerance and mutual respect, were little more than the reflection of a large game of world politics between fascism, communism and capitalism. It was not until the 90s that historians started to assign responsibility for the war to its most proximate cause – the military coup in July 1936 against a legitimately popular elected government. Particularly important in this regard was the fact that new statistics demonstrated that the victims of Nationalist repression, at the outbreak of the war, vastly outnumbered those killed by the left. By the same token, scholars started, for the first time, to document and quantify the human costs of the Franquist repression. In: Boyd, "The Politics of History…," 136-139 and Rigby, "Spain: Amnesty and Amnesia," 55-56.

[47] Sebastiaan Faber, "The Price of Peace: Historical Memory in Post-Franco Spain, a Review-Article," *Revista Hispánica Moderna* 58:1/2 (2005): 209.

started to be employed only in the mid-90s[48] by the same authors who today adopt the transitional justice language.[49] As Resina has correctly pointed out, the current debates in Spain around the 'recovery of historical memory' 'are not so much about the loss of the past as about the politics of memory.'[50] Indeed, more than 'breaking the silence' or 'recovering historical memory', what the MRM is attempting to do is to modify the politics of memory, i.e., reverse the previous lack of public acknowledgment and moral recognition. In this sense, the employment of the terms 'pact of silence' and 'recovery of historical memory' is little more than part of the framing strategies that the MRM has used in order to maximize the impact of its claims.

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[48] Loureiro, "Pathetic Arguments," 225.
[49] To the best of my knowledge, it was Paloma Aguilar who made the term popular.
[50] Joan Ramon 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 Ramona Resina (Amsterdam and Atlanta: Rodopi, 2000), 86.

CHAPTER 3. The 'memory boom'

3.1. Unearthing bodies, 'breaking the silence'

For the past decade Spain has experienced what is ordinarily designated as a 'memory boom', i.e., a remarkable resurgence of public interest in the Civil War and the subsequent period of Francoist repression. This is visible not only in the flood of literary, cinematic, documentarian and testimonial memorialization about hitherto less publicized aspects of these periods, but also in a much more symbolic and emotionally charged phenomenon which was largely responsible for triggering the 'memory boom': the exhumation of mass graves containing the bodies of the victims of the Francoist repression during and after the war.

While the war victims on Franco's side were in due course exhumed and commemorated during the first years of Franco's dictatorship, the bodies of some of those fighting or sympathizing with the Republican cause were left in unmarked graves. It is estimated that between 40,000 and 60,000 bodies remain in clandestine or unmarked graves throughout Spain.[51] Until the year 2000, apart from a few exhumations that had mostly local or family impact, a 'wall of silence' surrounded these sites, despite the fact that many of the locals knew not only about their existence but also their exact location.[52] It was thanks to the efforts of private grassroots organizations, mostly constituted by grandchildren of the disappeared, that the exhumation process began, transforming these mass graves into what Pierre Nora famously defined as *lieux de mémoire*, i.e., material, symbolic and functional sites that constitute the ultimate embodiment of a memorial consciousness.[53]

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[51] Renshaw, "The scientific and affective…," 450.

[52] Francisco Ferrándiz, "The return of Civil War Ghosts: the ethnography of exhumations in contemporary Spain," *Anthropology Today* 22:3 (2006): 7.

[53] Pierre Nora, "Between Memory and History: Les Lieux de Mémoire," *Representations 26* (1989): 12, 19.

Although historians had already been publishing detailed accounts of the Civil War and the subsequent repression for years, their findings had reached a limited audience. In contrast, the images coming out of these exhumations spoke volumes about the savagery of the killings and reached millions of people in Spain due to the media's extensive coverage of the events. The visual impact of such images led many Spaniards to realize only then the scale of brutality upon which Franco's regime was based. By fostering a nationwide debate, the excavation of mass graves put in motion a much bigger process: the gradual break of the so called 'pact of silence'.

After a long period where such matters were scarcely brought into the public sphere, scholars, politicians, the media and the general public started to engage in widely publicized debates on topics such as the scale of Francoist repression, the legacies of the Civil War and the consequences of the renunciation of policies of accountability or retribution during the transition to democracy.[54] As the activities and demands of grassroots movements became more publicized and politicized, the intensity of the debates escalated to a point that a clear ideological division became evident. *Grosso modo,* right-leaning politicians and historians regarded the process as vengeful, unnecessarily leading to the opening of old wounds that had long been buried and overcome during the transition, while left-leaning ones, together with several grassroots organizations, saw the opening of mass graves as an opportunity to reverse the politics of marginalization of those on the losing side of the Civil War which, for many of them, effectively continued after the transition to democracy.

3.2. **The pioneer role of the Association for the Recovery of Historical Memory**

The exhumation of 13 bodies in Priaranza del Bierzo (León) in October 2000 was the first event of this type to be covered by the media and to gain public attention. It was in this occasion

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[54] Davis, "Is Spain Recovering its Memory?," 859.

that the journalist Emilio Silva found the remains of his grandfather (after genetic testing), which prompted him to create the Association for the Recovery of Historical Memory (ARMH[55]) in December 2000, the first and most influential grassroots association engaged in the process of exhumations and defending the idea of 'recovering historical memory' – a term whose usage largely corresponds to the idea of granting public acknowledgment, recognition and voice to the people and the events that were 'forgotten' by the Spanish state.[56] The ARMH's early key demands to the Spanish government were focused on (1) the establishment of a commission of historical clarification to investigate and establish the facts surrounding the disappeared, (2) the opening of military archives to facilitate investigations and (3) the execution, by the state, of exhumations, identifications and reburials under the supervision of the courts.[57]

Obtaining little response from governmental authorities at an initial stage (with the exception of some regional authorities), this association (in collaboration with the Abraham Lincoln Brigade Veterans' Association) referred the Spanish case to the United Nations Working Group on Enforced or Involuntary Disappearances in August 2002, which included Spain in the list of countries that have yet to resolve issues of state crime and repression.[58] The argument made by the ARMH before the UN pointed to the non-compliance of Spanish authorities with the obligation, under international law, to investigate serious human rights violations and contended that the lack of interest of the Spanish authorities in exhuming graves and supporting investigations constituted a proof of continuous discrimination and injustice in the treatment of those defeated in the Civil

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[55] Acronym for the Spanish 'Asociación para la Recuperación de la Memoria Histórica'.
[56] This term has, of course, been a subject of criticism. On the one hand, and from an academic perspective, the mix of the terms 'history' and 'memory' seems paradoxical given that the relation between the two is contested. On the other hand, it is often argued that the term is a way of building a partial and affective misinterpretation of history in which those assassinated on the other side are excluded (for more on this see: Loureiro, "Pathetic Arguments") and that the idea of 'recovering memory' ignores that collective memories are always partial and there is no such thing as a recoverable and universally shared memory acceptable to everyone. (Faber, "The Price of Peace," 215.). However, I will use this term throughout my work when referring to the 'movement for the recovery of historical memory' for the simple reason that the term, as it has been used and interpreted by this movement, corresponds to its main objective.
[57] Davis, "Is Spain Recovering its Memory?," 872.
[58] Encarnación, "Reconciliation after Democratization," 450.

War.[59] Although the UN Working Group's recommendations were far from meeting ARMH's demands, the fact that this group asked the Spanish government to investigate the killings of the Republicans after the War and to exhume unmarked graves was probably the most decisive factor in bringing ARMH's campaign to the Spanish political and public arena.

Indeed, judging by the number of articles published in *El País* around the issue of exhumations and the activities of the ARMH, it is clear that these subjects started gaining predominance in 2002-2003, right after the submission of the case to the UN. Besides, the first political initiative to meet some of the demands of the ARMH also happened by the end of 2002, when the ruling party – Partido Popular (PP) –, in an effort to respond not only to the activities of the ARMH but also to the pressure of several opposition parties (who strategically tried to stigmatize the PP as 'Francoist') approved a parliamentary resolution formally condemning the 1936 right-wing coup that led to the Civil War and extending 'moral recognition' to the victims of Franco's repression. Despite the fact that this resolution was criticized by some for declining to assign responsibilities for the war, it was the first time that the PP agreed to condemn the dictatorship and grant 'full moral recognition to all men and women who suffered the repression of the Francoist regime in their fight for freedom and for having democratic convictions'.[60] Nonetheless, the PP continued to decline the proposals to fund the exhumations and to provide reparations for the victims of repression. The ARMH would have to wait for the 2004-2008 PSOE's[61] term in office to see some of its other demands satisfied.

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[59] Davis, "Is Spain Recovering its Memory?," 872-873.
[60] Diario de Sesiones del Congreso de los Diputados, no. 139/2002: 7045–54. In: Aguilar and Humlebaek, "Collective Memory and…," 132.
[61] Partido Socialista Obrero Español – Spanish Socialist Workers Party.

3.3. The associate movement for the 'recovery of memory'

If the impact of the ARMH's actions was considerable when it comes to the political sphere, the process it triggered at the level of civil society is even more extraordinary. To begin with, the activities of the ARMH generated a movement through which thousands of relatives of the dead started to either request information about their relatives or to inform the organization about the location of other mass graves. Similarly, many of those who got in contact with the ARMH (or other associations which engaged in the process of exhumations later on) saw its activities as an opportunity to finally share their stories. Indeed, the recording of oral testimonies from witnesses and relatives during the exhumations process has become one of the most important and emotionally-charged phenomena associated with the excavations, leading to an unprecedented wave of testimonies that became known as the 'donantes de memoria' (memory donors) campaigns.[62] This is partially explained by the fact that, as the *El País* puts it, 'everything that has to do with memory is urgent. (…) 68 years have passed since the beginning of the repression and the protagonists are dying.'[63] Apart from the cathartic effect the testimonies may have for the individuals who engage in it, this has been regarded as an important effort for the creation of an oral history archive. Besides, it helped raise public interest in the process of 'recovery of historical memory'. The levels of media attention attest for the impact of these stories on the public sphere to the extent that, as Ferrándiz puts it, 'graveside testimony' was turned into a 'subgenre in national and international TV, radio and press coverage.'[64]

Given the amount of demands and public interest, and thanks to the help of private funds and volunteers (including archeologists, forensic teams and prominent historians), the ARMH built

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[62] Francisco Ferrándiz and Alejandro Baer, "Digital Memory: The Visual Recording of Mass Grave Exhumations in Contemporary Spain," *Forum: Qualitative Social Research* 9:3 (2008): 10-11.

[63] "Todo lo que tiene que ver con la memoria histórica es urgente. (…) han pasado 68 años desde que comenzó la represión y los protagonistas se están muriendo." C.E.C., *El País*, September 20, 2004, accessed April 28, 2012, http://elpais.com/diario/2004/09/20/espana/1095631223_850215.html.

[64] Francisco Ferrándiz, "Cries and Whispers: Exhuming and Narrating Defeat in Spain Today," *Journal of Spanish Cultural Studies* 9:2 (2008): 180-181.

a network of local and provincial branches throughout Spain (e.g. Asociación para la Recuperación de la Memoria Histórica de Valladolid [2002]; Asociación para la Recuperación de la Memoria Histórica de Aragón [2002]; Associació per a la Recuperació de la Memòria Històrica de Catalunya [2002], etc.).

However, the ARMH is far from being the only organization dealing with these issues. Besides the ARMH's regional branches, it is estimated that more than one thousand smaller associations linked to the idea of 'recovering memory' were created over the past decade. Sergio Biesca (the only scholar who has dealt with this 'associative explosion') estimated that in 2006 there were about 170 'associations for memory' while in 2003 there were only 30![65] Although there is no data available on many of these associations, they can be divided into three groups: (1) those dealing with the question of the 'recovery of historical memory' from a global perspective (e.g. ARMH, Foro por la Memoria, Archive of War and Exile); (2) those focused on a concrete group (e.g. Association of the Descendents of the Spanish Exile, Association of Ex-Guerrillas, Association of Ex-Social Prisoners, Associations of War Children) and (3) those dedicated to one specific region or place (e.g. Salamanca Association for Memory and Justice, Valladolid Truth and Justice, Association Pozos de Caudé).[66]

Although independent of each other, these associations work towards the same large goal of unearthing the dead and 'recovering historical memory'. For that reason, they share information and engage in each other's work. This does not mean, however, that these associations are in complete harmony with each other. In fact, and although they share the same large goal, they sometimes diverge on the way to achieve it. This is the case of the two main associations – the ARMH and the Memory Forum[67] – which have sometimes been on opposing grounds based on the fact that, as Mercedes Rodrigo described it, the ARMH is more focused on the 'humanitarian

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[65] Sergio Gálvez Biesca, "El proceso de la recuperación de la 'memoria histórica' en España: Una aproximación a los movimientos sociales por la memoria," *International Journal of Iberian Studies* 19:1 (2006): 34-35.
[66] Ibid.
[67] The Memory Forum (Foro por la Memoria), created in 2002, became the second most important association both in terms of regional branches and in the number of exhumations it carried out.

aspect', i.e., the restitution of the bodies to the families, while the 'Memory Forum', together with several other associations, focuses on the 'political aspect' of the murders committed, therefore demanding stronger political and judicial actions to reverse what they have called 'the Spanish impunity model'.[68] However, it is clear that the growth of this movement was accompanied by more obvious political demands, even in the case of the ARMH. The idea of 'recovering historical memory' and establishing the 'truth' in regards to the events surrounding the exhumation of the bodies entailed an implicit but clear critique of the way the transition was carried through and therefore it was not long until it involved demands for the reversal of the policies (or lack of them) adopted at the time.

In general, the demands of this associative movement can be summarized in what became one of its most often heard catchphrases: 'truth, justice and reparation'. The idea of 'truth' was present from the very beginning of the campaigns and the argument that the 'right to truth' in regards to the fate of the disappeared (including how and why they were killed) was a human right recognized by a number of court cases in Latin America served to reinforce this idea. Linked to the idea of 'historical truth' were the demands to create investigatory bodies as well as a single archive of the Civil War and the dictatorship. As for the demands for 'justice', they were mostly focused on the idea of justice in a historical and moral sense. As Georgina Blakeley suggests, the main motivation of these associations was not revenge or judicial accountability, but rather public acknowledgment and recognition of (1) the stories and the suffering endured by those who lost the Civil War (moral justice) and (2) the fact that they were defending a legitimately elected Republican government and therefore defending the values of democracy that Spain enjoys today (historical justice).[69] Other examples of moral and historical justice were the often heard demands

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[68] Mercedes Yusta Rodrigo, "'Memoria *versus* Justicia'. La ' recuperación de la memoria histórica' en la España actual," *AMNIS Revue de Civilisation Contemporaine Europes/Amériques* 2 (2011). In: http://amnis.revues.org/1482
[69] Georgina Blakeley, "Digging Up Spain's Past: Consequences of Truth and Reconciliation," *Democratization* 12:1 (2005): 49.

to recognize the scale of Francoist crimes, to cancel Francoist legislation and to compensate surviving victims and families not only with moral but also with material reparations.[70]

One of the main reasons why there were no demands for judicial accountability obviously had to do with the passage of time and the fact that those who would possibly be accused were already dead. However, this did not stop some from calling for a compilation of a list of repressors. Moreover, and more significantly, a turning point occurred in 2006-2007 when a dozen of associations, under the guidance of the ARMH, denounced the disappearances that occurred during the Civil War and Franco's regime to the 'Audiencia Nacional' ('National Court'). Counting on the support of Spain's 'superjudge' Baltasar Garzón, this denunciation ended up provoking what was probably the most controversial and divisive episode of the 'memory boom' – Garzón, declaring himself competent to investigate Franco's crimes, ordered the opening of mass graves and symbolically indicted Franco and several other former officials for illegal detentions and crimes against humanity which, because of their international and imprescritible character, would not be covered by the Amnesty Law.[71] Although his inquiry was shut down by an appellate court, it represented a large symbolic gesture in favor of what Garzón defined as 'institutional rehabilitation'.[72]

Even thought the associative movement for the 'recovery of memory' is both the main cause and the main symptom of what I call the Movement for the Recovery of Memory, the two should not be confused. These associations were indeed vital in putting in motion the 'memory boom' and the 'associative explosion' is a proof of how resonant the actions of the first associations were. However, I will use the term Movement for the Recovery of Memory (MRM) not only to designate the associations involved in the process but also all those actors who, in some way or

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[70] Davis, "Is Spain Recovering its Memory?," 879.

[71] A type of legal argument that was clearly taken from court cases in Argentina and Chile. In: Sophie Baby, "Lationoamérica: un desvío necessario? Baltasar Garzón, de Pinochet a Franco," *AMNIS Revue de Civilisation Contemporaine Europes/Amériques* 2 (2011): http://amnis.revues.org/1485.

[72] See, for instance: http://elpais.com/diario/2008/10/17/opinion/1224194402_850215.html and http://elpais.com/diario/2008/10/17/espana/1224194408_850215.html

another, have supported and engaged with this movement. This is the case of many historians, writers, archeologists, politicians, journalists or ordinary individuals who, although not members of these associations, participated in its activities and debates. The volume of media coverage and internet activity on the issues of 'historical memory' indicates indeed that the level of popular engagement with this question goes way beyond the associative sphere.[73]

3.4. Transitional justice measures in a post-transitional setting

The associate movement for the 'recovery of memory' was particularly influential not only because it triggered a massive level of popular engagement with the fate of the war defeated and the question of Franco's repression but also because it was at the origin of several legislative initiatives on the status of the death and the rights of their descendants, therefore contributing decisively to post-transitional justice advances.

It was the unexpected return of the Socialist Party (PSOE) to power in 2004 that dictated a turn in the governments' attitude towards 'historical memory'. The Prime Minister at the time, Rodríguez Zapatero, who himself had lost a grandfather in the Civil War, shared with the MRM the idea that the democratic transition had been characterized by 'mucha concordia y poca memoria' (much agreement and little memory).[74] While the PP tackled the question with extreme reluctance or even antagonism,[75] the PSOE proved to be a lot more receptive to society's demands. Its first measure, in June 2004, was the creation of an 'Interministerial Commission for the Study of the

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[73] It is not possible to indicate precisely when the MRM emerged. The year 2000 is normally considered the year zero of historical memory for the reason that the ARMH was founded back then. However, it is wrong to identify a social movement with one single organization, especially when that organization was key in triggering the social movement, as it is the case. Because the associative movement only started to grow later (including the ARMH's branches) and begun to gain more visibility and public support only in 2002, I will situate the emergence of the movement between 2002 and 2004, although I believe that it became consolidated only throughout the PSOE's term in office.

[74] *Zapatero* (interview) *quoted in* Encarnación. "Reconciliaion after Democratization', 452.

[75] Its only initiative in this regard was the approval of the November 2002 parliamentary resolution that was mentioned before. However, even this one was not initially proposed by the PP. Moreover, in December 2003, it was the only party that refused to participate in the Spanish parliament's tribute to the victims of Franco's regime. In: Paloma Aguilar, "Transitional or Post-transitional Justice? Recent Developments in the Spanish Case," *South European Society and Politics* 13:4 (2008): 421.

Situation of the Victims of the Civil War and Franquism', charged with recommending measures to compensate and provide for the 'moral and juridical rehabilitation' of the victims of political repression. Later on, in November 2005, a 'Center for the Documentation of Historical Memory' was charged with 'assessing and cooperating in the location of information to make reparations to the victims of repression.'[76] Besides this, Zapatero initiated and approved a series of reparative measures that, on the one hand, added to the meager material reparations that had been approved many years before (e.g. upgrading of war pensions [December 2006 law]; allowance of economic and healthcare benefits to War Children [March 2005 law]) and, on the other hand, reflected a complete shift in symbolic language. As Paloma Aguilar points out, it was the first time that reparation measures 'explicitly paid moral tribute to reprisal victims, acknowledging their contribution to the restoration of freedoms. Likewise, they held the Franco regime responsible for having created discriminatory and violent situations' and made explicit reference to the 'legitimacy of the Second Republic' and the 'injustice and illegitimacy of Franco's legislation.'[77] In this regard, it is interesting to note how the Spanish government not only provided for additional forms of compensatory justice but, more significantly, granted some form of moral justice – moral recognition – for the first time, therefore largely reflecting the demands of the MRM as well as the transitional justice/ human rights global discourses.

However, the most significant events came only in 2006 and 2007. While the former was symbolically proclaimed the 'Year of Historical Memory' (which meant that several public commemorations of those victimized under Franco were undertook), the latter saw the approval of the controversial Reparation Law of 2007 (commonly known as 'Law of Historical Memory'), after a long and contentious negotiation process. Among other things, this Law dealt with (1) the improvement of existing compensation payments to victims (defining new groups of victims eligible for compensation), (2) the removal of Francoist symbols from public spaces, (3) the

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[76] Boyd, "The Politics of History…," 144-145.
[77] Aguilar, "Transitional or Post-transitional Justice?," 421-425.

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facitation of the concession of Spanish nationality to those who had fought in the International Brigades, (4) the acquisition and preservation of documents related to the Civil War and the Francoist dictatorship and the right to access public and private archives and (5) the rejection of the legitimacy of the trials conducted by the Francoist-era courts.[78] This was one of the most controversial points of the Law since, contrary to the demands of the civic associations, it *only* declared the illegitimacy of those rulings but did not nullify them. Indeed, the Law on Historical Memory was far from satisfying everyone: while the left and the associations for the 'recovery of memory' expected more from it, the PP refused to vote for the Law, which, according to Encarnación, was another 'powerful testament of the unreconciled nature of the legacy of the Spanish Civil War and the Franco dictatorship.'[79]

Although the above mentioned law did not meet all the demands of the associations involved in the process of 'recovering memory', it definitely served to promote and boost the legitimacy of the MRM. Even if these associations have managed to promote their cause by themselves, as the Socialist spokesperson put it at the time, a law 'has a symbolic value which is particularly valuable and relevant when the content of the norm is precisely one of public reparation' and public recognition.[80] Moreover, this law has been so far the most significant step in terms of 'post-transitional justice' – transitional justice measures adopted in a post-transitional setting – if one takes TJ broadly to include moral recognition and what Teitel has called 'reparatory justice'.[81] From the perspective of this school of thought, Spain has therefore advanced significantly in addressing past human rights abuses, even if in a post-transitional setting.

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[78] Georgina Blakeley, "Evaluating Spain's Reparation Law," *Democratization, ifirst* (2012): 4.
[79] Encarnación, "Reconciliation after Democratization," 437.
[80] *Quoted in* Blakeley, "Evaluating Spain's Reparation Law," *Democratization, ifirst* (2012): 8.
[81] Ruti Teitel, *Transitional Justice* (Washington: US Institute of Peace, 1995), 119-147.

CHAPTER 4. The Social Movement for the Recovery of Memory

4.1. The Movement for the Recovery of Memory as a social movement

Even though the literature on the Spanish 'memory boom' widely acknowledges the role of the grassroots in bringing the memory debates into the public sphere, most accounts focus exclusively on the importance of the ARMH in starting the process of exhumations and triggering public and political debate. The associative movement that followed remains understudied, meaning that no comprehensive study of the Movement for the Recovery of Memory (hereafter MRM) has been made yet. To the best of my knowledge, only two authors have published on this – Peinado Cano and Gálvez Biesca.[82] However, while the former writes from the perspective of an activist who belongs to the Memory Forum, the latter's study is far from being a comprehensive description and analysis of the associative movement, although the best one so far.

In addition, although these two authors refer to the MRM as a social movement (Iosif Kovras does too[83]), they have not yet used the vast literature on social movements to either describe the movement as such or to explain its emergence and development through the analytical tools provided by this literature.[84] This is especially surprising for two reasons: on the one hand, grassroots movements with a similar impact on the politics of memory of their countries – such as the Madres de Plaza de Mayo in Argentina – have been extensively researched as social movements[85]; on the other hand, the rich theoretical literature on social movements provides a set of

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[82] *Supra* note 6.
[83] Iosif Kovras, "Unearthing the Truth".
[84] Altough Kovras and Blakely mention how useful the concept of 'Political Opportunity Structure' might be.
[85] See, for example: Bosco, Fernando "The Madres de Plaza de Mayo and Three Decades of Human Rights' Activism: Embeddedness, Emotions and Social Movements," *Annals of the Association of American*

analytical insights that can be extremely useful in explaining why they emerge at a particular time, take a certain form and develop in a determinate way.

One of the possible reasons for this gap in the literature is that social movements tend to be narrowly identified with actions of public protest. Although contentious collective action is an indispensible feature of social movements (distinguishing them from other type of networks), this does not necessarily imply that protest is a core feature of social movements. In fact, depending on the type of movement, protest can play a very marginal role.[86] Needless to say that the reverse also holds true, i.e., that those who engage in public protest are not necessarily part of a social movement. Instead, as Tilly and Tarrow have emphasized, a social movement is a *sustained* campaign of claim making in which an array of public performances (such as marches, rallies, demonstrations, creation of specialized associations, public meetings, public statements, petitions, letter writing, and lobbying) are repeatedly used in order to advertise the claim.[87]

One other important distinction is the one between social movements and social movements' organizations. In his article, Gálvez Biesca makes the common mistake of conflating the two since he identifies the 'associations for memory' as a social movement. As della Porta and Diani point out, 'social movements are not organizations (…). They are networks which may either include formal organizations or not, depending on shifting circumstances. As a consequence, a single organization, whatever its dominant traits, is not a social movement. (…) The existence of a range of possible ways of becoming involved means that membership of movements can never be reduced to a single act of adherence [to an organization]'.[88] In this sense, despite the pioneer role of the ARMH and the creation of numerous associations engaged with the process of 'recovering memory', it would be reductionist to confine the MRM to its associative component. Although it is

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Geographars 96:2, 2006; D'Alessandro, Martín "Los Movimientos Sociales en la Transición Democrática: el caso de las Madres de Plaza de Mayo: sentimiento y discurso" *América Latina Hoy: Revista de Ciencias Sociales* vol. 20, 1998.

[86] Donatella della Porta and Mario Diani, *Social Movements: An Introduction* (Oxford: Blackwell Publishing, 2006), 28.

[87] Charles Tilly and Sidney Tarrow, *Contentious Politics* (Boulder: Paradigm Publishers, 2007): 8.

[88] della Porta and Diani, *Social Movements,* 25.

fair to say that they constitute its bulk, as well as its most visible element, one has to take into consideration the archeologists, historians, writers, journalists, politicians, artists or ordinary individuals who, although not members of these associations, participated in their activities and engaged with their cause.

Instead of confining social movements to social movements' organizations, and following Mario Diani's definition, one should understand social movements according to the three following characteristics: (1) engagement in conflictual collective action; (2) dense informal networks and (3) a shared collective identity. Conflictual or contentious collective action lies at the base of all social movements in the sense that their actors always engage in political and/or cultural conflicts meant to promote or oppose social change. In this process, they identify a specific adversary and blame a social actor for the state of things they intend to modify, be it the government or not. Moreover, dense informal networks are the characteristic form of organization of social movements as individual and organized actors engage in exchanges of resources in pursuit of common goals and coordinate and regulate specific actions. Finally, social movements develop collective identities and a sense of common purpose and shared commitment to a cause, which enables individuals and/or organizations 'to regard themselves as inextricably linked to other actors, not necessarily identical but surely compatible, in a broader collective mobilization.'[89]

Although there is little information available on the actors that constitute the MRM, it is possible to infer both from the websites of several associations and from the media coverage of their activities that they follow typical social movements' dynamics. To begin with, it is clear that they engage in conflictual collective action in order to promote changes in the governments' policy towards historical memory. Their actions include petitions, complaints and reports to the government as well as public gatherings and demonstrations.[90] Even the most publicized activity of

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[89] Ibid, 21.
[90] One example of this are the concentrations that have been systematically held every Thursday for the past two years in Puerta del Sol (Madrid) supporting Baltasar Garzón and contesting his trial. The 'spanish superjudge'

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this movement – the exhumation of mass graves – can be perhaps considered conflictual since, on the one hand, it is the most significant and visible element of a larger contentious discourse and, on the other, it challenged many of those who fundamentally disagreed with the excavations (e.g. most of the right-wing political elite). Indeed, this seems to be in line with the following definition of 'contentious collective action', provided by Sidney Tarrow: 'Collective action becomes contentious when it is used by ordinary people who lack regular access to representative institutions, who act in the name of new or unaccepted claims, and who behave in ways that fundamentally challenge others or authorities.' [91]

Furthermore, the fact that the associations that are part of the MRM share information, organize and coordinate events, produce joint reports to the government and share each other's work in their websites (where there is usually a set of links to other associations' websites) suggests, on the one hand, that they are part of a dense informal network and, on the other, that they have developed a sense of common purpose and share commitment to a cause and therefore some sort of collective identity. An evidence of this is the fact that some associations and individuals who are part of the MRM have coordinated efforts and produced collective organisms such as The Platform against Franquist Impunity (La Plataforma contra la Impunidad del Franquismo) and the Coordinator of Collectivities of the Victims of Franquism (Coordinadora de Colectivos de Victimas del Franquismo).

4.2. Literature review of the factors behind the emergence of the MRM

As demonstrated in the previous chapter, the Movement for the Recovery of Memory (MRM) and, in particular, the associations that first engaged in this process, had a crucial role in

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was prosecuted for not having applied the Amnesty Law and having declared himself competent to investigate the crimes of Franco.

[91] Sidney Tarrow, *Power in Movement* (Cambridge: Cambridge University Press, 2011): 7.

bringing the memory issue into the public sphere and therefore in triggering what I have called the 'memory boom'. However, if the 'memory boom' is easily explained by this, the task of accounting for the factors that led to the emergence of this movement is not as straightforward. In particular, the question of the *timing* – why it emerged at this particular moment in time and not before or later on – needs further elaboration, judging by the current state of the literature.

Although there is an exponential growth in the number of publications and articles dealing with memory-related issues in Spain, only a small number of scholars have studied the process by which Spain went from a period of 'silence' to a 'memory boom'.[92] In particular, and to the best of my knowledge, no attempts have been made so far in order to provide a detailed and systematic account of the specific factors that led to the emergence of the MRM at this particular moment in time. The exceptions to this are perhaps the work of Madeleine Davis and Omar Encarnación, who have explicitly engaged with the question 'why was the pact of silence broken?'

A survey of the factors studied by these two authors, together with the ones briefly mentioned by others, reveals two clusters of possible explanations: (1) the Pinochet affair in 1998 and, related to this, an international context where the emphasis on the principles of transitional justice started question the Spanish transitional model and (2) the passage of time/ consolidation of the Spanish democracy which meant that, contrary to what happened during the transition, there were no more reasons to fear that 'confronting the past' would lead to a conflictual situation.

In what follows, I will make a review of these factors with the aim of later incorporating them into a more comprehensive and methodical framework.

i. **The Pinochet affair/the international context:** Madeleine Davis considers the indictment by Spanish magistrates of the former Chilean dictator to be a 'catalyst event'.[93] The fact that Spanish judges, based on the principle of universal jurisdiction, indicted and requested the extradition of

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[92] The list can be reduced to Madeleine Davis, Paloma Aguilar, Georgina Blakeley, Omar Encarnación and Sebastiaan Faber.

[93] Davis "Is Spain Recovering its Memory?," 867.

Pinochet to face trial in Spain generated worldwide controversy about Spain's 'moral hypocrisy' for getting involved in the affairs of Chile's authoritarian past while refusing to confront its own. Omar Encarnación further adds that **'**such charges touched a special nerve in Spain, where they generated a lively debate about the willingness of the country's judicial apparatus to go after a foreign dictator while being reluctant to examine the legacy of its own dictator.'[94] The fact that the press started to draw parallels between Franco and Pinochet and mass public rallies across Spain demanded the extradition of Pinochet to Spain leads Davis and Encarnación to conclude that there was 'some kind of psychological transference at work – the impulse to do to Pinochet what was not done to Franco.'[95] According to Davis, this factor was essential in altering the context that provided the background against which the ARMH began its campaign.[96] The importance of the Pinochet case is also mentioned by other authors such as Stephanie Golob, although she looks at it from a different perspective. According to her, this affair 'opened the way for a new domestic environment conducive to the spread and domestication of a variant of transitional justice culture'.[97] This is in line with Faber's argument about the importance of the international context in provoking 'the steady erosion of the long-accepted narrative of Spain's transition to democracy as an exemplary success.'[98]

ii. **The passage of time/ the consolidation of democracy/the generational factor:** These are probably the aspects that are most commonly mentioned in the literature. Davis, Encarnación, Blakely, Faber and Aguilar all agree that the generation of grandchildren 'dares to look at the past with less fear that the transition generation'[99] for the reason that Spain has experienced nearly three decades of stable democratic government which makes confronting the past less threatening.

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[94] Encarnación, "Reconciliation after Democratization," 449.
[95] Davis, 869; Encarnación, 448.
[96] Davis, "Is Spain Recovering its Memory?," 871.
Encarnación, "Reconciliation after Democratization," 449.
[97] Stephanie Golob, "Volver: The Return of/to Transitional Justice Politics in Spain," *Journal of Spanish Cultural Studies* 9:2 (2008): 132.
[98] Faber, "The price of peace," 211-212.
[99] Aguilar "Transitional or Post-Transitional Justice?," 427.

As Encarnación points out, 'the most obvious factor behind the demise of the Pact of Forgetting is the eventual passing of the conditions that gave rise to it in the first place.'[100] Faber adds that 'Seventy years after its outbreak, the generations that consciously lived the war are dying out; and while the children were conditioned not to talk or ask too many questions about it, their grandchildren, now in their thirties or forties, are generally much less inhibited. They want to know what happened.'[101] One other reason provided in the literature is the fact that 'this was the first generation whose textbooks did not demonize the Republicans and did not present Franco as 'the savior of Spain from the barbarians''.[102] Moreover, Blakely adds to this that 'the majority of those attempting to recover the bodies of their relatives are elderly (…) There is thus an increasing sense of 'urgency' to recover bodies and to record memories before this generation dies out.'[103]

Although these two clusters of explanations definitely point towards extremely important elements (even if I consider the first one to be more relevant than the second when it comes to explaining the *timing* since the former refers to a contingent event while the latter had already been there for some time), it should be noted that Davis and Encarnación are asking a different question than I do. They attempt to provide an account for the 'break of the pact of silence' and not for the emergence of the MRM. Even though the answers to these two questions largely converge in the same direction (even because the most immediate reason for the 'break of the pact of silence' is the emergence of the MRM), the answer to the later question introduces more *agency* to the debate. Instead of focusing on the dubious notion of the 'break of the pact of silence', I will concentrate my attention on the actors that were responsible for the 'memory boom' and therefore, when trying to explain the emergence and early development of the movement, provide possible explanations for

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[100] Encarnación "Reconciliation after Democratization", 447.
[101] Faber, "The price of peace", 211.
[102] Ermengol Balbé and Dawnie Steadman, "The Political, Social and Scientific Contexts of Archeological Investigations of Mass Graves in Spain," *Archaeologies* 4:3 (2008): 436.
[103] Blakeley, "Digging Up Spain's Past," 47.

why people (individuals and associations) mobilized, i.e., why people decided to join and engage in the struggle for the 'recovery of memory' at this particular moment in time.

In this sense, the Pinochet case and the consolidation of democracy, although extremely important, are no more than pre-conditions which agents profited from. In this regard, the literature on social movements will be extremely helpful for it has the advantage of focusing not only on the structural and environmental conditions that provided opportunities for movements to emerge but also on the role of agents in appropriating opportunities through framings, meanings, ideas and emotions.

With the assistance of the theoretical, analytical and conceptual insights provided by the social movements' literature, I will expand the range of potential explanations for the emergence of the MRM by directing attention, on the one hand, to (1) internal political opportunities structure – structural and contingent factors in the political environment that might motivate collective action – and therefore add this dimension to the international political opportunity structure that resulted from the Pinochet case and the diffusion of the 'transitional justice culture' and, on the other hand, (2) to the role of emotions, values, meanings and framing strategies that certain actors employed in order to increase the appeal of their ideas and therefore trigger and foster the MRM. While the political opportunity structure (both domestic and external) is important in providing the conditions for movements to emerge (what I referred to as pre-conditions), it is the latter aspect that focuses on the crucial role of the agency in appropriating the opportunities provided by the political environment and adapting and expanding them according to their ends.

4.3. *Bridging theory and practice*: Accounting for the emergence and early development of the MRM

Despite the wide range of theoretical approaches to social movements, they can be aggregated into three different traditions that only recently have started to communicate and build on each other: structuralist, rationalist and culturalist perspectives.[104] These three standpoints have been largely identified, respectively, with (1) the political processes approach, (2) the resources mobilization theory and (3) the cultural framings perspective. Although McAdam, McCarthy and Zald contend that a full understanding of social movements requires an analysis of the dynamic relations between these three[105], this study will only use the first and the third one for the reason that the resources mobilization theory has less explanatory power when it comes to analyze the *why* of the emergence and development of social movements. Instead, this theory deals with the *how* of a movement, i.e., how collective actors operate and how they acquire and mobilize support[106], focusing on the 'mobilizing structures' or forms of organization available to the movement, that is, the *means* of collective action. [107]

4.3.1. Political opportunities structure

The 'political process approach' has been the most widely used and accepted theory in social movements to systematically explain their emergence and development.[108] Drawing attention to the

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[104] Doug McAdam, Sidney Tarrow and Charles Tilly, "Towards an Integrated Perspective on Social Movements and Revolutions," in *Comparative Politics: Rationality, Structure and Culture*, ed. Lichbach and Zuckerman (NY: Cambridge University Press, 1997), 142.

[105] Doug McAdam, John McCarthy and Mayer Zald, "Introduction," in *Comparative Perspectives on Social Movements: Political Opportunities, Mobilizing Structures, and Cultural Framings* (NY: Cambridge University Press, 1996), 2.

[106] della Porta and Diani, *Social Movements,* 15.

[107] McAdam, McCarthy and Zald, "Introduction," 2-3.

[108] Developed by theorists such as Charles Tilly (See: Tilly, Charles, *From Mobilization to Revolution*. Reading, Mass: Assidon-Wesley, 1978), Sidney Tarrow (See: Tarrow, Sidney, *Struggling to Reform: Social Movements and Policy Change During Cycles of Protest*. Western Societies Program Occasional Paper No. 15. New York Center for International Studies, Cornell University, Ithaca, N.Y., 1983) and Doug McAdam (See: McAdam,

political and institutional environment in which social movements emerge and develop, this approach focuses on the importance of the political system in structuring the opportunities and constraints for collective action.[109] Its theoretical framework has been largely developed around the concept of 'political opportunity structure', which refers to the properties of the political environment that are relevant to the development of social movements.[110] As Tarrow puts it, political opportunities are a consistent set of clues that encourage people to engage in contentious politics, i.e., consistent dimensions of the political environment or of perceived change in that environment that provide incentives for collective action by affecting the movements' expectations of success or failure.[111] In this sense, when analyzing the emergence and development of social movements, one should look for *changes* in the political scene that might have encouraged the rise of collective action, that is, changes that created opportunities by increasing the perceived probability that collective action will more successfully achieve its desired outcomes.[112] This is not to say, however, that movements cannot create opportunities themselves. Especially once they develop, their long term public appearance might open new spaces for recognition and discussion of their claims.

- ▪ **Domestic political opportunities structure**

If one compares the domestic political opportunities structure existent at the time of the Spanish transition to democracy and at the time of the emergence of the MRM, it is easy to see why this concept can be useful in helping to account for the emergence and development of social

Doug, *Political Process and the Development of Black Insurgency, 1930-1970.* Chicago: University of Chicago Press, 1982).
[109] McAdam, McCarthy and Zald, "Introduction," 3.
[110] della Porta and Diani, *Social Movements,* 16.
[111] Tarrow, *Power in Movement,* 163.
[112] The reason why Tarrow highlights the importance of perception here is that the first 'structuralists' were widely criticized for viewing opportunity as an objective category and not taking into consideration that individuals need to perceive opportunities in order to be induced into collective action. Critics argued therefore that expanding opportunities are as much the result of structural changes as of perceptual changes (although it is extremely hard to measure a subjective perception of an event).

movements. One of the reasons that can indeed contribute to explain why there were neither accountability nor public recognition demands during the transition lies on the fact that the political institutions at the time were entirely closed to this type of claims. Therefore, Aguilar's argument that the fear of the resurgence of conflict and the desire to achieve a stable transition to democracy determined society's complicity with the 'pact of silence' loses explanatory power. The fact that the political elites agreed to 'leave the past behind' and that there was no public space for debate or recognition seems to me to play a more logical role in discouraging collective action. In this sense, the increasing receptiveness of the political system to the type of claims made by the MRM can be an important factor in accounting for the emergence and development of this movement.

However, this says very little about the timing of the emergence of the MRM. In an effort to specify and theorize the most relevant dimensions of the political environment that one should look at when attempting to answer this type of question, Sidney Tarrow underlines four different variables:

(1) the degree of openness or closure of formal political access

(2) the degree of stability and instability of political alignments

(3) the existence of political conflicts between and within the elites

(4) the availability and strategic posture of influential allies

The basic logic behind each one of them is that: (1) the prospect of gaining some access to the political arena might encourage collective action; (2) the instability of political alignments can open opportunities for challengers to try to exercise marginal power and may induce elites to compete for support from outside the polity; (3) likewise, divisions among elites may provide incentives to groups to engage in collective action and lead portions of the elite that are out of power to seize the role of 'tribunes of the people' and, finally, (4) the availability of influential allies, including at the

international level, can also be key in encouraging challengers to take collective action.[113] In what follows, I will demonstrate how some of these factors can be important in shedding light on the emergence and early development of the MRM.

In regards to the first one, it is clear that the crucial shift in the political opportunity structure occurred with the election of the Socialist Party in 2004. It was only then that the prospects of the movement to gain access to the political arena substantially increased. It is not surprising therefore that the MRM grew exponentially during the PSOE's term in power. Following Tarrow's logic, the fact that the demands of this movement gained more space in the political scene might have provided an additional incentive for people to join the MRM since the expectations of success increased as well.

However, if this factor may be important to explain the growth and initial development of the MRM, it can also say something about its emergence (which took place during the PP's term in office). Although the PP was not receptive to demands related to issues of 'historical memory', the opposition was. Paloma Aguilar contends that during the PP's eight-year tenure (1996-2004), 'breaking the pact of silence' was part of a political strategy of the opposition to delegitimize the ruling party. This explains the numerous parliamentary initiatives that opposition parties proposed in order to compensate the victims and condemn the dictatorship.[114] Thus, the fact that opposition parties opened the political arena to the type of debates that are today identified with the MRM's demands, might have been a decisive factor in encouraging the emergence of this movement.

The first significant occasion in which the political elites' division over a related issue became very clear was during the Pinochet affair in 1998 – while the left praised Pinochet's arrest as an example of Spain's leadership in the 'globalization of justice', the right was visibly bothered by the issue and by the fact that it had raised sensitive questions, in Spain's public sphere, related to retroactive accountability for violations of human rights and questioning the Spanish model of

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[113] Tarrow, *Power in Movement,* 165-166.
[114] Aguilar, "Transitional or Post-Transitional Justice?," 428.

transition. The Prime Minister at the time, José Maria Aznar, declared Spain's neutrality on the Pinochet issue and questioned the right of Spanish courts to legislate universal jurisprudence. Obviously, the left used the opportunity to accuse him of complicity with Pinochet, a very sensitive charge given that the founding fathers of the PP were former Francoists.[115] This scenario of division among elites, in which some of them were closer to the demands of the movement, also matches Tarrow's assumption that splits among political elites can have an important impact on the political opportunity structure for they provide incentives for groups to engage in collective action and make portions of the elites that are out of power to seize the role of 'tribune of the people'.[116] This was clearly the case of the Communist Party or the United Left who have overtly engaged with the MRM. The former was actually at the origin of the creation of the Memory Forum which, as we have seen, became the second most important association for the 'recovery of memory'. This is, in turn, closely connected to another aspect of the political opportunities structure that Tarrow highlights: the presence of influential allies and how this can encourage challengers to take collective action.

This overview of the internal political dynamics present at the time of the emergence/early development of the MRM advances therefore several possible factors that might have encouraged the appearance and expansion of the MRM and, as a result, should deserve further consideration in the literature. However, if the internal political opportunity structure was certainly important, the international one may have played an even more significant role.

▪ International political opportunities structure

Although the political process theory has been traditionally more concerned with the domestic political environment, a growing number of scholars have directed attention to the increasing

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[115] Encarnación, "Reconciliation after Democratization," 449.
[116] Tarrow, *Power in Movement,* 166.

importance of the international political environment in shaping opportunities for both domestic and transnational social movements. Indeed, if one looks at the broader international changes that took place between the time of the Spanish transition and the time of the eruption of 'memory', it is intuitive to conclude that they had an important influence in the emergence of the MRM. While the Spanish transition occurred in a context where a framework of international human rights legislation was far from consolidated and the language of transitional justice was still non-existent, the emergence of the MRM took place in a totally different international context which, according to Blakeley, included: a well-developed body of international human rights law; a well-established network of NGOs working in the field of human rights both at the national and global level, which benefited from the development of new communication tools such as the Internet; and a growing array of transitional justice mechanisms.[117]

Particularly important in this regard is the global diffusion of what Stephanie Golob has described as a 'transitional justice culture', that is, a discourse that is 'grounded in rejection of impunity, confrontation of the past, prioritizing state accountability and aiming towards a broader societal inclusion of past regime victims.'[118] It surely is no coincidence that the MRM emerged at a time when the spread of the theory and practice of transitional justice was on the rise. In particular, the impact of the Pinochet case in Spain in 1998 meant that its domestic environment became more receptive to the type of ideas associated with the transitional justice school. Therefore, the international environment may as well have played an equal or even more important role in providing incentives for the MRM to emerge. Particularly relevant was the fact that it opened up 'discursive opportunities', as we will see in the next section.

In addition to this, the fact that at the time of the emergence of the MRM the international political opportunity structure was more open to the concerns of this movement than the domestic one, induced domestic actors to resort to a strategy that scholars studying the transnationalization of

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[117] Blakeley, "Digging Up Spain's Past," 45.
[118] Golob, "Volver," 127-130.

social movements have coined as 'externalization' – the process by which domestic actors seek out allies in the international arena in order to pressure the government to carry out domestic change.[119] Although the members of the MRM have resorted to this strategy more than once, the 2002 appeal of the ARMH to the United Nations Working Group on Enforced or Involuntary Disappearances was particularly significant. On the one hand, it opened up the domestic political opportunity structure since it exerted significant pressure on the government, who ended up agreeing on a parliamentary resolution that otherwise would not have probably been approved.[120] On the other hand, the fact that this action was decisive in bringing the ARMH's campaign to the public arena (judging by the volume of media coverage from then on) meant that this was probably a very significant factor in triggering and fostering the MRM.

Moreover, if the presence of influential allies at the domestic level may have played a role in encouraging the MRM, the same can be said about the important support of external allies, especially NGOs, such as Equipo Nikzor, Amnesty International and Human Rights Watch, who have collaborated with domestic organizations in presenting demands to the government. Even though this can hardly explain the emergence of the movement, it can surely be considered to have an impact on its growth and popularity.

4.3.2. The role of framings, norms and emotions in the emergence and early development of the MRM

Reacting to the predominance of the rationalist paradigm in the study of social movements in the early 80s, a growing number of scholars started to take part in what became known as the 'cultural turn' in the study of social movements. The so called 'cultural approach' redrew attention to the importance of elements such as shared understandings, emotions and collective identities in

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[119] Donatella della Porta and Sidney Tarrow, "Introduction," in *Transnational Protest and Global Activism: People, Passions and Power* (Oxford: Rowman & Littlefield, 2005), 5.

[120] See page 24.

inspiring people into collective action. As McAdam, McCarthy and Zald put it, if political opportunities afford groups a certain structural potential for action, this is insufficient to account for collective action. Mediating between opportunities and actions are shared meanings, ideas and sentiments.[121] If these are indeed very important elements when it comes to accounting for collective action, they become even more relevant in the case of social movements that struggle for goods such as historical memory, justice and truth.

Indeed, the emergence of the MRM cannot be studied without considering the role that emotions and values have played in activating this movement. The fact that the first and most significant activity in which the associations for the recovery of historical memory engaged in was the exhumation of mass graves attests for that, considering how symbolic and emotionally charged this phenomenon is (especially given the importance of the burial and mourning process in the Catholic culture). Given that the first exhumations to be publicized date back to a period where the MRM had not still emerged, they can be regarded as a crucial immediate event in triggering the MRM. Indeed, it was for the purpose of exhuming the bodies and restituting them to their families that the ARMH was first created and it was thanks to this, and to the ample coverage of the media, that its activities made broader segments of civil society engage with the question of the war dead. As Ferrándiz puts it, the disturbing images of the bones 'started to spill over into public discourses and imaginaries, impacting on public opinion and particularly on the relatives of the defeated. For quite a few of them, the new image of their country as a landscape strewn with mass graves and untold stories has been unsettling, and many have become activists in local or national grassroots organizations or, at an individual level, have started to pay attention to their elders' war stories or to search for their buried relatives.'[122] Therefore, one can confidently conclude that the symbolic and affective dimension of the process of exhumations was an important factor in putting the MRM in motion.

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[121] McAdam, McCarthy and Zald, "Introduction," 5.

[122] Ferrándiz, "*Crisis and Whispers*," 179.

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However, there is a lot more to this. As social movements' scholars have pointed out, social movements are not only carriers of meanings, but also makers of meaning, that 'by *naming* grievances and expressing new identities, construct new realities'.[123] Associated with the process of exhumations and the creation of the ARMH (and all the other associations that followed) was a new way of making sense of the past (or a new way of attributing *meaning* to it) as well as a new form of representing and discursively engaging with the past.

It is my contention that this new type of meaning and discourse was more important than the exhumations *per* se in triggering public attention and fostering the MRM. The fact that the existence of mass graves was a known 'public secret' and that exhumations had already been carried out before (although not as systematically as after 2000) attests for the idea that exhumations *per se* cannot fully explain the emergence of the MRM. Instead, I believe they provided the necessary contextual and symbolic background against which the generation of grandchildren was able to publically question the 'pact of silence' and the way Spain has (not) engaged with its past.

As pointed out before, the early demands of the ARMH were an implicit but clear critique of the way the transition had been operated in terms of politics of memory. Even the name of the association itself implies a moral judgment on the way Spain has dealt with its past. The fact that the MRM is based on this same idea and its claims are even more straightforward in demanding for a new way of dealing and reading the past confirms that the manner in which the first members of the ARMH discursively engaged with the past and attributed a new meaning to it was even more powerful in fostering the MRM than the action of exhuming bones in itself. Nevertheless, exhumations were essential since they provided the necessary doses of symbolism and meaning that would legitimize the discourse of the MRM. In this regard, dead bodies in Spain, as the dead bodies in postsocialist countries, gained political life for they were used as instruments to revisit the past and reorient the present. As Katherine Verdery brilliantly demonstrated in the latter case, the

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[123] McAdam, Tarrow and Tilly, "Towards an Integrated Perspective," 149.

instrumentalization of dead bodies was a powerful way of expressing new social values and reevaluating the national past as they are part of a cultural system that connects them to meanings, feelings, the sacred and ideas of morality, which are all ingredients of legitimacy.[124]

According to Tarrow, there are three fundamental ways in which groups make meaning, all of them key in creating solidarities among potential movements' participants and therefore important in activating and transforming them into a social movement. These ways are: (1) by reflecting, capturing and shaping emotions in order to mobilize followers; (2) through the definition, crystallization and construction of collective identities and (3) through the use of frames.[125] All of them are observable in our case. On the one hand, and as I have mentioned, the exhumations of mass graves provided the necessary background against which the instigators of the MRM developed new meanings and discourses precisely because the exhumations were a symbolically powerful phenomenon capable of capturing and shaping emotions. On the other hand, the new ways of representing and discursively engaging with the past implied the crystallization and construction of collective identities as far as categories such as 'the grandchildren of the victims' or the 'defendants of the recovery of historical memory' did not exist before. Particularly relevant in this process of making meanings, shaping emotions and constructing identities is Tarrow's third point – the use of frames –, an aspect that has been especially emphasized by the scholars who took part in the 'cultural turn' in the study of social movements.

David Snow was the first to call attention to 'framing processes', which he defined as 'conscious strategic efforts by groups of people to fashion shared understandings of the world and of themselves that legitimate and motivate collective action.'[126] Snow belongs therefore to the category of scholars who have called attention to their instrumental character, i.e., how frames are

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[124] Katherine Verdery, *The Political Lives of Dead Bodies: Reburial and Postsocialist Change* (NY: Columbia University Press, 1999), chapter 1.
[125] Tarrow, *Power in Movement,* 143.
[126] David Snow *quoted in* McAdam, McCarthy and Zald, "Introduction," 6.

used so as to dignify the claims of the movement and increase its appeal.[127] Together with Benford, Snow points out that frames may 'underscore and embellish the seriousness and injustice of a social condition or redefine as unjust and immoral what was previously seen as unfortunate but perhaps tolerable.'[128] Indeed, one common framing strategy in social movements is the so called 'injustice frame' through which people collectively define their situation as unjust and therefore make demands that, if met, will at least help in addressing those grievances. Another important aspect that scholars have pointed out is the fact that the appeal of those frames is dependent on their capacity to resonate with cultural values. In this regard, Della Porta and Diani call attention to the importance of 'discursive opportunities' – such as the capacity of the movements' themes to resonate with dominant values – in the impact and development of a movement.[129] Needless to say that if social movements draw upon and recombine elements of the cultural environment (when compatible with their aims), they also add to the cultural stock. As Zald demonstrates, 'the frames of winning movements get translated into public policy and into the slogans and symbols of the general culture.'[130] The fact that 2006 was proclaimed by the government the year of historical memory or that the 2007 Reparation Law became officially known as the 'law of historical memory' are good examples of successful framings translated into public policy.

The reason why I consider important to have a glimpse of the social movements' theory on these aspects is that I believe the 'discursive opportunities' opened up by the international diffusion of a 'transitional justice culture' and, in particular the impact that the Pinochet case had in spreading these norms in Spain, were crucial in determining both the *timing* and the appeal of this movement, even more so if one looks at the framing processes and linguistic tools adopted by the MRM. No thorough discourse analysis is needed in order to clearly identify how much its language borrowed

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[127] McAdam, Tarrow and Tilly, "Towards an Integrated Perspective," 149.

[128] David Snow and Robert Benford *quoted in* Tarrow, *Power in Movement,* 144.

[129] della Porta and Diani, *Social Movements,* 219.

[130] Mayer Zald, "Culture, ideology, and strategic framing," in *Comparative Perspectives on Social Movements: Political Opportunities, Mobilizing Structures, and Cultural Framings,* ed. Doug McAdam et al. (NY: Cambridge University Press, 1996), 270.

from the transitional justice idiom. The most characteristic linguistic codes of the transitional justice discipline – 'truth', 'justice', 'reparation', 'reconciliation' – are all extensively (or even over-extensively) used by the MRM in framing its demands. One other clear case is the fact that the exhumation of the bodies, the restitution to the families and the 'right to truth' about the faith of the 'disappeared' have all been framed as 'human rights'. Moreover, it is also clear that this movement not only adopts the transitional justice language in general, but also draws from more concrete cases in Latin America (where the principles that are today associated with transitional justice were first framed as such). This is part of a process that the social movements' theorists studying the transnationalization of contention have identified as the 'transnational diffusion' process, in which challengers in one country adopt or adapt the organizational forms and collective action frames of those in other countries or regions.[131] To give only a few examples, the associations engaged in this movement have adopted many of the procedures and language of Argentina and Chile, for instance in the way the exhumations were carried out and in the fact that they have referred to the people that remain in mass graves as 'disappeared', which is clearly a case of diffusion of linguistic frames from Latin America (often criticized in some circles in Spain for these bodies were not exactly 'disappeared', but buried in graves which many locals knew the existence of). One other interesting example is the fact that the Platform against Franquist Impunity has organized systematic concentrations every Thursday in *Puerta del Sol* in Madrid, in a clear attempt to follow the example of the Argentinean mothers.

As social movements' scholars dealing with 'framing processes' have highlighted, the impact of frames is dependent on their capacity to resonate with dominant values. In this sense, the fact that the ARMH and later the MRM adapted a language and a set of norms/beliefs that had incredible resonance among liberal-minded circles is, in my opinion, a very important factor in explaining the appeal of the ideas that led to the emergence of the MRM. As I have mentioned, the Pinochet affair

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[131] della Porta and Tarrow, "Introduction," 3.

was a key catalyst event in brining the debate over these norms into Spain's domestic scene in 1998 and, therefore, it provides the most convincing explanation for the *timing* of the movement. On the one hand, as Encarnación and Davis have pointed out, this case contributed to a revival of political and popular debate about the Franco era and the transition, and created a new environment and space for the articulations of memories that had been so far unacknowledged in public discourses.[132] On the other hand, it raised broader questions related to retroactive accountability for serious crimes, the morality of engaging in such a process and the effects that this might have both for the victims and for democracy's health. Indeed, what many authors have overlooked (with the exception of Stephanie Golob) is that the Pinochet affair showed the receptiveness of part of the Spanish society to what she calls the 'transitional justice culture' and contributed significantly to diffuse the norms and practices of this culture to the domestic environment.[133]

Moreover, what has not been highlighted so far in the literature is the fact that, as I have mentioned, this case opened up significant 'discursive opportunities' from which the instigators of the MRM could capitalize on. This is not to say that they did not genuinely adhere to the principles of transitional justice. However, the legitimacy that the transitional justice principles gained, both at the international and domestic level, and the aura of 'moral duty' embedded in this language, also meant that the use of its frames would be strategically profitable in order to dignify the movements' claims, increase their appeal and therefore legitimate and motivate collective engagement. In particular, the employment of the transitional justice language served the 'injustice frame' strategy very well. One clear example of the embellishment of the seriousness and injustice of a social condition (to use Snow's terms) through the use of the transitional justice idiom is the constant emphasis by the MRM (but also, surprisingly, by some scholars that have dealt with this issue) on the need for societal reconciliation in Spain. While the use of this language would have made sense in the years or decades that followed the Civil War, to talk about reconciliation seventy years after

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[132] Davis, "Is Spain Recovering its Memory?," 870.; Encarnación, "Reconciliation after Democratization," 448.
[133] Golob, "Volver," 132.

(when the generation of grandchildren – today in their thirties or forties – has no direct recollection of the war or even the dictatorship) is, from my perspective, not only to overstretch the concept but also to wrongly assume that old divisions (republicans vs. nationalists) are still pervasive and, even more nonsensically, that the two sides have not managed to establish a working relationship yet. But this is far from being the only example of the strategic use of the 'injustice frame'. In fact, the bulk of the discursive practices of this movement represents the way Spain has dealt with its past in a manner that largely corresponds to Snow's idea that 'frames may redefine as unjust and immoral what was previously seen as unfortunate but perhaps tolerable'.[134] The constant emphasis on a past that was 'repressed', 'forgotten' and 'silenced' or on the need to finally publicly address the suffering and pain that the surviving relatives still endure are some of the clear examples of 'injustice framings' that impute a new grievance to an old situation.

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[134] *Supra* note 128.

CHAPTER 5. Conclusion

Largely contradicting what the transitional justice literature recommends today, the Spanish transition to democracy was based on a tacit agreement between the political elites and the populace to leave past abuses unaccounted and, moreover, to avoid acts of public and moral recognition that would acknowledge the losing side of the Civil War, including those who suffered from continuous discrimination during Franco's almost 40-year dictatorship. However, and defying some of the premises of that field, this did not stop Spain from becoming a 'reconciled' country and a consolidated democracy.

Although many have insisted in 'criminalizing' the so called 'pact of silence', the reality is that this term was only applied retrospectively at a time when the transitional justice movement was already developing. In this sense, more than breaking an all pervasive silence, what the MRM has tried to do is to impute a new mind-set to an old situation and therefore attempt at reversing old policies according to what is considered legitimate in the light of today's liberal values. As I have stated, the same way that today's MRM follows the global discourse on human rights and transitional justice, the Spanish transition reflected the desire of stability and peace at a time when those were the dominant values in the international scene. Indeed, the argument that the Spanish transition was not as successful as it had always been depicted is a relatively new idea that can be attributed to scholars such as Paloma Aguilar and debates that mostly arose following the Pinochet case. What these debates tend to overlook (or purposely overlook) is that, on the one hand, there were other forms of remembrance and knowledge that were always available and, on the other, that civil society at the time of the transition was also willing to 'leave the past behind'. Aguilar's argument that this was based on fear of the resurgence of conflict – an argument that has been adopted and adapted by the MRM – seems to me quite unconvincing given that, on the one hand, the Amnesty Law of 1977 was

widely praised by the Spanish society (which demonstrates its willingness to 'reconcile') and, on the other, the generation of the transition never made any claims to revisit the past. Instead, the grandchildren, influenced by the 'transitional justice culture' and the example of several Latin American countries, were the ones who stepped forward and created, for the first time, an adequate social and cultural space for the elderly to tell their stories in public.

Profiting from both domestic and international opportunities structures to which the Pinochet affair largely contributed to, the grandchildren decided to publicly question the 'pact of silence', i.e., the decision of the Spanish political authorities to avoid any type of moral commitment to the Civil War and Franco's dictatorship. For that, they engaged in one of the most symbolic and emotionally charged phenomenon in any catholic culture – the exhumation of mass graves – therefore granting political life to dead bodies. Used to revisit the past and reorient the present, the exhumations of the bodies (or rather bones) were accompanied by a new way of representing and discursively engaging with the past to which these exhumations gave legitimacy to. As I have argued, those discourses were more powerful than the exhumations *per se* in triggering public attention and therefore in putting in motion the MRM since they largely resonated with cultural dominant values, namely the 'universal' language of human rights, which seems to have become the language of power in contemporary world politics.

By claiming the need to 'recover historical memory', 'break the silence', grant public acknowledgment and achieve 'truth, justice and reparation', the instigators of the MRM adopted many of the linguistic codes of the transitional justice discipline. It was my contention that these framing processes and strategies, by dignifying the claims and increasing the appeal of the movement, were essential in triggering and fostering the MRM. With all this in mind, I argued that the *timing* of the emergence of the MRM is largely explained by the fact that the Pinochet case in 1998 opened 'discursive opportunities' in the Spanish domestic scene that made the Spanish audience more receptive to this type of 'transitional justice language'. Important in this regard was also the fact

that the political opposition at the time decided to take advantage of the debates generated by the Pinochet affair and bring memory-related issues to the political scene (in order to delegitimize the PP), contributing therefore to open the domestic political opportunity structure for social movements like the MRM to emerge.

What was also very significant in this process of opening the domestic political opportunities structure was, on the one hand, the existence of a wider opportunity structure at the international level where institutions such as the UN Group on Enforced Disappearances enforced the language of human rights and therefore supported the claims of MRM and, on the other hand, the election of the PSOE in 2004, whose sympathetic stance towards the MRM encouraged the growth of the movement. Although the Pinochet case certainly deserves to be considered as the 'catalyst event', all these other factors should be evaluated as well in any attempt to provide a comprehensive account of the possible factors behind the emergence of the MRM.

Moreover, if the Pinochet affair was certainly important, it was no more than a pre-condition (or an opportunity) which agents – such as the instigators of the MRM and the political opposition – took advantage from. While the fact that the Pinochet case sparked the 'break of the pact of silence' was already stated in the literature, the process by which it provided the frames and discursive opportunities from which the agents of the MRM took advantage from (in order to dignify and increase the appeal of their cause) was not. This is the reason why I argued, from the beginning, for the need to bring more *agency* to the debates on the Spanish 'memory boom', after all structural conditions or events are only important as far as agents perceive opportunities in them and, more importantly, ascribe them meanings, ideas and emotions. Therefore, as in any other complex social phenomenon, the study of the MRM and the general process of the 'break of the pact of silence' was in need of a more dynamic dialogue between structure and agency.

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